

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Certiorari to Lancaster County

The Honorable Brooks P. Goldsmith, Circuit Court Judge

Appellant Case No. 2018-001791

Phillip Bryan Gleason,

PETITIONER,

v.

State of South Carolina,

RESPONDENT.

APPENDIX

Samuel L. Key, Assistant Attorney General
Robert C. Dennis Building
P.O. Box 11549
Columbia, South Carolina 29211-1549
(803) 734-3970

Attorney for Respondent

Kimberly Yancey Brooks
Attorney at Law
819 E. North Street
PO Box 16025
Greenville, SC 29606
(864) 331-3160
kbrooks@yanceybrooks.com

Attorney for Petitioner

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1 STATE OF SOUTH CAROLINA
2 COURT OF GENERAL SESSIONS
3 COUNTY OF LANCASTER
4 2013-GS-29-00820
5 State of South Carolina
6 vs.
7 Phillip Bryan Gleason
8
9 Lancaster, South Carolina
10 January 30, 2017
11 Before the Honorable Brian M. Gibbons
12

13 APPEARANCES
14 For the State: Randy Newman, Lisa Collins
15 For the Applicant: Christopher Wellborn
16
17 Reported by: Michael C. Watkins
18 Official Court Reporter
19
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1 MR. NEWMAN: May it please the Court?

2 THE COURT: Yes, sir.

3 MR. NEWMAN: Your Honor, this is case number
4 2013-GS-29-820, Phillip Bryan Gleason represented by
5 attorney Chris Wellborn. Your Honor, the original charge
6 was homicide by child abuse, it's my understanding he'll be
7 entering a guilty plea today to voluntary manslaughter.
8 Also case number 2016-GS-29-945 and 946, those are two
9 counts of unlawful conduct, he will be pleading guilty as
10 charged on both of those cases. Your Honor, these -- as
11 you're aware, voluntary manslaughter is up to -- is two
12 years to 30 years, and each count of unlawful conduct
13 carries a maximum sentence of ten years therefore exposing
14 Mr. Gleason to up to 50 years. I will pass up a copy of
15 the indictments.

16 THE COURT: All right. Thank you, Solicitor. All
17 right. Mr. Wellborn, you represent Mr. Gleason?

18 MR. WELLBORN: I do, Your Honor.

19 THE COURT: And have you had a full opportunity to go
20 over everything with your client?

21 MR. WELLBORN: Yes, sir, thank you for asking.

22 THE COURT: And based upon your conversations with
23 him, what does he indicate to you he wishes to do in
24 regards to these three charges against him?

25 MR. WELLBORN: Your Honor, he wishes to plead guilty.

1 THE COURT: And based upon your investigation into
2 these matters, do you agree with that decision?

3 MR. WELLBORN: I do.

4 THE COURT: All right. Mr. Gleason, I see you're 31
5 years of age, sir?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you understand what you're doing in
8 court today?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: How far did you go in school?

11 THE DEFENDANT: Some college, sir.

12 THE COURT: Okay. What type of work did you do? And
13 I know I'm going to hear some more about this later on but
14 I'm just trying to get a feel for it, okay?

15 THE DEFENDANT: I joined the military at 18 years old
16 and I served as an infantryman in the 4th ID, after I got
17 out I had a couple of various jobs here and there, but I
18 mostly -- the highest one was a security guard, I worked as
19 a security guard. And after that with going to get my
20 children every other weekend from Illinois I quit my job
21 and decided to go to school instead.

22 THE COURT: All right. So with those life experiences
23 and with your education you certainly understand what
24 you're doing here today.

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you understand what you've been charged
2 with?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Have you been over these charges with your
5 lawyer?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: So you understand what the nature of the
8 charges are?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Voluntary manslaughter carries a minimum
11 of two years in prison up to 30 years in prison, do you
12 understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: As to that charge how do you plead?

15 THE DEFENDANT: I plead guilty, sir.

16 THE COURT: You're charged with two counts of unlawful
17 neglect of a child which carries up to ten years apiece, do
18 you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: As to those charges how do you plead?

21 THE DEFENDANT: I plead guilty, sir.

22 THE COURT: Now, Mr. Gleason, has anybody forced,
23 pressured, coerced or made you plead guilty against your
24 will?

25 THE DEFENDANT: No, sir.

1 THE COURT: Has anybody promised you anything or held
2 out any hope or reward to get you to plead guilty?

3 THE DEFENDANT: No, sir.

4 THE COURT: Have you told your lawyer everything you
5 need to tell him?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Has your lawyer answered all of your
8 questions?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Are you satisfied with the services of
11 your attorney?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Now, did you and your attorney go over all
14 of your jury trial rights?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you understand those rights?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Let me go over them again with you because
19 I want to make sure you understand what you're doing. You
20 are innocent until proven guilty, everyone in our county is
21 presumed innocent until proven guilty, do you understand
22 that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: The State of South Carolina has to prove
25 you guilty beyond a reasonable doubt of each and every

1 element of any criminal charge made against you, do you
2 understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And they must do so in front of a
5 unanimous jury of 12 people chosen from the community in
6 which you live, do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Now, you don't have to prove anything
9 because you're presumed innocent, the burden of proof
10 remains on the State, do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: You don't have to testify, nobody can
13 force you to testify because you have what's called a Fifth
14 Amendment right against self incrimination, do you
15 understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: You also have a right to confront
18 witnesses against you. In other words, you or your lawyer
19 could cross examine witnesses for the State to try to make
20 them look bad or not look credible in front of a jury, do
21 you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you understand those very valuable
24 constitutional rights?

25 THE DEFENDANT: Yes, sir, I do, sir.

1 THE COURT: Those are the rights that you give up when
2 you plead guilty, do you understand that?

3 THE DEFENDANT: Yes, I do, sir.

4 THE COURT: Is that what you want to do?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Are you under the influence of anything
7 today that will make you not understand what's going on?

8 THE DEFENDANT: No, sir.

9 THE COURT: Do you understand that you have ten days
10 from today to appeal any sentence which the Court may hand
11 down?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. Mr. Gleason, I want you to
14 listen very carefully. What's going to happen now is I'm
15 going to ask the State of South Carolina through the
16 solicitor to give me a factual basis upon which these
17 charges have been made against you, and after the State
18 tells me what you did I'm going to come back to you and ask
19 you a few more questions before I can accept your plea,
20 okay?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Listen carefully.

23 MR. NEWMAN: Your Honor, briefly, I believe he will
24 need to waive presentment on the voluntary manslaughter
25 charge and I would ask you to check that on the sentence

1 sheet.

2 THE COURT: Let me go over that with you, Mr. Gleason.
3 Mr. Wellborn, is that your understanding?

4 MR. WELLBORN: Yes, sir.

5 THE COURT: All right. Mr. Gleason, you were
6 initially charged with homicide by child abuse, okay?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: That charge has been negotiated, or
9 upon -- if I accept the plea to another offense of
10 voluntary manslaughter and, of course, you're giving up
11 your right to have that manslaughter charge presented to
12 the Lancaster County grand jury, do you understand that?

13 THE DEFENDANT: Yes, I do, sir.

14 THE COURT: Have you been over that with your lawyer?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Is anybody forcing you to not go in front
17 of the grand jury on this different charge?

18 THE DEFENDANT: No, sir.

19 THE COURT: Is that what you want to do?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You want to go ahead and get it over with?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You understand how the grand jury process
24 works?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right, thank you. Solicitor?

2 MR. NEWMAN: Thank you, Your Honor. Your Honor, just
3 some housekeeping, this case was originally charged in 2013
4 with homicide by child abuse. My office took a second look
5 at the case and came back with two additional counts of
6 unlawful conduct in 2016, that's why there's a discrepancy
7 in the dates of the indictments, so those unlawful conduct
8 charges were added later. Your Honor, I'll give you a
9 brief explanation of the facts just to get the plea in and
10 after that I'm assuming we will have sentencing for both
11 folks and the State would certainly like to be heard at
12 sentencing. Before I forget, there are several folks here
13 in the courtroom, several folks with the Lancaster County
14 Sheriff's Office. If you are representing the Lancaster
15 County Sheriff's Office please stand up. Thank you. Your
16 Honor, also victim [Victim] family. Her
17 grandfather, Don Chilson, is in the courtroom; two uncles,
18 Jody Glenn and Danny Gleason; and two aunts, Sara Chilson
19 Cole and Rebecca Hammond are in the courtroom. Your Honor,
20 several of these folks would like to speak at the
21 appropriate time. Your Honor, incidents giving rise to
22 these charges occurred in Lancaster County at the residence
23 located at [REDACTED], this home was shared by
24 the two defendants and the victim. At the time of her
25 death on March 5th of 2013 the victim in this case, [Victim]

1 Chilson, was five years old. The mother of the victim is
2 April Victoria Gleason, and the father of the victim is
3 Jeremy Alan Chilson, he was deceased at the time. Victim
4 Chilson had just turned five years old on [REDACTED] of
5 2013, just about five weeks prior to her death. These
6 charges arise from injuries that Victim incurred on at least
7 three different occasions prior to her death. During the
8 period of February 5 through March 5 of 2013 the defendant,
9 Mr. Phillip Bryan Gleason, was the boyfriend of the
10 codefendant, April Victoria Snipes, Snipes was her name at
11 the time as he resided with her and the child victim during
12 this time. After Mr. Gleason was released on bond for the
13 death of this child the two were married, she is now April
14 Victoria Gleason. During the time period at issue the
15 defendant, Bryan Gleason, kept Victim at their residence
16 while the codefendant was at work, therefore the defendant,
17 who was 27 years old at the time, was responsible for the
18 welfare of Victim while the defendant -- he was alone with
19 her and the codefendant was at work. Your Honor, had we
20 gone to trial the State would have presented evidence that
21 during the timeframe February 5 through February 21 of
22 2013, the defendant did cause bodily harm to Victim [REDACTED]
23 while the codefendant was at work. The defendant sent
24 several text messages to the codefendant on Valentine's day
25 of 2014 -- sorry, 2013, February 14, regarding an incident

1 with Victim in which he admitted he had lost his cool with
2 Victim he had shoved the child and it might leave a bruise.
3 Also he had gotten her about the chest and neck area and
4 noted that she had two bruises under her jawline, she would
5 also have a rug burn right above her ass bone, that's the
6 quote from the text messages. The State also would have
7 presented evidence that during the timeframe of February 22
8 of-2013-through-March-the-3rd-of-2013,-the-defendant-did
9 again cause bodily harm to Victim resulting in injuries.
10 Also on February 23rd, 2013 the defendant sent the
11 codefendant a video in which he was clearly angry and
12 frustrated with Victim The defendant also sent the
13 codefendant a video of the victim screaming in the shower
14 while he was telling her he wanted to clean her off. It is
15 believed that Victim was injured at this time resulting in a
16 broken clavicle. Text messages from Bryan Gleason to the
17 codefendant while she was at work on February 23rd reflect
18 that Victim back and eye were injured by the defendant,
19 and the defendant sent pictures to the codefendant of these
20 injuries which included a black eye. These incidents
21 during two separate time periods resulted in two charges of
22 unlawful conduct of a child in that the defendant did
23 unlawfully and malicious cause bodily harm to Victim
24 so that her life or health was in danger or likely to be in
25 danger. Your Honor, finally as to his voluntary

1 manslaughter charge to which the defendant is pleading
2 today, the State would have presented evidence at trial
3 that late in the evening of March 4th through just after
4 midnight on March 5th of 2013 Victim was unlawfully
5 injured by Phillip Bryan Gleason resulting in her death.
6 Your Honor, the autopsy report reflects the cause of death,
7 closed head injury due to blunt force trauma due to a
8 beating resulting in a subdural hemorrhage to the brain.
9 Your Honor, at trial Dr. Ross would have testified that the
10 injuries to the scalp and the head and the brain would have
11 been caused by significant force resulting in blunt force
12 trauma. In her report she opined that the death would have
13 occurred within minutes to hours of the injury. The
14 autopsy report and pictures from the autopsy also reflect
15 that there were numerous bruises on many different
16 locations on Victim body. She had a fractured clavicle
17 that was in the stages of healing. Dr. Ross would have
18 testified at trial in her expert opinion the fracture to
19 the clavicle was not as recent as the trauma to her head,
20 and that the clavicle was in the healing process reflecting
21 at least two periods of injuries of healing for the child.
22 Your Honor, with that I believe we have met the elements of
23 the crime in order to accept the plea. The State would
24 like to be heard at the appropriate time regarding
25 sentencing. Also as to the packet that the State sent to

1 the Court last week involving or including pictures and
2 videos text messages, the victim would request all of that
3 would be sealed by the Court and made a Court's Exhibit.

4 THE COURT: All right, thank you. Mr. Gleason, did
5 you just hear what the solicitor told me you did?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right. Do you agree with those facts?

8 THE DEFENDANT: I take responsibility for my actions,
9 sir.

10 THE COURT: Is that what happened?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: The Court finds that you have knowingly
13 and voluntarily entered into a guilty plea. The Court
14 further finds that the facts allege by the State support
15 the crimes that you have been charged with, therefore the
16 Court does accept the plea. Mr. Wellborn, as to the issue
17 that the packet that the State sent me in support of the
18 proceedings this morning just like the packet that both
19 defense lawyers sent me in support of y'all's respective
20 positions, any problem with making this a Court's Exhibit
21 and sealing it?

22 MR. WELLBORN: No, sir, not on behalf of my client.

23 THE COURT: There are some inflammatory photographs.

24 THE DEFENDANT: Well, and we appreciate the
25 professionalism again of the solicitor's office and of the

1 Court in allowing this to proceed in a manner that accords
2 Your Honor a full and fair opportunity to review all of the
3 evidence in the case without turning it into a spectacle
4 that I think would be very discomfoting for the people who
5 are loved ones of **Victim** And with all due respect to the
6 esteemed members of the press, I would suggest that their
7 concern is probably something that the Court should take
8 notice of and wants to think it.

9 THE COURT: All right. Well, I don't necessarily
10 won't to open up that whole bag of worms, but what I've
11 been provided are various photographs of the state of the
12 child after -- during the autopsy and I'm certainly not
13 going to release that to the media, that's just not going
14 to happen. That would not be in my decision in the best
15 interest of the other children involved in this family and
16 the other family members so that's what I'm talking about.
17 So, yes, upon the State's motion with consent of the
18 defense these items shall remain under seal, okay? And
19 they will be a court exhibit to these proceedings.

20 MR. NEWMAN: Your Honor, will this be a good time to
21 let Mr. Delgado address that as well?

22 THE COURT: Yes, sir. Mr. Delgado, any objection to
23 the Court doing that?

24 MR. DELGADO: Your Honor, I apologize, I misheard you.

25 THE COURT: Any objection to the Court sealing the

1 photographs and the video that the State offered up to the
2 Court last week in preparation for this plea this morning?

3 MR. DELGADO: Absolutely none, thank you.

4 THE COURT: Without objection and with the consent of
5 everybody involved so ordered. Having said that, the Court
6 does accept your plea, Mr. Gleason. What's going to happen
7 now is we're going to move into the sentencing phase and
8 I'm going to allow both sides to present whatever
9 information they wish to present to me in support of or
10 against any particular type of sentence being considered by
11 the Court. Of course, initially we'll deal with that with
12 the State, the State goes first, they have the burden of
13 proof and I will be glad to hear from any victims, anybody
14 else who wish to speak with me concerning any appropriate
15 sentence.

16 MR. WELLBORN: Your Honor, just for clarification
17 we're going to do that specifically for Mr. Gleason first
18 and then do the plea colloquy and the sentencing for Ms.
19 Gleason second or --

20 MR. NEWMAN: Your Honor, I was under the impression we
21 were going to do sentencing for both of them at the same
22 time.

23 THE COURT: Right. I've already accepted Mr.
24 Gleason's plea, we're just going to move into sentencing
25 for both for -- who do you want to go first?

1 MR. NEWMAN: Well, Your Honor, most of the facts
2 involve both defendants.

3 THE COURT: The facts are the same for both, I've
4 already done the plea colloquy for Ms. Gleason.

5 MR. NEWMAN: If you want to bring up Ms. Gleason and
6 have them both here at the same time it will probably make
7 sense.

8 THE DEFENDANT: Would Your Honor like my client to
9 stand aside while you do the plea colloquy for Ms. Gleason?

10 THE COURT: I've already done that, I've already
11 accepted her plea.

12 MR. NEWMAN: I would suggest doing them both together.

13 THE COURT: We'll do both, and if y'all want to have a
14 seat because I'm sure it may be a bit and that will be
15 fine, I don't have a problem with that. And then I'll hear
16 from y'all, y'all work out which order y'all wish to go.

17 MR. WELLBORN: And then with Your Honor's suggestion
18 and permission I will have to --

19 THE COURT: Yeah, y'all just have a seat over there.
20 All right, Solicitor?

21 MR. NEWMAN: Your Honor, this defendant, Mr. Gleason,
22 started keeping Victim in December of 2012, three months
23 later she is dead as a result of his actions. The last
24 time Victim was seen at the doctor's office was January 7 of
25 2013 with a cough and fever. On that date the doctor noted

1 no bruises on her skin. Your Honor, Dr. Ross, the
2 pathologists, noted that during the autopsy that Victim was
3 five years old, 46 inches tall, only weighed 50 pounds.
4 Dr. Ross concluded in her autopsy -- Dr. Ross concluded in
5 her autopsy cause of death from beating of a victim
6 resulting in blunt force trauma to the head causing
7 hemorrhaging of the brain, death of the victim within
8 minutes to hours. She noted subarachnoid hemorrhage dura
9 soft tissue contusions, showed they were very recent, only
10 hours old. She noted that Victim body had multiple
11 contusions, abrasions over her face, her upper chest, her
12 upper extremities, her lower extremities, her back along
13 with blunt force trauma to the head. Your Honor, I will
14 remind you, Coroner Mike Morris stated in his opinion he
15 could not take his hand and place it on that child's body
16 without at some point touching a bruise. Your Honor, she
17 had contusions on her right eyelid, an oval shaped abrasion
18 above her right eyebrow, oval contusion on her right jaw,
19 small circular contusions in the upper mid-chest and both
20 clavicle areas, multiple contusions of the upper left arm,
21 a large contusion on the right upper arm, an abrasion on
22 the right elbow, a contusion on the right forearm as well
23 as her left forearm. Also bruises to the left thigh,
24 multiple contusions to the right and left tibia, another on
25 the right calf with a larger contusion over the left calf.

1 There were also small bruises on the top of both of her
2 feet. Her back also had bruises on the left shoulder
3 blade, the right shoulder blade and two abrasions in the
4 middle of her back. The right clavicle was fractured with
5 no recent hemorrhage and was microscopically in the healing
6 process. There was subarachnoid hemorrhage bleeding
7 between the brain and the tissues that cover the brain.
8 This was subdural hematoma over both hemispheres of the
9 brain, meaning a pool of blood between the brain and its
10 outer covering, subgaleal contusion, bruising between the
11 underside of the scalp and the skull. Your Honor, Dr.
12 Ross' cause of death, again, closed head injury due to
13 blunt force injury due to beating, the manner of death she
14 listed as homicide. Your Honor, we received several
15 hundred pages of evidence after the sheriff's office and
16 SLED were able to retrieve text messages, photos and videos
17 from Mr. Gleason's phone and computer. What we found was a
18 month long killing. I'll submit to you that Ms. Gleason
19 could not take [Victim] to her grandparents at this point, she
20 didn't want anybody to see those bruises, she, in fact,
21 bought bruise cream to cover the bruises. Through these
22 text messages you could see a pattern, you could see a
23 change in the routine, a change in the attitude and the
24 ultimate decline of [Victim] To start with Ms.
25 Gleason is checking in, everything is fine and then

1 eventually he starts giving her excuses, he starts giving
2 her damage reports and you see less texts from him and more
3 from her asking what's going on at home. Your Honor, I
4 would like to read a portion of those text messages and it
5 starts out -- Your Honor, it seems to start out as Vicki
6 complaining to Bryan about [Victim] behavior, and then it
7 leads into Bryan sort of taking action, and maybe some
8 action that she may or may not have wanted to be taken or
9 may not be comfortable with. Starts out on October 12th of
10 2012, Vicki texts Bryan, "I'm two seconds from committing
11 [Victim]cide." He texts back, "What's going on?" She texts
12 back, "Just tired and hungry and whiney." On November 13
13 of 2012 she texts Bryan, "I'm super over [Victim] bratty
14 stage, I just knocked the shit out of her, five fingers to
15 the face." She then texts, "I think it's because she's
16 tired, she's tired which almost makes me feel bad," dot dot
17 dot "almost." He texts to her, "It will be okay, all kids
18 can be a bratty stage at times." On November 15 of 2012 he
19 sends a text to her, "Look, I don't want you to get the
20 wrong idea in your head, while I know my limits because of
21 that time with my wife I'm very ashamed of myself as a
22 person. I don't want to ever do that again in my life. I
23 think you know that I'm being honest about that and I don't
24 think you will ever push me to that point." Later on
25 November 15th she texts, "I'm fixing to kill somebody if

1 second don't leave." He texts to her, "Do it, I'll help
2 with the body." She texts back, "Awesome, sounds like a
3 date, dinner and a murder." On November 16th she texts to
4 him, "You're talking about dropping off [Victim] she
5 references speaking with [Victim] father, she refers to him
6 as a derogatory which I will not mention, but they've
7 spoken with [Victim] father, Jeremy, who was alive at the
8 time, she states that he's asking if [Victim] is safe. Later
9 in December, December 12th, again they reference Jeremy.
10 She texts Bryan that Jeremy had asked about why I didn't
11 tell him that [Victim] was staying with you, "I perpetrated
12 that lie and says that she stays with my dad sometimes."
13 So she didn't tell [Victim] father that he is staying with
14 Mr. Gleason, that [Victim] is staying with Mr. Gleason all the
15 time. She then texts, "Here is the message that he sent,
16 I'm going to forward it over." That message said, "If
17 anything ever happens when she's with said douche it will
18 be real bad. Thanks, Beautiful." On January 1st -- I'm
19 sorry, on December 31st of 2012 he texts to her, "We had a
20 meltdown over you going to work." She texts back, "OMG, is
21 everything okay?" He texts, "Yes, it's fine, we are being
22 content now." He texts, "It's fine, it's part of our life
23 and dynamic, I love you regardless." Then he texts,
24 "Regardless of baby girl's temper tantrums." Your Honor,
25 also on 12-31 we seen a picture sent to Ms. Snipes at work

1 with Victim asleep on the couch says, "She was tired and
2 cranky, I will carry her to bed in a about 30 minutes,"
3 this was sent at 11:30 p.m. Later at 12:30 a.m. same night
4 or following morning, this would be January 1st, "By the
5 way, I carried Victim to bed, she awoke and demanded Victim
6 bear. After three hold-ons because I was peeing she
7 decided to approach me and demanded once more that she get
8 Victim bear, then she hit my left harm, didn't hurt. So she
9 stood in timeout with about three minutes with her arms up
10 and is now back asleep. Just wanted to inform you of this
11 and say she is fine, we are great but didn't want this to
12 shock you if she talks about it, about getting in trouble."
13 And Your Honor, there is a corresponding video of this
14 where you can see Victim standing, holding her arms out as
15 punishment. He then texts, "It's fine, Love, she couldn't
16 just get away with that and I did grab her arm and lightly
17 fuss at her about it." Vicki texts back, "I agree, that is
18 not acceptable. I probably would have wailed on her, I
19 miss you guys." He then texts, "I'm sorry, Love, she
20 learned her lesson. I feel bad because I stayed on her ass
21 about the arms being up and after she said her arms hurt.
22 Lol. I love you, too." Your Honor, on January 5th Bryan
23 texts a friend named Joe, says, "I'm really angry lately."
24 Joe texts back, "about?" He texts back to Joe,
25 "Everything." There are texts on January 7th about taking

1 Victim to the doctor and the fact that nothing was wrong, he
2 texts back, "I called her bluff on that the whole time."
3 She texts back, "Whatever. You know her eye is swollen
4 just like mine was. She used to have really bad allergies.
5 I still have her Claritin in the cabinet, maybe that will
6 help." On January 9th Vicki texts Bryan at about 2:00 a.m.
7 and again, Ms. Snipes is working third shift, she texts to
8 Bryan, "Was it a good night, no troubles?" He texts back,
9 "Nope, passed out by 11:30." Later at 4 p.m. that same day
10 he texts, "Victim just got caught sneaking apple sauce after
11 I said we would wait on you since she didn't eat all of her
12 food. She's having to sit down in front of her food and is
13 not allowed to move for a bit. I'm also probably going to
14 put those things on top of the fridge, let me know your
15 thoughts." Vicki texts back, "Good, she needs a lesson."
16 He then sends a picture of Victim sitting at the table in
17 front of her food, no shirt with pajama pants. Later that
18 night, January 9th, around 11:44 p.m. he texts Vicki, "A
19 little fussy tonight but all is well." She texts back
20 she's busy at work, he sends her a picture of Victim on the
21 couch asleep. He then texts, "It's fine, it was handled
22 in-house and if you ask I'll tell you she was a good girl
23 while winking at her so she understands I'm saving her
24 hide." On January 22nd he asked, "Can I wipe her ass?
25 It's too hard to explain." She says, "Yes." Apparently

1 they're having a conversation about **Victim** using the
2 bathroom. He says, "I tried to explain the wiping of the
3 ass to her and all she accomplished was getting poop on her
4 back, she is back asleep and I am desperately trying to
5 find sleep. Meanwhile I love you and feel the need to tell
6 you this. Initially I was upset with her for being awake
7 because I was half asleep and I fussed at her a little bit
8 for being out of the bed, it wasn't long before I figured
9 out what was happening and resolved the issue. I just
10 thought I would let you know I jumped her ass at first."
11 Later that same morning he texted Vicki, "She is to me what
12 my kids are and although we lack the blood bond she will
13 suffer my rules the same as the rest." On February 5th of
14 2013 he texts to Vicki admitting to taking sleeping pills
15 while keeping **Victim** At 10:47 p.m. on February 5th he
16 sends a picture to Vicki at work, "What happened to the
17 right side of her face?" There it is, red and stuff." She
18 texted back, "Nothing happened?" He text, "Do you see what
19 I'm talking about though?" She says, "Yes, but I don't
20 know what happened." He says, "Well, let there be no
21 confusion this time, I played no part in this either." She
22 texts "LMAO, I love you." Your Honor, February 14th a
23 series of texts began around 1:30 a.m. "Babe, tonight I
24 lost my cool with **Victim** I had forgot to get her chocolate
25 milk when I saw you off and she threw a fit about it. I

1 told her to go to timeout and she said no and threw a fit
2 so I escorted her to timeout, in route she got me in the
3 eye while flailing and I more or less shoved her away.
4 Long story short, I'm pretty sure she might end up with a
5 bruise from it, and as I've said, I'll take credit for
6 those that I inflicted or that are inflicted by me. I just
7 wanted to be honest and tell you so we can discuss it."
8 Vicki texts back, "It will be fine, Baby." He then texts,
9 "I just wanted to tell you because **Victim** might say that she
10 got into trouble tonight and I just wanted you to know that
11 more or less it's already been taken care of. We had the
12 talk and everything should be fine. I think it's a
13 backlash from the whole Jeremy thing." Vicki texts back,
14 "That sucks, though, I'm sorry it happened, that's weird.
15 Did she at least say she was sorry?" He texts back, "After
16 I picked her up off the floor and made her talk to me. I
17 want you to know though, because due to the bruising thing
18 lately I got her about the chest and neck area when she got
19 my eye." Vicki texts back, "I'm sorry, Love, I wish I
20 could be there. I will look at her in the morning, I'm
21 sure she's fine. I love you." He then texts, "I just
22 don't want you being like WTF, Bryan. I feel horrible and
23 she is red about the area I got her in so I'm sure it will
24 bruise a bit and her landing spot was a bit red I think
25 from carpet burn. I feel horrible, though, she was being a

1 kid and because I got hurt I lashed out." Vicki texts,
2 "Don't feel horrible, I love you and stuff happens. I know
3 you feel bad but stuff happens it will be okay, trust me."
4 He then texts, "My mind though is like OMG, she's injured,
5 and now given recent events it looks even worse and it's
6 just anxiety I suppose and the fear of letting you down for
7 losing it like that. I'm not trying to get her in
8 trouble, I'm trying to say through her actions, though her
9 actions were wrong so were mine and two wrongs don't make a
10 right. She seemed to understand that her actions caused
11 that but I told her if she ever hits me again I will
12 blister her ass." He says, "Part threat, part real, but I
13 just need you to know everything because I feel there will
14 be friction between us about this, not a fight but I
15 definitely want to talk about it." Vicki texts back, "It's
16 going to be fine, I wish I could be there but I'm here
17 instead, I love you and it's going to be fine. Just so I
18 know should I come in ready to scold her or is it taken
19 care of? That's one of my things, hitting an adult is not
20 allowed, and we'll talk about it, Babe, it will be
21 discussed and we'll move past it." He texts back, "It's
22 been taken care of. I told her if she kept acting out I
23 was going to tell you and not let her stay a few nights and
24 go to Nana's, she pleaded for me not to do that and she
25 learned her lesson -- she learned her lesson I believe.

1 She will definitely be reminded Bryan can shove pretty
2 freaking hard." Vicki texts back, "Awe, I hate it happened
3 but it will be all right, I love you, we will be fine." He
4 texts, "I'm sorry, Babe, I really do feel bad. She is
5 physically okay but as an adult, as a man that shouldn't
6 have happened. I will work on not getting so upset, I love
7 you both and the last thing I want to do is hurt either of
8 you." She texts, "I know this. I know you get mad but
9 sometimes it's necessary. Throwing fits is not okay and
10 neither was hitting you, she knows that. I love you,
11 Baby." He then texts back, "The important thing is she's
12 alive and breathing and before she went to bed she told me
13 she loved me and gave me a kiss. But to be honest that had
14 to have scarred her because her tailbone is carpet burned
15 at the least." Later that night around 5:00 a.m. he texts
16 what is referred to as a damage report. "Hey Love, here is
17 her damage report as seen by me, she has two marks right
18 there on her chin and jawline I guess from where my fingers
19 grabbed her to throw her back, and then she has a spot
20 right there above her ass bone, that's carpet burn, that's
21 all that's seen. Of course, I've been trying to not wake
22 her, just as she moves around I'll look at her. I really
23 didn't mean to do this to her, it wasn't done out of anger,
24 it was done out of I got hurt and that was my reaction.
25 I'm sorry, I know this is your baby and I'm sorry." Vicki

1 texts back, "You're right, she is my baby. I know you
2 didn't mean to, Babe, it's going to be fine, trust me,
3 we'll talk about it, I can't wait to be there. I'm still
4 planning to go by Wal-Mart if that's okay, going to get her
5 some balloons and candy or Valentines. I love you, it will
6 be okay." Later that same day at 4 p.m. he texts Vicki,
7 "Seeing her is making me sad, I'm sorry, this is hurting my
8 heart." She texts back, "Me too." Your Honor, we move
9 next to February 23rd, it's a series of texts that started
10 around 11:55 p.m. "Hey Baby, Victim says she was hungry, I
11 fixed her some chicken noodle soup like she asked, now
12 she's projectile vomiting everywhere, just wanted you to
13 know." He sends her a picture at that point of Victim at
14 the table with the soup and the vomit. He sends her a
15 video saying he's having to give Victim a bath, and Your
16 Honor, I'm assuming you've seen these videos. He also
17 sends a very alarming video of Victim screaming in the
18 shower. She texts to him, "Baby, if you need me to come
19 there I can leave for 30 minutes, I don't know what to do
20 but as I'm at work with mother fuckers standing around
21 listening I couldn't say to you what I'm going to either;
22 A, have a talk with her, or B, tear her ass out of the
23 frame. Let her wipe off with a washcloth and go to bed, if
24 she has vomit on her I will clean it in the morning. If
25 you need I will come or if you want I will talk to you on

1 the phone." He sends back, "I was just sending it to you
2 as proof, it is taken care of, I'm drying her off now,
3 she's off to bed, that was from earlier." Vicki then
4 texts, "I'm really sorry, I hate this, if I need to come,
5 I'm sorry. My mom is offering to come, too. I don't know
6 what to do." He texts back, "It's fine. That's the
7 biggest thing is just the attitude with me once she gets
8 it. I'm not worried about the rest of little stuff
9 tonight, I just need a big effort in taking care of these
10 attitudes because I know I told you about them but you've
11 never gotten to see them with me until I was able to get
12 that on video early since it was so constant. I'm fine,
13 I'm getting ready to roll up the rug." Vicki texts, "I
14 will fix it, I'm sorry." He then texts back, "This is
15 exactly the kind of thing that happened the other night,
16 it's hard to describe other than just saying a temper
17 tantrum." Vicki then texts, "Yes, I know, I don't know why
18 she's acting that way, it's unacceptable, I will talk to
19 her." Later on that night he says, "When I try to get her
20 out of the bathtub she would not move, I had to try to
21 extract her from the bathtub in which she pulled down the
22 shower curtain. I'm going to leave everything exactly the
23 way it was so you can see a testament of this. She also
24 fell twice in the bathtub trying to get away from me. She
25 would not get out of the bathtub on her own, she would not

1 bet you don't her own (sic.) I have literally had to force
2 her to get back in the bed in which case she is in right
3 now screaming and crying but in the bed nonetheless."
4 Vicki then texts, "What the fuck is going on? I cannot
5 believe she's acting that way." He texts, "I don't know
6 she keeps saying something about she's never going to do
7 something, never going to do, never, never, never. She
8 also says whatever it is that she says in that video that I
9 sent you. I don't know what is going on with her. I'm
10 chalking it up to that fabulous ass hat and their
11 personalities. All I know is that she escaped today
12 without my laying in her ass." Vicki texts back, "I am
13 very sorry, I have never known her to act this way." Vicki
14 later texts, "I understand a lot is going on but she knows
15 better. That is one of my big things, she cannot hit an
16 adult, that is out of the question and it's not like she
17 doesn't know that." He texts to her, "In either case,
18 Babe, I just need your help with this, this one of the only
19 things that with this I really had (sic.) The rest I can
20 handle, even handle the stubbornness, but when you won't do
21 anything with someone having to make you it's going too
22 far. It's not like I'm hurt, I have a few scratch marks,
23 soap in my eye and other random things, but she has a mark
24 on her back from slipping and falling and a mark on her
25 stomach where she slipped and fell." And Your Honor, this

1 is where we believe she received the broken clavicle on
2 February 23rd. 2:00 a.m. that same morning she texts to
3 him, "I hope everything is okay, wish I could be there,
4 Baby. I will try to make this up to you somehow." He
5 texts back to her, "It's fine, Baby, I just went in to
6 check on her and her right eye is black, Baby. I honestly
7 have no answer for that, I think it's when she slipped or
8 something, I don't know. I know I physically did not make
9 contact with her face, I know I grabbed her by the top of
10 the head when she head butted me. I don't know. I'm done,
11 Baby, I can't get being responsible for those things that
12 are showing, I can't keep doing this thing. I can't keep
13 being this bad guy. I won't take credit for these that I
14 did not physically inflict on her. I'm just an emotional
15 train wreck right now over what is happening tonight, now
16 that things settle I will go in there and report back to
17 you, I feel like throwing in the towel." Vicki texts back,
18 "In the morning we need to have a talk. We never talk
19 about" -- I'm sorry, this is him in another text to her
20 about ten minutes later. "In the morning we need to have a
21 talk, we never talk about us because again, she looks
22 pitiful and it's under my care. I won't keep feeling like
23 this and you shouldn't have to keep feeling like **Victim**
24 isn't safe with me. I've had a lot of problems in my life,
25 you are the best thing that ever happened to me, I'm

1 actually crying right now due to the facts and events that
2 occurred tonight. In fact, that boodles" -- and I'm
3 assuming this is a typo, "Boodle's freaking eye is black
4 and her little fucking tail bone is all hopefully bruised
5 up from falling and I feel like shit because I feel like
6 it's something that I'm doing wrong." She then texts,
7 "Baby, it's going to be okay, we're going to get through
8 it." He texts to her, "Baby, it looks like the whole be.
9 her (sic), I feel like a complete pile of shit. You don't
10 understand yet because you haven't seen her. Her face over
11 there near her eye is swollen, her back looks like she was
12 a slave. I can't keep going through this feeling, Baby.
13 It hurts to see your face what you look" -- sorry, he --
14 these text messages, sometimes they're bundled together --
15 "It hurts to see your face when you look and it hurts to
16 see her right now, it hurts all of the fucking time knowing
17 there's no real reason why she does this, it's just she
18 did, it happened. Instead of protecting her she looks like
19 she is a professional fighter." Vicki again texts back,
20 "It's going to be okay, we're going to get through it. I
21 could be there now -- if I could be there now I would. I'm
22 going to have to do whatever is necessary to be there at
23 night, it's not your fault, whatever comes we'll deal with
24 it." He texts back to her, "Baby, the fact is she's a
25 child, I'm an adult male more or less filling a role. I

1 feel like it's my fault." She texts back, "It's going to
2 be okay, it's something we're going to need to address."
3 He texts back, "It is something we need to address, there's
4 a lot that will need to be talked about." He then texts,
5 "I'm here to say in the morning prepared to be upset, her
6 face has gotten messed up. I have, however, left
7 everything exactly as it is and I would like to talk you
8 through everything and let you see it all before we discuss
9 anything else." He then sends her the three pictures that
10 you saw of **Victim** injuries. He texts, "That is the damage
11 report, I just wanted you to have a heads-up and I'm here
12 to tell you again, I did not physically do this to her.
13 Actively she was doing a lot of flailing and hitting so I
14 can't speak on what may or may not have happened during
15 that." She texts back again, "It will be all right." He
16 texts, "I'm sorry, Baby. I did everything I knew how to
17 do, she's probably going to be sore in the morning." Later
18 on he texts, "I asked her why she acts like that with me,
19 she says it is because I'm mean. I told her tomorrow we
20 won't go do anything fun, she probably won't get to do a
21 lot of stuff because I've told her that I was sick and
22 tired of her acting like that. I'm telling you this
23 because today she probably isn't going to have that much
24 fun because I've pushed it under the rug a few times and
25 now I am trying to deal with it myself, but now that you're

1 involved I can carry it from one day to the next. I fully
2 intend to be hard on her today for the simple fact
3 regardless of boo boo's and any Victim or whatever you
4 did that by yourself and it's time to have consequences
5 that come with that behavior." Vicki then texts to him,
6 "That is not an acceptable being mean, and trying to clean
7 someone up is not mean." He says, "That is what I told
8 her. I also told her that since she thinks that is being
9 mean I will show her being mean, that way she has a clear
10 definition so I plan on being extra hard on her tomorrow so
11 that she can understand the difference between her having
12 to do something because it benefits her and me just being a
13 dickhead." He then texts, "Do you care if I drink some
14 alcohol?" She says, "No, Baby, I don't care." He texts,
15 "The important thing to remember, Baby, is that I love you
16 and I love Victim. I hate this has to happen but there are
17 things we need to talk about and then there are things that
18 you and Victim need to talk about, there are things that me
19 and Victim need to talk about but tomorrow can't come soon
20 enough." Later that same day -- this was early morning
21 hours while she was at work -- later that same day right
22 around 6:00 p.m. he texts to her, "Whenever you want to
23 talk about it let me know but I won't be the bad guy here.
24 I talk to her, she cries, I'm trying to explain to you, you
25 just don't understand. It really sucks that she got hurt.

1 It also really sucks getting hit and here she is earning
2 sympathy for doing something that is in no way acceptable.
3 I won't sympathize with her. I get it, though, you're a
4 mother and I'm just a guy but I won't be the bad guy here."
5 Your Honor, next series starts February 26, 2013, 2:44
6 a.m., he texts to Vicki, "Okay, nevermind, **Victim** was, I
7 think, up sleepwalking, but she made her way to the couch
8 but I didn't know what to do but she's in there. I will
9 try to put her back to bed here if a few hours or so."
10 Vicki then texts, "It's weird how she's doing this stuff,
11 she didn't do it once the weekend. Again, if I were there
12 she wouldn't be a problem." An hour later he texts, "Hey,
13 Baby, **Victim** woke up again, was shaking real bad and told me
14 she was extremely cold. I didn't know what to do, I gave
15 her some extra cover. She also told me her stomach was
16 hurting and her arm was hurting. I gave her some kids
17 Motrin, now she's back asleep. She kept telling me about
18 stuff in her room and her left arm was shaking really bad.
19 I asked her if anything other than her arm hurt and she
20 said no, so I don't know what's going on. I think it's
21 probably a side effect of her dream." Your Honor, later
22 that same morning we have an exchange of texts where Vicki
23 is explaining her route to work and the time it takes to
24 get there, and I believe this is important based on the
25 time it took her to get there the night that **Victim** died.

1 This was again February 26th, she says, "I really do hate
2 the fact that I'm not there, I just had to sign a paper for
3 being late, I got ten points. I won't get fired until I
4 get 30, though, I was late tonight too, I have to do
5 better, Babe." He says, "How were you late? What the
6 hell?" She says, "Because I left the house a 10:50
7 apparently, when I got here and got to the time clock it
8 was 10:53, I have to clock in by 10:52 or I'm late." So
9 Your Honor, she left the house at 10:50, she clocks in at
10 10:53, they live very close to where she works, and that
11 becomes important later when we talk about the 911 call.
12 Your Honor, later on February 27th texts start about 1:00
13 a.m. he says, "Believe it or not I think about stuff like
14 that. I'm in love with you and I'm so worried about her,
15 I'm at a loss. Seeing her all messed up -- I'm sorry, this
16 is Vicki texting Bryan -- "Seeing her all messed up from
17 her own actions is very difficult for me. She's never
18 acted that way. I think it must have something to do with
19 all of stuff that's happened over the past few months. I
20 need to be there and I'm not and that's a terrible
21 feeling." He texts to her, "I don't know what else to do,
22 I'm at a loss as well. I hate seeing her all bruised up,
23 it really breaks my heart especially knowing that I try so
24 hard but it seems like no matter what I do the odds are
25 stacked against me." She text back, "We'll figure it out,

1 if nothing else I'll look for another job. Honestly, if
2 that's what it takes it's fine with me. I just need her to
3 be okay and I need us to be okay. I should be there now, I
4 should be working a nine to five job, I definitely
5 shouldn't be here." He texts to her, "I say before we take
6 drastic lifestyle changes we should adapt our current lives
7 and see if that helps. I'm going to back out of the male
8 parent role and get back into the more about let's be
9 friends roles. I feel like if we're able to eliminate
10 things one by one we'll be better off than just making
11 drastic life-style changes. She texts, "Perhaps, but like
12 I said whatever it takes." He says, "I agree, whatever it
13 takes, but also think we should go about this responsibly,
14 I just don't want to be the problem here." She says, "I
15 want things to go back to smooth." Later that morning,
16 this is again February 27th, he says, "By the way, I asked
17 a few army medics what to do to help bruising and swelling
18 and they all said ice." She says, "I think both work,"
19 speaking of heat and ice, and she says "Massage is supposed
20 to be good for bruises as well." And he says, "Yes. I
21 think a few days -- yes, I think next few days would be
22 cruel to be kind should be the motto with her bruising."
23 She says, "What do you mean?" He says, "Do everything we
24 can to heal her." In this series of texts is where we get
25 the screen shot of the bruise cream that they ordered from

1 Walgreens. Your Honor, we sent you, I believe, pictures of
2 that bruise cream, there was at least two tubes of that
3 bruise cream, found in the home, it was ordered from
4 Walgreens.com. Your Honor, on February 28th Ms. Snipes has
5 not heard from Mr. Gleason, she texts, "I hope everything
6 is okay, I'm very nervous." She texts again, "I love you."
7 She texts yet again, no response, "I suppose you're
8 sleeping, I really wish I could be there, I hope tonight is
9 okay. I'm worried to say the least. I love you, I want to
10 get back to good. I want to spend time together, I want to
11 heal her up. I miss you and her. I'm sleepy, I need you
12 guys, I love you." There is then a call about 20 minutes
13 later from Vicki to Bryan. Your Honor, then on March 4th,
14 this is the final night of Victim life, they begin their
15 text messaging around 11:00 or so talking about sex. Then
16 around 11:30 he says, "I got attacked by Victim She felt
17 sick, she didn't want me, she wanted you, she spit up a
18 little, she's back in the bed but she clawed me a bit on my
19 face. I don't know what to do, any ideas?" Vicki texts
20 back, "Is she still awake? Is she crying? I don't know
21 what to do, I'm very sorry." He texts back, "She's back
22 asleep, I think." She texts, "I'm sorry, Baby." He texts
23 to her, "She was whiney which is why I went in there in the
24 first place." He then sends in a text a picture of his
25 face with scratches on it, this is around 11:40 p.m. She

1 then sends a text, a video text of her singing Hush Little
2 Baby, and she says, "Don't laugh at this, it might help if
3 she starts going nuts. If I were there I would cuddle her
4 and sing it but I'm at this shitty fucking place. I'm
5 sorry, Babe, I don't know what to do." He says, "I'll play
6 that for her. In the morning you think you can discuss
7 with her again that attacking me does nothing but get her
8 in trouble? Because I'm a little bit passed getting
9 attacked at this point to be honest, all I'm trying to do
10 is help. I will play this for her but she also needs to
11 realize that when you're not here it's just me that's left
12 with her." That was at 11:43. At 11:45 Vicki texts back,
13 "She needs to understand that. I don't understand why she
14 acts that way. If I were there she would want to cuddle, I
15 don't understand why she doesn't try to cuddle with you and
16 instead does stuff like this. It's not acceptable. I'm
17 upset. I don't know what else to do." He texts back
18 11:55, "I don't either, I just don't know what to do with
19 her. I think it's backlash as you know from you know what.
20 But I just don't understand why a simple preference over
21 paternal leads to such dramatic actions." Vicki texts, "I
22 don't understand either. Like tonight she came in there to
23 me blow-drying my hair and said, 'Mommy, is it okay if I go
24 to sleep because I'm really tired.' Like why in the world
25 wouldn't she say something to you? That makes me think

1 about something, actually, something we should talk about
2 in the morning." Then at 12:02 a.m. he texts to her, "I
3 know, that is what I'm talking about when I say parental
4 preference. I understand her coming to you for something,
5 I just don't understand why it's everything, but yet when
6 you were here she would occasionally ask me for stuff but
7 then bite my head off when I'm trying to help her." Vicki
8 texts to him, "It does not make sense now but I do think
9 that's how it will be at this point with her father. I
10 always did everything from getting her food, putting her to
11 bed, putting movies on for her, bathing her, et cetera. I
12 don't know if maybe she's regressing." He texts back,
13 "Well, I understand his lack of involvement probably will
14 play a role, but while it's not my style I am an active
15 participant in my children's life, I can't let you do stuff
16 with her" -- or, "I can let you do stuff with her. It's
17 just my thing. I'm trying to help and it's
18 counterproductive for her to behave this way." Then at
19 12:11 she texts back, "I know, I will explain this again to
20 her in the morning, I know she's been through a lot but she
21 cannot claw you. WTF?" Your Honor, that was the last
22 text, that was at 12:11 just after midnight on March the
23 5th, that text came through at 12:11. At 12:22 is when we
24 show a call going into Vicki, this would have been the call
25 where he's telling her that her daughter is incapacitated.

1 Your Honor, he tells her that at 12:22, at 12:28 911 is
2 called, and it's not until six minutes into that call when
3 Ms. Gleason arrives at the scene. So it took her 12
4 minutes on this night, the night before it took her three
5 minutes, this night it took her 12 minutes to get there
6 after she's called and they say, "Your child is
7 unresponsive." Your Honor, in these past few texts you see
8 this purple heart recipient, a war veteran, a grown man, he
9 claims to be attacked by a little five year old 50-pound
10 Victim And I have seen their mitigation, Your
11 Honor, I have seen everything they've sent to you, and for
12 him to stand there and blame this on the war and on PTSD,
13 that's a slap in the face to every veteran in this country.
14 I'm asking you to hold him accountable for his actions. He
15 stopped his counseling on his own, he stopped his
16 medication. He knew he had anger issues. His ex-wife
17 tells us he had issues with anger long before any war. In
18 the defense's mitigation submitted to the Court he admits
19 he had had a mental snap resulting in his hospitalization
20 where he stuck a knife through his arm, he stated it was
21 not to kill himself but "better to have something to focus
22 on than what was going on inside of my head," and that's a
23 quote. He stayed in the hospital for ten days after that.
24 When he got out of the hospital instead of seeking more or
25 better treatment he stopped all treatment and he stopped

1 all medication. Your Honor, Ms. Collins will speak as to
2 Ms. Vicki Gleason. But Your Honor, I've got to tell you,
3 if there ever was a case that demands consecutive sentences
4 this is that case. Your Honor, I would ask you to hear
5 from Ms. Collins and then we will have some from members of
6 the sheriff's office and members of the family.

7 THE COURT: Thank you, Solicitor Newman.

8 (Break in Phillip Bryan Gleason hearing.)

9 THE COURT: After I hear from whoever wishes to
10 address the Court victim-wise we'll take a brief recess
11 before we begin the defense's mitigation. Solicitor,
12 anybody else to address the Court?

13 MR. NEWMAN: Your Honor, I realize it's not often that
14 there so many folks in the courtroom from the sheriff's
15 office, but I would submit to you that everyone who came in
16 contact with this case, it has touched them and that's why
17 they here. I want to pass up two photos, these were taken
18 before her fifth birthday.

19 THE COURT: She was just five.

20 MR. NEWMAN: She had turned five in [REDACTED] of that
21 year, Your Honor, and the family requested that I submit
22 those photos to you.

23 MR. WELLBORN: Your Honor, may we approach briefly?

24 (A recess was taken.)

25 THE COURT: Let's take a comfort recess now, it's like

1 11:40 so be back in ten minutes, okay?

2 (A recess was taken.)

3 MR. NEWMAN: Thank you, Your Honor. May it please the
4 Court?

5 THE COURT: Yes, sir.

6 MR. NEWMAN: We are at the point where family and law
7 enforcement will speak. Your Honor, here in the courtroom
8 is [Victim] aunt, Sara Chilson Cole; I'm sorry, [Victim]
9 uncle Jody Glenn; [Victim] grandfather, Donald Chilson;
10 [Victim] Aunt, Rebecca Hammond; [Victim] Uncle, Danny Glenn.
11 Your Honor, also here in the courtroom, SLED's child
12 fatality investigator, Agent Trista Baird, sheriff's
13 investigator Jason Catoe, and sheriff's deputy Mr. Glen
14 Campbell, and crime scene investigator Christy Rogers along
15 with several other folks from the sheriff's department.
16 The victim's advocates, Jennifer Faulkenberry and Donald
17 Phillips, will accompany the family to the mic and I've
18 been told at least three of the family members would like
19 to speak.

20 THE COURT: Okay. Yes, sir?

21 SPEAKER: I'm Donald Chilson, [Victim] paternal
22 grandfather and I will try and get through this. Tomorrow
23 is [REDACTED] which is [Victim] birthday, but there won't
24 be any parties, no cake, no balloons, no celebration with
25 family and friends, because on March 5th of 2013, five

1 weeks after her 5th birthday, [Victim] life was stolen away
2 from her. It was due to the events that took place in the
3 early hours of that day and the months leading up to it
4 that we're here today. A mother's main responsibility to
5 their child is to protect and nurture them, to help them
6 grow up to become productive human beings. Ms. Gleason
7 failed at her responsibility to protect her daughter,
8 [Victim] so that she could work the night shift at White Oak
9 Manor, she left [Victim] in the care of her then boyfriend,
10 Mr. Gleason. According to text messages between Ms.
11 Gleason and Mr. Gleason as presented by Solicitor Newman in
12 this courtroom on December 15th and again today, there had
13 been issues in the month prior to her death between Mr.
14 Gleason and [Victim] to cause physical harm to [Victim] From
15 those texts one can see that Ms. Gleason was more concerned
16 with his feelings than the safety and wellbeing of her
17 daughter. He stated in the text about losing his cool with
18 [Victim] and not wanting to be blamed for new bruises on her,
19 but instead of setting off alarms in Ms. Gleason's mind her
20 replies seemed very nonchalant. It was also stated by the
21 solicitor that they purchased cream to help hide the wounds
22 on [Victim] body. At this point in time Ms. Gleason should
23 have made other arrangements for the care of [Victim] while
24 she was at work and not have entrusted Mr. Gleason with
25 that responsibility, but that never happened and now [Victim]

1 is dead. I don't know Mr. Gleason. I met him one time on
2 November 11th of 2012 when my wife and I met him and Ms.
3 Gleason to drop **Victim** off with them after she had spent the
4 day with us. We had picked her up earlier in the day to
5 take her to Columbia to spend the day with her father,
6 Jeremy, who was my son. Little did I know at that time
7 that it would be the last day that I saw either Jeremy or
8 **Victim** alive. Everything I know about Mr. Gleason I learned
9 through this courtroom and the news media. He served in
10 the United States Army, but I also know that the United
11 States Army did not train him to inflict injuries upon nor
12 kill non-combatant five year olds. **Victim** was not his
13 child, she was the child of the woman that he was having
14 relations with. He was put in the position of
15 responsibility over **Victim** either voluntary or otherwise.
16 If there was continuing conflict between Mr. Gleason and
17 **Victim** he should have removed himself from that situation.
18 He could have stepped up and told Ms. Gleason that him
19 watching **Victim** was not working out and that other
20 arrangements for her care needed to be made, but on March
21 5th of 2013 the conflict escalated and by his hands **Victim**
22 was murdered. Either one of these could have changed the
23 situation and prevented that from happening but neither
24 did. He may have been the one that actually killed **Victim**
25 but they each contributed to her death. I'm asking you,

1 Your Honor, to come down hard on them with sentencing.
2 They are both up for very many years of incarceration.
3 **Victim** paid the ultimate price in this, she didn't have a
4 choice, she lost her life. How many years did she lose
5 because of Mr. and Mrs. Gleason's actions? 50, 60, 70, 80
6 or more? That is something we will never know the answer
7 to. I can never forgive either of these two individuals
8 for what they've done. I know that sounds unchristian like
9 but that's the way it is. I'm hoping that you see the
10 seriousness of this crime and come down with the maximum
11 sentence allowed by law. And finally may you finally rest
12 in peace, **Victim** Victoria Chilson.

13 THE COURT: Thank you, sir.

14 SPEAKER: Your Honor, I'm the uncle of **Victim** I'm also
15 a military veteran. I served 13 years in the United States
16 Navy special teams. I would just like to make it a point
17 that the military emphasizes the role and the differences
18 and the fact we're held to a higher expectation for our
19 military service and the training that we receive and the
20 expectation of how we react in situations that are outside
21 of our control or presume to be. We are expected to
22 maintain control and realize the situation and make
23 adjustments and make changes to that situation so the
24 outcome is positive, not negative. In this situation Mr.
25 Gleason failed in multiple situations to adjust the

1 situation by changing the outcome. He could have easily.
2 continued his counseling and continued his medication,
3 continued anything that he could have done that would have
4 shown his understanding and recognition of accountability
5 and responsibility to protect someone that he was given the
6 care of. In this instance he failed and I think that
7 warrants the maximum whatever punishment can be doled out
8 and should be accepted as any military member would accept
9 the responsibility and accountability for their actions.
10 That's all I have. Thank you, Your Honor.

11 THE COURT: Thank you, sir.

12 SPEAKER: My name is Sara Chilson, I'm Victim
13 aunt, I'm Jeremy Chilson's sister. I just want to start by
14 saying I can't fathom, I cannot imagine as a parent of
15 three daughters how any human being could allow or condone
16 or cause this to a five year old. Victim was the sweetest
17 thing in the world. She had spunk and she was just a doll
18 baby. They took that from her. She's gone. I used to
19 live in Lancaster on McIlwaine Road, Victim was at my house
20 pretty much every other day or everyday, holidays,
21 birthdays, just whenever, you know, because my house was an
22 open house for Victim There are no more holidays, there
23 are no more birthdays, they took that from her. She was
24 supposed to grow up with my girls. She can't, she'll never
25 grow up, she won't be allowed to. And there are so many

1 firsts she'll never face, there's so many things that
2 she'll never have a chance to do. She was maliciously and
3 brutally killed, and that fact was covered up by the one
4 person who should have been treasuring her the most, her
5 mother. Anybody that knows any of our family, if this
6 became a problem that we recognized we would have taken
7 her. I already have three girls, what's one more? Like I
8 said, **Victim** was supposed to grow up with my kids. I loved
9 that baby. I loved her like she was mine. She's my blood,
10 and besides that she was everything. **Victim** never had these
11 things, she'll never be able to grow up, she will be stuck
12 at five forever. I can't fathom. Please make sure to give
13 them the maximum sentence, both of them, please take them
14 away from the streets where they can't possibly do anymore
15 harm. Make sure that Vicki goes now. She'll get better
16 care there and if she is willing to cover up for one child
17 who is to say that this child that's in her stomach she
18 wouldn't hurt? You can't say that because she could, a
19 person I would have never guessed but she could. I used to
20 love Vicki and I'm saying that she could hurt this baby.
21 She needs to be in prison now so that way the doctors and
22 prison guards can make sure that this baby has as much of a
23 chance as possible. You can't choose who you're born to so
24 try to do what you can to make sure that these people are
25 never allowed to get out early. They deserve the max

1 because Victim will never have any chance. Thank you.

2 THE COURT: Thank you ma'am.

3 MS. COLLINS: Your Honor, respectfully, we have one
4 more person to address the Court, but since this is the
5 sentencing hearing for both of these defendants we would
6 ask Mrs. Gleason to take her proper place at the table
7 within the origin as is formal for any defendant.

8 THE COURT: Well, is the defense ready? Do we have
9 anybody else --

10 MS. COLLINS: We have one more.

11 THE COURT: Let me hear from the State. Let me go
12 ahead and hear from whoever else wants to address me before
13 we move on to the defense. I'm not going to take any
14 action on that, she can sit where she wants to sit.

15 MS. COLLINS: Yes, sir.

16 SPEAKER: Good morning, Your Honor. My name is
17 Charles Glen Campbell, I'm a deputy for the Lancaster
18 County Sheriff's Office, and I was one of the first
19 responders that night. I will quote a verse from the
20 Bible, Psalms 127:3, it says, "Behold, children are a
21 heritage from the Lord, a fruit of the womb, a reward."
22 There's no doubt that on March 4th of 2013 Victim
23 an innocent little girl, incurred a living hell. I along
24 with Deputy Webster responded to the residence that Victim
25 was at shortly after paramedics arrived. I saw Victim

1 laying lifeless on the bathroom floor and worked with the
2 paramedics to do what we could to save her life. At the
3 hospital I watched doctors and nurses work hard to continue
4 to try and stabilize her so she could be flown to another
5 hospital for treatment. When I stood next to **Victim** laying
6 on the hospital bed the doctor told me that he had revived
7 her several times and he could not revive **Victim** again. I
8 prayed as I held **Victim** hand and told her that I did not
9 know her but I told her that I loved her and I hoped she
10 was strong enough to hold on, but if she couldn't then I
11 understood. I also told her that we would do everything we
12 could to hold the one's accountable for hurting her, and
13 then the next couple of minutes I held **Victim** hand as she
14 passed away. I met with April and Bryan shortly after
15 **Victim** had passed, I specifically remember that neither of
16 them cried. Bryan had scratch marks on his face that were
17 indicative of **Victim** fighting for her life against this
18 grown man. I cannot imagine what **Victim** went through in the
19 last few weeks of her life, but I find it so disturbing to
20 know that she died at the hands of two people that she knew
21 and trusted. I truly believe that **Victim** is in a much
22 better place and is very happy. This case has been
23 difficult for the family, for myself and for the rest of
24 the sheriff's office. I know I think of **Victim** everyday and
25 I know it is equally as difficult for everyone else

1 involved. Your Honor, I will also further state that I
2 have been in the Army since 2001 and I'm also a drill
3 instructor, one of the things that we teach in training is
4 responsibility and accountability. We have to teach people
5 to become soldiers from civilians and that means that they
6 have adopted a higher standard of living. Thank you.

7 THE COURT: Thank you, sir.

8 SPEAKER: Your Honor, I'm investigator Jason Catoe
9 with the sheriff's office. I stood before you four years
10 and argued this man's bond and told you it was the most
11 horrific case that I'd seen in my years of law enforcement
12 and it still is. Being a parent myself you're given --
13 you're held to take care of your children, provide for them
14 and protect them, that's something that both of these
15 failed to do. Talking about kids, monsters in the middle
16 of the night, monsters walk among us and they're sitting in
17 the courtroom with us today. Thank you.

18 THE COURT: Thank you, sir. Anything else from the
19 State?

20 MR. NEWMAN: Nothing else from the State, Your Honor.

21 THE COURT: All right. Thank you, Solicitor. Mr.
22 Wellborn and Mr. Delgado, I'll defer to y'all at this time
23 for mitigation, and y'all can do whichever order you wish
24 to proceed. I will tell you that I have thoroughly
25 reviewed all documentation, evaluations and everything sent

1 to me and I want to commend both of you gentlemen on the
2 job you have done for your client, okay? So just having
3 said that, certainly I'm not going to limit whatever y'all
4 want to do argument-wise as far as mitigation but I wanted
5 to commend both of you on the record before we start that,
6 because y'all have given me more information -- I have
7 received more information in this case than I have in a
8 case ever before sentencing, and that's just a credit to
9 both sides, all right?

10 MR. WELLBORN: Thank you, Your Honor. And I don't
11 know whether -- I guess I will be going first. I intend on
12 calling one witness, and that witness -- and you have a
13 report but it's important that I think that you also hear
14 from Dr. Sutton who is present with us in the courtroom.
15 And the reason I believe it's important that you hear from
16 her is because she's had a chance to listen to everything
17 that's been presented today, some of which she did not have
18 access to at the time she did her evaluation, and then it's
19 important for her to address the Court and any questions
20 that Your Honor may have since you are the one that must
21 decide sentencing and decide it dispassionately. As the
22 judge it is important for you to be able to ask any
23 questions as to whether her opinion has changed based on
24 what she's heard in the courtroom as alluded to by the
25 solicitors during their presentation. Before I call her --

1 would you prefer that I stand at the table as I address
2 Your Honor or as --

3 THE COURT: I can hear you better from up here if
4 that's okay.

5 MR. WELLBORN: No, that's fine, I wanted to give the
6 respect to the Court.

7 THE COURT: Sure.

8 MR. WELLBORN: Before I call Dr. Sutton I think
9 there's some things that are important that Your Honor
10 hear, these are all items that you have received, that the
11 State has received so there's nothing that I am going to
12 address that's new or outside of information that's already
13 been presented and shared with the State. We have heard
14 Bryan Gleason described as a monster. We have heard that
15 he has -- or it has been alluded that anybody with any
16 military training would have been taught and it would have
17 been invibed in them that they're supposed to accept
18 responsibility. I would simply remind all of us in the
19 courtroom, and respectfully highlight to Your Honor, that
20 Mr. Gleason not only accepted responsibility at the time of
21 his plea, but he actually used the exact words, "I accept
22 that I am responsible for what happened." I would also
23 point out that despite the understandable emotion of this
24 case, and it's emotional for anybody who has been involved
25 in it, Mr. Delgado has children, I have three daughters,

1 since the beginning of this case it has been
2 extraordinarily emotional because any human being looking
3 at these facts goes to a place of our own children if we
4 have them, and for those of us that don't have them
5 certainly it is affecting as well, and understandably so.
6 But all of that said, there are certain facts that still
7 run through this case, and facts are important because
8 facts do sometimes explain conduct and facts sometimes give
9 us a background as to why certain conduct occurs. They're
10 not as powerful sometimes as emotional, or as emotions,
11 excuse me, but they are important to consider and so I
12 would like to simply highlight a few facts and then call
13 Dr. Sutton as a witness. Unlike Mr. Newman and myself and
14 Mr. Delgado, and Ms. Collins, I didn't serve -- or Mr.
15 Gleason did serve as a combat -- and this is important --
16 combat veteran in Iraq. I don't know what that's like, I
17 would imagine Mr. Newman doesn't know what that's like, but
18 Mr. Gleason does. He was deployed during Operation Iraqi
19 Freedom, and during that deployment based on the records
20 that have been provided to Your Honor through the Veterans
21 Administration and through the Army, he not only was
22 deployed but he served in combat scenarios where he on
23 multiple occasions saw members of his own unit killed, in
24 some cases dismembered and civilians killed and dismembered
25 as he drove through the streets of Baghdad in combat

1 operations. In October of 2006 he was driving through the
2 streets of Baghdad in a motor vehicle with other soldiers
3 and presumably somewhere in the convoy was also an Iraq
4 civilian interpreter, and they hit what was called a chain
5 IED. Basically what that means is some coward or cowards,
6 plural, set up a chain of improvised explosive devices so
7 that the first car or first vehicle that would hit it would
8 trigger it and down the line other people would be caught
9 up in it, and it's designed to do nothing more than kill
10 people without a fair chance, without a fair fight. Bryan
11 was in this vehicle, his helmet was blown off, and I'm not
12 saying anything that's not in the records, and Your Honor
13 has read them, I've got the exact pages if there's any
14 indication that I'm saying anything out of turn, but
15 Bryan's helmet was blown off, he was propelled upwards,
16 slammed head first into the top of his vehicle. He
17 received shrapnel in the back of his head, he lost teeth,
18 suffered a permanent leg injury, as a result he's got
19 partial paralysis of his left leg, left foot and massive
20 issues with short term memory also which continued all the
21 way through and have continued and are documented within
22 the VA records. He also according to our Veterans
23 Administration suffered traumatic brain injury. I don't
24 know what it's like to suffer traumatic brain injury from
25 having somebody blow a bomb off underneath me, and I don't

1 know that anybody else in the courtroom does, but he does.
2 I don't know what it's like to have somebody blow my teeth
3 out with a bomb and put shrapnel in the back of my head
4 serving my country but he does. Now, these are not used as
5 an excuse. At no time has Bryan used this as an excuse but
6 it is simply a fact. Granted, the facts are not as
7 powerful perhaps as the emotion, but they are facts. So
8 before I present Dr. Sutton I would simply like to
9 highlight again that he is a human being, he is a flawed
10 human being, many of us are, in fact, I don't know of any
11 perfect human beings, but he has accepted and stated, "I
12 accept that I am responsible for these acts." He's done
13 exactly what people in this courtroom today have castigated
14 him for not doing, he's done exactly what he should do.
15 Furthermore something else that I think is important to
16 take into account, what the State, what the solicitor has
17 asked him to plead to, which he has accepted responsibility
18 for doing, is the unlawful killing of another human being
19 within the heat of passion which is voluntary manslaughter.
20 And that's exactly what you're going to hear is that after
21 he came back from Iraq Bryan had huge issues and continued
22 to have issues most likely attributed to his traumatic
23 brain injury and his posttraumatic stress disorder and
24 everything that he went through with controlling his
25 emotions and controlling his anger. That does not excuse

1 what happened, but it does give us an explanation of how we
2 got here which is important for Your Honor to consider.
3 Realistically based on the stats that have come out of the
4 Veterans Administration and the Department of the Army, we
5 now have an understanding in this country, which is why
6 we've set up Veterans Courts, that a significant portion of
7 the returning combat veterans from Iraq and Afghanistan who
8 have suffered, who have been through multiple deployments,
9 many of whom have had IED incidents where they've had their
10 helmets blown off and otherwise, these folks are coming
11 back, a significant portion of them, with post traumatic
12 stress disorder. This is not an excuse, it's not a buzz
13 phrase, there's nothing trendy about it, it's the reality
14 of it, it's the reality of it. And so I would suggest as
15 respectfully as possible to suggest that because somebody
16 went and served our country and wound up getting close to
17 being killed, had their helmet blown off and went through
18 what Bryan went through serving us in Iraq, to simply
19 mention that those are facts present in the case is not a
20 slap in the face of every veteran, it's simply a fact. And
21 to not mention that for those -- and it's easier again for
22 those of us that have never served, but to not mention it,
23 in fact, is to some extent is a slap in the face of the
24 combat veterans that served. So at this point I would like
25 to call Dr. Sutton because I think she can address some of

1 the issues that are in mitigation in the case, some of the
2 issues regarding who Bryan is, and what his potential
3 prognosis is in terms of recidivism, likelihood of -- if
4 given any kind of appropriate treatment, where he could be.
5 Because ultimately whatever Your Honor chooses in the way
6 of a sentence there would be a point where he is in society
7 and it would probably benefit society greatly if before he
8 gets there there can be some kind of treatment. And so I
9 would like for her to have an opportunity, and then after
10 she has had her opportunity to address Your Honor and
11 you've had an opportunity to question her in any way that
12 you feel appropriate, then I would respectfully like just a
13 moment just to conclude.

14 THE COURT: Sure. Go ahead and call your witness.

15 The witness, Dr. COLBI SUTTON, was first duly sworn

16 And testified as follows:

17 DIRECT EXAMINATION

18 BY MR. WELLBORN:

19 Q Good morning, Dr. Sutton. Can you give us your full
20 name and spell it for the record so the correct spelling is
21 reflective.

22 A It's is Colbi Sutton, C-o-l-b-i, S-u-t-t-o-n.

23 Q Where do you work currently?

24 A I'm in full-time private practice where I only do
25 forensic evaluations.

1 Q And prior to going into private practice, where did
2 you work?

3 A I worked for the South Carolina Department of Mental
4 Health doing forensic evaluations for courts.

5 Q Prior to that position, and I know that His Honor has
6 had a chance to look at your curriculum vitae --

7 MR. WELLBORN: I'm assuming the State does not have
8 any objections to your expertise in the area of forensic
9 psychology?

10 MR. NEWMAN: No.

11 THE COURT: Any voir dire from the State on
12 qualifications?

13 MS. COLLINS: Not on that issue, we would like to
14 cross examine her later in to what she's testified to.

15 THE COURT: Sure.

16 Q Have you had any experience working in a setting with
17 veterans and specifically -- well, first with veterans?

18 A I have. I did a one year predoctoral internship at
19 the Salisbury VA Medical Center in North Carolina, there I
20 trained mostly in neuropsychology, health psychology and
21 the diagnosis and treatment of post traumatic stress
22 disorder. And then when I did my year long post doctoral
23 fellowship at Emory University I did a rotation at the
24 Atlanta VA Medical Center there where my whole job was to
25 diagnose and then submit recommendations on the affects of

1 post traumatic stress disorder and other disorders that
2 the veterans may have.

3 Q Can you tell us just for the record, what is post
4 traumatic stress disorder as much as possible, give us a
5 condensed definition of it.

6 A Absolutely. Well, sometimes when people have a
7 traumatic experience afterwards they develop symptoms
8 related to that experience, and there's different what we
9 call clusters of symptoms. Some are intrusions. So this
10 would be if they consistently think about that traumatic
11 experience even though they don't want to. If you ever
12 heard of a flashback, it's close to kind of a
13 hallucination where the person actually thinks that they
14 are back in that traumatic experience. There's changes in
15 their mood and their mood regulation, they're kind of
16 irritable, they can become emotionally numb where they
17 feel nothing at all. And so -- and then they also have
18 problems commonly with sleep because they'll often have
19 nightmares, night sweats and so forth.

20 Q Did you have an occasion at any point to examine Bryan
21 Gleason?

22 A I did. I interviewed him on November 17th, 2016 for
23 approximately four and a half hours.

24 Q Prior to meeting with him, did you have access to or
25 were you provided with records from the Veterans

1 Administration regarding his previous medical and
2 psychological conditions?

3 A I was. I was provided some records and then after I
4 met with him I had him sign a release and I requested more
5 records.

6 Q Okay. As a result of those records, were you able
7 to -- well, first of all when you examined Bryan Gleason,
8 did you get any sense of malingering or in some way
9 affecting a condition that you felt he did not have?

10 A No, not at all. And every time I do a forensic
11 evaluation that's always a concern. So there's built in
12 what we call validity scales that tell me whether or not
13 somebody is trying to like fake bad or present as though
14 they have a disorder that they do not have.

15 Q And, in fact, have you yourself done some research
16 into the area of malingering?

17 A Yes, I've done a lot of research. On my post-doc one
18 of the things we were doing is I was providing treatment
19 for people, trying to get them competent to stand trial
20 and we did malingering testing and studies throughout the
21 whole year.

22 Q I believe you've actually published some papers on
23 that; is that correct?

24 A No, but I've given several presentations on it.

25 Q All right. And so after examining -- and by the way,

1 when you examined Mr. Gleason over this four and a half
2 hour period just give us procedurally what went on during
3 the examination?

4 A Well, the first thing that I do is I interview them
5 about their background, how they're doing now any kind of
6 treatment that they've had, and in that I ask a lot of
7 questions about history of violence, relationships and
8 things like that because I also administered a risk
9 assessment of his risk of reoffending. So all of that
10 information is really important for me to make a mental
11 health diagnosis, but also to see what factors could
12 predict him committing another offense.

13 Q When you get into risk of reoffending, is that
14 something that is a recognized area of analysis for people
15 in your field?

16 A Yes, it is.

17 Q Okay. And how long have psychologists been doing
18 analysis or studies and/or testing for risk of reoffending
19 approximately?

20 A I mean, for as long as and for -- I'm not really not
21 sure, it's been for decades.

22 Q So this is not anything new.

23 A No. And actually the procedures that we've used have
24 been advanced over the years where we found -- we've done
25 more and more research on what's actually predicted of

1 future offending so it has gotten more valid or more
2 accurate.

3 Q And is this something that also psychologists working
4 for the State of South Carolina routinely do?

5 A Yes, it is.

6 Q Before people are released perhaps from prison.

7 A Yes. We often do them for the parole board as well.

8 Q So it's something that is relied upon not just by
9 lawyers but also by the State of South Carolina and the
10 parole board.

11 A Yes.

12 Q Okay. So you did -- when you met with Mr. Gleason you
13 had your initial interview, what did you do next?

14 A Well, I administered several psychological tests. I
15 did a cognitive screener to see if there was any really
16 big issues with his memory, his thinking, his ability to
17 attend to information. I also gave him a post traumatic
18 stress disorder checklist to see what kind of symptoms he
19 continues to have related to post traumatic stress
20 disorder, we often refer to it as PTSD. And then I gave
21 him what they call the MMPI2RF, which is a whole lot of
22 questions that asks about his behaviors, his thinking, his
23 feelings and it gives me a better idea of his diagnostic
24 picture, and that also has validity skills to make sure
25 what he's recording is accurate.

1 Q Now, the post traumatic stress disorder as I recall is
2 something that the Veterans Administration had previously
3 diagnosed at least as far back as 2008; is that correct?

4 A That's correct.

5 Q Okay. So that wasn't something that you came up with,
6 that's something that basically the Veterans Administration
7 had already recognized.

8 A Yes.

9 Q Okay. And so when you gave him these tests regarding
10 to have established or perhaps disestablish whether there
11 was continuing post traumatic stress disorder, what were
12 the results of the tests that you gave?

13 A Well, one thing that I found was that one of the
14 screeners that I gave him for post traumatic stress
15 disorder is often used at the VA as a way to track
16 progress and treatment, so you might give it to somebody
17 when they've been in treatment only a week and then six
18 weeks, 12 weeks to see how those symptoms are doing. And
19 what I found was that his PTSD symptoms had actually
20 significantly declined whenever I compared it with scores
21 that he had at the beginning of his treatment, which was I
22 think was around May of 2013.

23 Q So it had begun to decline, right? It had declined.

24 A Yes.

25 Q Did he still have it?

1 A Yes. He still has symptoms that he deals with but he
2 has been compliant with medications for quite some time
3 now and those tend to kind of reduce those symptoms at
4 least temporarily.

5 Q In reviewing the records from the Veterans
6 Administration, again when they were dealing with Bryan, as
7 I recall there were certain things that stuck out, he was
8 having mood swings and anger issues; is that correct?

9 A That's correct. So after he returned from combat
10 even at the very beginning he started reporting symptoms
11 of irritability, being short-tempered. So an example that
12 he gave was punching holes whenever he would get
13 frustrated like in the holes in the walls.
14 Hypervigilance, this is really being on alert or on guard
15 all the time. So a lot of times when people come back
16 from combat their body just doesn't automatically
17 recognize that now they're in a safer environment because
18 they've been keyed up for so long, and so when they get
19 back they tend to constantly be looking for danger even
20 though there's not danger present or there's not as much
21 danger here in the civilian world. He also reported
22 emotional numbing where sometimes he just felt like he
23 couldn't feel anything at all. And so when veterans have
24 this emotional numbing or even those which is significant
25 depression often they will cut themselves because they say

1 it's better to feel something rather than nothing, or it's
2 just to get their mind off of all of the horrible memories
3 that are going through their minds over and over. He also
4 had flashbacks, like I said before, that's feeling like he
5 was back in the traumatic event, insomnia, and then he
6 would wake up in the middle of the night with nightmares
7 and night sweats.

8 Q Would it be inconsistent for somebody who is having --
9 or consistently has an emotion numbing to not show emotion
10 in a situation where they're in a hospital and someone is
11 being treated?

12 A No. I mean, that would be very common.

13 Q Now, you have been present during the courtroom today
14 or throughout and you've heard I believe the rendition of
15 all the emails and the descriptions of how Bryan acted or
16 people felt that he was acting at the hospital. Is there
17 anything inconsistent -- well, let's put it this way, was
18 there anything about what you've heard today that has at
19 all changed your opinion based on your testing of Bryan?

20 A No, there has not.

21 Q So what do you -- in short, what do you feel Bryan's
22 condition or conditions, plural, are?

23 A So I diagnosed Mr. Gleason with post traumatic stress
24 disorder, which has been very well established in his
25 records and through psychological testing. I also

1 diagnosed him with what we call persistent depressive
2 disorder with intermittent major depressive episodes. So
3 really that's just our field's way of saying that he has
4 had depression for a very, very long time, and at times
5 the depression has gotten so bad that there has been
6 episodes where he engaged in self-harm behaviors or that
7 it just elevated to a higher severity.

8 Q Is that treatable?

9 A Yes, absolutely, both of those conditions are
10 actually very treatable. So a common method that they use
11 to treat post traumatic stress disorder at the VA is very
12 evidence based, it's called cognitive processing therapy,
13 it's commonly used and it's shown to reduce symptoms by 60
14 to 80 percent. And then the depression symptoms which are
15 common more with PTSD, those often remit just by that one
16 treatment.

17 Q Did you in your evaluation of Bryan do any testing or
18 anything that would in your mind give you -- give you a
19 sense of his likelihood of recidivism, in other words,
20 doing something like that again?

21 A I did. I gave him what we call the Level of Service
22 Case Management Inventory, LSCMI, this is often used
23 routinely for parole hearings and things like that. So
24 what it looks at is all the factors that have been shown
25 to be predictive of somebody committing another offense.

1 So for example criminal history, which Mr. Gleason does
2 not have a pattern of criminal history which actually
3 reduces his risk of reoffending. Education and
4 employment. He was actually pursuing a bachelor's degree
5 at the time that this offense happened, so it was evident
6 that he values education, because really the VA has told
7 him that he's not going to be able to be employed again,
8 but he described wanting to get his degree just for his
9 own benefit. So he also describes a very close
10 relationship with his family. And I actually contacted
11 his mother, Ms. Biddle, in order to get collateral
12 information and she confirmed that they're very supportive
13 of him and want to help him in any way that they can. So
14 he also does not have a substance abuse problem which is
15 huge in reducing his risk of reoffending. And he doesn't
16 have a long standing pattern of antisocial or illegal
17 behaviors. So one of the biggest factors that contributes
18 to somebody engaging in violent behaviors is what they
19 call psychopathy, this is when a person has no empathy for
20 other people. They are manipulative, they often lie and
21 things like that, and he doesn't have those
22 characteristics. So the results of the risk assessment
23 came out low, meaning that he's at low risk of committing
24 another offense.

25 Q And among other things, did you take into account that

1 he has been on bond since 2013 without any subsequent
2 instances or criminal offenses or issues with law
3 enforcement?

4 A I did. A person's ability to maintain the rules
5 while under supervision is a huge thing that you look at
6 whenever you think about if they're going to reoffend
7 again.

8 Q Is there anything else that you feel is important
9 before anybody asks you questions for His Honor to know?

10 A I mean, I think it's important to remember that when
11 this offense happened Mr. Gleason has been untreated for
12 quite a long time, and these disorders are severe and they
13 cause very significant impairment. I think as you pointed
14 out earlier, my job is not to look for excuses of
15 behaviors but it's to try to understand factors that may
16 have contributed to these behaviors, and I think that
17 these are very large factors that took an impact on his
18 behavior at that time.

19 MR. WELLBORN: Thank you. Please answer any questions
20 that either of the solicitors or His Honor may have for
21 you.

22 THE COURT: Ms. Collins?

23 MS. COLLINS: Thank you.

24 CROSS EXAMINATION

25 BY MS. COLLINS:

1 Q Dr. Sutton, you've been licensed to practice in South
2 Carolina since March of 2016; is that right?

3 A Yes..

4 Q You received your doctorate in 2014, August; is that
5 right?

6 A Yes.

7 Q You said that you've worked with DMH some in doing
8 evaluations, you were there for about six months, I
9 believe; is that right?

10 A Yes, ma'am. I still have a contract with them.

11 Q All right. And in meeting with Mr. Gleason to prepare
12 this report to the Court and to opine that he is at low
13 risk of recidivism you met with him one time.

14 A I met with him, yes, ma'am, one time.

15 Q You met with him in person one time and spoke with him
16 on the phone about 30 minutes in a follow-up interview,
17 right?

18 A Yes.

19 Q And that one time that you met with him was on
20 November 17th, correct?

21 A Yes.

22 Q And it was lengthy, it was four and a half hours but
23 during that you administered numerous tests, correct?

24 A Yes.

25 Q You were hired by the defense to evaluate him,

1 correct?

2 A Yes.

3 Q You were paid by the defense to evaluate him, correct?

4 A Yes.

5 Q You were paid by the defense for your time today,

6 correct?

7 A Yes.

8 Q And in meeting with him and talking with him in the

9 notification of rights that you put in your 13 page report,

10 you note that at the outset of the evaluation you reviewed

11 with him the limits of confidentiality, et cetera, and his

12 right to withhold information. Do you see that?

13 A Yes.

14 Q So you told him he had the right to withhold

15 information.

16 A Yes.

17 Q So you didn't insist that he be entirely completely

18 forthcoming with you, you told him he had the right to

19 withhold some information.

20 A That's a standard thing that we tell everybody in all

21 of the evaluations.

22 Q And in reviewing the records, the medical records that

23 you obtained, you did not have the text messages between

24 Mr. and Mrs. Gleason that was happening at the very time

25 these injuries were happening to **Victim** is that right?

- 1 A Yes.
- 2 Q Yes, that's right, you did not have the text messages?
- 3 A I did not have them.
- 4 Q Now, you didn't speak with Mrs. Gleason, correct?
- 5 A That's correct.
- 6 Q You did speak with the defendant's mother one time on
- 7 the telephone; is that right? Twice on the telephone,
- 8 right?
- 9 A Yes.
- 10 Q 12/28 and 12/29, right?
- 11 A Yes.
- 12 Q And you didn't speak with other members of his combat
- 13 unit, right?
- 14 A Correct.
- 15 Q Didn't speak with other people that had known him
- 16 during his lifetime such as his two prior ex-wives, right?
- 17 A That's correct.
- 18 Q And based upon all of that, that one meeting with the
- 19 defendant and a one follow-up telephone call with the
- 20 defendant and reviewing part of the records telling him
- 21 that he could withhold some information, you prepared a 13
- 22 page report for this Court saying that you think that he is
- 23 at low risk of recidivism; is that right?
- 24 A That's right.
- 25 Q On page four you note that he's at 100 percent pay

1 from the military because he's deemed unemployable; is that
2 right?

3 A Yes.

4 Q Why is he deemed unemployable? Stress?

5 A I think it's a combination of the medical injuries
6 that he incurred and then his mental diagnosis.

7 Q And those being PTSD and depression, right?

8 A Yes.

9 Q But he can be a student at Winthrop, right?

10 A Yes.

11 Q And he did maintain some employment, right?

12 A For, I think, weeks at a time.

13 Q And, in fact, you encouraged him to engage in
14 volunteer activities, correct?

15 A That's correct.

16 Q And yet he's unemployable.

17 A Deemed by the VA, yes.

18 Q Let's talk about the VA. You said that when you saw
19 him that -- or at the time that this happened that there
20 was a long time period that he had not received any
21 treatment, correct?

22 A Yes.

23 Q But his own decision, correct?

24 A Yes.

25 Q VA hadn't shut down, right?

1 A Not to my knowledge.

2 Q He could have gone, he could have continued his
3 medicine and his treatment, right?

4 A Yes.

5 Q He chose not to, right?

6 A That's correct.

7 Q And yet you're here today, how can you ensure that he
8 will continue to seek treatment, that he will continue to
9 be med-compliant? You have way of knowing that.

10 A Well, we can't predict the future but we know that
11 he's been compliant for several years now so that's a good
12 indication that he will continue that compliance.

13 Q And you can't predict the future and therefore you
14 can't predict that he has a low risk of recidivism.

15 A This isn't my personal judgment, this is what they
16 call an actuarial risk assessment, so these are based off
17 of research and what research says would increase or
18 decrease a person's risk of committing another offense.

19 Q On page four you note that he did have several brief
20 periods of employment but he had difficulties consistently
21 remembering his schedule, right?

22 A Yes.

23 Q And yet he was able to go to Winthrop where he also
24 had a schedule for about 18 months full-time.

25 A It's my understanding that the schedule was more

1 consistent whereas the jobs that he had had different
2 shift work, so he had a hard time remembering the shift
3 changes and when he would be at work.

4 Q Let's look at your chart for the low risk of
5 recidivism. First of all you diagnosed him with PTSD.
6 Were you aware that Mrs. Gleason's mental health
7 professional is also saying she has PTSD?

8 A I was not aware of that.

9 Q On page seven -- I'll get to the chart in a minute.
10 On page seven Mr. Gleason noted to you he had a "mental
11 snap" in 2011 and stuck a knife through his arm, right?

12 A Yes.

13 Q Said he was held in an inpatient unit at Piedmont
14 Hospital for about ten days, right?

15 A Yes.

16 Q He explained he was not attempting to kill himself but
17 he felt it was better to have something to focus on than
18 what was going on in his head, right?

19 A Yes.

20 Q He denied having thoughts of suicide or cutting
21 himself since that time, right?

22 A Yes.

23 Q However his symptoms of depression had never fully
24 remitted and at times had worsened due to additional
25 stresses, right?

1 A Yes.

2 Q And you note financial stress, divorce from a second
3 wife and his current legal charge, right?

4 A Yes.

5 Q And he stated that from 2011 when he was hospitalized
6 with a mental snap, as he worded it, and put a knife
7 through his arm, that his reaction to that was not to seek
8 further treatment or better treatment or different
9 medicine, was to stop all treatment and stop all
10 medication, right?

11 A Yes.

12 Q And that he did not return until May of 2013, right?

13 A Yes.

14 Q Now, you've stated that both PTSD and persistent
15 depressive disorder are both very treatable, right?

16 A Yes.

17 Q And you noted that it did appear that his score on the
18 testing had decreased since May of 2016; is that right?

19 A Yes.

20 Q So let's look at your risk assessment, the risk of
21 general recidivism. First of all, general recidivism, that
22 doesn't speak to specific recidivism. What's the
23 difference?

24 A Well, you can look at different -- so for example I
25 do sexually violent predator evaluations where I'm only

1 looking at their risk to commit a sexually violent
2 offense, so this is designed to look at his risk of
3 committing another crime.

4 Q Just generally, right?

5 A Right.

6 Q The DWI like he had back in '07 all the way up to
7 child abuse, right?

8 A Yes.

9 Q Anything, right?

10 A Correct.

11 Q You note on the scale that his criminal history, you
12 assess the risk need based on his criminal history that his
13 risk was very low, right?

14 A Yes.

15 Q Because his only criminal history was in '07, right?
16 The DWI, right?

17 A Yes.

18 Q And so -- and here is my point, in March of 2013 when
19 **Victim** died at his hand, his criminal history was the same,
20 it was an '07 DWI, right?

21 A Right.

22 Q And yet based upon that you've got that his criminal
23 history, his risk of recidivism is very low, right?

24 A Yes.

25 Q And it would have been the same when this child died

- 1 at his hand, right?
- 2 A Yes.
- 3 Q Let's look at the rest of your chart. Education
4 employment. You say based upon his education, based upon
5 his employment his risk of recidivism is low, right?
- 6 A Yes.
- 7 Q And yet his education was the same as it was at the
8 time that **Victim** died, right?
- 9 A Yes.
- 10 Q And his employment was the same at the time that **Victim**
11 died, right?
- 12 A Yes.
- 13 Q You've got family and marital. Based upon his
14 relationships that risk, I mean, is very low, right?
- 15 A Yes.
- 16 Q And, of course, he was with Mrs. Gleason at the time
17 living with her in a relationship with her at the time that
18 he killed her child, right?
- 19 A Yes.
- 20 Q And have since married and had a child, Eli, and
21 they've got another one on the way, right?
- 22 A Yes.
- 23 Q But he also had other children with other women, his
24 two prior ex-wives, right?
- 25 A That's correct.

1 Q And so really his -- it really hasn't changed very
2 much. You're saying it's very low because of these other
3 children, because of this relationship, but at the time
4 Victim died he had other children, he had other
5 relationships, he had a relationship with Mrs. Gleason
6 herself and was living with her, not much as changed other
7 than the birth of Eli, right?

8 A I'm sorry, can you repeat that?

9 Q Not much has changed other than the birth of Eli.
10 Since Victim died the risk would be the same.

11 A Yes.

12 Q So my point is you're saying repeatedly low risk, low
13 risk, and yet everything you're basing that upon also
14 existed at the time that Victim died, right?

15 A Well, I think the thing that has changed most
16 significantly is that he's now compliant with treatment
17 and that has been a big difference. Before he would go
18 into treatment and whenever he felt like he couldn't take
19 it anymore, he couldn't handle it, he would participate
20 for a few sessions and then he wouldn't go back until he
21 felt again the need like he couldn't do that on his own.

22 Q Are you part of that treatment?

23 A I have done it in the past, yes.

24 Q Are you part of that treatment for this defendant?

25 A No.

1 Q He doesn't see you, does he? He doesn't counsel with
2 you, correct?

3 A That's correct.

4 Q You've seen him one time to do this report, right?

5 A Yes.

6 Q And you're not a psychiatrist, you're not a doctor of
7 medicine where you're involved in his medication, correct?

8 A Correct.

9 Q The other things you put on your chart, low risk due
10 to alcohol or drug problem, that he didn't have an alcohol
11 problem, that he had in years past but he'd stopped that
12 and he didn't have a drug problem. Again, that existed at
13 the time of Victim death, right?

14 A Yes.

15 Q So all of these things that you are evaluating, had
16 you evaluated them back then you would have had the same
17 factors and yet Victim would have died.

18 A Like I said before, the only thing that would have
19 changed in the risk assessment would have been his
20 compliance to treatment.

21 Q And that is his decision.

22 A Yes.

23 Q And there's no way to ensure that he will continue
24 with that, no way to ensure it; isn't that right?

25 A Well, what we can look at is past behavior, right,

1 and how that is going to contribute to the future
2 behavior. So the fact that he's been compliant for
3 several years does give evidence that he could continue
4 his compliance.

5 Q That he could.

6 A Right.

7 Q Not that he will.

8 A Right.

9 Q You cannot ensure that.

10 A No, I cannot.

11 Q And everything in your chart for low risk or very low
12 risk hinges upon that; isn't that right?

13 A I'm sorry, can you repeat?

14 Q You said that's the only thing that's changed. You
15 said the only thing that's changed from the time of **Victim**
16 death to affect his low -- what you've concluded was his
17 low risk was the fact that he is now med compliant and
18 compliant with treatment, right?

19 A Yes.

20 Q And there's no way to ensure that that will continue.

21 A Yes.

22 Q That's correct, isn't it?

23 A Correct.

24 Q And so your assessment of his risk of recidivism is
25 all conditioned upon that, whether or not he continues with

1 treatment and whether or not he continues with his
2 medication, right?

3 A I think what you're asking is if it will not -- if it
4 will stay that way in other words. Can you repeat your
5 question?

6 Q Your conclusion that he is at low risk of recidivism
7 is all hinged on whether or not he continues to be
8 compliant with his medication and compliant with his
9 treatment, right?

10 A Yes.

11 Q Because you said that's the only thing that had
12 changed since this child died at his hand, right?

13 A Yes. From then to now, yes.

14 Q And then you do admit there's no way to guarantee that
15 he continues to be compliant.

16 A Correct.

17 MS. COLLINS: Thank you.

18 MR. WELLBORN: Just a couple of followup?

19 THE COURT: Redirect?

20 MR. WELLBORN: Yes, thank you.

21 REDIRECT EXAMINATION

22 BY MR. WELLBORN:

23 Q Just so we're clear, the risk assessment that you used
24 in this case is the one that the State of South Carolina
25 relies upon in determining whether somebody should get

1 paroled or not, correct?

2 A The State of South Carolina, they do rely on risk
3 assessments like this, I'm not sure if this is the one
4 that they use standard here. Where I was trained in
5 Kentucky it was standard and that's what we used for all
6 parole hearings.

7 Q So the concept of risk assessment is something that is
8 used not only by folks testifying on behalf of defendants
9 but also by state organizations, prosecutors and parole
10 boards determining whether someone presents of potential
11 risk, correct?

12 A Absolutely.

13 Q And in any case there's no way of predicting that
14 anybody, any one of us in this courtroom might at some
15 point in the future do something illegal, correct?

16 A Correct.

17 Q All right. The best we can do is rely upon factors
18 and facts and science to make a prediction, correct?

19 A That's correct.

20 Q The risk assessment that you used I'm assuming is
21 scientifically based.

22 A It is.

23 Q So it's not just throwing up a coin or just saying,
24 "Hey, I think this is what's going to happen," it's nothing
25 more than based on the factors that you have before you

1 determining whether or not someone poses a potential risk
2 or not.

3 A Yes. All of these factors are evidence based,
4 meaning that they've been shown in treatment.

5 Q Because realistically if someone was -- had never
6 committed a criminal offense and meant that they would
7 never commit a criminal offense, we wouldn't have first
8 time offenders, would we?

9 A Right.

10 Q Now, you mentioned several times that there has been a
11 period of time in which Mr. Gleason has been compliant with
12 treatment and with medication. He was released on bond in
13 2013, correct?

14 A Yes.

15 Q And this is now January of 2017.

16 A Yes.

17 Q And it's that period of time that we're talking about
18 that he has been compliant, correct?

19 A Yes. For the records and for his report he's been
20 compliant not only with medications but he's been seeking
21 out counseling opportunities at the VA as well.

22 Q Okay. So we're at about what is not quite but coming
23 close to a four year period.

24 A Yes.

25 MR. WELLBORN: That's all of the questions we have.

1 THE COURT: Anything further?

2 MS. COLLINS: No, Your Honor.

3 THE COURT: Y'all have asked every question I was
4 thinking about asking so y'all covered it, thank you. I
5 don't have any questions, thank you ma'am, you may step
6 down.

7 MR. WELLBORN: Your Honor, I don't have any other
8 witnesses per se, we do again would like to just -- and I
9 apologize, I need to approach the podium. The issue is not
10 has it been as you've heard today whether Bryan Gleason did
11 or did not create a chain of circumstances and at his own
12 hand cause the death of **Victim** there's no question about
13 that, the issue is not and never has been since the time
14 he's entered this plea whether or not he accepts
15 responsibility or is using an excuse. He stated at the
16 very beginning before anybody else ever said a word to Your
17 Honor, he stated that he accepted that he was responsible
18 for this, in fact, he said he was responsible. He has not
19 at anytime blamed anyone else for being responsible. Now,
20 that said, the question then becomes for Your Honor
21 obviously what to do with this particular human being with
22 this particular background in this case. As we know this
23 is not a factory, we are not all cookie cutter people, some
24 of us quite frankly I guess might like to consider
25 ourselves better than others, whatever that means. At this

1 point in my life with three children and having lived
2 through what I've lived, I'm not really sure what it means
3 to be a better human being, but I know we're all human
4 beings. And I know that Bryan Gleason is flawed as he may
5 be and as flawed as he was during this one month period of
6 time that we're talking about was a flawed human being, and
7 I know that it is our job and ultimately your job to
8 determine what to do. A very, very wise lawyer once told
9 me that in defending human beings one of the things that
10 we're constantly faced with how to explain our clients'
11 flaws to those of us that believe that they are not flawed
12 and that's a serious concern. Bryan Gleason did something
13 horrific. Did he do it because he was malicious? Did he
14 do it because he is naturally mean? Did he do it because
15 he's a monster? No. But he did it nonetheless, and he has
16 accepted responsibility for that. So in terms of the
17 sentencing I would ask Your Honor and I would implore Your
18 Honor, the ever present and understandable emotions aside
19 of this case, to consider the purposes of sentencing
20 because that is what obviously as a court and as a justice
21 system we're charged to do. We're charged to look at
22 things under the law, and that's why we have a law anyway
23 is because there's a dispassionate way of addressing what
24 happens within society, and the goals of sentencing, the
25 purposes of sentencing have always been understood to be

1 multifold. One, of course, is an overriding responsibility
2 of sentencing is protection of the public at large,
3 understandable. So I would ask Your Honor to consider that
4 Bryan Gleason, a man who according to the facts of the
5 case, according to the expert that has examined him using
6 the tools provided, the same tools that are used routinely
7 by the State of South Carolina and our parole board and our
8 law enforcement in making a decision regarding someone's
9 likelihood of recidivism, using that same exact tool or a
10 like tool, has determined that he presents a low risk of
11 recidivism, so that's one issue regarding protection.
12 Another issue is that Bryan is someone who is going to be
13 by any account and certainly just basic common sense, going
14 to be a lower risk or a lower problem of protecting the
15 public if he gets treatment than if he doesn't get
16 treatment, that's axiomatic. It's just like an alcoholic.
17 If an alcoholic is not treated they are a continuing
18 danger, it's a lifetime disease, I think we've come to
19 understand that. But if they are getting treatment and
20 they're getting help and they're complying with that help
21 and that treatment they're a lower risk to the public than
22 if they're not, that's just the reality of it. So those
23 are two things that I would like you to think about on the
24 protection side. The third thing that absent a DUI in 1997
25 this man has no prior record, none. The fourth thing to

1 consider is how he got here. He didn't get here because he
2 just decided one day, "I don't like kids so I'm just going
3 to kill somebody," he got here based on those emails. And
4 I think the emails and the texts are important in this case
5 because they show a disintegration, they show somebody
6 where a situation that for most of us without his
7 background, without the baggage that he brought into this
8 relationship, and he didn't choose that baggage, that
9 baggage came with him as a result of getting almost blown
10 out of a truck in Baghdad, but as a result of that baggage
11 he came into this relationship with problems. And would
12 anyone else in this courtroom without that baggage have
13 stepped out and said -- or maybe somebody different,
14 different personality have said "Wo, this is not right, I
15 need to step away because I'm starting to have anger
16 flashes and this is not appropriate around a five year
17 old," or anybody quite frankly? The answer is quite
18 possibly yes. But we all know, any of us who have been in
19 this courtroom or any courtroom in this state have been in
20 here long enough, we all know that there are people who
21 have not experienced what Bryan has experienced throughout
22 his life, who have these same anger flashes and create
23 these same dangers and have these same problems. He just
24 happens to have it documented, not documented simply
25 because it was made up but documented by our military, by

1 DD214's which means something, by the VA records which mean
2 something, by, you know, with all due respect as discounted
3 and to some extent in tangentially denigrated by his purple
4 heart, which quite frankly to those of us who have
5 relatives and close relatives who've served means
6 something. It doesn't give him an excuse but it does give
7 him a documentable truthful factual explanation for how he
8 got here. So having addressed the protective side of the
9 sentencing we need to look at the other side and that is
10 the deterrence. There are somewhere -- based on the VA
11 records somewhere between 30 and 40 percent of the
12 returning combat veterans from Iraq and Afghanistan have
13 either traumatic brain injury or PTSD. This is documented,
14 it's a fact. Facts are not popular evidently these days
15 but it is a fact, and these things have to be dealt with,
16 which is the entire reason that we've had a good enough
17 sense in this state in various counties to set up veteran's
18 courts because we recognize it, we recognize these facts.
19 That said, that said, taking somebody with PTSD and saying,
20 you know, that didn't happen, that can't possibly be an
21 explanation is unrealistic and it is dangerous for all of
22 us quite frankly, it simply is dangerous for all of us. So
23 again, in addressing the second prong of the sentencing,
24 which is the deterrence, we are never going to be able to
25 deter someone with a documentable mental problem that is

1 treatable unless we treat them, because in a flash of anger
2 when someone is committing an act which is defined by the
3 state, recognized by the state and brought before you as a
4 voluntarily manslaughter, it necessarily implies that the
5 cooling off period, there was no cooling off period and
6 this is where we are. Now, rationally certain things can
7 be deterred by sentencing. Perhaps in some cases murders
8 can be deterred, embezzlements can be deterred, certain
9 things can be deterred, but somebody who commits an act in
10 a flash of anger, they've already gone beyond deterrence
11 emotionally. It does not excuse it, it does not justify
12 it, it does not take away from the horror and the horrible
13 scenario that was visited upon **Victim** but it does address
14 where we are in this case. So I would ask you to think
15 about something and think about -- and I'm sure you've
16 already thought about it, but Bryan is now facing between
17 two and 30 years of which he's going to have to do a
18 significant amount of jail time before he even has the
19 possibility of any kind of release based on what he has
20 pled guilty to. I would ask Your Honor to consider very
21 seriously if we can move to the factors of sentencing and
22 what sentencing is supposed to be other than simply
23 revenge, which is not a factor of sentencing. It's an
24 understandable emotional place to go but it's not where the
25 law says we should go and that, of course, is the

1 extraordinarily hard job that Your Honor has is to apply
2 the law to a horrible set of facts. But to go where the
3 law says we should go, I would ask you to consider very
4 seriously that Bryan is in a different category coming into
5 this case and even as he's been out on bond than somebody
6 who intentionally wanted to seek, sought and effectuated
7 the death of someone else. I would ask you to treat him
8 like a voluntary manslaughter because that's what he's
9 pleading to. I would ask you to consider that the
10 voluntary manslaughter that he committed was not the same
11 arguably even though we have those instances of somebody
12 repeatedly losing their temper and it's horrific and it's
13 bad, but this particular human being found himself in this
14 place to a great extent not because of his own actions but
15 because of actions of others, meaning whoever set the bomb
16 off, and to a great extent because he was broken coming
17 into this scenario. So I will ask you to take all of that
18 into account. He recognizes that he is subject to and will
19 face a significant amount of incarceration, he understands
20 that and he understood that when he stood before you today
21 and said, "I accept responsibility for what I did." Thank
22 you.

23 THE COURT: Thank you, Mr. Wellborn.

24 (Break in Bryan Gleason proceedings.)

25 THE COURT: I'm going to ask that both defendants

1 approach for sentencing. Again, before I begin my
2 comments, which will be brief relative to what we've all
3 heard this morning and for the first part of this early
4 afternoon, I want to commend all of the attorneys for
5 giving me all of the information necessary to come up with
6 what I believe is a just and fair sentence for each one of
7 these defendants. You know, I've been doing this for a
8 long time, it's hard to believe going on 12 years, but
9 that's the way it is. And, you know, if I weren't a man of
10 faith I would go crazy because I see the misery of society
11 everyday. Nobody in their right mind can sit in this
12 courtroom and hear what they've heard this morning and see
13 what they've seen this morning and not just feel horrible.
14 I used to say when I was a family court judge for eight
15 years that -- and I was taking children away from mamas and
16 daddies and splitting up families that I wish I had a magic
17 wand that I could make it all better. I don't. The same
18 frailties that you gentlemen spoke of as human beings
19 judges possess also. We try to get it right, sometimes we
20 do, sometimes we don't but we're humans. You know, why do
21 people do the things they do? I don't know. Why does a
22 mama put six bullets into the brain of her four year old
23 child and three into the brain of her six year old
24 daughter? I did that trial. Why does a man stab his wife
25 in the heart and lay in the bed with her while she bleeds

1 out? I did that trial. Why does what would otherwise --
2 who would otherwise be characterized as a hero terrorize a
3 frail little four year old girl who just turned five and
4 ultimately kill her while mom allows it to happen right in
5 front of her? I don't know. But I do know this, we'll all
6 have an answer for that some day and that's what keeps me
7 going, okay? You know -- and the lawyers in this room have
8 heard this I don't want to call it a speech I give because
9 it's really not, it's really my thought process when I'm
10 trying to come up with what a just sentence could be, you
11 know, as I sit here up wearing this black robe with a
12 spotlight on me. I'm supposed to be the representative of
13 society making these tough decisions, and I take this very,
14 very seriously. But justice is truly measured, it's a
15 balancing act between the vengeance on behalf of the
16 victims, and I understand that vengeance, you know, I want
17 to get back at them, I understand the way you feel, but
18 that has to be measured by some passion and mercy because I
19 don't know why people do the things they do. Sometimes
20 they get it right and sometimes they get it wrong, but I
21 can promise you I don't take it lightly and I put a lot of
22 thought into what I do. And again, both the State and the
23 defense have given me everything I need to do to come up
24 with what I believe is a just sentence. The easy thing to
25 do in every case is to just give somebody the max, and I

1 know a lot of judges who do that. I'm not criticizing
2 those judges, I'm just saying that's the easiest thing to
3 do. But you know, a lot of times the easy thing to do
4 ain't the right thing to do in this judge's opinion, okay?
5 I believe I have crafted a sentence which takes care of all
6 of the concern presented to me by the lawyers on both
7 sides. Whether you agree with the sentence or not is of no
8 concern to the Court but I want you to understand that I
9 put a lot of thought in it and there's a reason why I'm
10 doing what I'm doing, okay? Whether you like it or not.
11 Mr. Gleason, as to indictment 13-GS-29-820, having pled
12 guilty to the offense of voluntary manslaughter, the
13 sentence of the Court is 30 years. As to each one of the
14 unlawful neglect charges the sentence of the Court is four
15 years consecutive on each one for a total prison sentence
16 of 38 years.

17 (End of the hearing.)

18
19
20
21
22
23
24
25

1 I, the undersigned, Michael C. Watkins,
2 Official Court Reporter for the Sixth Judicial
3 Circuit of the State of South Carolina, do hereby
4 certify that the foregoing is a true, accurate and
5 complete transcript of the proceedings had and
6 evidence introduced in the trial of the captioned
7 case relative to appeal in the Court of General
8 Sessions for Lancaster County, South Carolina, on
9 the 30th day of January, 2017.

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

12

13

September 13, 2017

14

15

16


Michael C. Watkins

17

Court Reporter

18

19

20

21

22

23

24

25

FORM 5

STATE OF SOUTH CAROLINA

County of Lancaster

IN THE COURT OF COMMON PLEAS

Phillip Brynn Gleason 371334

Full name and prison number (if any) of Applicant

v.

State of South Carolina

2017-CP-29-0070

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
OFFICE OF CLERK
OF COURT
2017 JUN 27 AM 11:28
CLERK OF COURT
Lancaster County, SC

INSTRUCTIONS B READ CAREFULLY

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

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

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

1. Place of detention Broad River Corrections
2. Name and location of Court which imposed sentence Lancaster County Court of General Sessions
3. Name(s) of co-defendant(s) (if any) April Victoria Gleason
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) Voluntary Manslaughter

(b) Unlawful Neglect

(c) Unlawful Neglect

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

(a) January 30, 2017 Voluntary Manslaughter 2-30 (30)

(b) January 30, 2017 Unlawful Neglect 0-10 (4)

(c) January 30, 2017 Unlawful Neglect 0-10 (4)

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ☒

(b) after a plea of not guilty

(c) after a plea of nolo contendere

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

No

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

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

i.

ii.

iii.

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

i.

ii.

iii.

(c) the date of each such result:

i.

ii.

iii.

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

i.

ii.

iii.

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

(a) Lawyer said he would not represent me any further

- (b) first time offender not aware of process
(c) lengthy hold without access to information
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
(a) Ineffective Assistance of Counsel
(b) Due Process violation
(c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
(a) Counsel failed to advise me of making a plea
(b) Counsel failed to file for my direct appeal
(c) _____
12. Prior to this application have you filed with respect to this conviction:
(a) any petition in a State Court under South Carolina Law? No
(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
(d) any other petitions, motions or applications in this or any other Court? No
13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:
(a) the specific nature thereof:
i. _____
ii. _____
iii. _____
iv. _____
(b) the name and location of the Court in which each was filed:
i. _____
ii. _____
iii. _____

iv.

(c) ~~the disposition thereof.~~

i.

ii.

iii.

iv.

(d) the date of each such disposition:

i.

ii.

iii.

iv.

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

i.

ii.

iii.

iv.

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

No

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

(a) which grounds have been presented:

i.

ii.

iii.

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

i.

ii.

iii.

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

- (a) Nothing has been filed
- (b) Lack of knowledge regarding my rights
- (c) _____

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

- (a) your arraignment and plea? Yes
- (b) your trial, if any? 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 Ayes@ to one or more parts of (17), list:

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

i. Christopher Wellborn, 142 Oakland Ave Rock Hill SC 29730

ii. _____

iii. _____

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

i. Arraignment, Plea, Trial/Sentencing

ii. _____

iii. _____

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

Reduced Sentencing

Better representation

Charges run concurrent / First time offender consideration

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

No

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Lancaster)

VERIFICATION

I, Phillip B. Gleson, 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.

Phillip B. Gleson

SWORN to and subscribed before me this 21
day of June, 2017.

[Signature] (L.S.)
Notary Public

My Commission Expires: 9/16/2020

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

I, Phillip Bryan Gleason, 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.

Phillip Gleason
Applicant

SWORN or affirmed to and subscribed before me this

22 day of May, 2017.

[Signature]
Notary Public

My Commission Expires: 9/16/2020

STATE OF SOUTH CAROLINA

COUNTY OF Lancaster

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

Phillip Bryan Gleason 371334 Plaintiff(s)

vs.

State of South Carolina Defendant(s)

(Please Print)

Submitted By: Phillip Bryan Gleason 371334

Address: 4460 Broad River Road

SC Bar #:

Telephone #:

Fax #:

Other:

E-mail:

2017-CP-29-00707

FILED
OFFICE OF CLERK
OF COURT
CLERK OF COURT
LANCASTER, SC
2017 JUN 27 AM 11:28

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| ☐ Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) | ☐ Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20-CP-
☐ Notice/ File Med Mal (230)
☐ Other (299) | ☐ Torts - Personal Injury
☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399) | ☐ Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| ☒ Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | ☐ Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Other (799) | ☐ Administrative Law/Relief
☐ Reinstate Driver's License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) | ☐ Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Administrative Law Judge (980)
☐ Public Service Commission (990)
☐ Employment Security Comm (991)
☐ Other (999) |
| ☐ Special/Complex/Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Sexual Predator (510) | | |

Submitting Party Signature: Phillip B. Gleason

Date: 19 May 2017

Clerk of Court

6 June 17

Please send me a time stamped copy of this PCR. Also be advised I am doing this pro se at my first available opportunity. Please send me any and all information in how I can reduce my sentence, reapply for the terms I was lead to believe I was accepting, or otherwise improve my position regarding my sentence. If possible could you include how much a copy of my Rule 5 paperwork would be, also the transcript and my sentencing papers, as I have only become aware of them since being incarcerated. I thank you for your time.

God Bless,

P.B. Blason

FILED
OFFICE OF CLERK
OF COURT
2017 JUN 27 AM 6:15
CLERK OF COURT
LANCASTER, SC

Jeff Hammond

6/27/2017

Clerk of Court of Lancaster County
Post Office Box 1809
Lancaster, S.C. 29721
(803) 285-1581

FILED
OFFICE OF CLERK
OF COURT
2017 JUN 27 AM 11:53
CLERK OF COURT
LANCASTER, SC

Phillip Bryan Gleason 371334
BRCI 233 Murray
4460 Broad River Road
Columbia, SC 29210

Mr. Gleason,

This is in reference to your letter received in the Clerk of Court's Office. Enclosed is your requested information.

Sincerely,



Jeff Hammond
Clerk of Court

Lancaster County

Jeff Hammond
Clerk of Court

Clerk of Court of Lancaster County
Post Office Box 1809
Lancaster, S.C. 29721

Phone (803) 285-1581
Fax (803) 416-9388

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

Phillip Bryan Gleason 371334

Applicant

VS

State of South Carolina

Respondent

IN THE COURT OF COMMON PLEAS

6TH JUDICIAL CIRCUIT

CERTIFICATE OF SERVICE

CASE# 2017-CP-29 00707

I certify that, on June 27, 2017, I served a copy of the PCR Application by mailing to him at his last known address, by depositing it in the U.S. Mail, in an envelope with sufficient postage affixed, addressed as follows:

Phillip Bryan Gleason
BRCI 233 Murray
4460 Broad River Road
Columbia, SC 29210

Judy Carry, Legal Assistant
Post Conviction Relief Division
6th and 13th Judicial Circuits
SC Attorney General's Office
P.O. Box 11549
Columbia, SC 29211-1549

FILED
OFFICE OF CLERK
OF COURT
2017 JUN 27 AM 11:53
CLERK OF COURT
LANCASTER, SC

6/27/17

Date

Jeff Hammond

Signature

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

Phillip Bryan Gleason, #371334,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

2017-CP-29-0707

RETURN

Respondent, making its Return to the Application for Post-Conviction Relief ("PCR")
filed on June 27, 2017, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lancaster County Clerk of Court. In June 2013, the Lancaster County Grand Jury indicted Applicant for Homicide by Child Abuse (2013-GS-29-0820). Applicant was subsequently indicted in June 2016 for two counts of unlawful conduct towards a child (2013-GS-29-0945,0946). Christopher Wellborn, Esquire represented Applicant. Solicitor Randy Newman, Esquire and Deputy Assistant Solicitor Lisa Collins, Esquire prosecuted the case. On January 30, 2017, Applicant pled guilty to voluntary manslaughter and two counts of unlawful neglect of a child or helpless person before the Honorable Brian Gibbons. Judge Gibbons sentenced Applicant to thirty years imprisonment for the voluntary manslaughter charge and four years for each of the counts of unlawful neglect of a child or helpless person to run consecutive. Applicant did not appeal his conviction or sentence.

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

II.

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

1. Ineffective Assistance of Counsel
 - a. Counsel failed to advise me of making a plea
 - b. Counsel failed to file for my direct appeal
2. Due Process Violation

III.

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

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

presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

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

IV.

Applicant's second claim is an allegation that he was denied due process of law. Applicant's allegation claims infringement of his rights under certain amendments to the United States Constitution. However, Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that Applicant must "... specifically set forth the grounds upon which the application is based." Section 17-27-50 of the Code of Laws of South Carolina (1976). In an application for post-conviction relief, it is incumbent upon Applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Since Applicant has failed to make even a prima facie showing, Respondent would submit that this allegation should be dismissed for failing to meet the requirements of the Uniform Post-Conviction Procedures Act. This allegation is so vague that it is impossible for the State to respond.

V.

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

VI.

Respondent therefore requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel. As to all other allegations, Respondent moves for summary dismissal pursuant to § 17-27-70 of the South Carolina Code of Laws on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VII.

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of trial counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

DESHAWN H. MITCHELL
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

November 16, 2017

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

PHILLIP BRYAN GLEASON, 371334

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

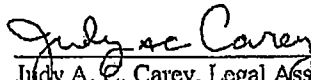
2017-CP-29-0707

AFFIDAVIT OF SERVICE BY MAIL

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

Donae A. Minor, Esquire
Minor Law Offices, LLC
1750 Highway 160 W; Suite 101 #259
Fort Mill SC 29708

DATED this 16th day of November, 2017.


Judy A. Carey, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

IN THE COURT OF COMMON PLEAS

PHILLIP B. GLEASON,

APPLICANT,

-VS-

STATE OF SOUTH CAROLINA,

RESPONDENT.

2017-CP-29-00707

TRANSCRIPT OF RECORD

JULY 17, 2018
LANCASTER, SOUTH CAROLINA

BEFORE:

THE HONORABLE BROOKS P. GOLDSMITH

APPEARANCES:

ATTORNEY FOR APPLICANT:

DONAE A. MINOR, ESQ.

ATTORNEY FOR RESPONDENT:

DeSHAWN H. MITCHELL
ASSISTANT ATTORNEY GENERAL

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

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EXHIBITS

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(No Exhibits Were Presented During This Hearing)

1 **THE COURT:** Whenever you're ready, Mr. Mitchell.

2 **MR. MITCHELL:** May it please the Court, Your Honor?

3 This is 2017-CP-29-0707, Phillip Bryan Gleason versus the
4 State of South Carolina. The Applicant is presently
5 confined in the South Carolina Department of Corrections
6 pursuant to orders of commitment of the Lancaster County
7 Clerk of Court.

8 In June 2013 the Lancaster County Grand Jury indicted
9 Applicant for homicide by child abuse. The Applicant was
10 subsequently indicted in June of 2016 for two counts of
11 unlawful conduct towards a child. Mr. Christopher Wellborn
12 represented the Applicant.

13 On January 30 of 2017 the Applicant pled guilty to
14 voluntary manslaughter and two counts of unlawful neglect of
15 a child or helpless person before the Honorable Brian
16 Gibbons. Judge Gibbons sentenced Applicant to thirty years
17 imprisonment for the voluntary manslaughter charge and four
18 years for each of the counts of unlawful neglect of a child
19 or helpless person to run consecutive.

20 The Applicant filed a PCR application on June 27, 2017.
21 He's present in the courtroom today represented by Ms.
22 Minor.

23 **THE COURT:** Ms. Minor.

24 **MS. MINOR:** May it please the Court, Your Honor?

25 **THE COURT:** Sure.

PHILLIP GLEASON - DIRECT EXAMINATION BY MS. MINOR

5

1 **MS. MINOR:** I'd like to call Phillip Gleason to the
2 stand.

3 **THE COURT:** All right.

4 **Phillip Gleason, being**
5 duly sworn testified as follows;

6 **Direct Examination by Ms. Minor:**

7 Q. Mr. Gleason, please state your full name for the
8 record, please.

9 A. Phillip Bryan Gleason.

10 Q. And you are currently charged with voluntarily --
11 voluntary manslaughter and two counts of unlawful neglect,
12 is that correct?

13 A. Yes, ma'am.

14 Q. And you are currently incarcerated At Lee Correctional
15 Institution, correct?

16 A. Yes, ma'am.

17 Q. You are serving thirty years for the voluntary
18 manslaughter charge and a total of eight years for the
19 unlawful neglect charges, is that correct?

20 A. Yes, ma'am.

21 Q. And these sentences are running on a consecutive basis,
22 correct?

23 A. Yes, ma'am.

24 Q. Christopher Wellborn was your attorney. And today you
25 are claiming ineffective assistance against Mr. Wellborn for

1 the following reasons. If you would just state yes after
2 the reasons or you can just wait until I've named the
3 reasons. Failure to investigate and properly advise you of
4 all the evidence brought against you so that you were able
5 to make an informed decision as to whether to pursue a
6 guilty plea or trial.

7 A. Yes, ma'am.

8 Q. Failure to properly counsel you of your guilty plea and
9 the surrounding consequences. And, lastly, failure to
10 inform you about your requested appeal.

11 A. Yes, ma'am.

12 Q. Okay. When did you hire Mr. Wellborn?

13 A. He was hired by my family while I was incarcerated in
14 Lancaster County in 2013.

15 Q. Okay. And how many times did you meet with Mr.
16 Wellborn during the course of his representation?

17 A. I can recall maybe four or five times.

18 Q. And from what you can remember can you tell me what
19 happened in those meetings?

20 A. The first meeting I met with him, it was to sign, I
21 believe, a contract and -- in regards to him being my lawyer
22 and to sign a medical waiver for him to get my VA records.

23 Second time, I -- honestly, I don't remember what
24 happened at that point. But at some point I met with him in
25 regards to my son, Elijah, being born and DSS being

1 involved. And then the fourth time he offered me a plea.

2 And the fifth time was when I met with Dr. Colby Sutton.

3 Q. Okay. So at any time during those meetings did Mr.

4 Wellborn discuss any of the evidence that was brought

5 against you? And this can sometimes be referred to as

6 what's called discovery.

7 A. No, ma'am.

8 Q. Okay. Did you ever ask him about any of the evidence

9 that was brought against you?

10 A. No, ma'am. I -- honestly, I wasn't aware of any such

11 terminology.

12 Q. Okay. So were you ever provided with your files so

13 that you could see the evidence that was brought against you

14 that was in Mr. Wellborn's possession?

15 A. No, ma'am.

16 Q. Did your PCR attorney provide you with your file that

17 ---

18 A. Yes, ma'am.

19 Q. Okay. And prior to receiving that file from your PCR

20 attorney, which is myself, did you ever see or review that

21 information with Mr. Wellborn?

22 A. No, ma'am.

23 Q. So that was your first time seeing that information?

24 A. Yes, ma'am.

25 Q. Okay. And you also -- you discussed those meetings

1 that you had with Mr. Wellborn. At any time did you guys
2 ever discuss a strategy regarding your case or his approach
3 to your case?

4 A. No, ma'am. He had originally told me at the first
5 meeting that he was going to hire experts and all this other
6 stuff. And I just left it to him. I'm no lawyer.

7 Q. And did that ever happen?

8 A. Not that I'm aware of, not that I saw in my discovery.

9 Q. Did you ask him why that didn't happen or whether that
10 didn't happen?

11 A. Yes, ma'am. I sent Mr. Wellborn a letter after I was
12 already incarcerated when I learned of all these things that
13 were supposed to have happened, I sent him a letter and
14 never got a response to that.

15 Q. Okay. So it's your testimony that Mr. Wellborn did not
16 discuss or disclose any evidence related to your case?

17 A. No, ma'am.

18 Q. Okay. And as far as an investigation, you were
19 provided with the file. And based on that what do you feel
20 like Mr. Wellborn did as far as the investigation,
21 investigating your case?

22 A. The only thing I ever saw that was, I guess, fruits of
23 his labor would be when he got my VA record, which in and of
24 itself isn't much, and then Dr. Colby Sutton, and beyond
25 that there was nothing else that I got as far as evidence of

1 him doing anything.

2 Q. And tell the Court about Dr. Colby Sullivan -- Sutton
3 so that everyone's clear.

4 A. I met with the doctor on, I believe, about a month,
5 month and half before I was sentenced. And we went through
6 a very long test so that she could, I guess, confirm my
7 diagnosis from the VA. And after that she called and asked
8 me to clarify one or two points. And she told me she was
9 going to talk to my mother. But besides that, I really
10 don't remember too much of her.

11 Q. Okay. Was there any communication with Mr. Wellborn,
12 after that discussion?

13 A. I don't ---

14 Q. That you recall?

15 A. I don't recall.

16 Q. Okay. And if I were to tell you that Mr. Wellborn has
17 indicated that his investigation was limited to reviewing
18 just the discovery and speaking with the co-defendant
19 because you essentially admitted guilt, what would you have
20 to say about that?

21 A. I would have to say that I've never admitted guilt of
22 any kind to that. And as the people that are seated behind
23 you would testify, being my family, I've never told them any
24 such thing. So how or why Mr. Wellborn thinks that, I do
25 not know.

1 Q. And do you believe that if Mr. Wellborn would have
2 reviewed the evidence and counseled you regarding the
3 evidence that was brought against you that you may have
4 opted for a trial?

5 A. Yes, ma'am.

6 Q. And on January 30th, 2017 do you recall you entered a
7 guilty plea before Judge Gibbons, correct?

8 A. Yes, ma'am.

9 Q. And before entering this guilty plea did you discuss
10 this guilty plea with Mr. Wellborn?

11 A. I talked with him about it for probably less than
12 thirty minutes. And he told me that if -- he advised me to
13 take it based on stuff. And we had -- we had talked about
14 it. And I was under the impression that by taking this
15 guilty plea that my wife would be left alone to be with our
16 children, and that everything would be ran concurrent, and I
17 would be sentenced to twenty or less years.

18 Q. Okay. Let's break that down. You said based on stuff.
19 Can you tell us what that stuff was in that discussion that
20 you're referring to?

21 A. Yes, ma'am. He had told me that the State has offered
22 me a plea of voluntary manslaughter. And I was asking what
23 exactly is voluntary manslaughter? And he explained it to
24 me. And he told me that I could be sentenced from two to
25 thirty years.

1 And I'd been countering, and I said, but, you know, my
2 original charge is twenty to life. And I said, so, you
3 know, can we get twenty or less, and my wife be left alone
4 if I do this? And I was told yes.

5 Q. So he promised you a sentence of twenty years and that
6 your wife would be left alone?

7 A. Yes, ma'am.

8 Q. Okay. Was anyone else present during those discussions
9 regarding your guilty plea?

10 A. No, ma'am.

11 Q. Was your mother not present during those ---

12 A. She was present when -- the day I got sentenced when I
13 was signing my blank sentencing papers.

14 Q. She was present then?

15 A. Yes, ma'am.

16 Q. And did Mr. Wellborn have any discussions regarding the
17 plea when you were signing it?

18 A. Yes, ma'am. I was inquiring -- because my sentencing
19 papers were blank. And I was inquiring about everything's
20 going to be concurrent? He said, yes. I said, you know,
21 well, my wife's going to be left alone? Yes. Twenty years?
22 Yes.

23 Q. So your mother was present during that time?

24 A. Yes, ma'am.

25 Q. Okay. And you remember the judge asking you whether

1 you understood a guilty plea, whether you had the
2 opportunity to discuss with Mr. Wellborn among other
3 questions? Correct, during ---

4 A. Yes, ma'am.

5 Q. And according to that transcript you did answer yes to
6 those questions, correct?

7 A. Yes, ma'am.

8 Q. But today you're saying that you didn't understand,
9 this wasn't properly explained to you. Can you clear this
10 up for the Court as to why this is different today?

11 A. Yes, ma'am. It's -- since being incarcerated I've
12 gained knowledge on everything that was supposed to have
13 happened. And I've learned the terminology of an open plea
14 or a capped plea and all these things. And so having Mr.
15 Wellborn as a paid attorney, I naively thought that he would
16 have my best interest, when it turns out that he didn't
17 based off my sentence.

18 Q. So it's your testimony that he just did not explain the
19 terminology and everything that you needed to know so that
20 you can make an informed decision as to whether or not to
21 move forward with the plea or opt for a trial?

22 A. Yes, ma'am.

23 Q. And you are aware that Mr. Wellborn did file a notice
24 of intent to appeal on your behalf, correct?

25 A. Yes, ma'am.

1 Q. You're also aware that he subsequently informed the
2 court that he was withdrawing his notice of appeal -- of
3 intent to appeal, correct?

4 A. Yes, ma'am.

5 Q. Okay. And was -- did he ever discuss why he was
6 withdrawing that notice of intent to appeal?

7 A. No, ma'am. I learned about that from my mother, who
8 told me about that.

9 Q. Okay. And did your mother have any explanation as to
10 why?

11 A. No, ma'am.

12 Q. Okay. Well, is there anything else that you would like
13 to bring to the Court's attention about Mr. Wellborn's
14 ineffective assistance of counsel?

15 A. I mean, just other than to be an attorney and not fully
16 explain to someone who's never been in trouble before, you
17 know, facing any kind of incarceration, the full process and
18 everything that follows thereafter, I feel that shows that
19 he never had my best interest, and, therefore, didn't do his
20 duties as a defense lawyer.

21 Q. And last question. Today you're just -- you're asking
22 for the opportunity to have a trial, correct?

23 A. Yes, ma'am.

24 Q. All right. No further questions. Please answer any
25 questions of opposing counsel and the Court.

1 A. Yes, ma'am.

2 THE COURT: Mr. Mitchell.

3 MR. MITCHELL: May it please the Court, Your Honor?

4 THE COURT: Yes, sir.

5 Cross-Examination by Mr. Mitchell:

6 Q. Good afternoon, Mr. Gleason. How are you?

7 A. I'm doing well.

8 Q. Good. So just so the record's clear, how many times
9 did you meet with Mr. Wellborn prior to pleading guilty?

10 A. Four or five times, sir.

11 Q. Four or five times. Okay. And so I just want to make
12 sure, it's your testimony that during those meetings he
13 didn't go over any of the discovery with you?

14 A. No, sir.

15 Q. Okay. So you pled guilty without reviewing discovery?

16 A. Yes, sir.

17 Q. Okay. And why did you do that?

18 A. I had no knowledge of discovery.

19 Q. So you are charged with a crime, and you pled guilty,
20 didn't review discovery, just said, hey, I'll go ahead and
21 plead guilty?

22 A. Yes, sir. I thought seeing as how he was a paid
23 attorney that, like I said, that he would have my best
24 interest, and that in the grand scheme of things he wouldn't
25 be working, as I see it now, against me instead of for me.

1 Q. Were you aware that there were taped communications
2 between you and your wife concerning the victim in this
3 case?

4 A. I knew that there were texts, but, I mean, my phone had
5 been seized in a search, so, therefore, I never had access
6 to them.

7 Q. So it was your phone. So you would have sent and
8 received those text messages, right?

9 A. Yes, sir.

10 Q. Okay. So let me ask you -- so you didn't discuss
11 discovery during your meetings. Did you guys talk about any
12 possible defenses that you had?

13 A. Not that I'm aware of, sir.

14 Q. Okay. So you just blindly trusted your defense
15 attorney and didn't inquire about -- because you're going to
16 be serving the time, right, ---

17 A. Yes, sir.

18 Q. --- not him?

19 A. Yes, sir.

20 Q. So you just decided to go along with whatever he said?

21 A. Yes, sir.

22 Q. Okay. You remember the day that you pled guilty,
23 right?

24 A. Yes, sir.

25 Q. Okay. You remember the judge asking you if you were

1 aware of the charges and aware of the amount of time that
2 you could face if you pled guilty, right?

3 A. Yes, sir.

4 Q. And you remember responding, yes, I understand, right?

5 A. Yes, sir.

6 Q. Okay. And you remember the judge asking you if anybody
7 was threatening you or promised you anything?

8 A. Yes, sir.

9 Q. And you told him, no, right?

10 A. Yes, sir.

11 Q. Okay. And when he asked you if you were pleading
12 freely and voluntarily, you told him, yes, right?

13 A. Yes, sir.

14 Q. Okay. And when the State told the judge the facts of
15 the case, you agreed with those facts, didn't you?

16 A. I said that I take responsibility, sir.

17 Q. Okay. But today you want -- you're not taking
18 responsibility, is that ---

19 A. I take responsibility for the true things that did
20 happen, yes, sir, but I don't take responsibility for
21 maliciously or intentionally.

22 Q. Okay. And so you were originally charged with homicide
23 by child abuse, which carried, potentially, life in prison,
24 right?

25 A. Yes, sir.

1 Q. So you pled down to voluntary manslaughter?

2 A. Yes, sir.

3 Q. So the exposure in which you were essentially going to
4 be in prison was significantly lowered, correct?

5 A. That's one way to view it, sir. I mean, there's -- in
6 my mind's eye, there's really not much difference between 38
7 years and life seeing as how I'll be close to seventy.

8 Q. Okay. Did -- in your conversations with your attorney,
9 since you didn't talk about discovery, did you talk about
10 any witnesses or anybody you wanted him to call, or contact
11 or anything?

12 A. No, sir.

13 Q. No? So during these meetings you guys just sat there
14 and looked at each other?

15 A. No, sir. He would basically tell me all the stuff that
16 he was going to do and, in essence, ask for, I guess,
17 consent to do it.

18 Q. Okay. So no input from you at all?

19 A. No, sir.

20 Q. Okay. And you didn't feel the need to say anything?
21 You seem like you know what you want to do today. So that
22 wasn't you back then?

23 A. No, sir. I've -- since being incarcerated I've come to
24 a full understanding and knowledge. And being able to go
25 through my discovery, which I only got a month ago, I've

1 been able to go through it.

2 And, I mean, there's things I wish now that I would've
3 asked Mr. Wellborn. And there are things that I wish now
4 that he and I would've talked about and done differently.
5 But, you know, the fact is I'm sentenced. I've got to do
6 the time now. So ...

7 Q. And so it's your testimony here today that you would
8 have rather gone to trial, potentially face life in prison
9 instead of pleading guilty?

10 A. Yes, sir.

11 MR. MITCHELL: Thank you, Judge. That's all the
12 questions I have.

13 THE COURT: Redirect?

14 MS. MINOR: No redirect, Your Honor.

15 THE COURT: All right. Thank you, sir. You may step
16 down, Mr. Gleason. All right. You may call your next
17 witness.

18 MS. MINOR: We'd like to call Ms. Gwen Bittle.

19 Gwendolyn Bittle, being
20 duly sworn testified as follows;

21 Direct Examination by Ms. Minor:

22 Q. Would you please state your full name for the record,
23 please?

24 A. Gwendolyn Ann Bittle.

25 MADAME COURT REPORTER: Can you ---

- 1 Q. And where do ---
- 2 MADAME COURT REPORTER: --- spell your last name?
- 3 Q. --- reside, Ms. Bittle?
- 4 MADAME COURT REPORTER: Excuse me. Could you spell ---
- 5 A. B-i-t ---
- 6 MADAME COURT REPORTER: --- your last name?
- 7 A. --- t-l-e.
- 8 MADAME COURT REPORTER: Say that again.
- 9 A. B-i-t-t-l-e.
- 10 MADAME COURT REPORTER: Thank you.
- 11 Q. And where do you reside, Ms. Bittle?
- 12 A. In York, South Carolina.
- 13 Q. And are you familiar with the Applicant, Phillip
- 14 Gleason?
- 15 A. I am.
- 16 Q. How are you familiar with him?
- 17 A. He's my son.
- 18 Q. Now you just heard Mr. Gleason testify that you were
- 19 present during the signing of some documents when he was
- 20 about to enter into his guilty plea, is that correct?
- 21 A. That's correct.
- 22 Q. And can you tell me -- and Mr. Wellborn was also
- 23 present, correct?
- 24 A. Yes.
- 25 Q. Can you tell me about what happened during that time?

1 A. Mr. Wellborn came in with the paperwork and had
2 explained to him that this is the paperwork that will go to
3 the judge. What I remember from that conversation was that
4 Mr. Wellborn had indicated that my son would receive twenty
5 years or less, concurrent, and that his wife would not have
6 any charges or that she would be okay.

7 I also remember Mr. Wellborn telling my son that he
8 should indicate that he was responsible once he came into
9 the courtroom. After he left -- well, my son signed the
10 paperwork. And then after he left, we, my son and I, sat in
11 the room for a period of time before we came into the
12 courtroom.

13 Q. Okay. And beyond that discussion were you ever present
14 when Mr. Gleason met with Mr. Wellborn?

15 A. I don't think I ever was when he met with Mr. Wellborn.
16 I had consulted with Mr. Wellborn and had been the one who
17 went in and made payments and talked with him on the phone,
18 but to my knowledge I was never there when my son was. I
19 was there with -- on a separate occasion when my son's wife
20 was there.

21 Q. And what happened during that meeting when you were
22 there on that occasion?

23 A. Mr. Wellborn had talked with Vickie, who is my
24 daughter-in-law, and her father was present. At that time
25 she had signed releases for him to be able to gather the

1 information that was needed. And we discussed that day, and
2 on other occasions with Mr. Wellborn, we had discussed, you
3 know, my son's defense because that was what we had hired
4 him -- to defend my son.

5 Q. What do you mean by the defense? What was that? What
6 did Mr. Wellborn say about a defense?

7 A. He has indicated to me that, you know, that he would
8 defend him. And we do not feel that he did his job
9 properly. We had brought him into this situation with
10 thinking that he would have my son in his best interest, and
11 he did not. And, you know, that was very much apparent to
12 us the day the hearing took place.

13 And since I have been able to see documents and other
14 testimony, photos, he did not have my son in his best
15 interest. He had indicated to me that he would hire
16 specialists, possibly a forensic specialist, if necessary,
17 that he would go to the home and take photos. And to my
18 knowledge, that was never done.

19 Q. I have no further questions, but please answer any
20 questions of the Attorney General's Office.

21 MR. MITCHELL: Just briefly, Your Honor.

22 THE COURT: Yes, sir.

23 Cross-Examination by Mr. Mitchell:

24 Q. Good afternoon, ma'am. How are you?

25 A. Good.

1 Q. Good. I just have a few questions for you. Just so
2 the record's clear, you were never privy to any
3 conversations or meetings between your son and his attorney,
4 were you?

5 A. Not that I remember, no.

6 Q. Okay. So you don't know if a strategy was discussed
7 during those meetings, do you?

8 A. No, I don't.

9 Q. You don't know what your son inquired of his attorney
10 during those meetings, do you?

11 A. No. I only know what I had discussed with Mr.
12 Wellborn.

13 MR. MITCHELL: Thank you, Judge. That's all the
14 questions I have.

15 THE COURT: Anything else?

16 MS. MINOR: Just briefly.

17 **Redirect Examination by Ms. Minor:**

18 Q. But you were present during the discussions about --
19 when the guilty plea signed [sic], right -- correct?

20 A. Yes.

21 Q. And it was you, Mr. Gleason, and Mr. Wellborn, correct?

22 A. That is correct.

23 MS. MINOR: Nothing further, Your Honor.

24 THE COURT: All right. Thank you, ma'am. You may step
25 down. You may call your next witness.

1 MS. MINOR: No further witnesses, Your Honor.

2 THE COURT: All right. The Applicant rests.

3 MR. MITCHELL: The State would call Mr. Wellborn to the
4 stand.

5 MR. WELLBORN: Your Honor, may I bring my laptop? It's
6 got information I ---

7 THE COURT: Yes, sir.

8 MR. WELLBORN: --- may need to ---

9 THE COURT: Certainly.

10 MR. WELLBORN: And I also have a rather large file.

11 And with the Court's permission, I can leave it here, and if
12 necessary, perhaps, it can be brought up to me. Thank you.

13 THE COURT: Sure.

14 CHRISTOPHER WELLBORN,
15 being duly sworn testified as follows;

16 Direct Examination by Mr. Mitchell:

17 Q. Good afternoon, Mr. Wellborn. I Apologize. Are you
18 still looking at ---

19 A. No, no, that's fine. I can look and talk at the same
20 time. Thank you.

21 Q. How are you this afternoon?

22 A. I'm fine. Thank you.

23 Q. How long have you practiced law here in South Carolina?

24 A. I was sworn in in January of 1989. So I've been
25 practicing law, in criminal law since then.

1 Q. And how much of that time has been devoted to criminal
2 law?

3 A. All of it. Let's see. In 1989 to 1990 I was in the
4 solicitor's office in York County. So my whole practice was
5 criminal law, specifically prosecution.

6 After that I was hired by a firm in Rock Hill where the
7 majority of my practice was doing criminal defense work. I
8 left that firm in 1993, I believe.

9 And then in 1995, after having formed a firm with two
10 other people, I decided to limit my practice to criminal
11 defense. So since 1995 my practice has been almost
12 exclusively criminal defense work, both state and federal.

13 Q. Okay. Thank you. Now, turning our attention to this
14 case, I think there's been some prior testimony, but for the
15 record you were retained to represent Mr. Gleason, correct?

16 A. That is correct.

17 Q. Okay. Could you give the Court a brief summary of the
18 facts in relation to the charge of homicide by child abuse
19 in this case?

20 A. Well, I don't know how brief it can be, ---

21 Q. Take your time.

22 A. --- but I'll try. So Mr. Gleason -- I was initially
23 asked to come represent Mr. Gleason in a bond hearing, which
24 I want to say was in the spring of 2016. At that time the
25 previous solicitor, Doug Barfield, was still here.

1 My understanding of the allegations were that Mr.
2 Gleason was charged with an alleged shaken baby case. I had
3 defended several of those and, quite frankly, you know, had
4 a rather jaundiced view of shaken baby allegations because,
5 as we know now through science, and moving along in terms of
6 forensics, it's completely junk science. I mean, it is. So
7 that was the understanding of the case that I had when I
8 came to the bond hearing.

9 At the time of the bond hearing there were various
10 allegations made, there were -- it was a very, very
11 emotional time with officers testifying and various people
12 testifying. I was here just for the purposes of bond.

13 Actually, parenthetically, His Honor handled the bond
14 hearing. And one of the issues was whether or not this was
15 a bond hearing or a trial. I only came prepared to
16 represent Mr. Gleason at a bond hearing. My client was
17 ultimately granted bond with certain restrictions given the
18 nature of the allegation, which were not uncommon.

19 In any event, as I began to represent -- was hired to
20 represent Mr. Gleason, at that time there were no co-
21 defendants. His wife, April, had not been charged. In
22 fact, at that time she was not even his wife, she was his
23 girlfriend. That didn't happen until much later. But I
24 began to represent Mr. Gleason.

25 And the discovery, which was put, I think, in a vast

1 understatement, voluminous, both in terms of hard form and
2 electronic form showed that this was not, in fact, a shaken
3 baby case at all. This was a case involving alleged blunt
4 impact and more blunt impacts, plural, over a period of
5 time.

6 Quite a while went by, not much happened with the case
7 other than just proceedeth of discovery, looking at
8 photographs, looking at medical reports, the statements from
9 officers who had interviewed third parties and their
10 impressions of what they thought. So we were sort of in a
11 -- other than me just keeping up with the discovery, kind of
12 a static mode. There were no dates set for anything.

13 And ---

14 Q. Okay. Let me stop you, if you don't mind, ---

15 A. Um-hum (affirmative).

16 Q. --- for a few questions.

17 A. Sure.

18 Q. So I think you testified that the facts were that this
19 was -- the victim died as a result of blunt force trauma,
20 that was the accusation against the defendant, is that ---

21 A. Well, as the discovery came in -- the original
22 allegation made at the time of the bond hearing is that it
23 was a shaken case, but it was not.

24 Q. Okay.

25 A. There was no evidence of any shaking. Again, the

1 shaking couldn't have caused the bruising, the black eyes,
2 the other things that were found at the time that the police
3 came in, the photographs that documented these things and
4 also the autopsy. It just wasn't a shaken case, it was
5 something else.

6 And so all of that being present, the issue was not
7 whether or not this child had died or this child had died as
8 a result of blunt impact or multiple blunt impacts and the
9 ultimate result of that, the issue was who was responsible
10 for those particular acts, number one.

11 Number two, if anyone was responsible, was the trauma
12 that was vested upon this child accidental or intentional?
13 Those were all issues at play. So, again, a fair amount of
14 time went by.

15 The -- my client, Mr. Gleason's girlfriend, ultimately
16 became his wife. They married. They had a subsequent child
17 in York County. And there was a Family Court investigation
18 that went on in York County.

19 I liaised with the Family Court lawyer in York County
20 because I wanted to make sure that if there was a DSS
21 allegation against my client and/or his wife suggesting that
22 they were unfit because of what had happened in Lancaster,
23 we might be able to receive some additional discovery given
24 the fact that the civil rules are much more expansive and,
25 quite frankly, fairer than the criminal discovery issue of

1 our rules.

2 Not any particular slam on anybody, but that's just the
3 way the rules are set up. You get depositions in civil
4 cases, you don't in criminal cases.

5 In any event, time went by, ultimately April Gleason,
6 my client's wife, was also charged. Essentially, although
7 not charged as a conspirator, but essentially under a
8 conspiracy theory that she was aware of what was going on,
9 she helped hide it, helped cover it up and just sort of
10 knowing what was happening, just sort of allowed it to
11 happen as the mother. So we now had to investigate that.

12 At the time that she was charged or before she was
13 charged there had been a search warrant served, which
14 ultimately divulged a large amount of texts back and forth
15 between my client and his now wife, April Gleason, at the
16 time or immediately preceding the time this child died.
17 This went on over a pretty -- about a period of several
18 days.

19 I, on two occasions, went to Columbia and met with John
20 Delgado, who was April Gleason's lawyer ---

21 Q. Let me stop you so I can get a few questions in, if you
22 don't mind.

23 A. Sure.

24 Q. And so during the course of your representation, and
25 we'll get back to the facts here in a minute, how many times

1 have you documented that you, or if you documented, you met
2 with Mr. Gleason?

3 A. Well, I had scheduled documented meetings with him.
4 And I actually went over that as he was testifying. It
5 looks like five times, but there were multiple unscheduled
6 meetings where he would appear in my office with various
7 documents or questioning what was going on, and we would
8 take time out and meet as well.

9 So I don't -- obviously didn't calendar any unscheduled
10 meetings. I don't practice on a billable hour sort of
11 scenario. So I didn't make note of those. But it would not
12 surprise me if there were at least five or six of those on
13 top of the scheduled meetings.

14 But anyway, Mr. Delgado and I devoted about a day and a
15 half on two separate occasions in Columbia to go over this
16 discovery that we had, also to discuss the possibility of
17 who we were going to potentially need as experts in terms of
18 -- now, again, this was early on, but who we were going to
19 need as experts in terms of how could these injuries occur.

20 We discussed the issue of whether or not we had any
21 possibility using search and seizure rules to attack the
22 search warrant, which resulted in the evidence of the texts.
23 We also discussed whether or not we needed to get cell phone
24 forensics because, you know, were the texts, in fact, texts
25 that had occurred at the time or had this information

1 potentially been corrupted? Depending on how the cell phone
2 is examined, that can happen.

3 There was a lot that we discussed, but ultimately what
4 we came down to is that despite the fact that we may have
5 some potential mitigation, despite the fact that we may have
6 some issues related to our clients, specifically my client's
7 mental state at the time that the -- or on or about the time
8 that the events took place and preceding them, or alleged
9 offenses at this point, we had some very, very damning
10 evidence against us.

11 Number one, obviously, was the evidence of the injuries
12 to this child, which were, you know, to put it bluntly,
13 horrific. The other were texts. And the texts were pretty
14 bad. And it was going to be very, very difficult to explain
15 the texts. Nobody's particularly addressed those, other
16 than just calling them texts. But they were addressed at
17 the time of the plea.

18 And I remember reading them. Mr. Delgado remembered
19 reading them. And they hurt both clients because they were
20 texts between April Gleason and Phillip Gleason describing
21 the injuries that had occurred over a period of several
22 days, the particular attitude of the correspondent vis-à-vis
23 the injuries, and how this poor child got the injuries, and
24 whether or not the child deserved the injuries, and whether
25 or not somebody was angry at the time the injuries were

1 inflicted ---

2 Q. Let me ask you a question while you're talking about
3 the text messages. All of these were a part of the
4 discovery in the case, correct?

5 A. Yes.

6 Q. Okay.

7 A. No, we saw them way before -- and Mr. Gleason and I
8 discussed these. And I understand that that's probably not
9 the most helpful thing for a post-conviction relief on his
10 part. But we did discuss them in my office, and I'll get to
11 that. But these texts were not helpful for a client who
12 would claim that he didn't inflict injuries.

13 So the real issue now in terms of strategy and tactics
14 rather than going in front of a jury and saying I didn't do
15 this and then being confronted with the fact that he sent a
16 text saying that he did was, okay, if you did do it, you
17 probably didn't intend the ultimate consequence, and I don't
18 to this day Mr. Gleason intended for this child to die. I
19 really don't.

20 At the same time I was looking at the mitigation side.
21 Anybody who was responsible who realizes that there is a
22 potential that a client may get convicted while you're
23 preparing for a potential defense, and in this case the only
24 potential defense that I had really at this point that I
25 could see -- well, two.

1 One is April Gleason did it, Phillip didn't, and he
2 just didn't realize it was going on. But that was belied by
3 the texts. So that one was shot down. The other defense
4 was that he literally lacked the mental capacity to
5 understand the difference between right and wrong at the
6 time when this was taking place.

7 Q. Okay. And before -- let me ask you a few questions.
8 During those meetings that you met with him, did you go over
9 the sentences that he could face if he was convicted of the
10 charges?

11 A. Not initially. Well, initially we went over the
12 potential sentence he was facing with what he was charged
13 with at the time, which was homicide by child abuse.

14 Q. Okay.

15 A. And that was -- he knew that from the get-go. Later
16 when there were -- the voluntary manslaughter was on the
17 table, we discussed that, and we discussed the difference.
18 We discussed, you know, the fact that they're both, you
19 know, most serious offenses. We discussed what the
20 potential range is.

21 But that didn't come up until that was on the table.
22 There was no particular reason to discuss voluntary
23 manslaughter until it was -- I at least had the offer of
24 that. And I had -- and I'll get to that. But I had to
25 fight for that. There was a lot of discussion between

1 . myself and Solicitor Newman, Assistant Solicitor Collins and
2 myself trying to mitigate, basically, where we were.

3 Regardless, by the time April Gleason was charged and
4 was seeking bond, because she was arrested fairly late in
5 the game, in I want to say 2016, seems like late fall 2016,
6 but I don't remember the exact date, Phillip's major concern
7 as expressed to me multiple times was he wanted her to be
8 left out, in common parlance, to take care of their child.
9 So we discussed that.

10 In any event, time goes by, we have further meetings.
11 We discussed -- I did not -- and to be fair, I did not
12 discuss the actual language of each one of these texts. I
13 did indicate to him that they did have a whole lot of texts
14 back and forth between himself and April, it didn't look
15 good.

16 But he was acknowledging having done things to, again,
17 to the little girl and that his wife, April, was
18 acknowledging that he'd done these things, and sending stuff
19 back and saying, don't worry about it, it's okay, basically
20 speaks supportive of him and that this was a, you know, not
21 the best scenario.

22 Nonetheless, what I was now looking at was, okay, I've
23 got one potential defense left that I can see as a criminal
24 defense lawyer, which was a potential insanity defense. The
25 other -- and other -- anything else was mitigation.

1 To that end -- and I've talked to Phillip from the get-
2 go. I realized that he was a veteran of Iraq, that he'd
3 been injured in Iraq. He'd suffered what most people would
4 reasonably consider to be traumatic brain injury in Iraq.
5 We talked about the fact that I needed his DD 214s, that I
6 was looking at potentially trying to find out who in his
7 unit was still around that could verify what happened in
8 Iraq.

9 Ultimately I got approximately 66-odd pages of medical
10 records through the VA, which documented what happened in
11 Iraq, documented his Purple Heart that he got as a result of
12 being blown out of a truck, basically went -- going through
13 the roof of a truck head-first in Iraq and effectively, I
14 believe, being woke up at Ramstein Air Force Base in Germany
15 with no idea where he was.

16 But he, from that point forward, documented through VA
17 records, was a different guy. And that was important
18 mitigation-wise. So I ---

19 Q. Well, let me ask you this. Did that information rise
20 to the level of an insanity defense?

21 A. No, it did not. And then -- and it wasn't -- that
22 wasn't my decision. But I hired Colby Sutton who is a very,
23 very professional licensed psychologist. I'd used her
24 before in cases. She's excellent.

25 She spent a bunch of time with Phillip evaluating him,

1 had, prior to the evaluation, all of his VA medical records.

2 And she concluded that he did not meet the definition of
3 somebody who could claim an insanity defense.

4 And so what we really were looking at, again, was
5 mitigation, and that he probably had PTSD, that he'd
6 probably had suffered traumatic brain injury, which was
7 fairly obvious, again, from the medical records. So, again,
8 it was -- it was really now kind of a mitigation scenario.

9 At this point into late fall -- well, late fall
10 beginning of winter of 2016 he was evaluated on, looks like
11 December 12th of -- or December 8th of 2016. We already
12 knew kind of where this was going.

13 Phillip and I had discussions. Phillip understood and
14 expressed to me that he was, quote, willing to take
15 responsibility for what he had done. And we talked about
16 what that meant. It meant that there was a child who was
17 dead, and this child was dead because he had, you know,
18 effectively lost it, and over a period of time had inflicted
19 injuries and the child had died.

20 He didn't mean to kill the child in his own mind. I
21 don't think he realized what he was doing and what the
22 ultimate result would be, but he was responsible. But he
23 wanted April to be absolved, his wife.

24 Q. And let me ask you, is this a turning point where it
25 potentially went from a potential trial to him pleading

1 guilty or ---

2 A. Well, it definitely went from a potential trial to
3 pleading guilty for two reasons. Number one, Phillip
4 indicated that he was willing to take responsibility if it
5 helped out April. That was his decision.

6 Number two, as a defense lawyer or as any lawyer, I
7 have -- if I'm going to go to trial, I have only two
8 options. One, if the client testifies -- or the client has
9 two options. And the other is the client doesn't testify.

10 I can't knowingly put a witness, my client or anybody
11 else on the stand if I know the witness is going to
12 misrepresent or commit a fraud on the court or perjure
13 themselves. Phillip was not in a position by then, based on
14 not just the evidence that I had from the texts, but more
15 importantly what he had told me, to take the stand and say
16 he had nothing to do with this child dying. He couldn't do
17 it.

18 Because if he'd done that, I had obligation, number
19 one, ethically would be to counsel him not to do it. If he
20 persisted, my ethical obligation would be to seek to
21 withdraw. If that was not granted, my ethical obligation
22 would be to inform the court of the scenario and not
23 participate.

24 None of those would be a good outcome in front of a
25 jury. But more importantly than that, Phillip indicated he

1 was willing to take responsibility. And we had the
2 conversation of, you know, taking responsibility isn't
3 something you do just to help somebody out if you didn't do
4 it.

5 And he acknowledged that he was responsible for what
6 had happened, and he was willing to step up to the plate.
7 He wasn't just being, and I don't use this term lightly
8 given his background, he wasn't just being a good soldier.
9 He was acknowledging what he had done.

10 This, by the way, was expressed to the solicitor's
11 office. And that, coupled with his background, which they
12 asked for, all his medical records from the VA showing that
13 this wasn't a bunch of hokum about what he'd been through in
14 Iraq, you know, this was pretty serious stuff that he'd been
15 through, horrific injuries.

16 That, coupled with where we were, allowed us to step
17 out from a potential life sentence to where he was looking
18 at potentially a minimum of two up to thirty, but at least
19 had a shot of coming out of it at the end of the day versus
20 maybe spending the rest of his life in the Department of
21 Corrections.

22 Q. Now let me ask you, so once the solicitor reduced the
23 charges from homicide to the manslaughter charge, did you
24 ever promise Mr. Gleason that he would receive a certain
25 number of years?

1 A. No. No, I did not. And I never do. The only time I
2 do that is if we have a negotiated sentence that a judge has
3 reviewed and the judge has indicated that's the sentence
4 they will give. Otherwise, I never do that because, quite
5 frankly, you just don't know what a judge will do.

6 Bear in mind on the day of the plea the judge had been
7 provided with a lot of background information. He had
8 psychological reports from us as well as all of the medical
9 information from the VA. He had a bunch of background
10 information that had been provided from Mr. Delgado, a
11 sentencing memo that had been provided, a ton of
12 documentation that had come from the solicitor's office that
13 they had provided us in advance.

14 The solicitors, both Mr. Newman and Ms. Collins, myself
15 and Mr. Delgado had met with the judge on at least two,
16 maybe three occasions to outline procedurally where we were
17 going with all of this. So, you know, when Judge Gibbons
18 stated on the record that he had something to the effect
19 that he had never had a case where so much information had
20 been provided to him for a plea so far in advance, he was
21 probably correct because we effectively did what is
22 typically done in a federal case in terms of working up
23 everything so the judge has it all in advance.

24 Judge Gibbons appropriately did not indicate what he
25 was going to do. And the plea came, and the judge

1 sentenced. There is a transcript. I'm sure that Mr.
2 Gleason has a copy of it.

3 But there was -- at no time did I tell Mr. Gibbons, or
4 excuse me, Mr. Gleason this is what you're going to get. I
5 gave him the range. I indicated that I thought it was quite
6 possible he could get twenty-odd years given what had
7 happened.

8 And, honestly, that was my feeling. I thought that's
9 what he could get, but I didn't tell him that's what he was
10 going to get because I have no control over it.

11 You know, one of the things that always irks me and
12 just -- it sort of sounds dissonant to me as a lawyer is
13 when lawyers stand up in front of a court and they tell the
14 judge, well, Your Honor, I'll leave it up to your
15 discretion. Well, of course they will. It's always the
16 judge's discretion. You know, you're not conceding anything
17 by leaving it to the judge's discretion. That's what the
18 judge's job is.

19 So, no, I never told Mr. Gleason that he was going to
20 get twenty years. I indicated to him that I thought that
21 was -- that was within the range of possibility and a very
22 likely -- and it turns out I was wrong. It turns out he got
23 ten more years. But I didn't tell him that's what he was
24 going to get.

25 Q. Let me ask you in terms of -- so after the guilty plea

1 is over did you and Mr. Gleason have any discussion about
2 appealing the guilty plea at all?

3 A. I did not have any with Mr. Gleason. I had a
4 discussion, and it occurred several days later in my office,
5 his mother, Ms. Bittle, came in and discussed that she
6 wanted or she had heard from Phillip that he wanted to file
7 an appeal and would we file, you know, the notice of intent
8 to appeal. And I explained to her that I had a certain
9 amount of time to do that procedurally, but, yes, I would do
10 that.

11 I did that at her request ostensibly coming from Mr.
12 Gleason. And then as an afterthought, and I'm glad I did
13 this, I reviewed the rules. And the rules, back when I
14 started practicing, they were kind of loosey-goosey. You
15 could file a notice of intent to appeal, no big deal.

16 Now you are required as a lawyer to certify and to
17 warrant to the court that your appeal has merit. And
18 ethically, as an officer of the court, I couldn't do that.
19 There was no particular grounds that I could see to appeal
20 the sentence. The judge had sentenced within the range that
21 he is allowed to under the rules, under the statute
22 exercising the judge's discretion.

23 Mr. Gleason was not coerced into pleading. You know,
24 there might be, I guess, arguably post-conviction relief
25 issues, but there were no direct appeal issues. So I

1 couldn't, as a lawyer, certify that there were grounds for
2 appeal. And since ethically I couldn't do that, I did what
3 I felt I needed to do within the Rules of Ethics and
4 withdrew the appeal.

5 Q. Thank you, Mr. Wellborn. Please answer any questions
6 opposing counsel may have.

7 THE COURT: Cross-examination.

8 MS. MINOR: Yes, sir.

9 Cross-Examination by Ms. Minor:

10 Q. Good afternoon, Mr. Wellborn.

11 A. Good afternoon.

12 Q. In your testimony you mentioned that there were
13 scheduled and unscheduled meetings that you had with Mr.
14 Gleason. Did you keep a record of those meetings?

15 A. Well, as I indicated before, I kept a record of the
16 scheduled ones because they were on my calendar. The ones
17 where he just popped in and showed up in the office, and I
18 came out and talked to him for ten or fifteen minutes, no, I
19 did not keep a record of those.

20 Q. Did you take any notes regarding -- I know that you're
21 not a billable hour attorney, but did you take any notes to
22 put in his file during those meetings as to what happened in
23 those meetings?

24 A. No, I did not.

25 Q. Okay. And you also mentioned that there was a lot of

1 damning evidence that was within the discovery. Did you
2 discuss that damning evidence with Mr. Gleason?

3 A. To this extent; I explained to him that there were
4 photographs, there were medical reports, there were
5 witnesses based on the discovery that I had received with
6 people who were -- responded initially to the house and took
7 this girl to the hospital as well as doctors, pathologists,
8 et cetera that would describe, including the photographs, of
9 the injuries that she had received.

10 I explained to him that at the time that all these
11 people responded, Mr. Gleason was the one in whom, you know,
12 she was in his care. He was the only adult there.

13 I explained to him, ultimately, that we had this series
14 of texts, and what the texts were about, what the texts
15 meant. Again, as I'd testified earlier, I did not read him
16 verbatim the texts, but he knew that he had texted April
17 back and forth, and he knew effectively what the texts were
18 about because we talked about that, and he acknowledged
19 that. He also -- so I explained that to him.

20 And that came up in the context of, you know, I lost my
21 temper, and I need to take responsibility for that, but I
22 didn't mean for her to die. And I said, you know, I
23 understood that.

24 Q. But you never showed him the discovery, is that
25 correct?

1 A. When you say show him the discovery, we need to be
2 specific. I showed him incident reports. I showed him the
3 officer response reports. Some of that was shown to him
4 very early on because that was in the context of why this is
5 not a shaken baby case. Because, again, that was what I
6 initially thought it was when I was brought into the case.
7 Again, I did not show him the texts.

8 Q. Well, don't you think it would be prudent to show him
9 those text messages?

10 A. It might be in retrospect because it certainly would
11 look better in a post-conviction relief hearing, but where I
12 had a client in my office who was hearing about the fact
13 that they had possession of these texts and what the texts
14 effectively talked about and that client acknowledged that,
15 yes, he sent the texts, that client acknowledged that, yeah,
16 he lost his temper, that client acknowledged that he was
17 willing to take responsibility for what happened to this
18 child, but he just didn't mean to kill her, I did not feel
19 at that point to say, oh, wait a minute, I want to read this
20 stuff to you. He was already at the point where he was
21 accepting responsibility.

22 See, at some point there is a difference when you
23 practice criminal defense and you represent people in the
24 criminal defense context, which maybe is different from
25 civil work, I don't know, I don't do civil work. But when I

1 represent clients -- when clients are at the point that
2 they're contrite over what they did, I don't think it's
3 particularly helpful to continue to beat them up over it
4 because we need to go to a different place. I know they're
5 going to be pleading. I know why they're going to be
6 pleading. They know they're going to be pleading. They
7 know why they're going to be pleading. They don't need me
8 to rub it in, you know, what an awful scenario it was.

9 I have multiple roles as a criminal defense lawyer; to
10 defend my client's rights, to challenge as much as it is
11 challengeable the facts against my client, but also on a
12 level to exercise some sense of humanity towards the person
13 who's gone through probably the most horrible experience
14 they're ever going to go through in their life. You know,
15 this is not a happy time.

16 And so, no, I did not -- after Mr. Gleason acknowledged
17 what, you know, what had happened and that he was
18 responsible, I did not say let's slow down and I'm going to
19 read you every one of these. Did you do this? Did you do
20 that? Did you say this? Did you say that? Didn't do it.

21 Q. So you essentially pick and chose what you showed --
22 what you wanted to show Mr. Gleason out of the discovery?
23 Is that your testimony?

24 A. I think that is the characterization of my testimony.
25 I certainly did not show him everything, again, because I

1 didn't feel it was necessary given where we were in the
2 relationship and where we were in the case posture. Yeah.
3 Q. So isn't it possible that showing everything that he
4 was faced against would allow him to make an informed
5 decision?

6 A. Well, okay, so let's say that is possible. So what I
7 would suggest to you is the texts that he did not get
8 verbatim, quote, I got her about the chest and neck area
9 when she got my eye. I feel horrible. She was being a kid
10 because I -- I feel horrible because she was just being a
11 kid, and because I got hurt, I lashed out. She had marks on
12 her chin and jawline where my fingers grabbed her to throw
13 her back. I got hurt and that was my reaction.

14 Her freaking eye is black. And her little fucking
15 tailbone is hopefully all bruised up from falling. Her
16 face, let's see, over her eye is swollen and her back looks
17 like she was a slave. I fully intended to be -- I fully
18 intend to be hard on her for today because it's time for her
19 to have consequences that come from that behavior.

20 By the way, these texts all match particular times,
21 right?

22 Q. I understand.

23 A. And this is a time when this child -- and I don't know
24 if you -- perhaps in your discovery you've seen the
25 photographs and you understand what happened to this girl.

1 I don't think that it's particularly helpful to describe it
2 in detail in the courtroom, but I can if you want me to.

3 Since she thinks it's okay to be mean, I'll show her
4 being mean. So, no, when Mr. Gleason looked at me and
5 expressed in what I felt was a heartfelt way that he was
6 sorry about what had happened, and I don't mean sorry in a
7 trite way, I mean he was truly sorry, I felt, in my office
8 and was willing to take responsibility for it, acknowledged
9 that he'd done it, I did not read him each one of these
10 texts and -- verbatim.

11 And I honestly cannot imagine a scenario where that --
12 where somebody would look at that and say, oh, that's
13 helpful. But, you know, again, that's just my thought. And
14 I may be wrong about that.

15 Q. Okay. So it is -- it's true that Mr. Gleason was not
16 exposed to all of the discovery and information that he had
17 during your representation based off of what you stated?

18 A. He was not exposed to these texts, that is correct. He
19 was exposed to the fact that they existed. He acknowledged
20 them. He acknowledged that he lost his temper. He
21 acknowledged that he had -- was responsible for the death of
22 a child, and he was willing to take responsibility for it.

23 Q. Okay. And you did mention that after Mr. Gleason
24 allegedly admitted guilt that your strategy changed to
25 mitigation. And essentially what I've heard you testify to

1 is a lot of your investigation was reviewing the discovery.
2 Isn't it possible that interviewing experts and taking it a
3 step further could also help with his mitigation?

4 A. Absolutely, which is why I hired Dr. Sutton, who's an
5 expert, and spent time discussing with her Phillip's case,
6 reviewed all the medical records, gave her the medical
7 records in advance of her evaluation, had her evaluate Mr.
8 Gleason, discussed with her the results of the evaluation,
9 got a report from her as a result of the evaluation and had
10 her testify at the sentencing regarding the evaluation.

11 Q. What about an independent investigator to investigate
12 the scene?

13 A. Well, that might have been helpful if we were looking
14 at going to trial, but we were not looking at going to
15 trial. See, you have to understand, what was present at the
16 scene other than blood, and some torn areas and ripped up
17 areas in the bathroom, some vomit on the floor was
18 effectively documented by law enforcement?

19 Had we looked at this as a trial, had this been a
20 trial, yes, because there might've been a theory, oh, you
21 know, she sustained all these injuries when he was in a
22 panic trying to give her CPR, other possibilities. But the
23 problem was that that theory became debunked once we had
24 possession of the texts where he acknowledged doing things
25 to this child over, essentially, a week period, maybe a

1 little bit more, because he was angry.

2 And once that theory was debunked, and once he was --
3 he and I discussed the fact that this theory was
4 problematic, to put it nicely, and he acknowledged that he
5 was responsible, and that he had inflicted these injuries
6 out of anger, and was sorry about it and contrite about it,
7 and willing to take responsibility, it really made no sense
8 to waste the client's and the client's family with an
9 independent expert trying to say, oh, there's something else
10 that happened when we knew it didn't happen.

11 Q. Okay. And, again, those are the texts that you just
12 mentioned, but he never -- you never showed him?

13 A. No, but he acknowledged them.

14 Q. Okay.

15 A. And, again, I mean, I don't know how else to tell you.
16 He effectively admitted he did what he was accused of doing.

17 Q. Okay. And earlier you talked about the guilty plea.
18 And you said that you did not promise Mr. Gleason any
19 sentencing.

20 A. That is correct.

21 Q. However, you did mention twenty years, that it was
22 twenty years within the discussions that you had with him,
23 is that correct?

24 A. In this context; he -- I was asked by Mr. Gleason, and
25 I don't remember specifically whether I was asked by his

1 mother, Gwen, it's possible, what I thought the judge would
2 give him. And I expressed, in my recollection, was that I
3 expressed that I thought it was quite possible he could get
4 something in the twenty year range.

5 Q. Okay. And you also mentioned that you withdrew the
6 appeal, correct?

7 A. That is correct.

8 MS. MINOR: Your Honor, may I approach the witness?

9 THE COURT: Certainly.

10 Q. Can you please tell the Court what that document is?

11 A. That would be my letter of March 7, 2017 to Ben Aplin,
12 who is the Senior Assistant Deputy Attorney General of the
13 Attorney General's Office related to State versus Phillip
14 Gleason indicating that we were withdrawing our notice of
15 intent to appeal, carbon copying Randy Newman and Jeremy
16 [sic] Kitchens at the South Carolina Court of Appeals.

17 Q. And earlier you testified that the reason that you
18 withdrew that appeal is because there was no merit, correct?

19 A. That's correct.

20 Q. Was that stated in the letter that you communicated to
21 the Court of Appeals?

22 A. No, it was not.

23 Q. And why wasn't it?

24 A. I didn't feel it was necessary to say it lacked merit.

25 MS. MINOR: No further questions, Your Honor.

1 **THE COURT:** Redirect.

2 **MR. MITCHELL:** Just a minute, Your Honor.

3 (Pause)

4 **MR. MITCHELL:** No additional questions, Your Honor.

5 **THE COURT:** Thank you. You may step down.

6 **MR. MITCHELL:** The State has no additional witnesses,
7 Your Honor.

8 **THE COURT:** The State rests. Anything in reply from
9 the Applicant?

10 **MS. MINOR:** No, Your Honor. Thank you.

11 **THE COURT:** I'd be glad to hear argument.

12 **MS. MINOR:** Your Honor, this is a case where Mr.
13 Gleason fully put his trust into his attorney without fully
14 seeing the evidence that was brought against him. It's not
15 only prudent to show a client what evidence is brought
16 against him, but you can't just say that this is what you
17 have against you and then not back it up so that they can
18 make an informed decision as to whether or not I'm going to
19 take a guilty plea or I'm going to pursue to trial.

20 I agree, these charges are serious. And because of the
21 serious nature of the charges, it warrants a little more
22 than just discussions from an attorney to say that this is
23 what we're faced with and this is what I think we should do.

24 Mr. Wellborn, he failed Mr. Gleason because he didn't
25 do those things. And he also -- he failed him again in the

1 guilty plea. It's very misleading to tell -- to tell -- to
2 tell a client that it is very likely that you're going to
3 get twenty years knowing that it's possible that they're
4 going to get thirty years.

5 I understand that's not a promise, but at the end of
6 the day he did mention twenty years while they were in the
7 room together. So that very likely -- at this point it is
8 Mr. Gleason's [sic] word against the client's word. But the
9 fact of the matter is is that what was consistent is twenty
10 years was mentioned during those guilty discussions, guilty
11 plea discussions.

12 And as far as Mr. Gleason [sic] mentioning that he
13 didn't feel it was necessary to say that appeal lacks merit,
14 at a bare minimum when you're going to share this
15 information with clients, you should at least inform the
16 court as to why you're withdrawing that appeal. To say that
17 it lacks merit, that should have been shown within this
18 letter.

19 I believe that if Mr. Gleason was provided with all of
20 the information that was faced against him as well as --
21 instead of just discussions and paraphrasings of text
22 messages, he would've at least had the information to make
23 an informed decision as to whether or not I should go
24 forward with this guilty plea or this trial. He was robbed
25 of that opportunity because he did not -- he wasn't able to

1 see this big box of documents that Mr. Wellborn had until I
2 sent it to him.

3 So, therefore, Judge, based on all these reasons we are
4 asking that the PCR be granted.

5 THE COURT: Thank you, Ms. Minor.

6 MS. MINOR: Thank you.

7 MR. MITCHELL: Your Honor, this case boils down to
8 whether Mr. Gleason's guilty plea was involuntary pursuant
9 to Boykin v. Alabama. To find that a guilty plea is
10 involuntary -- is voluntarily and knowingly entered into,
11 the record must establish that the applicant had full
12 understanding of the consequences.

13 I think in this case the record is replete with
14 information in regards to what Mr. Gleason understood in
15 terms of how much time he would be facing. Counsel
16 testified on the stand that he shared with him the sentences
17 that the charges carry.

18 And regardless of what Mr. Wellborn said, I don't think
19 there was any testimony about a promise. He said that he
20 may get twenty, but there was never a promise. Inside the
21 transcript, the guilty plea transcript, the judge informed
22 Mr. Gleason this is the amount of time that he would be
23 facing. And Mr. Gleason indicated to the judge that he
24 fully understood those matters.

25 There was also testimony from counsel on the stand that

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1 he shared the incident reports, photographs with Mr.
2 Gleason. I don't see any prejudice that Mr. Gleason can
3 demonstrate from text messages not being shown to him that
4 he sent himself. Mr. Gleason, pardon me, Mr. Wellborn
5 testified that he didn't read the text messages verbatim,
6 but Mr. Gleason indicated to him that he understood that he
7 had them and he knew what those text messages consisted of.
8 So I don't see any prejudice that can be argued from that.

9 Your Honor, I think that the record speaks for itself
10 in this case. Counsel's testimony was very thorough in
11 terms of investigation, in terms of mitigation offered to
12 the court. Counsel got Mr. Gleason's sentence ultimately
13 reduced from an essential life in prison, what he was
14 facing, the exposure, down to voluntary manslaughter.

15 It's unfortunate, and I certainly understand, he has
16 regrets now that he has 38 years in prison, but I think the
17 record speaks for itself and that when he made the oath to
18 the court that he understood all of these different things,
19 I don't think that we should now say that that's not true
20 anymore. So that would be the State's argument, Your Honor.

21 **THE COURT:** All right. Ms. Minor and Mr. Gleason,
22 after hearing argument, I agree with the position just
23 stated by the attorney general. I find that the Applicant
24 has failed to meet his burden in this case.

25 And as to the appeal, there's no evidence been given to

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1 the Court that an appeal would have had any chance of being
2 successful because the underlying -- the underlying facts of
3 the case, the guilty plea was made freely and voluntarily
4 with knowledge of what the possible sentences would be.

5 For all those reasons I'm compelled to deny the
6 Applicant's motion for post-conviction relief. I'd ask, Mr.
7 Mitchell, if he'd prepare an order.

8 **MR. MITCHELL:** Absolutely, Your Honor.

9 (Hearing Ended at 3:02 pm)

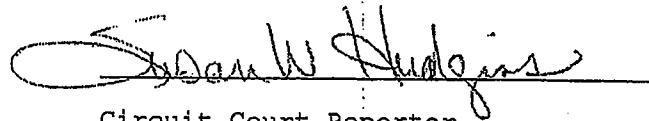
10 (End of Requested Transcript of Record)

Certificate of Reporter

I, The undersigned, Susan W. Hudgins, Official Court Reporter for the Sixth 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 evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Lancaster County, South Carolina, on the 17th day of July 2018.

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

November 29, 2018


Circuit Court Reporter

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

Phillip Bryan Gleason, 371334

☐ Plaintiff

v.

State Of South Carolina

☒ Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.

2017-CP-29-0707

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney:

Ms. Donae A. Minor, Bar No. 102550

Address:

Minor Law Offices, LLC

1750 Highway 160 W; Suite 101 #259

Fort Mill SC 29708

phone: (844) 878-2015 fax:

e-mail: donae@attorneyminor.com other:

Defendant's Attorney:

Deshawn H. Mitchell, Aag, Bar No. 101813

Address:

Post Office Box 11549 Columbia SC 29211-1549

phone: (803) 734-3737 fax: (803) 734-4113

e-mail: DMitchell@scag.gov other:

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

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

☒ **PROPOSED ORDER/CONSENT ORDER** (complete **SECTIONS II and III**)

SECTION I: Hearing Information

Nature of Motion:

Estimated Time Needed: Court Reporter Needed: ☐ YES / ☐ NO

SECTION II: Motion/Order Type

☐ Written motion attached

☒ Form Motion/Order

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

Dim
Signature of Attorney for ☐ Plaintiff / ☒ Defendant

August 17, 2018

Date submitted

SECTION III: Motion Fee

☐ **PAID - AMOUNT:**

☒ **EXEMPT:**

(check reason)

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☐ Indigent Status

☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act

☒ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication

☐ Motion for Execution (Rule 69, SCRCR)

☐ Proposed order submitted at request of the court; or,

reduced to writing from motion made in open court per judge's instruction

Name of Court Reporter:

☐ Other:

JUDGE'S SECTION

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

☐ Other:

JUDGE

CODE:

Date:

CLERK'S VERIFICATION

Collected by: _____

Date Filed: _____

SCCA/233 (11-03)

FILED
JUL 17 2018
CLERK OF COURT
LANCASTER, SC

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

Phillip Bryan Gleason, #371334,
Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
IN THE SIXTH JUDICIAL CIRCUIT

Case No.: 2017-CP-29-0707

ORDER OF DISMISSAL

FILED
CLERK OF COURT
2018 AUG 29 AM 11:56
LANCASTER, SC

This matter comes before the Court by way of an application for post-conviction relief filed on June 27, 2017, by Phillip Bryan Gleason (Applicant). Respondent made its Return on or about November 16, 2017. An evidentiary hearing into the matter was convened on July 17, 2018, at the Lancaster County Courthouse in Lancaster, South Carolina. Applicant was present at the hearing and represented by Donae A. Minor, Esquire. Respondent was represented by DeShawn H. Mitchell, Esquire of the South Carolina Attorney General's Office.

At the hearing, Applicant testified on his own behalf. Applicant's Plea Counsel Christopher A. Wellborn, Esquire, Esquire also testified. This Court had before it a copy of the records of the Lancaster County Clerk of Court regarding the Applicant's convictions, the transcript from Applicant's guilty plea, the PCR application, Respondent's Return and Applicant's records from the Department of Corrections. After reviewing the record and everything presented, this Court finds Applicant has failed to establish any constitutional deprivations entitling him to post-conviction relief and denies this application.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lancaster County Clerk of Court. In June 2013, the Lancaster

County Grand Jury indicted Applicant for Homicide by Child Abuse (2013-GS-29-0820). Applicant was subsequently indicted in June 2016 for two counts of unlawful conduct towards a child (2013-GS-29-0945,0946). Christopher Wellborn, Esquire represented Applicant. Solicitor Randy Newman, Esquire and Deputy Assistant Solicitor Lisa Collins, Esquire prosecuted the case. On January 30, 2017, Applicant pled guilty to voluntary manslaughter and two counts of unlawful neglect of a child or helpless person before the Honorable Brian Gibbons. Judge Gibbons sentenced Applicant to thirty years imprisonment for the voluntary manslaughter charge and four years for each of the counts of unlawful neglect of a child or helpless person to run consecutive. Applicant appealed his conviction but the appeal was withdrawn by Plea Counsel via letter to the South Carolina Court of Appeals on March 7, 2017.

FACTUAL HISTORY

During the period of February 5 through March 5 of 2013 Applicant caused bodily harm to the minor victim resulting in injuries. Applicant ultimately caused the death of minor victim, by striking the five year old in the head causing blunt force trauma that lead to the victim's death. This incident occurred in Lancaster County, SC. (Gp.p.10-13)

ALLEGATIONS

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

1. Ineffective Assistance of Counsel
 - a. Counsel failed to advise me of making a plea
 - b. Counsel failed to file for my direct appeal
2. Due Process Violation

Applicant amended his PCR application for ineffective assistance of counsel dated February 12, 2018, further alleging:

1. Ineffective Assistance of Counsel

- a. Failed to appeal Guilty Plea and Sentencing despite timely request from the Applicant.
- b. Failed to properly advise and explain all information, details, and consequences regarding Applicant's Plea such that Applicant did not have a full understanding of his plea and the consequences. Had Applicant been properly advised of the information, details, and consequences of his plea bargain from his Counsel, he would have opted for a trial in lieu of said plea.

Applicant further amended his PCR application for ineffective assistance of counsel

dated July 5, 2018, further alleging:

1. Counsel was ineffective, in that:
 - a. Failed to properly advise, counsel, and inform Applicant of all evidence and information received in the case such that Applicant did not have a full understanding and knowledge of the evidence that he was faced against in order to make an informed decision as to trial or enter a guilty plea. Had Applicant been properly counseled and advised of the information, details, and evidence in his case. Applicant would have opted for a trial in lieu of a guilty plea.

SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTARY HEARING

Applicant's Testimony

Applicant testified he was charged with homicide by child abuse but ultimately pled guilty to voluntary manslaughter and two counts of unlawful neglect of a child or helpless person. He testified during Plea Counsel's representation, he only met with him four or five times. Applicant testified his first meeting with Plea Counsel was to sign a contract and he did not remember the second meeting. He testified during their fourth meeting, Plea Counsel relayed a plea offer from the State to him. Applicant testified Plea Counsel never provided him with his discovery or talked to him about it. He testified Plea Counsel never talked to him about his strategy for the case but Plea Counsel mentioned they may potentially hire an expert witness for his case. Applicant testified the first time he viewed or was shown his discovery was when his PCR counsel gave it to him. He testified he sent Plea Counsel a letter about his case but never

got a response. He testified Plea Counsel got his medical records from the Department of Veteran Affairs and talked to Dr. Colby Sutton, the physician who treated him. Applicant testified he never admitted guilt and had Plea Counsel shown him the evidence in the case he would not have pled guilty but would have went to trial. He testified Plea Counsel only talked to him for less than thirty minutes right before he pled guilty. Applicant testified Plea Counsel promised him he would get twenty years or less and his charges would run concurrent. He testified Plea Counsel also promised him the charges against his wife would also be dropped. Applicant testified his mom was present when he signed the sentencing sheets. He testified the plea judge asked him questions during the plea and he said yes to all the questions. Applicant testified he gained knowledge since being incarcerated. He testified Plea Counsel did not explain the terms of his plea deal properly. Applicant testified Plea Counsel filed a notice of appeal on his behalf then Plea Counsel withdrew it. He testified Plea Counsel did not discuss the withdrawal of his appeal with him and he only learned of it when his mother told him. Applicant testified Plea Counsel never had his "best interest" in mind when he represented him.

On cross-examination, Applicant testified he met with Plea Counsel four or five times during the course of his representation. He testified Plea Counsel never went over the discovery in the case with him. Applicant testified he was aware of text messages between himself and his wife discussing the victim and their actions. He testified he was not aware of any defenses presented by Plea Counsel and he blindly trusted Plea Counsel. Applicant testified he remembered the plea judge's colloquy and remembered answering yes to the plea judge's questions. He testified he agreed with the facts of the case as presented by the solicitor during the guilty plea and remembered accepting responsibility for the crime. Applicant testified at one point he was facing a potential life sentence but his exposure was reduced under the plea deal

from the State. He testified Plea Counsel did not talk about potential witnesses with him and Plea Counsel did not ask for any input from him.

Applicant's Mother

Gwendolyn Anne Bittle (Applicant's mother) testified she was present at the guilty plea proceeding with her son and Plea Counsel. She testified she recalled Plea Counsel telling Applicant at the guilty plea proceeding that he would receive twenty years or less when he pled guilty and all of his charges would run concurrent. Applicant's mother testified Plea Counsel told Applicant during the guilty plea he should indicate that he was responsible for the crime. She testified she was not present during many meetings between Plea Counsel and Applicant but that she made payments and phone calls to Plea Counsel. Applicant's mother testified she was present during one meeting with Plea Counsel along with Applicant, Applicant's wife and Applicant's father-in-law. She testified she signed a release to get information about her son's case and discussed the case with Plea Counsel. Applicant's mother testified she did not think Plea Counsel had Applicant's best interest in mind when he was representing him. She testified Plea Counsel told her he would investigate Applicant's case and hire an expert but did not do any of that.

On cross-examination, Applicant's mother testified she was not privy to any other meetings Applicant and Plea Counsel had or information they discussed. She testified she did not know what Applicant may have inquired of Plea Counsel during their separate meetings.

Plea Counsel's Testimony

Plea Counsel testified he had practiced law for thirty years and the majority of that time had been devoted to criminal law. He testified he was retained to represent Applicant and initially he thought the case may have been a "shaken baby" case. Plea Counsel testified

Applicant was granted bond with restrictions in the spring of 2016. He testified when he was first hired to represent Applicant, his wife, who was his then girlfriend, was not charged. Plea Counsel testified Applicant's wife was later charged and became his co-defendant. He testified after being retained he quickly learned the victim died as a result of blunt force trauma to her body over a period of time based on the discovery. Plea Counsel testified the issues in the case centered around who was responsible for the trauma and was it accidental or intentional. He testified there was also a family court case going on during this time. Plea Counsel testified Applicant's wife was eventually charged as she was aware of what happened and tried to cover it up. He testified there were numerous text messages between Applicant and his wife. He testified based on his notes he had about five scheduled meetings with Applicant. Plea Counsel testified there were about five or six more unscheduled meetings that he had with Applicant when he would show up at his office. He testified he also met with Applicant's wife's lawyer two times. Plea Counsel testified he wanted to attack the search warrant in the case and potentially hire a cell phone expert after reading the text messages between Applicant and his wife. He testified the text messages contained very damning evidence.

Plea Counsel testified he discussed with Applicant the charges he faced and the sentences he could face if he was convicted. He testified Applicant insisted he wanted his wife's charges to be dropped if he took responsibility for the crime. Plea Counsel testified his strategy changed for the case once he reviewed all of the text messages because they were so damning. He testified his strategy switched to trying to obtain as much mitigation as possible for Applicant and also to see if Applicant suffered from any mental health issues. Plea Counsel testified he had Applicant evaluated by Dr. Colby Sutton, a licensed psychologist and the results were Applicant did not meet the requirements of an insanity defense. He testified Applicant had served in the military

and may have suffered from post-traumatic stress disorder and brain injury based on the records he obtained from the Department of Veteran Affairs. Plea Counsel testified he had to fight to get Applicant's charges reduced from homicide by child abuse to voluntary manslaughter which lowered the exposure Applicant was facing. He testified one of Applicant's major concerns was making sure his wife's charges could be dropped or reduced and Applicant was willing to take responsibility for the crimes. Plea Counsel testified there were not many options or strategies if the case went to trial. He testified he never promised Applicant he would receive a certain number of years if he pled guilty but did give Applicant a range for the number of years he could potentially receive. Plea Counsel testified he discussed an appeal with Applicant's mother and ultimately filed a notice of appeal. He testified after he had filed the notice of appeal, he reviewed the South Carolina Appellate Court rules which required him to certify that the appeal had merit. Plea Counsel testified as an officer of the court he could not identify any meritorious issues for appeal so he withdrew the appeal of Applicant's guilty plea.

On cross-examination, Plea Counsel testified he had a record of his scheduled meetings with Applicant but he had no notes in his file for the unscheduled meetings. He testified he discussed the discovery in the case with Applicant including photos, medical reports, witnesses' statements and the coroner's report. Plea Counsel testified he did not show Applicant the text messages between Applicant and Applicant's wife because Applicant had sent them and knew what he had said in them. He testified Applicant had already accepted responsibility and decided to plead guilty. Plea Counsel testified since Applicant's case was not going to trial hiring an investigator was not necessary. He testified he mentioned twenty years as a possible sentence Applicant could get to him but never promised Applicant he would get twenty years. Plea Counsel testified he withdrew Applicant's guilty plea appeal because it lacked merit but that he

did not communicate this in his letter of withdrawal to the South Carolina Court of Appeals.

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 had the opportunity to observe the witnesses presented at the hearing, and can weigh their testimony and credibility accordingly. These credibility findings have been applied to the Court's findings and conclusions set forth below. Below are the findings of fact and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2017).

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, 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, 286 S.C. at 443, 334 S.E.2d at 814. The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. at 689. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

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

Washington, 466 at 688). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 (1985).

In PCR cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citations omitted). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Lockhart, 474 U.S. at 56. Further, "[t]hat a guilty plea must be intelligently made is not a requirement that all advice offered by the defendant's lawyer withstand retrospective examination in a post-conviction hearing." McMann v. Richardson, 397 U.S. 759, 770 (1970). Rather, "whether a plea of guilty is unintelligent . . . depends as an initial matter, not on whether a court would retrospectively consider counsel's advice to be right or wrong, but on whether that advice was within the range of competence demanded of attorneys in criminal cases." Id. at 771.

The record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Dalton v. State, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Boykin v. Alabama, 395 U.S. 238, 242 (1969)). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421

(2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). Further, "[a] guilty plea is a solemn, judicial admission of the truth of the charges" against the applicant; thus, an applicant's right to contest the validity of such a plea is usually foreclosed. Dalton, at 137-38, 654 S.E.2d at 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, admissions "made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements." Id. (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)). "In considering an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing." Id. at 138-39, 654 S.E.2d at 874 (citing Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997)).

After careful review of the entire record, including the testimony presented at the evidentiary hearings, based on the standard discussed above, this Court finds Applicant has failed to carry his burden in this action regarding any of his allegations of ineffective assistance of counsel. This Court finds as follows on the following grounds presented by Applicant at the evidentiary hearing:

Ineffective Assistance of Counsel

Failure to Investigate

Applicant alleges Plea Counsel was ineffective for failing to investigate his case. To show ineffective assistance in this regard, Applicant must present evidence to show what counsel could have discovered had he more fully investigated. Jackson v. State, 329 S.C. 345, 354, 495 S.E.2d 768, 772 (1998) ("Respondent failed to present any evidence of what counsel could have

discovered or what other defenses respondent would have requested counsel pursue had counsel more fully prepared for the trial."'). Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result. Porter v. State, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006) (citing Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)). Applicant has failed to show what beneficial information could have been discovered had Plea Counsel done more investigation. Even so, Plea Counsel testified credibly that he reviewed all of the discovery with Applicant and gathered numerous amounts of information for mitigation once it was determined Applicant would pled guilty. Notwithstanding, Plea Counsel testified the discovery contained text messages between Applicant and his wife detailing the abuse of the victim. This court cannot find how any further investigation would have been fruitful to Applicant's case once the text message were received in discovery. Further, this Court finds Plea Counsel's investigation was beyond reasonable. Therefore, Applicant has failed to meet his burden to prove Plea Counsel was ineffective. This allegation is denied and dismissed with prejudice.

Failure to Properly Counsel/Involuntary Guilty Plea

Applicant also alleges his guilty plea was induced by ineffective assistance of counsel making his guilty plea involuntary. This Court finds Applicant has failed to meet his burden of proof. This Court finds Plea Counsel provided effective assistance in this case. Plea Counsel advised Applicant of all the charges and the possible sentences the charges carried. Plea Counsel also reviewed all the discovery with Applicant. Plea Counsel advised Applicant of all his Constitutional rights, including his right to a jury trial. It was ultimately Applicant's decision to plead guilty, based on the sound advice of Plea Counsel.

This Court further finds the record reflects Applicant's plea was entered freely, voluntarily, knowingly, and intelligently. The plea judge explained the charges to Applicant, including the maximum penalties for each. The plea judge also went through Applicant's constitutional rights and questioned Applicant as to whether he understood those rights and wished to give them up to plead guilty. Applicant agreed that he did. Applicant admitted he was guilty of these offenses told the plea judge that he was satisfied with his attorney. Applicant further told the plea judge no one had threatened him or made him any promises to get him to plead guilty, and he was doing so of his own accord. Additionally, Applicant told the plea judge he did not have any physical or mental issues which would prevent him from understanding the proceeding, and Applicant indicated he understood all of the plea judge's questions and had answered them honestly. This Court therefore finds that Applicant understood the terms of the plea and the possible sentences he could receive.

Therefore, this Court finds Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. Applicant failed to present compelling evidence that Counsel committed either errors or omissions in his representation of Applicant. This Court also finds Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Counsel's performance. This Court also finds that the record fully supports the knowing and voluntary nature of Applicant's guilty plea. See Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (holding defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "must be established by a complete record, and may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both."). In addition, Applicant has presented no evidence or valid reasons why he should be allowed to depart from the truth of his

statements made at the plea. See Dalton, 376 S.C. at 137, 654 S.E.2d at 874 ("[Admissions] made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements."). This Court concludes Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. The allegation is denied and dismissed.

Failure to Effectuate an Appeal

Applicant alleges Plea Counsel was ineffective for failing to effectuate his notice of appeal after his guilty plea. Applicant testified Plea Counsel filed a notice of appeal on his behalf then withdrew it. Applicant testified Plea Counsel did not discuss the withdrawal of his appeal with him and he only learned of it when his mother told him. Plea Counsel testified he discussed appealing Applicant's guilty plea with Applicant's mother and filed an appeal on Applicant's behalf after the request was made by Applicant's mother but that Applicant himself never told him to appeal his guilty plea. He testified he subsequently withdrew the appeal after reviewing the appellate court rules regarding appealing a guilty plea believing he could not certify to the South Carolina Court of Appeals that Applicant's appeal had merit. While trial counsel is required to make certain the defendant is made fully aware of the right to appeal, the standard for a guilty plea differs. Turner v. State, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008). Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are non-frivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea. *Id.* at 225, 670 S.E.2d at 374 (citing Roe v. Flores-Ortega, 528 U.S. 470 (2000); Weathers v. State, 319 S.C. 59, 459 S.E.2d 838 (1995)). "Acts inconsistent with the continued assertion of a right, such

as a failure to insist upon the right, may constitute waiver." Bonnette v. State, 277 S.C. 17, 18, 282 S.E.2d 597, 598 (1981).

This Court finds no deficiency on the part of Plea Counsel or prejudice therefrom as Applicant never asked for an appeal. Notwithstanding that fact, Plea Counsel filed an appeal but ultimately withdrew it as he did not believe meritorious issues existed in Applicant's case. Moreover, on appeal from a guilty plea the notice must be accompanied by "a written explanation showing that there is an issue which can be reviewed on appeal," and the explanation must also identify the issues and provide a factual basis for the issues. Rule 203(d)(1)(B)(iv), SCACR. After a review of the record, this court finds no meritorious issues exist in Applicant's case. This court finds Applicant never asked for an appeal and based on Plea Counsel's testimony, there were no appealable issues. Therefore, this court finds no basis for a belated direct appeal. Accordingly, Applicant's request for relief by way of this allegation is denied and dismissed.

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.

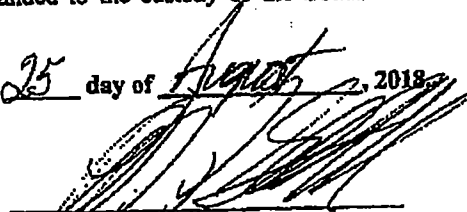
This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP provides that if the Applicant wishes to seek appellate

review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 25 day of August, 2018.


BROOKS P. GOLDSMITH
Presiding Judge
Sixth Judicial Circuit

____ South Carolina

WITNESSES
Crump - LCSO #13-08232

True

ARREST WARRANT NUMBER/DOA

2013A2910200092 (DOA- 3-5-13)

ACTION OF GRAND JURY

Brenda R. ...
Foreperson of Grand Jury
Date: JUN 13 2013

VERDICT

TRUE BILL

Foreperson of Petit Jury
Date:

DOCKET NO. 2013-GS-29-520

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

JUNE TERM 2013

THE STATE
vs.

Phillip Bryan Gleason

Indictment for

Homicide by Child Abuse

SC Code: § 16-3-85(A)(1)
CDR Code: 2356
Class: Felony EXM

FILED
OFFICE OF CLERK
OF COURT

2013 JUN 13 AM 10:40

CLERK OF COURT
LANCASTER, SC

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)

INDICTMENT

At a Court of General Sessions, convened on June 13, 2013, the Grand Jurors of Lancaster County present upon their oath:

HOMICIDE BY CHILD ABUSE

That Phillip Bryan Gleason did in Lancaster County on or about or between March 5, 2013, cause the death of Soren [REDACTED] C [REDACTED] a child under the age of eleven, while committing child abuse or neglect upon the child, and the child's death occurred by blunt force trauma to the head, under circumstances manifesting the defendant's extreme indifference to human life in violation of §16-3-85(A)(1) of the *Code of Laws of South Carolina, (1976), as amended*.

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



Douglas A. Barfield, Jr., SOLICITOR

WITNESSES

J. Catoe - LCSO #13-8232

*J. Catoe***ARREST WARRANT NUMBER/DOA**

2016A2910100395 (DOA-3-8-16)

ACTION OF GRAND JURY**TRUE BILL***J. Wetters*
Foreperson of Grand Jury

Date: JUN 23 2016

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-29-945

The State of South Carolina

County of Lancaster

FILED
OFFICE OF CLERK
OF COURT

2016 JUN 23 PM 12:31

CLERK OF COURT
LANCASTER, SC**COURT OF GENERAL SESSIONS**

JUNE TERM 2016

THE STATE

vs.

Phillip Bryan Gleason**Indictment for****Unlawful Conduct Toward Child**

SC Code: §63-5-70

CDR Code: 2481

Class: Felony, E

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)

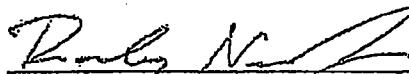
INDICTMENT

At a Court of General Sessions, convened on June 23, 2016, the Grand Jurors of Lancaster County present upon their oath:

UNLAWFUL CONDUCT TOWARDS CHILD

That Phillip Bryan Gleason did in Lancaster County, South Carolina, during the time period of February 5, 2013 through February 21, 2013, being the parent or guardian or having charge or custody or being responsible for the welfare of Soren: [REDACTED] C [REDACTED], (DOB: [REDACTED]-2008), a child 5 years of age, place the child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety, or did cause bodily harm to the child so that the life or health of the child was endangered or was likely to be endangered, in violation of §63-5-70, *Code of Laws of South Carolina, (1976), as amended*.

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


Randy E. Newman, Jr., SOLICITOR

WITNESSES

J. Catoe - LCSO #13-8232

S. Catoe

ARREST WARRANT NUMBER/DOA

2016A2910100396 (DOA-3-8-16)

ACTION OF GRAND JURY
TRUE BILL

Foreperson of Grand Jury

Date: *J. J. Nettles*
JUN 23 2016

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-29-946

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

JUNE TERM 2016

THE STATE

vs.

Phillip Bryan Gleason

Indictment for

Unlawful Conduct Toward Child

SC Code: §63-5-70(A)(2)

CDR Code: 2481

Class: Felony, E

FILED
OFFICE OF CLERK
OF COURT

2016 JUN 23 PM 12:31

CLERK OF COURT
LANCASTER, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

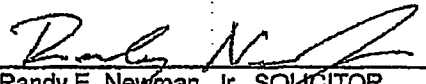
INDICTMENT

At a Court of General Sessions, convened on June 23, 2016, the Grand Jurors of Lancaster County present upon their oath:

UNLAWFUL CONDUCT TOWARDS CHILD

That Phillip Bryan Gleason did in Lancaster County, South Carolina, during the time period of February 22, 2013 through March 3, 2013, being the parent or guardian or having charge or custody or being responsible for the welfare of Soren [REDACTED] C [REDACTED], (DOB: [REDACTED]-2008), a child 5 years of age, place the child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety, or did cause bodily harm to the child so that the life or health of the child was endangered, in violation of §63-5-70, *Code of Laws of South Carolina, (1976), as amended.*

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


Randy E. Newman, Jr., SOLICITOR

ARREST WARRANT

2013A2910200092

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lancaster

THE STATE

1308232

against

Phillip Bryan Gleason

Address:

Lancaster, SC 29720-

Phone:

SSN:

Sex:

Race: W

Height: 5

8

Weight: 160

DL State:

DL#:

DOB: 1/1986

Agency ORI #: SC0290000

Prosecuting Agency: Lancaster County Sheriff

Prosecuting Officer: Clark Crump - 0006

Offense: Murder / Homicide by child abuse (20Y to Life)

Offense Code: 2356

Code/Ordinance Sec: 16-03-0085(A)(1)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

PHILIP BRYAN GLEASON

on

MARCH 05, 2013

Signature of County/Municipal Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
104 N. Main St.
P O Box 1809
Lancaster, SC 29720

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lancaster

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2000
SCCA 518

Personally appeared before me the affiant Clark Crump

being duly sworn deposes and says that defendant

Phillip Bryan Gleason

did within this county and state on or about 3/5/2013

State of South Carolina (or ordinance of

☒ County/☐ Municipality of

Lancaster

in the following particulars:

DESCRIPTION OF OFFENSE: Murder / Homicide by child abuse (20Y to Life)

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

On 03/05/2013, the defendant, Phillip Bryan Gleason, did cause the death of victim, Soren [REDACTED] C [REDACTED] by striking the five year old victim in the head causing blunt force trauma that lead to the victim's death. This incident occurred at [REDACTED] in Lancaster County, SC. Investigators have obtained defendant and witness statements as well as physical evidence from the scene and autopsy reports to corroborate the above stated facts. Affiant and others are witness to prove the same.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lancaster

Affiant's Address 1941 Pageland Hwy

Lancaster, SC 29720-

Affiant's Telephone (803)283-3388

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 3/5/2013defendant Phillip Bryan Gleason

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

☒ County/☐ Municipality of

Lancaster

) as set forth below:

DESCRIPTION OF OFFENSE: Murder / Homicide by child abuse (20Y to Life)

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

Sworn to and subscribed before me

on 3/5/2013

Judge's Address 761 Lancaster Bypass East

Lancaster, SC 29720-

Judge's Telephone (803)283-3983

Judge Code: 5879

Issuing Court:

☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

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

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)
Disposition: _____
Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
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Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS



ARREST WARRANT

2016A2910100395

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lancaster

THE STATE
against

13-08232

Phillip Bryan Gleason

Address:

Rock Hill, SC 29730-

Phone:

SSN:

Sex: M

Race: W

Height: 5

8

Weight: 150

DL State: SC

DL #:

DOB: 1/1986

Agency ORI #: SC0290000

Prosecuting Agency: Lancaster County Sheriff

Prosecuting Officer: Jason Catoe - 0136

Offense: Children / Legal custodian, unlawful neglect of
child or helpless person

Offense Code: 2481

Code/Ordinance Sec: 63-05-0070

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant Phillip Bryan Gleason
on 03-08-2016R. Dawkins
Signature of Court Clerk/Law Enforcement Officer

RETURN WARRANT TO:

General Session DATE RECEIVED: Bm 3-7-16104 N. Main St. TIME RECEIVED: 2:30P O Box 1809 DATE ENTERED: Bm 3-7-16

Lancaster, SC 29720

NCIC ENTERED:

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lancaster

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518Personally appeared before me the affiant Jason Catoebeing duly sworn deposes and says that defendant Phillip Bryan Gleason whodid within this county and state on or about 2/5/2013State of South Carolina (or ordinance of ☒ County/☐ Municipality of

Lancaster

violate the criminal laws of the

in the following particulars:

DESCRIPTION OF OFFENSE: Children / Legal custodian, unlawful neglect of child or helpless person

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:That on, about, or during the time frame of 2/5/2013 through 2/21/2013 the defendant, Phillip Bryan Gleason, did commit the crime
of Unlawful Conduct Toward a Child by placing the victim, Soren [redacted] (date of birth [redacted] 2008), at an unreasonable risk
of harm affecting the child's life, physical or mental health, or safety. On one or more occasion, the defendant did unlawfully or
maliciously cause bodily harm to the child victim so that her life or health was endangered or was likely to be endangered. The
defendant was responsible for the welfare of the child victim and resided with the child victim and her mother. This incident
occurred at their residence at [redacted] Lancaster, South Carolina, which is within the county of Lancaster, South
Carolina.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lancaster

Affiant's Address: 1520 Pageland HwyLancaster 29720-Affiant's Telephone: (803)283-3388

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 2/5/2013defendant Phillip Bryan Gleason

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

☒ County/☐ Municipality of

Lancaster

) as set forth below:

DESCRIPTION OF OFFENSE: Children / Legal custodian, unlawful neglect of child or helpless person

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before meon 3/7/2016Judge's Address: 761 Lancaster Bypass EastLancaster, SC 29721-Judge's Telephone: (803)283-3983

Lancaster Central Court

Judge Code: 5974Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

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

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____

Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(Indicate jury trial, bench trial, plea, not pros., etc.)

Disposition: _____

Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
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Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS



ARREST WARRANT

2016A2910100396

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lancaster

THE STATE

against

13-08232

Phillip Bryan Gleason

Address:

Rock Hill, SC 29730-

Phone:

SSN:

Sex: M Race: W Height: 5 8 Weight: 150

DL State: SC DL #:

DOB: 1/1986 Agency ORI #: SC0290000

Prosecuting Agency: Lancaster County Sheriff

Prosecuting Officer: Jason Catoe - 0136

Offense: Children / Legal custodian, unlawful neglect of child or helpless person

Offense Code: 2481

Code/Ordinance Sec: 63-05-0070

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant Phillip Bryan Gleasonon 03-08-2016R. O'Quinn

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
104 N. Main St.
P O Box 1809
Lancaster, SC 29026

DATE RECEIVED:

TIME RECEIVED:

ORIGINAL

RMS ENTERED:

NGIC ENTERED:

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lancaster

Personally appeared before me the affiant Jason Catoebeing duly sworn deposes and says that defendant Phillip Bryan Gleasondid within this county and state on or about 2/22/2013State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Lancaster)

in the following particulars:

DESCRIPTION OF OFFENSE: Children / Legal custodian, unlawful neglect of child or helpless person

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

That on, about, or during the time frame of 2/22/2013 through 3/3/2013, the defendant, Phillip Bryan Gleason, did commit the crime of Unlawful Conduct Toward a Child by placing the victim, Soren C. (date of birth 1/2008), at an unreasonable risk of harm affecting the child's life, physical or mental health, or safety. On one or more occasion, the defendant did unlawfully or maliciously cause bodily harm to the child victim so that her life or health was endangered or was likely to be endangered. The defendant was responsible for the welfare of the child victim and resided with the child victim and her mother. This incident occurred at their residence at Lancaster, South Carolina, which is within the county of Lancaster, South Carolina.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lancaster

Affiant's Address 1520 Pageland HwyLancaster 29720-Affiant's Telephone (803)283-3388

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 2/22/2013defendant Phillip Bryan Gleason

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

☒ County/ ☐ Municipality of Lancaster)

as set forth below:

DESCRIPTION OF OFFENSE: Children / Legal custodian, unlawful neglect of child or helpless person

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

Sworn to and subscribed before me

on 3/7/2016

Signature of Issuing Judge

Lancaster Central Court

Judge Code 5974Judge's Address 761 Lancaster Bypass EastLancaster, SC 29721-Judge's Telephone (803)283-3983

Issuing Court:

☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

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

PRELIMINARY HEARING held by

Judge _____
 on _____
 Defendant Attorney: _____
 Decision: _____

DISPOSITION before

Judge _____
 on _____
 by _____
 (indicate jury trial, bench trial, plea, nol. pros., etc.)
 Disposition: _____
 Sentence: _____

JURORS

WITNESSES

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
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Name: _____
 Address: _____
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Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

CODEFENDANTS



STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Lancaster

VS.

Phillip Bryan Gleason

AKA:

Race: WHITE

Sex:

Age: 31

DOB: 1986

SS#:

Address:

City, State, Zip: Lancaster, SC 29720

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Manslaughter / Voluntary manslaughter

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS2900820

A/W#: 2013A2910200092

Date of Offense: 3/5/2013

S.C. Code §: 16-03-0085(A)(1)(B)(1)

CDR Code #: 2356

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0050

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

0217

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS(CSC☐ §17-25-45

w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense,☒ Defendant Waives Presentment to Grand Jury

(defendant's initials)

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

ATTEST:

Collins, Lisa

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention Center,

for a determinate term of 30 days/months/years or

☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

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

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

SPECIAL CONDITIONS:

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

PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 61.6 (Public Def/Probation)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA

COUNTY OF Lancaster
STATE VS.Phillip Bryan Gleason

AKA:

Race: WHITE Sex: M Age: 31DOB: -1986 SS#:

Address:

City, State, Zip: Rock Hill, SC 29730DL#: SC SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Children / Legal custodian, unlawful neglect of child or helpless person

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS2900945A/W#: 2016A2910100395Date of Offense: 2/5/2013S.C. Code §: 20-07-0050CDR Code #: 2481

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSin violation of § 20-07-0050 of the S.C. Code of Laws, bearing CDR Code # 2481☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Collins, Lisa07892
SC Bar#DefendantAttorney for DefendantSC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 4 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 136529820 + 166529946
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 61.6 (Public Def/Probation)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

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

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Lancaster

VS.

Phillip Bryan Gleason

AKA:

Race: WHITE

Sex: M

Age: 31

DOB: 1-1986

SS#:

Address:

City, State, Zip: Rock Hill, SC 29730

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Children / Legal custodian, unlawful neglect of child or helpless person

in violation of § 20-07-0050

☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS

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

2481

☐ Mandatory GPS(CSC
w/minor 1st or Lewd Act)☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(defendant's initials)

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

ATTEST:

Collins, Lisa

07892
SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention Center,

for a determinate term of

4

days/months/years or

☐ under the Youthful Offender Act not to exceed

years

and/or to pay a fine of \$

; provided that upon the service of

days/months/years and/or payment

of \$

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

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

☐ CONCURRENT or☒ CONSECUTIVE to sentence on:

1365298204 166529945

The Defendant is to be given credit for time served pursuant to S.C. Code

§ 24-13-40 to be calculated and applied

by the State Department of Corrections.

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

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

SPECIAL CONDITIONS:

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

PTUP

Total: \$

plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

\$

§ 14-1-211(A)(1) (Conv. Surcharge)

\$100

\$

§ 14-1-211(A)(2) (DUI Surcharge)

\$100

\$

§ 56-5-2995 (DUI Assessment)

\$12

\$

§ 56-1-286 (DUI Breath Test)

\$25

\$

Proviso 61.6 (Public Def/Probation)

\$500

\$

§ 14-1-212 (Law Enforce. Funding)

\$25

\$

§ 14-1-213 (Drug Court Surcharge)

\$150

\$

§ 50-21-114 (BUI Breath Test Fee)

\$50

\$

§ 56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

3% to County (if paid in installments)

\$

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2016S2900946

A/W#:

2016A2910100396

Date of Offense:

2/22/2013

S.C. Code §

20-07-0050

CDR Code #:

2481

SENTENCE SHEET

☐ CONVICTED OF or☒ PLEADS

Presiding Judge

Judge Code:

Sentence Date:

1/30/17