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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Berkeley County

Honorable Roger M. Young, Circuit Court Judge

JULIE L. GORDON-GOOKINS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-001409

APPENDIX

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1 STATE OF SOUTH CAROLINA) GENERAL SESSIONS COURT
2 COUNTY OF BERKELEY)
3)
4 STATE OF SOUTH)
CAROLINA,)
5 Plaintiff,) Transcript of Record
6 vs.)
7 JULIE LYNN GORDON) Date: October 28, 2016
GOOKINS,)
8
Defendants.

9 * * * * *

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11 B E F O R E:

12 The Honorable Kristi Harrington
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20 * * * * *

21
22 Denise J. Lauder, RPR

23 Ninth Judicial Circuit
24
25

1 A P P E A R A N C E S

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1 (The following proceedings were had
2 October 28, 2016, 10:26 a.m., Berkeley County
3 General Sessions Court.)

4 (COURT'S EXH. 1, marked for
5 identification.)

6 MS. WILLIAMS: This is the State versus
7 Julie Gookins, and Ms. Gookins is pleading guilty
8 to burglary in the first degree, which is
9 2014-GS-08-01883; kidnapping, 01884; and she -- the
10 State has reduced the charge of attempted murder to
11 assault and battery of a high and aggravated
12 nature, and that is 01886.

13 The negotiation is for a cap of 30 on
14 the burglary to run concurrent, and everything else
15 is just straight up with no recommendation or
16 negotiations. The State is also dismissing a
17 possession of a weapon during the commission of a
18 violent crime.

19 THE COURT: Have the victims been
20 notified?

21 MS. WILLIAMS: The victims are both
22 here and there's other people from Berkeley County
23 Sheriff's Office. At the appropriate time, I would
24 like to have Lieutenant Kokinda address the Court
25 along with the victims.

1 JULIE GOOKINS,

2 being first duly sworn, testified as follows:

3 EXAMINATION

4 BY THE COURT:

5 Q. You are here to plead guilty on
6 2014-GS-08-1883, 1884, and 1886. The indictment
7 for burglary in the first degree is classified as a
8 violent and a most serious offense. Do you
9 understand what those two classifications mean?

10 A. Yes, ma'am.

11 Q. In your own words, explain to me what
12 the violent means.

13 A. In my own words? Violent means --

14 Q. As far as your classification legally.
15 Mr. Schwacke, I think, probably described it in
16 terms of such as an 85 percent.

17 A. Yes. I would have to do 85 percent of
18 this sentence and it's no -- it's a non-parolable
19 offense.

20 THE COURT: And that's what you
21 explained to her more or less, Mr. Schwacke?

22 MR. SCHWACKE: More or less. Violent
23 is a different classification, but I did -- I
24 explained that as well as most serious offense,
25 strikes situation. The fact that that would --

1 this constitutes three strikes, which further
2 behavior might result in a life without parole
3 sentence.

4 BY THE COURT:

5 Q. All three of your indictments are
6 classified as a violent offense. Do you understand
7 that?

8 A. Yes, ma'am.

9 Q. And I always tell defendants, you
10 should assume -- even though they're classified as
11 a violent, and Mr. Schwacke and somebody else maybe
12 explained to you the potential for an 85 percent,
13 you should assume that you're going to serve day
14 for day the sentence that I will impose on you here
15 today. Do you understand?

16 A. Yes, ma'am.

17 Q. The burglary in the first degree and
18 the kidnapping are classified as most serious
19 offenses. Mr. Schwacke has indicated that he
20 explained that to you in terms of strikes. Do you
21 understand what that means to you?

22 A. Yes, ma'am. He told me that if I got
23 one more -- if I got out of jail and I got one
24 more, that that possibly could send me back to
25 prison for life.

1 THE COURT: And did you explain to the
2 client that the ABHAN is classified as a serious
3 offense?

4 MR. SCHWACKE: I did, Your Honor.

5 BY THE COURT:

6 Q. And you understand what that means?
7 So, again, serious and most serious are classified
8 as -- termed in strikes.

9 A. Yes, ma'am.

10 Q. So it's important for me to know that
11 you understand that it's not just what you're
12 entering into today, that the serious and most
13 serious classifications will have a definite impact
14 upon you should you commit a combination of a
15 serious and most serious offense in the future. Do
16 you understand?

17 A. Yes, ma'am, I do.

18 Q. Knowing that, do you still wish to go
19 forward here today?

20 A. Yes, ma'am.

21 THE COURT: And explain to me the
22 negotiations one more time.

23 MS. WILLIAMS: Everything is without
24 recommendation or negotiation, except the burglary,
25 and there's a cap of 30. The State does not have

1 an objection to concurrent time, but Mr. Schwacke
2 understands that we're asking for 30 years.

3 BY THE COURT:

4 Q. Okay. Ms. Gookins, you understand I
5 could sentence you on the burglary, first degree --
6 I must sentence you 15 years up to life in the
7 Department of Corrections. Do you understand
8 that's the potential punishment?

9 A. Yes, ma'am.

10 Q. On the charge of kidnapping, I can
11 sentence you up to 30 years in the Department of
12 Corrections. Do you understand that's a possible
13 punishment?

14 A. Yes, ma'am.

15 Q. On the charge of assault and battery of
16 a high and aggravated nature, I can sentence you up
17 to 20 years in the Department of Corrections. Do
18 you understand that?

19 A. Yes, ma'am.

20 Q. If I were to impose the maximum on you
21 on each indictment and run them consecutively, I
22 can sentence you to life plus 50 years. Do you
23 understand that potential punishment?

24 A. Yes, ma'am.

25 Q. Knowing that, do you still wish to go

1 forward here today?

2 A. Yes, ma'am.

3 Q. You do not have to plead guilty here
4 today. By pleading guilty, you are giving up
5 certain rights. Your right to a jury trial, your
6 right to have a jury determine your guilt beyond a
7 reasonable doubt based upon the evidence the State
8 presents, as well as the evidence you may
9 introduce; your right against self-incrimination;
10 your right to say nothing at all; the right to
11 confront and be confronted by the witnesses against
12 you, as well as the right to call witnesses on your
13 own behalf.

14 By pleading guilty here today, you give
15 up any defense you have to any of these charges.
16 Do you understand those rights?

17 A. Yes, ma'am.

18 Q. And do you waive those rights at this
19 time?

20 A. Yes, ma'am.

21 Q. Understanding the charges that you are
22 facing, the possible punishment, as well as the
23 consequences of this plea, how do you plead to
24 burglary in the first degree?

25 A. I plead guilty.

1 Q. Are you pleading guilty because you, in
2 fact, committed that offense?

3 A. Yes, ma'am.

4 Q. How do you plead to kidnapping?

5 A. I plead guilty.

6 Q. Are you pleading guilty because you, in
7 fact, committed that offense?

8 A. Yes, ma'am.

9 Q. How do you plead to assault and battery
10 of a high and aggravated nature?

11 A. I plead guilty.

12 Q. Are you pleading guilty because you
13 are, in fact, guilty?

14 A. Yes, ma'am.

15 Q. Has anybody promised you anything,
16 threatened you, forced you to plead guilty here
17 today?

18 A. No, ma'am.

19 Q. Have you been satisfied with the
20 service of your attorney?

21 A. Yes, ma'am.

22 Q. Any complaints about the way that he's
23 handled this case?

24 A. I wrote a letter to Your Honor on the
25 16th. I'm sure that you will have it, but --

1 Q. I'm not typically in the habit of
2 reading mail from individuals who are represented
3 by counsel. Now is the time to tell me if you have
4 any complaints about your attorney.

5 A. I just feel like -- I'm fine, yes,
6 ma'am.

7 Q. Okay. So what happens sometimes, Ms.
8 Gookins, and I'm not saying that it's going to
9 happen in this case, but what happens sometimes is
10 you will accept the plea, and then you will go to
11 the Department of Corrections. And you'll sit and
12 think for a little bit and then you'll come back
13 and say, I think Mr. Schwacke should have done
14 this, or perhaps he should not have done this.

15 Now is the time to tell me if you have
16 any complaints whatsoever about the way this case
17 was handled by Mr. Schwacke?

18 A. No, ma'am.

19 Q. Do you agree or -- do you need anymore
20 time to meet with him to discuss any of these
21 issues?

22 A. No, ma'am.

23 Q. Is there anything that you want to tell
24 me that was in the letter that you think I need to
25 know before we go forward?

1 A. No, ma'am.

2 Q. You will have the right to appeal the
3 plea and sentence that I impose, but you or your
4 attorney must do so within ten days. Do you
5 understand?

6 A. Yes, ma'am.

7 THE COURT: Please listen to the facts.
8 Ms. Williams.

9 MS. WILLIAMS: Your Honor, may it
10 please the Court. These events occurred on
11 September 5, 2014. The day before they occurred --
12 in Cane Bay neighborhood in Summerville, but the
13 day before they occurred, there were complaints
14 received by the Berkeley County Sheriff's Office
15 that a woman wearing a wig was going from house to
16 house looking into windows and driving around.

17 Her license plate was taken down at a
18 perimeter for the Brandon Sigmon case, because they
19 were looking for him at the time. It was a
20 complete coincidence it happened to be in the same
21 neighborhood.

22 The very next day -- and she was also
23 seen with a really distinct black wig. The next
24 day, the Defendant, in her wig, came to the
25 victim's house, [REDACTED] Decatur Avenue. The victim was

1 37 weeks pregnant. She had just gone -- come home
2 from the store with her two young children and was
3 unloading some groceries into her refrigerator in
4 the garage when the victim approached her with a
5 pistol. It was loaded.

6 She told her that she would kill her
7 and her children and her unborn child if she did
8 not come with her right then. She led the victim,
9 whose children -- young children were in the home,
10 led her around to the back of the house toward a
11 car that she parked off to the side.

12 At this point, the victim somehow had
13 the presence of mind to wrestle the gun away from
14 Ms. Gookins and throw the gun into a pond that was
15 behind the homes in that neighborhood. She then
16 started screaming. A neighbor came over and sat on
17 Ms. Gookins until the police could get there.

18 The gun was recovered; it was a
19 45-caliber pistol. And it was -- there was one in
20 the round and there was also a magazine that was
21 found in her car. The frightening thing is that
22 once they got to Ms. Gookins' car, they found a
23 baby bracelet that said Baby Girl Gordon, a car
24 seat, bottle, baby formula, infant clothing, rubber
25 gloves, a brand new shovel, a tarp, and a list that

1 said, scalpel, clamps, and some other items.

2 She also had some -- I want to make
3 sure that I get everything, baby formula, another
4 wrist band that would look like a mother that just
5 gave birth, a different name on it, and, most
6 importantly, she had a syringe with a sedative in
7 it, which was later tested by SLED called -- I'm
8 going to get this wrong, but it's diphenhydramine.

9 THE COURT: Could you spell that for
10 the Court Reporter?

11 MS. WILLIAMS: Yes, Your Honor. It's
12 D-I-P-H-E-N-H-Y-D-R-A-M-I-N-E. It is a sleep aid
13 and sedative, and it is also listed as sometimes
14 having hypnotic effects.

15 Further investigation revealed that
16 although Gookins was not pregnant, she had been
17 pretending to be for months, even though she'd had
18 a hysterectomy ten years before. She equipped a
19 full nursery with her boyfriend. Her boyfriend's
20 mother had traveled from out of state just to be
21 there to take care of the baby.

22 Your Honor has what's been marked as
23 Court's Exhibit 1, which is pictures where she was
24 months before parading and pretending to be
25 pregnant on Facebook.

1 When she was arrested, she lied and
2 told the police that this was a plan she cooked up
3 with the victim's husband, who they later found out
4 didn't even know her. But she gave a fake name for
5 the victim's husband, and she said, well, we meet
6 in a bar and this is the name that he uses when he
7 meets me.

8 So the husband having found out that
9 his wife had been accosted and all this happened,
10 was now part of the focus of the investigation.
11 Once they got his cell phone, they realized there
12 had been no contact, there had been nothing to do
13 with the husband. So that was ruled out.

14 She also began to get inmates at the
15 jail to send letters to Cassi Faylor, which was
16 horrifying for the victim. Once again, I told
17 Mr. Schwacke about this. He relayed that it was
18 inappropriate.

19 We did some investigation and got a
20 statement from one of the people. There were three
21 different inmates and two of them got out and we
22 never found them, but the one person we did find
23 was Suzanne Reed Zavalla. And she said that
24 Gookins told her the letters were for a
25 psychiatrist and to just write the letter and give

1 it back to her, which means Ms. Gookins was sending
2 the letters to the victim.

3 At least one of the letters is entitled
4 to Ms. Faylor. So one of the inmates was given Ms.
5 Faylor's name and she wrote the letter.

6 I just can't underscore how that felt
7 for this victim. She's still living in the same
8 house. To this day, they don't know why they were
9 chosen for this horrible potential act. We have
10 surmised it was probably Facebook; she was looking
11 for a pregnant women.

12 There's also some information that she
13 used to pay her rent in that neighborhood and she
14 might have come across Mrs. Faylor, but she clearly
15 knew she was going to have a girl because she had
16 the girl bracelet, and Mrs. Faylor was getting
17 ready to have a girl and she might have posted
18 something about that on Facebook. So we can only
19 guess why she was targeted for this crime.

20 Even after the three letters to Ms.
21 Faylor -- that was in February of 2016 -- she then
22 wrote me in May of 2016, encouraging me to talk to
23 the victim for her in an attempt to try to get her
24 to not ask for a lot of time here today.

25 We talked to Ms. Gookins' son who said

1 that she is very manipulative, that this is just
2 something that she does, that it isn't the first
3 time that she's done this. And his name is Daniel
4 Hall; he gave a statement to the police.

5 She has been evaluated for both
6 competency and criminal responsibility and she has
7 been found competent and criminally responsible and
8 also is able to conform her behavior. One thing of
9 note in both of those reports, is that they noted
10 that she was feigning symptoms. So she was
11 pretending to be crazy in the reports -- I'm sorry
12 to use the word crazy, but she was pretending to be
13 psychotic in those reports in order to benefit
14 herself.

15 I am so frightened by this behavior,
16 and that is why we're asking for 30 years. I do
17 not think that she should benefit from the fact
18 that it was stopped. Thank goodness it was
19 stopped. The fact that there is a shovel and a
20 tarp, among all of these other things, and a
21 sedative is most concerning. A brand new shovel,
22 it's not like it was in her car for something else.
23 She's certainly not an obstetrician, so we know she
24 couldn't deliver the baby.

25 I just -- I don't know what else to say

1 about these facts. It is unfortunate that it
2 happened right around the time of the Sigmon case
3 and that we have them both this week. I kind of
4 had to counsel myself not to desensitize myself to
5 these fact because we've had a few cases this week
6 with just unbelievable strange facts.

7 But -- but this case, if any case, Your
8 Honor, I think deserves 30 years, because I'm so
9 concerned about her being out in society because of
10 the level of manipulation, not only noted by her
11 family member, but by the crime itself, by the
12 letters, but also by the doctors.

13 So with that, I will -- oh, and Your
14 Honor has her prior record. With that, I will let
15 Your Honor tell me when you would like to hear from
16 the victims.

17 THE COURT: Happy to hear from them.

18 MRS. FAYLOR: Cassi Faylor,
19 F-A-Y-L-O-R. I'm not comfortable even going into
20 my garage anymore. I was putting groceries away
21 and she came to me, grabbed my baby bump, and took
22 me around the corner saying some not true things
23 about my husband. She was trying to lead me away
24 from my three-year-old and five-year-old. I was
25 also babysitting my friend's kid at that time; she

1 was one, she was in there. And she didn't care
2 about any of that.

3 She grabbed me, put the gun to my
4 stomach, took me around the corner. And all my
5 neighbors had gone in at that point, and so she
6 waited for the perfect time. I was screaming. She
7 said, don't scream anymore. She was like, I'm
8 going to shoot you and your kids and kill your
9 baby.

10 And so we get to the back of my yard,
11 and I'm -- I grabbed my stomach, and I'm like, I'm
12 going to have this baby. And she was like, what,
13 right now? And I'm like, yes, you're going to make
14 me have my baby.

15 So I distracted her, I got the gun out
16 of her hand, I threw it in the pond, and so that
17 made her mad. So she yanked me down with my hair.
18 I'm trying not to fall on my bump. She punched me
19 in the side of my face, and then I screamed again
20 trying to get someone to hear me. I didn't care
21 who it was.

22 She put her hand over my face; I bit
23 down on her fingers; I kept screaming. And so,
24 finally, our neighbor all the way down the street
25 came out with his dog and ran, tackled her. I ran

1 down to my other neighbor's house. I didn't know
2 what to do; my husband was at work; I was freaking
3 out. So that terrified me.

4 My kids saw all of it out the back
5 window. They saw the caution tape around my house.
6 She could have taken our baby, you know. And I
7 thought I was safe with her in jail, but then she
8 writes me letters. And I just don't understand how
9 -- she still knows my address, she still knows my
10 name. She's trying to contact me and -- you know.
11 My kids are still in the same house, so it
12 terrifies me.

13 The fact that everyone knows that I'm
14 the pregnant mom that was attacked, so every single
15 time that's brought up, I have to go through that
16 all over again. And it just really sucks. That's
17 all.

18 MS. WILLIAMS: Your Honor, one thing I
19 forget to mention, there is videotape of her the
20 day before lurking around the backs of the houses.

21 THE COURT: Okay.

22 MR. FAYLOR: Derrick Faylor,
23 F-A-Y-L-O-R. I just kind of wanted to giye you my
24 point of view on what I went through that day. I
25 went to work like any other day. You know, I got a

1 phone call 9:00 in the morning, it was pretty
2 early. And I was excited, I thought I was getting
3 ready to have a baby, I thought I was going to be
4 going to the hospital.

5 And, you know, my wife's on the other
6 end hysterical. I can't make out anything she's
7 saying, other than a woman and a gun. And the
8 first thing that goes through my mind is, one of my
9 children has been shot. So, you know, I race home,
10 I come home, I've got caution tape around the
11 house, police everywhere.

12 Instead of being able to comfort my
13 wife and kids to figure out what's going on, I get
14 pulled into a police car and the investigation
15 starts on me, wondering whether or not I'm
16 involved. I guess she accused me of running around
17 with her, whatever she was accusing me of. I've
18 never met this woman. I don't know who she is.

19 Obviously, you know, I have to deal
20 with that every day, people around the neighborhood
21 not knowing what happened. I get questioned, asked
22 about what was going on. The other -- it was
23 probably a month ago, or so, my wife wanted to go
24 for a walk, and I had just gotten off of work. And
25 I told her, I'm pretty tired, you know, why don't

1 you just take the kids out.

2 And she said, no. And a few minutes
3 into figuring out why she didn't want to go, she
4 didn't want to walk around the neighborhood by
5 herself. And it's ridiculous that she has to live
6 her life -- for -- forever because of what happened
7 that day.

8 We're very worried that when she gets
9 out where we're going to be and what's going to be
10 going on. If you can take that consideration,
11 please.

12 THE COURT: Thank you, Mr. Faylor.

13 MS. WILLIAMS: Lieutenant Kokinda is
14 here.

15 MR. KOKINDA: Lieutenant Dean Kokinda,
16 K-O-K-I-N-D-A.

17 Your Honor, I will be brief. The facts
18 of the case are clear. I've been in law
19 enforcement going on 27 years, 25 of that in
20 forensics. Mrs. Williams said she had to
21 desensitize herself. I'm pretty desensitized, but
22 this is one of my more disturbing cases.

23 The Defendant developed a plan, clear
24 and concise plan. Had she been able to implement
25 that plan, had she been able to complete it, she

1 would have left the victim dead and gutted, and
2 took her child to raise it as her own. I find this
3 extremely disturbing.

4 Physical scars heal. You just
5 witnessed the victim; emotional scars take a long
6 time to heal, if ever. And I would impress upon
7 the Court that it is the will of the sheriff's
8 office that you impose the maximum sentence that
9 can be imposed on the Defendant. Thank you.

10 MS. WILLIAMS: And, again, Your Honor,
11 we are dismissing the possession of a weapon during
12 the commission of a violent crime; we have dropped
13 the attempted murder down to ABHAN; and we are
14 giving her the cap. So I believe she is getting a
15 significant benefit, and that's why we're asking
16 for the maximum allowable sentence.

17 BY THE COURT:

18 Q. You heard the facts as delivered by the
19 State. Ma'am, are those facts true? Is that what
20 you did?

21 A. No, ma'am.

22 Q. Tell me what it is that makes you
23 guilty and why you're pleading guilty here today.

24 A. I did go into her garage when she was
25 putting groceries away. And the way Mr. Schwacke

1 has explained it to me that makes me guilty of the
2 burglary. The way our kidnapping statute is
3 written in our State, because I did have her arm
4 and she didn't want to go, that made me guilty of
5 the kidnapping, but I did not threaten her
6 children.

7 The shovel that was in the back of my
8 car -- my mother had passed away in April, and I
9 was taking my mother's Klonopin, which doesn't make
10 it okay, I know it doesn't. But I was taking my
11 mother's Klonopin, and I had gone out to our
12 family's cemetery like within two days. And I had
13 gone out there to clean it up, to get it ready for
14 my mom's ashes.

15 That shovel had been used, and that
16 tarp had been in the car from when I had moved in
17 July. And there was rope in there that was in
18 there from when we had moved in July. We had tied
19 -- we had tied the mattress and box springs to the
20 top of the car.

21 The assault and battery, high and
22 aggravated, I did hit her. When she hit me, I hit
23 her and she bit my hand. I did hit her, and she
24 was pregnant. So I feel like I deserve to plead
25 guilty to assault and battery, high and aggravated.

1 She was pregnant, and I shouldn't have gotten in a
2 fight with her.

3 But this happened while I was taking
4 medication that I shouldn't even have been taking,
5 and I really wasn't even myself until I had been
6 here quite awhile. I had to get them to put me on
7 medication here because I had suffered from really
8 bad depression. And I had to get them to put me on
9 medication here so that I could even get my mind
10 around any of what had happened.

11 And I told Mr. Schwacke I didn't even
12 realize everything at first, and then it kind of
13 came back to me in little pops, like flashes. And
14 when I realized what had happened, it made me -- it
15 bothered me. It bothered me. It bothered me,
16 because there was no reason for it to have
17 happened. My X knew that I wasn't pregnant and my
18 daughter knew that I wasn't pregnant.

19 So there was no reason for me to have
20 gone that day. And when I realized -- I was
21 driving, I had left my sister's and I ended up at
22 Burger King on Main Street, Summerville, and I
23 didn't know how I got there.

24 And the next place I remembered being
25 was at a gas station, and I didn't remember how I

1 got there. And then when I was in her
2 neighborhood, I was like wrestling with these
3 voices, thoughts, whatever they were, in my head.
4 And I'm not saying that what I did was right, it's
5 not. It's not in any way right.

6 And I wrote a statement that if Your
7 Honor would let me read, I would like to read.

8 THE COURT: Mr. Schwacke, have you
9 reviewed the statement?

10 MR. SCHWACKE: I have not at this time,
11 Your Honor.

12 THE COURT: All right. I'm going to
13 let you review it and you make the determination if
14 it's something that I need to hear.

15 (Brief pause.)

16 MR. SCHWACKE: I would believe that
17 would be more appropriate after you have completed
18 the allocution and accepted the plea, but otherwise
19 I've reviewed it and --

20 THE COURT: Mr. Schwacke, you have
21 reviewed all of the Rule 5 materials with your
22 client?

23 MR. SCHWACKE: That's correct, Your
24 Honor.

25 THE COURT: And based upon what the

1 State has presented factually, do you agree that
2 that's what was contained in the discovery
3 materials?

4 MR. SCHWACKE: That's correct, Your
5 Honor.

6 THE COURT: And based upon your
7 conversations with your client, do you believe that
8 there's any defense, or any concern about
9 competency, or the ability to conform her behavior,
10 or criminal responsibility.

11 MR. SCHWACKE: Your Honor, there was a
12 State ordered evaluation for competency and
13 criminal responsibility. That was completed. We
14 were provided copies with that, and, in turn, I
15 reviewed that with Ms. Gookins. Prior to that, we
16 had our own independent examination done by Dr.
17 Knight.

18 Some of that information I was going to
19 go through, but in terms of whether or not she
20 understands the nature of the proceedings, can
21 assist in her defense, I think it's clear that she
22 can based upon the report, and it would -- it would
23 match with what our own independent doctor
24 concluded as well.

25 THE COURT: Mr. Schwacke, there was

1 some indication that she was on Klonopin during
2 this time. Is there -- was that a defense of any
3 sort that you went over with her?

4 MR. SCHWACKE: Only to the extent that
5 voluntary intoxication would not be a defense.

6 THE COURT: So you discussed that with
7 her?

8 MR. SCHWACKE: She has been made aware
9 of that.

10 THE COURT: Mr. Schwacke, based upon
11 what you have observed here today, is there any
12 reason I should not accept this plea?

13 MR. SCHWACKE: Your Honor, her
14 hesitancy, I think, in pleading guilty on the
15 burglary is her view -- and, unfortunately, we get
16 this from clients in the jail all the time -- that
17 because it was a garage, it's not part of the
18 house; and because these things happened out there,
19 it would be a lesser degree of burglary.

20 The problem with this is it's an
21 attached house, and it does have the aggravating
22 circumstances present for it. So I have explained
23 that to her a number of times. She has been
24 critical of my representation on that point, but in
25 terms of where we are factually, the State could

1 make that charge out and I believe it is the -- it
2 would be an appropriate charge that they would seek
3 a conviction for.

4 THE COURT: And, Mr. Schwacke, is there
5 -- just because I want to make sure, was there
6 anything that she asked you to do that you feel
7 that in representing her that you were somehow
8 deficient in representation? It sounds to me from
9 what I've heard, you have spent significant time
10 insuring competency and criminal responsibility,
11 getting evaluations done, going over the elements
12 of burglary in the first degree, as well as the
13 other two charges resulting in some dismissal of
14 some of the indictments. Is there something that
15 you feel she asked you to do that perhaps you could
16 have done and didn't do before I accept this plea?

17 It's kind of a delicate question to ask
18 at this time, Mr. Schwacke, but I just want to make
19 sure -- I haven't read the letter that she sent to
20 me so I don't know what was contained in there, but
21 at this point it seems to me that you have
22 adequately -- more than adequately represented her
23 in this matter.

24 MR. SCHWACKE: I think -- I'm going to
25 point out yet another problem that we face in

1 dealing with clients who are in jail and the sort
2 of jailhouse lawyering that goes on over there, is
3 that every case that is discussed over there is the
4 same and it should get the same sentence, and
5 there's not a breakdown of what factors are
6 available because of the evidence. Are there
7 witnesses? Are there complications that might come
8 into play?

9 And I know I've had that conversation
10 with her many, many, many times when she'll point
11 out, I know a person in here who got blank. And so
12 in that regard she might say that I'm deficient,
13 but I really don't know of anything else I could
14 have done in representation in this case.

15 THE COURT: Okay. I find there is a
16 substantial factual basis for your plea. I find
17 that Ms. Gookins did in Berkeley County on or about
18 September 4, 2014, enter the dwelling of Cassi
19 Faylor, located within Berkeley County, without
20 consent and with the intent to commit a crime
21 therein. In addition, she was armed with a
22 semiautomatic handgun. The State has met the
23 elements factually.

24 I find that the State has further met
25 the burden of showing that Ms. Gookins did in

1 Berkeley County, on or about September 4, 2014,
2 unlawfully seize, confine, inveigle, decoy, kidnap,
3 abduct, or carry away Mrs. Faylor without authority
4 of law.

5 I further find that you have -- the
6 State has proven the elements of the assault and
7 battery of a high and aggravated nature. I accept
8 your plea of guilt as to all three indictments.

9 Mr. Schwacke, I'm happy to hear from
10 you, or whomever, in regards to the sentencing.

11 MR. SCHWACKE: Thank you, Your Honor.
12 First, with regard to Mrs. Gookins, she's been in
13 custody since this offense for a total of 785 days
14 at this point. She became a resident of the
15 Summerville, Charleston area back in around '92.
16 She has four children -- they're grown, ages 19,
17 23, 25, and 27 -- one of whom is present and would
18 wish to address Your Honor at the appropriate time.

19 She was a well-studied person. She has
20 multiple college degrees including ones that
21 involve nursing, medicine, x-ray tech, that type of
22 study. She has been employed in a number of
23 professions including dental assistant, medical
24 assistant, worked in a chiropractor's office and
25 has bar-tended.

1 With regard to her physical situation,
2 she had -- I think she had issues regarding
3 cervical fusion, she's also had an ovarian tubal
4 issue. Some of that resulted in her taking
5 medication. I think sometimes it was prescribed
6 for her and sometimes it wasn't, and as a result,
7 there is a bit of a drug issue that Ms. Gookins
8 has.

9 She is currently 46 years of age.
10 There were attempts of suicide back in 1999. She
11 was treated at Trident for a period of time
12 regarding that. Your Honor, the mental evaluation
13 did diagnose her post-traumatic stress disorder,
14 borderline personality disorder, also. And to tie
15 in what I was just telling Your Honor, there is
16 alcohol use disorder, severe, and then sedative,
17 hypnotic or anxiety to use disorder. Those would
18 all be prescriptions.

19 Since she's been in jail, Ms. Gookins
20 has been trying to better herself and her inmates.
21 She has participated and completed some Bible study
22 correspondence courses. She has set up a Bible
23 study class in, I guess, the female section of the
24 detention center. She has also obtained her Work
25 Keys for her GED and has become a peer tutor over

1 at the jail.

2 Your Honor, her daughter is present, as
3 is another friend of the family. If possible, I
4 would like to have Megan Dubose address the
5 Court --

6 MS. DUBOSE: Megan Dubose, D-U-B-O-S-E.

7 THE COURT: Yes, ma'am, happy to hear
8 from you.

9 MS. DUBOSE: This is my mom. When
10 everything happened, my grandma had just passed
11 away in April. I had just graduated in May. I
12 moved out of my mom's house and I moved into my
13 grandmother's place. She was dating her boyfriend
14 at the time, so there was not very much
15 communication.

16 I was going to Dorchester County Mental
17 Health for some things, you know. I've been around
18 my mom for a long time. My mom hasn't been like
19 this her entire life. She used to open up the
20 house to all my friends. I had multiple friends
21 that stayed with us throughout the time of being in
22 middle school and high school. I had best friends
23 live with me for like three years. My mom would
24 take care of them and we would all go and do
25 everything. She took care of me. I was her baby.

1 My mom has always had depression
2 issues. She's taken antidepressants for as long as
3 I can remember. I just -- I mean, I don't want
4 everybody to think she's crazy. She hasn't always
5 been like this. She's a really good mom.

6 I mean, I graduated early. Me and my
7 brothers, we all live on our own. Me and my
8 brother, we live together, we take care of
9 everything. I'm -- she's not crazy. She just --
10 something happened. She didn't mean for it to, and
11 I just wanted everybody to know that.

12 THE COURT: Thank you.

13 MR. SCHWACKE: Caroline Davis.

14 MS. DAVIS: I have known --

15 THE COURT: State your full name for
16 the record and spell your last name.

17 MS. DAVIS: Caroline Davis, D-A-V-I-S.

18 THE COURT: Yes, ma'am.

19 MS. DAVIS: I have known Julie and her
20 family for about eight years now. When I met
21 Julie, I was going through a hard time with my
22 family, and me and my mom were not talking at the
23 time. She has took me and several other people
24 into her home and took care of us, made sure I was
25 able to go to school, and made sure I was able to

1 get stuff, as well as her kids.

2 She's always been a great mother, even
3 though she's not mine. She has always been good to
4 her kids. She's never turned me down if I needed
5 something. We have bumped heads, but that's
6 everybody -- she has helped so much and in so
7 little time.

8 I also suffer from depression and she's
9 helped me through that as well. She's -- I
10 couldn't believe it happened when I found out that
11 it did, but when I did, I was there for her and her
12 kids as she was for me. And I just want to let you
13 know that she is a great person even though she
14 does have her bad days.

15 THE COURT: Thank you.

16 MR. SCHWACKE: And, Your Honor,
17 Mrs. Gookins wishes to address Your Honor.

18 THE COURT: Anyone else?

19 MR. SCHWACKE: -- no, Your Honor.

20 THE COURT: Thank you.

21 Happy to hear from you, Ms. Gookins.

22 THE DEFENDANT: First of all, before I
23 read what I wrote, I would like to give Mrs. Faylor
24 and her husband some peace of mind. I didn't go
25 out looking for her. I had gone to the hospital on

1 September 1st, and they told me that they suspected
2 that I had a tubal pregnancy and that I needed to
3 go to my gynecologist.

4 So I made an appointment for that 2nd
5 of September. I saw her there. I never saw her
6 leave there. I just saw her in the waiting room.
7 I don't remember ever seeing her again until that
8 day. I want her to know, no, I did not drive
9 around looking for her. She was not singled out.

10 I just saw her at the doctor's office,
11 and I don't even know how I realized where she
12 lived. I don't remember following her home. I
13 don't remember any of that. But I want her to know
14 that her and her children are safe. She doesn't
15 have to worry about me. I've never, never been
16 like that before. Ever. So I wanted to give her
17 some peace.

18 And so now I will read what I wrote if
19 that's okay. To my victim, Your Honor, my family,
20 and my community: I would like to say that I'm so
21 sorry. To my victim, I'm sorry. I was taking
22 mind-altering medication, a lot of it, at the time
23 and struggling with voices in my own head, and I
24 was at a very vulnerable place and really lost
25 within my own self.

1 But that is no excuse for any emotional
2 or physical pain I have caused you and I'm so
3 sorry, but just know that while I've been here,
4 I've turned back to God, and that you and your
5 family are always and will forever be in my
6 prayers.

7 To my family, I'm sorry for not
8 realizing what I had and what I was losing because
9 I was too proud to ask for help. And I'm so sorry
10 for the embarrassment and pain I caused you as
11 well.

12 To my community, I apologize for
13 becoming another statistic. This was never where I
14 saw myself being, ever, in my life. And although
15 I'm suffering from some mental issues, I have asked
16 to be put on meds for and I'm trying to make
17 changes in myself.

18 I go to church meetings; I have a Bible
19 study; I participate in two mail correspondence
20 Bible studies; I obtained my Silver Work Keys
21 Certificate and was a tutor for that program from
22 October 2015 until June 2016.

23 I have tried to be as productive as
24 possible and would like Your Honor and my
25 community, my victim, and my family to know that

1 I'm sorry and I'm not a danger to anybody.

2 MR. SCHWACKE: Your Honor, on behalf of
3 Ms. Gookins I would simply ask the Court for its
4 mercy and as much leniency as possible within the
5 negotiated sentence.

6 THE COURT: It is the order of the
7 Court on 2014-GS-08-1883, that you be committed to
8 the State Department of Corrections for a term of
9 30 years. I will give you credit for 785 days.

10 It's the order of the Court on
11 2014-GS-08-1884, that you be committed to the State
12 Department of Corrections for a term of 30 years.
13 I'll give you credit for the 785 days.

14 It is the order of the Court on
15 2014-GS-08-1886, that you be committed to the
16 Department of Corrections for a term of 20 years.
17 They will all run concurrent. Good luck to you,
18 ma'am.

19 (These proceedings were concluded at
20 11:14 a.m.)

21

22

23

24

25

1 CERTIFICATE OF REPORTER

2

3 I, Carol Denise Lauder, Registered
4 Professional Reporter and Notary Public for the
5 State of South Carolina at Large, do hereby certify
6 that the foregoing transcript is a true, accurate,
7 and complete record.

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

11 Witness my hand, I have hereunto affixed my
12 official seal this 4th day of February, 2018, at
13 Charleston, Charleston County, South Carolina.

14

15

16

17 S/Denise Lauder_____
18 Carol Denise Lauder
19 Registered Professional
Reporter, CP
My Commission expires
August 2, 2017

20

21

22

23

24

25

County of ~~Berkeley~~
40
Julie Lynn Gordon-Hookins 370329

v.

The State of South Carolina

In the Court of Common Pleas

20 17-CP-08-2322

Cover Letter for
Post-Conviction Relief

FILED

OCT 11 2017

CASE NO. 17-08-2322
MARY P. BROWN CLERK OF COURT
BERKELEY COUNTY, SC

Dear Sir or Madame,

Please find enclosed my Post Conviction Relief (P.C.) Application. This is the second one I've submitted the first was between the end of June and the middle of July. I am in receipt of the response to my request for a stamp-date copy which was another application and this was stamped-dated Sept. 29, 2017.

Please file this Application that I am submitting and respond with a date-stamped copy upon your receipt of this application in return. Also please include a copy of sentencing sheets, indictment, warrant and affidavits by detectives or any officers. Also please send me copies of any search warrants.

Sincerely,

Julie Lynn Gordon-Hookins
(370329)

CGGCI 'Blue Ridge C #19'
4450 Broad River Rd.
Columbia, SC 29210

JGH

FORM 5

2017-CP-08-2328

STATE OF SOUTH CAROLINA)

COUNTY OF Berkeley)

Julie Lynn Gordon Gookins 5370329)
Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Camille Graham-Griffin Correctional Institution
2. Name and location of Court which imposed sentence General Sessions Berkeley Co.
3. Name(s) of co-defendant(s) (if any) 300 A California Ave. Moncks Corner, SC 29461
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 (a) 2014-GS-0801883
 (b) 2014-GS-0801884
 (c) 2014-GS-0801886
5. The date upon which sentence was imposed and the terms of the sentence:
 (a) October 28, 2016
 (b) October 28, 2016

FILED
OCT 11 2017
CASE NO.
MARY P. BROWN CLERK OF COURT
BERKELEY COUNTY, SC

(c) October 28, 2016

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?

yes

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

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

i. South Carolina Court of Appeals

ii. _____

iii. _____

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

i. dismissed on January 20, 2017; appellants failure to provide sufficient explanation of guilty plea Appeal
Remittitur sent to lower court accord. to Rule 221(b)

iii. _____

(c) the date of each such result:

i. January 20, 2017

ii. _____

iii. _____

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

results:

i. Appellants failure to provide sufficient explanation of guilty plea Appeal

ii. _____

iii. _____

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

(a) N/A

(b) _____

(c) _____

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

(a) Gross Ineffectiveness of counsel
Failure of defendants counsel to investigate the victim and her family's employment with Berkeley Co Sheriff or Prosicute office. (Government official)

(b) Judges Errors / Government Agency Errors

(c) Involuntary plea

(d) Violation of Search & Seizure

(E) Right of adequate representation

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

in (10): Extended list attached

(a) failed to fully explain legal terms and procedures while defendant was not medicated

(b) Improper acceptance of plea due to defense counsel stating for

(c) Not fully aware of Constitutional rights and meanings.

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

(a) any petition in a State Court under South Carolina Law? YES (appeal)

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? Not prior

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

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

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

(a) the specific nature thereof:

i. Case dismissed Appeal S.C. Appellant Court

ii. _____

iii. _____

iv. _____

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

i. South Carolina Court of Appeals - Columbia SC.

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. Case dismissed for failure to provide sufficient explanation of a guilty plea appeal. (SC Court of Appeals sent remittitur sent to lower Court under Rule 221(b))

iii. _____

2) Failed to investigate victim and family when defense it heard they worked for County Sheriffs or Prosecutors Office when defendant told him what her family had heard in the lobby outside her preliminary hearing.

3) Failure to call expert witness to rebut evidence or raise issues of past and present psychological wellbeing.

4) Failure to prove Criminal intent or argue against any allegations

5) defense Counsel failed to explain Mens rea was needed and to be Proven by Prosecution or to explain even what Mens Rea is.

6) failure to raise issues of mental health, mental anguish, extreme or outrageous Character at time or mental distress defendant was under

7) No alternative defense provide as atty and I discussed just prior to hearing

8) Failed to be adequately prepared or present any defense as discussed

9) Had no defense prepared for trial told me he had none.

10) Threatened, intimidated and coerced me and my child to get me to plead guilty even when I told him prior that morning 10-28-16 I did not want to go in front of judge Herrington or plead guilty and address it he yelled screamed and curse at me and told me all I was allow to say was yes or No and I needed to just agree and go along with everything or I would get a life sentence but in essence that is what I got (30 years)

11) Violation of my 4th, 5th, 6th, 8th and 14th Constitutional rights

12) Never discussed lesser included offense or told me ABH/N was a lesser included offense to Attempted Murder because he knew I'd never plead guilty to that because I had told him it was never my intent to kill anyone and I wouldn't say it was.

13) Violation of Due Process because of inadequate counsel.

14) Violation of search warrants never addressed even though I raised that concern - (Rule of Evidence / mitigating circumstances)

15) Tactics of trial Court and failed to raise any arguments on my behalf

16) Not objecting to any evidence that was discussed or entered, never discussed evidence to be used with me other than briefly once before.

17) Not objecting to prosecutors allegations to what defendant's intent was. That was never proven therefore objections should have been made.

18) Dismissing gun voids charges because lack of evidence material aspect of crime dismissed (Not Armed) therefore defense atty. should have argued for

19) failed to object to trial Court error - failed to object to hearsay⁴⁵ evidence and improper argument made by prosecution.

20) Did not ever act as my advocate.

21) Counsel deficient for failing to object to improper charge of malice which improperly shifted the burden of proof from the state to the defendant. Other matters that could otherwise be reviewed on direct appeal if not for defense Counsel's failure to properly preserve the issue.

22) Not arguing for defendant not to have to register on the sex offender's registry as part of plea agreement previously discussed.

23) Failed to keep promises as part of plea, I was told by defense counsel when I was asked if I was promised anything to say no even though I was promised things.

24) Failed to run own tests on evidence as defense.

25) Defense Attorney did not adequately argue the fact that the defendant was under the influence of mind altering medication at time of incident and as a result Diminished Capacity Doctrine applied to defense case.

26) Failure to assist the defendant through complete appeal process to the SC Court of Appeals causing appeal to be dismissed.

27) Judge's refusal to read letter that was written to the Court 12 days prior on October 16, 2016 stating these issues I had with defense Counsel and requesting new Counsel to be appointed.

28) When defense Counsel told judge I had an issue with his representation she should not have continued to accept plea. (violates Right to adequate Counsel.)

Continuation of question 14b)

b) Arresting officers or victim possible agent of Berkeley County or Prosecutor's Office that wasn't revealed to Court or defense ~~Counsel~~ ^{Counsel}. Defendant's family member heard talk of this a preliminary hearing but defense Counsel never investigated properly.

4) Search and seizure issues: Illegal search and seizure.

2) Police report of statements made at scene inadmissible because I was not Mirandized at scene. I didn't sign my right (Miranda rights) sheet until 9-5-14, was held 9-4-14

2) Plea was unlawfully induced and not made voluntarily or within a complete understanding of the nature of the charges and inadequacies of plea potential.

3) Promised things to get me to plea that never happened or received.

4) Coerced by defense atty. as well as intimidated and threatened to get me to enter plea.

5) My atty. lead me to believe I could be sentenced to less than the cap requested by the prosecution if I pled guilty and that he would push for that because of my minimal criminal record.

6) I didn't understand I could withdraw my plea during the process my atty. told me doing so would only anger the judge and insure a life sentence.

- iv. _____
- (d) the date of each such disposition:
- i. January 20, 2017
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. N/A
- 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. N/A
- ii. _____
- iii. _____
- (b) the proceedings in which each ground was raised:
- i. N/A
- 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) N/A
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? yes (ineffective)
- (b) your trial, if any? _____
- (c) your sentencing? yes (ineffective)
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. David P. Schwacke (Public Defender
Highway 52 Moncks Corner, SC 29461
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. My arraignment, hearing for Psychological examination by state
- ii. My plea/sentencing (even though I wrote to public defenders
office and requested a new one on 3 separate occasions and to
the court 12 days prior to hearing on October 28th, 2016
for same reason stated issues during Psych eval. in Nov. 2015.
19. State clearly the relief you seek in filing this application:
I want either one below: 1) sentenced under lesser statutes that
apply.
2) new attorney appointed and remitted back to general sessions for
reconsideration of new trial
20. Are you now under sentence from any other court that you have not challenged?
NO

20 17-CP-08-2322

STATE OF SOUTH CAROLINA)

VERIFICATION

County of Berkeley)Julie Lynn Gordon-Gookins 370329

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

Julie Lynn Gookins 370329

SWORN to and subscribed before me this 6th
day of October, 2017.

Crystal Jones (L.S.)
Notary Public

My Commission Expires: July 22nd, 2026

FILED
OCT 11 2017
CASE NO.
MARY P. BROWN CLERK OF COURT
BERKELEY COUNTY, SC

JH

20 17 -CP-08- 2322

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

Julie Lynn Gordon-Gookins 370329

I, _____, 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.

Julie Lynn Gookins 370329
Applicant

SWORN or affirmed to and subscribed before me this
6th day of October, 2017.

Crystal Jones
Notary Public

My Commission Expires: July 2nd, 2026

FILED

OCT 11 2017

CASE NO.
MARY P. BROWN CLERK OF COURT
BERKELEY COUNTY, SC

724

County of Berkeley
Julie Lynn Gookins 370329

UNITED STATES DISTRICT COURT
2017-CP-08-2322

The State ^{V.} of South Carolina

Dear Sir or Madame,

Please find enclosed my motion to supplement and amend my Post Conviction Relief (P.C.R.) I would like to add this to my PCR claim. On Oct. 6, 2017 I submitted my P.C.R. Application and requested a stamped-dated copy, a copy of my Sentencing sheets, indictments, warrants, search warrants and affidavits by detectives and officers. Today 10-19-17 I recieved my stamp-dated copy of my PCR but none of the other things I requested.

Please file this Supplement and motion to amend with my P.C.R. and send me a date-stamped copy of this as well as a copy of my sentencing sheets.

- (2) indictments
- (3) warrants (2014A0810401021, 2014A0810401022, 2014A0810401023, 2014A0810401025)
- (4) All Search warrants case # 201409041944 (16)
- (5) Affidavits & Statements from detectives and officers as requested on 10-6-17 when I submitted my P.C.R. Application.

Sincerely,
Julie Gookins 370329

CGGCI Blue Ridge C" #19
4450 Broad River Rd.
Columbia, SC 29210

BERKELEY COUNTY, SC
CLERK OF COURT
MARY P. BROWN

FILED
NOV 28 PM 1:35
2017

County of Berkeley
Julie Lynn Gookins 370329

- VS -

2017-CP-08-2322
Motion to file Amended and
Supplement Action
Pursuant to F.R.C.P. Rule 15
Affidavit of Service

The State of South Carolina

Exhibit A-1

The above Captioned (applicant) Julie Gookins files this notice and motion to supplement the record and pleadings on the merits of perfecting the above p.c.r. Claim.

Issues raised are mostly based on after-discovered evidence

(One) Guilty plea was rendered involuntarily.

(Two) Arresting officers breach of its official investigation Capacity misconduct in search and seizure of evidence obtained in violation of the 4th amendment U.S.C.A. and the State of South Carolina Constitution Article I § 10: That states... The extended right that persons have in their homes, over their possessions, private papers, persons, and property, shall not be violated by search and seizures. Search and seizures that do and do not afford total protection, the do not offend the federal constitution may also afford extended protection under this state article.

(Three) Victim and/or victim's family member(s) are believed to be or have been employed by Berkeley County Sheriff's Dept. or the Solicitor's Office in an Official Capacity, acting as alter ego or were at the time of arrest and after without notifying defense or court.

(Four) The prosecution failed to prove mens rea in Kidnapping charge and burden of proof was therefore shifted to defense which was never explained or discussed with defendant by her public defender.

(Five) Because victim was never harmed and released to a safe place, unharmed it constituted lesser charge of second degree kidnapping & lesser sentence. which when charges were discussed with defendant's attorney he never seemed to want to argue for her, only stating she was guilty. This should have been present to grand jury by atty. § 62.

Judge in Court Reporting
County of Berkeley
Julie Lynn Gookins 370329
Vs

The Court of Common Pleas
2017-CP-08-2322 53
motion to file Amendment
supplemented action
Pursuant to F.R.C.P.R. Rule
Affidavit of Service

The State of South Carolina

Exhibit A-2

(Six) Under the burden of proof for kidnapping § 48(a) states under some authority, all mental deficiencies and disorders when there is evidence of an underlying mental defect or disease, including conditions that causes loss of emotional control, may support a diminished capacity defense.

(Six)(b) Courts have determined that the exclusion of testimony evidence of P.T.S.D. constituted reversible error in prosecution for violent crimes under the facts and circumstances presented (§ 16) or whether such exclusions constitutes reversible error (§ 17) Courts have ruled upon the admissibility of P.T.S.D. evidence to support a motion for a new trial (§ 32) and the sufficiency of such evidence so as to warrant a new trial (§ 33)

State - v - Bockorny, State - v - Hines.

(Seven) The fact that the defendant suffers from P.T.S.D. and that it is documented in the State's ordered psychological evaluation should and did speak to (§ 48) (a) diminished capacity defense.

b) States that exclusion of the evidence that a person suffers from P.T.S.D. constitutes reversible error and supports the motion for a new trial as neither the prosecution or defense atty. was willing to make the court aware of this fact.

(Eight) Because the garage door was open and force was not used to obtain entry into garage and unauthorized entry was not constituted regardless to the intent of the person entering. Reasonable belief that entry was allowed because defendant was never asked to leave, Therefore entry was implied as agreeable and not unauthorized. Burglary is a crime against possessions, not people or property. State - v - Clamp, Supra. The law of burglary is primarily designed to secure the sanctity of one's home especially at nighttime when peace, solitude and safety are most desired and expected, (State - v - Clary) thus at the heart of burglary is protection of the individual and their family from unlawful intrusion

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County of Berkeley
Julie Lynn Gookins 370329

-VS-

THE COURT OF COMMON PLEAS
2017-CP-08-2322
Motion to file Amendment or
Supplement action P.C.R.
Pursuant to F.R.C.P. Rule 15(b)
Affidavit of Service

The State of South Carolina

Exhibit A-3

(Eight) at night. Penal code states: Burglary calls for harsh punishment because it involves an intrusion into a place where people sleep and expect safety during the night.

(Nine) Defendant never said she was guilty of Burglary or Kidnapping her response was 'The state says by their Statute that I'm guilty so I guess by the statute I'm guilty. The only crime the defendant plead guilty to was Assault and Battery High and Aggravated Nature which rendered the whole plea VOID.

Julie Lynn Gookins 370329

Julie Lynn Gookins 370329

Sworn to and subscribed
before me on this 21st day
of November 2017.

Notary Public for the State
of South Carolina.

My Commission Expires:

July 22nd, 2026

Crystal Jones

STATE OF SOUTH CAROLINA
County of Berkeley
Julie Lynn Gookins 370329

vs.

The State of South Carolina

F.R.C.P. Rule 15(b)

55

Motion to Supplement and Amend
the Record and Pleadings on the
merits of Perfecting P.C.R.

2017-CP-08-2322

Exhibit B-1

The above-captioned (applicant) moves upon the Court in said motion to amend and/or supplement the record and pleadings of the merits of perfecting the P.C.R. Claim.
(Ground One)

The guilty plea was rendered involuntary. Whenever a guilty plea is entered there must be an official notice and sworn affidavit submitted to the court, a signed agreement between both the state and the (Defendant). A guilty plea Contract must exist to confirm the guilty plea was or has been accepted and entered in prior to the (defendant's) actual court date hearing pursuant to (Rule 11 S.C.R.C.P) the (guilty plea) must be presented to the Trial of Fact Judge presiding over the case. It must be signed by the Trial Counsel, Defendant and the Solicitor in acting over the case. The concept of the (guilty plea) agreement means that the (Defendant) would plead guilty to one offense in exchange for the other offense to be dismissed and/or to a lesser included offense on one offense and the remaining offenses dropped or dismissed that and acquired (Guilty Plea Agreement) that must be pre-existing in writing before a guilty plea bench trial. It has to be entered into not under duress, or under the influence of mind altering substances. It has to be presented before the judge, etc. etc. etc. I was on psych meds. definitely mind altering

The second Conclusion of law on the merits of the Guilty plea... The guilty plea was not freely and voluntarily entered into. There was no guilty plea agreement entered prior to the hearing on October 28, 2016 to show that the (applicant) in this case at bar, freely and voluntarily waived her rights to a (trial by Jury).

STATE OF South Carolina
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County of Berkeley
Julie Lynn Gookins 370329

VS.

The State of South Carolina

THE COURT of Common Pleas
2017-CP-08-2332
F.R.C.P. Rule 15(b)

Motion to Supplement and Amend
the Record and Pleadings on the
merits of Perfecting of P.C.

Exhibit B-2

On the Contrary, the (applicant) maintains she didn't know prior to being woken up on the morning of October 28, 2016 by the C.O. that she was going to Court that morning, that her attorney gave her his word that he would have her scheduled for Judge Dennis' Dockett or one of the visiting Judges and she maintains she was harrassed, threatened, and coerced by her public defender in various ways but that on October 28, 2016 he threatened that she would recieve life in prison if she didn't plea guilty ~~but~~ infact the 30 year sentence she recieve was in effect a life sentence for her at 46 years old. She also maintains she was under great duress caused by her Court appointed Attorney the entire time he was representing her. She was told she would be on a certain judges Dockett but on Oct. 28, 2016 when she found out infact she would be going in front of Judge Herrington and the (applicant) voiced her concerns immediately before Court and told her attorney that she was unwilling to go before Judge Herrington or move forward on that day the applicants Attorney David P. Schwacke yelled at, curse at, and promised the (applicant) she would infact recieve life ^{if she didn't}. Her Attorney approached her 19 year old daughter who was traumatized by loosing the only real parent to jail at 17 and he played on her fear telling her daughter that if (applicant) didn't accept the plea offer that day her mother (applicant) would recieve and go to jail for life and coerced and intimidated Meagan DuBose (applicant's daughter) into writing a note to (applicant) on his legal pad telling (applicant) to accept a plea deal to avoid life because she wanted me to come home. There is no valid waiver showing that the (applicant) knowingly entered into a Guilty Plea Agreement prior to being harrassed, intimidated and threatened by her State appointed Counsel David Schwacke.

State of South Carolina
County of Berkeley
Julie Lynn Gookins 370329

vs.

THE COURT OF Common Pleas
2017-CP-00-2322 57
P.R.C.P. Rule 15(b)
Motion to Supplement and Amend
the Record and Pleadings on the
merits of Perfecting of P.C.R.

The State of South Carolina

Exhibit B-3

The (applicant) maintains that she wrote to the public defenders office on three separate occasions requesting that David Schwacke be replaced as her attorney with no response before writing to the court on October 16, 2016 prior to the October 28th, plea date asking for her attorney to be changed due to his blatant ineffectiveness and because of his attitude towards her. The question then becomes why would (applicant) willingly and without Duress (plead guilty) knowing she would receive the Maximum amount of time on all her sentences, regardless to whether they would be run consecutive or concurrent, which the (applicant) state had no real understanding the meaning until (she) entered prison and had the opportunity to learn the meaning during her search into the laws and meanings in such cases. There is no way humanly possible, that the above court could be (persuaded) knowing these things can feel or believe that the (applicant's) guilty plea was entered into freely, and given willingly and without duress. The (applicant) also refused to attempted murder as charged when speaking to her attorney on several occasions but defense counsel never advised his client, the (applicant) that the charge of Assault and Battery High and Aggravated Nature, was in fact a lesser included offense to the Attempted Murder Charge (that she refused to plead guilty to) because he knew if he had informed his client of that (she) would have never entertained or plead guilty to the charge! There is/was mitigating circumstances involving a conspiracy to conceal evidence from the court, which was executed by the public defender (Schwacke) who acted as a cover-up artist for an alter ego of the State who is also the victim in the case at bar. A Breach of Attorney Client Doctrine. The applicant maintains the gun in the case is a plant not belonging to the person she thought the gun belonged to Kristine Wainstead the (applicant's) granddaughters mother. That gun is missing so charges

State of South Carolina
County of Berkeley
Julie Lynn Gookins 370329
VS.

The Court of Common Pleas
2017-CP-08-2322
F.R.C.P. Rule 15(b)
Action to Supplement and Amend
the record and Pleadings on the
merits of Perfecting of P.C.R.

The State of South Carolina

Exhibit B-4

(Ground Two)

The Berkeley county sheriff searched a residence at the location c 224 Ruth Anne Dr. Summerville S.C. in Dorchester County where the (applicant) did not reside and had last resided there in 1999 some 15 year prior removing items not belonging to (applicant) that many others used and had access to for the purpose of using as evidence against the (applicant) even though they belonged to (applicant's) daughter who lived apart from (applicant) who's daughter advised law enforcement of such at the time of the search, and there are questions concerning warrant and searches which (applicant) has requested copies of warrant's (search) of from both her attorney David P. Schwacke and the Solicitor in this case but have not been provided by either. The question then of the searches are then in question which could possibly rendered void, and therefore any evidence obtained as inadmissible. Berkeley Co. Sheriff's Office removed items from above mentioned location (according to search warrants and sheriff's office) to use against (applicant) knowing victim and or possible family members were employed by the Berkeley County Sheriff or Solicitors office in an official capacity. The Sheriff detectives who taped the applicant on 9-4-14 while she was under the mind altering medication Kolonapin after being coerced by the detectives about possible charges for said confession rendered it void on two points, one: of the applicant's impairment and two: by coercion. Because of the victim's and/or family members official capacity as employees of the Sheriff's or Solicitors office the State Law Enforcement Division (SLED) should have been placed in charge of the investigation. The rule of evidence code has been violated by the 4th Amendment U.S.C.A. and which is in conflict with a valid state and federal civil protection rights. This is to say that the 4th amendment U.S.C.A. rights were violated by the arresting agents and all government officials involved in the case (at the cake of conspiracy) and conceal the victims or family's identity as a known law enforcement or court employee from the public that law enforcement, the foundation of crime arrest or conviction

The State of South Carolina
Berkeley County
Julie Lynn Gookins 370329

vs.

THE COURT OF COMMON PLEAS
2017-CP-08-2322
F.R.C.P. Rule 15(b)
Motion to Supplement and Amend
the Record and Pleadings on the
merits of Perfecting of P.C.R.

The State of South Carolina

Exhibit B-5

(Ground Three)

The final conclusion of the merits of (Police agents) and states witness-victim and trial counsel are as followed. The state committed a (hideous) crime known to mankind. To conceal evidence of a material fact from the court to violate the (applicant's) right to a fair and impartial jury and trial. A right to adequate representation by trial counsel, the (applicant) tried to fire her ~~state~~ appointed attorney (3) three times by letter to the public defenders office and stated her concerns of his competency as her attorney during her mental evaluation in November 2015. She also wrote to the court in October 2016 prior to the Plea Agreement and asked that new counsel be appointed due to her counsels ineffectiveness and attitude towards her alledged crime. The (applicant) did not freely waive her right to a jury trial, her right to confront her accuser nor did she willingly waive her right to appeal her guilty plea, (applicant's) attorney harassed, threatened and intimidated her into doing so. The state has prejudiced (itself) and the attorney prejudiced the (applicant's) case, which resulted into a (miscarriage of justice) and the sentence should be overturned as a matter of law based on a multitude of legal technical errors committed by the arresting agents, solicitor, trial counsel, ~~trial judge~~ ⁽³⁾, they all agree to deceive the court by fraudulent means in violation of 18 U.S.C.A. 1504, 1505, 1506 model penal code 24.(2) This crime is punishable by law and the attorney and solicitor can each be stripped of their representative character as a court official, pursuant to article VI Clause 2, to the 6th amendment U.S.C.A. The trial judge erred when she refused to read (applicant's) letter requesting new counsel.

The (applicant) in this case at bar has been convicted in Fraud ^(6th) of evidence.

State of South Carolina
County of Berkeley
Julie Lynn Gookins 370329

VS.

The State of South Carolina

THE COURT OF COMMON PLEAS
2017-CP-08-2322
F.R.C.P. Rule 15(b)

Motion to Supplement and Amend
the Record and Pleadings on the
Merits of Perfecting of P.C.R.

Exhibit B-6

Conviction was based on Prosecutorial Misconduct, Ineffective Counsel and Judicial error, Police agents and Trial Counsel's Conspiracy and concealment of the Victim's identity as one of the Supporting Staff of the Berkeley County Sheriff's Office or Solicitor's Office violating the 4th, 5th, 6th Amendment U.S.C.A. The conviction is a violation of the 14th Amendment, Freedom Act # 197-E September 8, 2011.

Because of gun evidence that has only recently come to light the charges as charged do not apply causing all charges to be void. Also when (Applicant) asked her Attorney to investigate the evidence the solicitor planned to use and to have medical records subpoenaed he told (applicant) no his investigator was on medical leave. Was the investigator on leave the whole 26 months the (applicant) sat in Berkeley County Detention Center? Why did he not have things investigated as required by law when asked by (applicant) his Client? Because he was helping the Solicitor win her case.

Also applicant sent in her P.C.R. Application the first time to Berkeley County Court between the end of June, beginning of July but the Court responded to a request for a stamped copy finally after many requests on Sept. 29, 2017 saying they never received my P.C.R. and sent me another blank one and luckily I had a copy of previous one submitted and was able to transpose it and send it in. The one that was sent in originally never came back to the prison so I find it hard to believe that the Court never received the first one and if so why did they wait 8 weeks to send me a new application when I had requested a copy many times? This also gives weight to a conspiracy theory.

The State of South Carolina
Berkeley County
Julie Lynn Gookins 370329
Vs.

The Court of Common Pleas
2017-CP-08-2322
F.R.C.P. Rule 15(b)
motion to Supplement and Amend
the Record and pleadings on the
merits of Perfecting of P.C.R.
Claim

The State of South Carolina

Exhibit B-5

(Ground four and five)

The State statute §16-13-410 Kidnapping reads that the victim must be confined, abducted, carried away from the victim location 'moved a substantial distance', held for ransom, and requires Mens Rea which requires a 'Positive Act' - the doing of a deed as opposed to leaving something (the act) undone that encompasses Mens Rea, but the alleged deed was never carried out and completed it was left undone, the victim never left her own yard, never held for ransom, never moved a substantial distance (carried away) confined or abducted, the deed was left undone and unproven thereby by definition meaning no mens Rea, no crime. Mens Rea element of said crime was never met so charge was therefore faulty as charge but defense attorney never informed the defendant of this and never argued any of this all he continually did was to tell the (applicant) she was guilty of the crime as charged. Defense attorney admitted to (applicant) several times that he had no defense prepared for her case if she chose to go to trial but would ask at the Plea agreement that (applicant) not have to register ~~at~~ the registry but never followed through with that promise either. The Burden of proof for mens rea was shifted from the prosecutor to the defense which was never discussed with (applicant) by her defense attorney. And because victim was never harmed and remained in a safe place (her home/Property) the charge constituted a lesser charge of second degree Kidnapping and a lesser sentence which when charges were discussed with the defense attorney was never entertained by said attorney, he was always telling (applicant) of her guilt.

State Of South Carolina
County of Berkeley
Julie Lynn Gookins 370329

VS

THE COURT IN WRITING HAS
2017-CP-08-2322
F.R.C.P. Rule 15(b)
Motion to Supplement and Amend
the Record and Pleadings on the
merits of Perfecting of P.C.R.
Claim

The State of South Carolina

Exhibit B-A

(Ground Six and Seven)

The Burden of proof for kidnapping also addresses the issue of diminished capacity defense. It states under some authority, all mental deficiencies and disorders when there is evidence of an underlying mental defect or disease, including conditions that cause loss of emotional control may support such a defense. There was ~~proof~~ given to the defense and prosecution that such conditions existed and was discussed with doctors during psychological eval. but defense refused to address it even when (applicant) told him she knew something was wrong. She was on suicide hold twice while in County jail and had a history of such attempts in her life.

Courts have determined that exclusion of testimonial evidence of PTSD which the (applicant) suffers from constituted reversible error to support a motion for a new trial. The (applicant) does suffer from this condition and as such request a new trial along with the many, many other reasons given to refuse is a definite violation of my constitutional rights. The fact that I (applicant) suffer from PTSD and severe depressive disorder is documented in state evaluation. (applicant) has been off and on antidepressant and behavioral type medication since 1993 and under great amount of stress at time of incident this was not normal behavior for her. Had prosecution and defense obtained all medical records pertaining to the (applicant) the mental deficient would have been documented on several occasions and in 2006 or 2007 was referred to MUSC Department of Psychiatry by a doctor with university Family Medicine (MUSC) her mental health history dated back over 21 years at the time of offense.

State of South Carolina
County of Berkeley
Julie Lynn Gookins 370329

VS

The State of South Carolina

Exhibit B-9

THE COURT OF COMMON PLEAS
2017-CP-08-2322

F.R.C.P. Rule 15(b)

Motion to Supplement and Amend
the Record and Pleadings on the
merits of Perfecting of P.C.R.

The (applicant) here by request all of this information supplied herein to be added to the record and Previous P.C.R. Application as supplement information. That the original Application still be considered but this to be added to.

Julie Lynn Gookins 370329
Julie Lynn Gookins 370329

Sworn to and Subscribed
before me on this 21st day
of November 2017.
Notary public for the State
of South Carolina.

My Commission expires on:

July 22nd, 2026
Crystal [Signature]

State of South Carolina
County of Berkeley
Julie Lynn Gookins 370329

VS.

Warrant of Criminal Pleas
2017-CP-DB-2322
Motion For A Fast and Speedy
Trial
6th & 14th Amendment U.S.C.A.
Affidavit of Service

The State of South Carolina

Exhibit C-1

The above-captioned (applicant) hereby moves upon the above courts for a fast and speedy trial, within (60) sixty days of receipt of this notice and motion, Pursuant to the 6th and 14th Amendment U.S.C.A., South Carolina Constitution Article 1 and 14, Doggett - vs - US 112 S.Ct. 268 (U.S. 1992). The (applicant) further states that if the Attorney General fails to set this case for a trial within (60) sixty days from the date of service the (applicant) begs this Court to dismiss the (3) three charges against her with prejudice, barring the state from prosecuting her on these or any charges associated with this crime occurring on September 04, 2014.

Julie Lynn Gookins 370329
Julie Lynn Gookins 370329

Sworn to and subscribed before
me on this 21st day of
November 2017.

Notary Public for the State
of South Carolina.

Crystal
My Commission expires on
July 22nd, 2026.

State Of South Carolina
County of Berkeley
Julie Lynn Gookins 370329
vs.

THE COURT OF COMMON PLEAS
2017-CP-DB-2322 65
motion to Reopen the State's
Evidence F.R.C.P. Rule 16
Affidavit of Service

The State of South Carolina

Exhibit D-1

The above-captioned (Applicant) files this notice and motion under Federal Rule C.P. Rule 16 to re-open the state's evidence.

The (applicant) is also requesting that the state provide her with a complete copy of all the (Discovery Data) pursuant to the S.C.R.C.P. Rule 5(a). The evidence that was used and presented to the pre-trial and trial which convicted the (applicant).

Julie Lynn Gookins 370329
Julie Lynn Gookins 370329

Sworn to and subscribed before
me on this 21st day of
November 2017.

Notary Public for the State of
South Carolina.

My commission expires:
July 22nd, 2026.

Crypt

State of South Carolina
County of Berkeley
Julie Lynn Gookins 370329
VS.

THE COURT OF COMMON PLEAS
2017-CP-08-2322
Motion for Appointment of
Competant Counsel for Trial
App. Court Rule 602(a)(2)
Affidavit of Service

The State of South Carolina

Exhibit E-1

The above-captioned (applicant) begs the Court to appoint effective counsel to represent her according to state rule 602(a)(2) at no charge to (applicant) and that such counsel be of a pro-bono nature not with the Berkeley County public defenders office due to the ineffective nature and possibility of prejudice against her because of issues raised by this submission against prior attorney, that was with the Berkeley County Public Defenders Office.

The (applicant) asks for Counsel to be appointed prior to the setting of any trial because although she has drafted this present paperwork she is not an attorney and feels without legal representation she will be at a disadvantage, Counsel to be set during the 60 day period.

Julie Lynn Gookins 370329
Julie Lynn Gookins 370329

Sworn to and subscribed before
me on this 21st day of
November 2017.

Notary Public for the State of
South Carolina. Crystina
My commission expires:
July 22nd, 2026.

State of South Carolina
County of Berkeley
Julie Lynn Gookins 370329
vs.

THE COURT OF COMMON PLEAS
2017-CP-08-2322
Motion for a Writ of
Mandamus
Proof of Service

The State of South Carolina

Exhibit F-1

I Julie Lynn Gookins certify under penalty of perjury that I have sent the Chief Administrative Judge of Courts (P.C.R. Division) of the Court of Common Pleas a Notice and motion for a Writ of Mandamus in the above-captioned case on this the 21st day of November 2017, Quoting-Tool "Et. AL. Appellate practice in South Carolina P. 281 (1999) Citing -> Wiblen v. Ling 262 S.C. 240, 205, S.C. 2d 174 (1976) Why the Attorney General has not responded to the P.C.R. Claim.

C.C.: Attorney General (P.C.R. Berkeley Co.)
P.O. Box 11549
Columbia, S.C. 29211

Submitted:

Julie Lynn Gookins 370329
Julie Lynn Gookins 370329

Sworn to and subscribed before
me on this 21st day of
November 2017.

Notary Public for the State of
South Carolina. Crysta Jones

My commission expires
July 2nd, 2026.

State of South Carolina
County of Berkeley
Julie Lynn Gookins 370329

THE COURT OF COMMON PLEAS
2017-CP-08-2322
Affidavit of Service

VS.

The State of South Carolina

Exhibit G-1

To: ~~Chief~~ Administrative Judge (P.C.R. Division)

To: Attorney General Alan B. Wilson

From: Julie Lynn Gookins 370329

Subject: Fast and Speedy trial on P.C.R. Supplement and Amended Action.

Date:

I Julie Lynn Gookins 370329 being duly sworn certify under penalty of perjury that I have served the afore named persons for a fast and speedy trial and amended Action in p.c.r. Claim.

November 21, 2017 (date)

Julie Lynn Gookins 370329
Julie Lynn Gookins 370329

Sworn to and subscribed before
me on this 21st day of
November 2017.

Notary Public for the State of
South Carolina. Cristy Jones

My Commission expires:

July 22nd, 2026.

State of South Carolina
County of Berkeley
Julie Lynn Gookins 370329
VS.

The Court of Common Pleas
2017-CP-08-2322
The (applicant) files this motion
under S.C.A.C.P. Rule 59(e)
Affidavit of Service

The State of South Carolina

Exhibit H-1

The above-captioned (applicant) files this notice and motion pursuant to S.C.A.C.P. Rule 59(e) to alter the order of Judgement in this case at bar.

The motion is based on legal, technical and procedural errors of law, that were violated by all the state agents in each of their official representative character as an Alter Ego of the state. As a Court representative and the force of law of the government Security Department the conviction was based on the 4th Amendment U.S.C. violations, Double Jeopardy Clause, 8th Amendment and violation of the 14th Amendment U.S.C.A.

Julie Lynn Gookins 370329
Julie Lynn Gookins 370329

November 21, 2017 (Date)

Sworn to and subscribed
before me on this 21st day
of November 2017.
Notary Public for the State
of South Carolina.

My Commission expires :
July 22nd, 2026.

Crysh/gms

State of South Carolina
County of Berkeley
Julie Lynn Cookins 370329
vs.

Court of Common Pleas
2017-CP-08-2322
Table of Authentic
Constitutional Laws, errors
Precedent Case Laws

The State of South Carolina

Exhibit I-1

4th Amendment U.S.A.
5th Amendment U.S.C.A.
6th Amendment U.S.C.A.
8th Amendment U.S.C.A.
14th Amendment U.S.C.A.

Gibson-v-state
Brady-v-maryland
United States-v-Arellino
Weathers-v-State
Wilson-v-state
Bannister-v-State
Garrity-v-state
Matter of Brazen

In the matter of ineffective assistance of counsel: 6th Amendm U.S.C.A. The key factor in this case at bar, lays strongly on Public Defender attorney David P. Schwacke. This public Defender Counsel obstructed the course of justice in lieu of particularly in a crime of conspiracy to aid, assist and abide a cover-up and conceal the (victims) or family members as possible identity as a government official of the Berkeley County Sheriff office or the Berkeley County Solicitor's office was not investigated by the defense attorney, He said his investigator was out on sick leave, (for 26 months?) This is the direct and approximate cause of an unlawful and tainted conviction which can not be allowed to stand as lawful.

Therefore this conviction must be overturned by the basis of law. Also other issues of ineffective counsel was the defense counsel failed to object to hearsay evidence and improper argument of the prosecutor. Failure to keep promises of guilty plea and forced involuntary plea. The issue of ineffective counsel causes the issue of due process of law. This conviction because of these issues cannot be allowed to stand.

State of South Carolina
County of Berkeley
Julie Lynn Gookins 370329
vs.

THE COURT OF COMMON PLEAS
2017-CP-08-2322
The (Applicants) Brief
Table of Authorities Cited
Case Laws

The State of South Carolina

Exhibit I-2

Precedent Case Laws

1) In Gibson-v-state One example of after-disclosed evidence is a discovery violation by the prosecution. In the case at bar, the state failed to disclose crucial evidence of the victim or victim's family members identity as a police or solicitor's agent for Berkeley Co. The property listed from 224 Ruth Ann Dr. Summerville, S.C. in Dorchester County was in violation of search and seizure because there was no probable cause for the warrant to obtain the items listed from that address such as children's laptops, tablets (computer) computers, tazer (in shape of cell phone) cameras etc. because items listed didn't belong to (applicant) nor did (she) live with her children. (Applicant) resided at 667 Levee Dr. in Moncks Corner, S.C. Berkeley County which is approximately 15 miles away from the Summerville address and therefore cause for the warrant for the Ruth Anne location and evidence taken would be illegally obtained evidence and violates due process of law (Search & Seizure) and equal protection of the law.

The conspiracy by the state government officials was designed to enhance the (applicant's) conviction the state (scenario) was for the public defender, to conceal the identity of the (victim) as a possible government official as to obtain the guilty plea desired by the state even when the (applicant) questioned the status of victim and family of the victim as government officials to public defender and asked for this to be investigated because (applicant's) family heard talk of this at pre-trial hearing and it was never investigated prior to plea as requested. Under the (Doctrine of Superior Respondent) the supervisor (Immediate Supervisor) of the agent (victim or family member) should be made known to prosecutor that one was a state agent so that (S.L.E.D.) could have been placed in charge of search to avoid questions.

State of South Carolina
County of Berkeley
Julie Lynn Gookins 370329

VS

The Court of Common Pleas
2017-CP-08-2382
The (Applicant's) Brief
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Exhibit I-2 (continued)

(Victim's) agents (sheriff officer's), solicitor and all trial counsel all aided in cover-up of (victim's/families) identity as agent, leaving questions of tainted search and seizure and cover up of evidence obtained. The burden of proof lies in the hands of the Attorney General who has control over evidence.

Quoting Bannister v- State, the (applicant) must prove that his/her claim is actual innocence. The guilty plea, is then to be rendered involuntary, not freely given, citing → Gibson v- State; In addition with the denial of a right to appeal the guilty plea, when trial attorney did not advise or give any (instruction) on a guilty plea, in lieu of trial counsel's failure to show a valid waiver of the State Grand Jury - Jury trial, plea or notice of intent to appeal denied a right to appeal. Citing → Wilson v- State, Weathers v- State Coercion by Public Defender to enter guilty plea that wasn't voluntary but through harassment, threats and intimidation Garrity v- State State this presidency.

Procedural errors of criminal charges: Entering of a garage where the door is up and another door separates living space where no force was used to enter is not 1st degree Burglary and since the occurrence happened between 6am - 6pm the charge of First degree Burglary is incorrect.

By definition First degree Burglary is a crime against possessions not against persons or property (State v Clamp, supra.) The law for Burglary is primarily designed to secure the sanctity of one's home especially at night when peace, solitude and safety are most desired and expected. Since no possessions were disturbed or absconded by the definition Burglary First didn't fit accused crime charged nor did it fit because no force was used to enter, nor trickery

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Exhibit I-3

On December 13, 2016 § 16-11-311 was amended on the article 3) to enter a building without consent by means of:
b) To enter a building by deception, artifice, trick or misrepresentation to gain consent to enter from the person in lawful possession of the property. This never applied, on Sept. 04, 2014 therefore I ~~was~~ was charged incorrectly and again my attorney never raised this issue he just kept telling me I was guilty.

If any Burglary charge were to apply it would be 2nd degree. Per People v Picaroni Assault and Battery High and Aggravated Nature requires the intent, which was never proven to exist nor did intent exist to cause serious injury, there was no serious bodily injury, No indifference to human life, on the contrary the (Applicant) offered to assist the victim and call for (medical attention) help when the (victim) said she had gone into labor and her water had broken. The statute for ABHAN requires that the perpetrator could be found guilty of manslaughter had the victim died which without intent and indifference to life did not apply. Therefore this was an inadequate charge for this case at bar.

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News Article to raise
Questioning of sentence
Kidnapped at Gun Point
By: Brandon Specktor
Red.com

The State of South Carolina
Exhibit J

Around 9:30pm on a cold March morning, a 17 year old girl was car jacked at gunpoint in Wild Wood, New Jersey. This was unexpected. The identity of the woman holding her gun was not.

In the preceeding weeks, the teenager had given her newborn baby up for adoption. Forty-five-year-old Floribert Nava - the woman pointing a gun at her - desperately wanted the child and was devastated when a Philadelphia family was chosen instead. It seemed she was not taking no for an answer.

"Drive", Nava said "or I'll kill you and your family".

Nava demanded she be taken to the home of the baby's new parents on the other side of the Delaware River. Besides the pistol, Nava carried with her duct tape, trash bags, and latex gloves. Whatever this woman was planning, the 17 year-old thought, it was going to be violent and it was going to be soon. As they were crossing the Ben Franklin Bridge into Pennsylvania, the teen spotted a police cruiser pulled over on the shoulder. Could she somehow get the cop's attention without getting shot by her kidnapper first? The girl pointed her car toward the cruiser and rammed it. She got the officers attention! With the kidnapper stunned the girl leaped out of the car to safety.

Nava was arrested on kidnapping, carjacking and weapons charges and has been sentenced to 12 years in prison.

Compared to the 30 years the prosecutor said they were going to seek for the beginning of the event that occurred on Sept. 04, 2014. My children told me from the beginning of everything the solicitor was saying she was seeking a 30 year sentence. Where is the right in this. The charges were exaggerated to obtain the sentence she wanted! Not what fit the actual event! Plus I was given counsel that was ineffective, prejudiced and biased to the case!

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The (Applicant) files this motion
under S.C.R.C.P. Rule 59(e)
Affidavit of Service

The State of South Carolina

Exhibit A-2

The above-captioned (Applicant) files this notice and motion pursuant to S.C.R.C.P. Rule 59(e), to alter the Order of Judgment in this case at bar.

The motion is based on legal, technical and procedural errors of law, that were violated by all the State agents in each of their Official representatives character as Alter Ego's of the State. As a Court representative and the force of law of the government Security Department the conviction was based on the 4th Amendment U.S.C.A. violations, Double Jeopardy Claus, 8th Amendment in violation of the 14th Amendment

Julie Lynn Gookin 370329
Julie Lynn Gookins 370329

November 21, 2017 (date)

Sworn to and subscribed before
me on this 21st day of
November 2017.

Notary Public for the State of
South Carolina.

My Commission expires:
July 22nd, 2026.

Crysh [Signature]



COPY

Forensic Psychiatry Program
Department of Psychiatry and Behavioral Sciences
29C Leinbach Drive
Charleston, SC 29407
Tel 843.792.1461
Fax 843.792.2254
forensicpsychiatry@musc.edu

Exhibit K-1

November 18, 2015

David Schwacke, Esquire
219 N. Hwy 52, Suite E
Moncks Corner, SC 29461

COPY

Re: The State of South Carolina v. Julie Lynn Gookins (Gordon)
Department of Mental Health #:963-5788
Berkeley County, Court of General Sessions

Dear Attorney Schwacke:

In accordance with the court order issued by the Honorable Kristi L. Harrington, a competency to stand trial evaluation was conducted by the South Carolina Department of Mental Health pursuant to S.C. Code Ann. §44-23-410 (1976).

Please see the attached report for the results of this evaluation.

This **thirteen** page attached report is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. §44-23-410.

Nov 18, 2015
Date

Bonnie Dykstra
Bonnie Dykstra
Forensic Administrative Assistant

cc: Anne M. William, Esquire
Cathy Garner, DMH

Mental Health Evaluation
Performed in Nov. 2015
As Exhibit

BACKGROUND HISTORY: *The following information has been synthesized from our interview with Ms. Gookins and a review of collateral records.*

Developmental: Ms. Gookins reported she was born in Charleston. She reported that her parents split up when she was young. She reported being kidnapped by her dad from the age of three and a half to five years of age. She then lived back and forth between her mother and father until the age of ten. She then lived with her mother until age seventeen. She lived in Charlotte, N.C., from the age of thirteen until twenty two. Since the age of twenty two she has lived in Summerville until the present time. She reported she has two half-sisters and two half-brothers on her mother's side, and two half-sisters and three half-brothers on her father's side. She reported she is close with one of her sisters but not the other siblings secondary to a large age discrepancy.

Ms. Gookins reported an extensive history of emotional, physical, and sexual abuse. She reported that she was molested from age six to ten by an older cousin while living with her father. She recalled being fondled by an older son of one of her mom's roommates at the age of ten. Ms. Gookins reported she was raped at the age of sixteen and became pregnant. She reported that her mother made her give up the baby for adoption. She reported that she left her mother's home at the age of seventeen secondary to bad feelings towards her mother revolving around the adoption. Ms. Gookins reported that at that time she moved in with her boyfriend and his mom and eventually got married. She reported experiencing physical and emotional abuse throughout the marriage. She recalled he would hold her down and beat her. She recalled "he said he was satan and would rip my heart out." He broke her hand when she was twenty two. She then left him and moved in with her mom. She then met her two youngest children's father. She described him as volatile and physically abusive. She reported she learned to fight back at this point. They were together for eight years but never married. She reported he broke her other hand and she then left him for good.

More recently, Ms. Gookins described a series of stressful and traumatic events occurring over the winter to summer months of 2014. She reported that earlier in the year she thought she was pregnant and found out that she was not which was difficult for her. She reported her boyfriend sexually assaulted her in February. In March, her mom was hospitalized and went to a nursing home in order to be strong enough for her to return home. Her mother did not recover and unexpectedly passed away in April. She reported that all of the responsibility for the funeral arrangements fell on her. After her mother's passing a close family friend passed away. She then had an auto accident and suffered herniated discs in her cervical spine.

Medical History: Ms. Gookins reported that she has a number of chronic medical problems. These included problems with her gallbladder and asthma. She reported she had an oophorectomy in the past as well as endometriosis. She denied having had a total hysterectomy. Records from MUSC indicated that she had a left ovary reconstruction. Ms. Gookins reported experiencing bouts of pancreatitis secondary to alcohol abuse. She reported she has experienced several concussions secondary to a fall from a ladder, a fall of the top bunk in jail, and from a motor vehicle accident. She reported she has a cervical spine herniation and subsequent spinal fusion. She reported having had surgery on her knee.

Exhibit - K3

reported she gets pancreatitis from drinking. She initially reported the last time she drank was August 28 when her boyfriend left her. She later endorsed drinking at her mother's gravesite on September 2 and September 4 because she saw cans on the floor. She noted that she was taking ativan when her mother passed away. She reported that her mother was prescribed klonopin which Ms. Gookins then proceeded to take along with her prescribed ativan. She reported she continued to refill her mother's klonopin after she passed away. She reported from the age of thirty one to thirty three she tried ecstasy eight times. She reported she tried LSD twice in the distant past. She denied use of other illicit substances.

Psychiatric History: Ms. Gookins reported she has attempted suicide around ten times by overdosing on pain pills. She denied any other method of committing suicide. In 1999 she attempted suicide by overdosing on pain pills and muscle relaxers. She reported that she has taken antidepressants intermittently since 1999. She recalled being prescribed Celexa (antidepressant), Ativan (anxiety medication), Wellbutrin (antidepressant), Pamelor (antidepressant), Zoloft (antidepressant), Depakote (mood stabilizer), and Paxil (antidepressant). She is currently prescribed Zoloft and Neurontin.

COURSE OF INCARCERATION: Ms. Gookins reported no issues with correctional officers or other inmates while in prison. Records from BCDC indicate that Ms. Gookins has had medical and psychiatric issues while in jail. On 10/16/14, she fell off her top bunk and sustained a cut to her right ear. She was sent to the ER and evaluated. Neurosurgery was eventually consulted for herniated discs in her spine. On 11/29/14, records indicate Ms. Gookins requested Tylenol for a migraine headache. She did not have this ordered. When instructed she had to see medical before a medication could be ordered she requested to be seen. She was informed that it was med pass and that no inmates were seen during med pass. She was asked to leave the door, at which point Ms. Gookins yelled "I can't." She was asked to move again to which she yelled "I have a migraine" then slid down the wall to the floor in front of the pod door. She was sent to the female lockdown for observation. Records indicate that Ms. Gookins' daughter had contacted her public defender who contacted jail administration stating that Ms. Gookins stated she would kill herself unless she got a bond hearing. She confirmed that she was suicidal and referred to mental health. On 12/18/14, Ms. Gookins was placed on suicide watch after she confirmed after stating that she was suicidal. On 12/19/14 the BCDC record indicated that she stated that while on suicide watch she "was able to tie her plastic lunch bags together (made a rope) and had it available to hang herself if needed. However, she reported 'I prayed last night and I will not kill myself, because if I kill myself I will not go to heaven. Inmate does not appear to be a threat to herself or others at the present time. Detention Center may still want to closely monitor this inmate because she is very manipulative.'"

PSYCHIATRIC REVIEW OF SYSTEMS: Ms. Gookins endorsed an extensive history of sexual, physical, and emotional trauma and abuse. She stated she has never gotten over the past trauma. She reported experiencing regular intrusive thoughts of her past and flashbacks secondary to recent sexual trauma. She reported it was as if she were outside her body watching it happen. Ms. Gookins recalled a voice would talk to her during times she was molested as a child. Ms. Gookins reported experiencing significant depression secondary to flashbacks. She reported regular nightmares involving the safety of her children from which she wakes up in a

state of panic. She described other nightmares involving being sexually assaulted or harmed in some way. She described negative thoughts stemming from the trauma ("if all that stuff wouldn't have happened I would have had more confidence," "the world is unfair," "nobody is ever going to love me."). She reported avoiding sexual relations as it reminds her of past trauma. She described not liking the woods as it reminds her of past trauma. She reported that more recently, loud noises scare her and make her jump. She reported she experiences panic attacks at least once a week. She described isolating in her bunk during times of panic. She described during her panic attacks she experiences shortness of breath, trembling, numbness, and tingling.

Ms. Gookins reported she has an alternate personality, stating that it is "her but not her." Ms. Gookins reported that there are "two mes." She reported "this me is me that I normally am." "When I'm overwhelmed or hurt there's the me that, her name is Jules, she's very hard and very tough, and she doesn't give a shit." Also, "no one can hurt her." She reported her "children know about Jules because when my eyes turn green they know to run." Ms. Gookins reported that during her mother's funeral she felt detached. She reported that since 2014 she has been having periods where she is losing track of time. She described a lack of memory of going to the beach with her children on mother's day. When her mother passed away, she recalled sending a balloon up to heaven for her mom but not having any memories for two days after that. She reported she did not remember making her daughter's prom dress. She described being in one place and ending up in another without recollection of how she got there.

In terms of mood, Ms. Gookins reported that she is "depressed when she has flashbacks." She endorsed feelings of worthlessness and hopelessness. She described frequent awakenings during her sleep. She reported that she has suicidal ideation every day. She stated that if she could get to something she would (indicating she would harm herself). She reported that in isolation she tried to make a rope out of sandwich bags. She reported that when she tells someone about suicidal thoughts she gets put in isolation and it makes things worse. She reported that being around others is better because she does not try to harm herself. She also reported she prefers to stay by herself when anxious. She denied having any active suicidal planning or intent. She reported that in 1999 she became manic after taking Paxil. She described herself as all over the place, unable to stop talking, and unable stop moving "like the energizer bunny."

Ms. Gookins reported that she hears voices. She described situations in which she thought she heard her name called but that others around her did not hear it. She reported that when her mom got really ill she had a "voice or thought," "whatever it is" telling her that she should "give her mother enough medication to put her out of her misery." In regards to whether any family members knew she was hearing voices she reported that she "talked to mom about it." She noted that you "can't have a psychiatric history and work in medicine." She reported the voice ""told her to do other irrational things." She described "like in a relationship, when I would get hurt, to fight back." Also "to hurt herself," and "I'm no good and a bad person," and "nobody's ever going to love me." She described her voice as "generally one voice", "generally it's male." She reported that she "couldn't distinguish it a couple times (referring to the gender of the voice)." She reported that a "couple times it sounded like she was in a crowded room" and that she could not make out what it was saying. Ms. Gookins reported that she experiences visual hallucinations. She reported that she sees ghosts in the detention center. She reported that she

saw the grim reaper when her father died. She reported that when she is mad she sees a black medium sized spider the size of a tarantula with a white background.

MENTAL STATUS EXAMINATION: Ms. Gookins presented dressed in jail attire and was appropriately groomed. She displayed no psychomotor abnormalities. She made fair eye contact. Her attitude was cooperative with questioning. Her speech was normal and reflective of a linear thought process without delusional thinking in content. Her affect was labile becoming tearful at different points and her mood was "depressed." Ms. Gookins reported varying degrees of suicidal ideation, self-injurious behaviors, and past suicide attempts. She was not responding to internal stimuli.

Ms. Gookins presented as alert and was oriented to person, place, date, and situation. Ms. Gookins demonstrated a fair fund of knowledge by correctly identifying five cities. She correctly identified two of four directions to identified locations. She reported the current president as "Obama," the previous president as "Bush," and stated prior to Bush was "Reagan." Ms. Gookins demonstrated adequate attention and concentration as evidenced by her ability to subtract seven consecutively from one hundred and spelling the word world backwards. Ms. Gookins demonstrated adequate encoding by immediately repeating three words and a sentence. She demonstrated adequate short term memory by repeating two of the three words and the third word with a categorical prompt after a series of questions several minutes later. Ms. Gookins demonstrated adequate naming by correctly identifying two designated objects. Ms. Gookins demonstrated intact abstract thinking as evidenced by stating the similarities between three sets of words and explaining two proverbs. She demonstrated adequate judgment by her answers to two hypothetical scenarios.

DIAGNOSTIC FORMULATION: The following diagnoses are rendered on the basis of the above data and according to the *Diagnostic and Statistical Manual of Mental Disorders, 5th Edition* (DSM-5).

Diagnoses: Posttraumatic Stress Disorder
 Borderline Personality Disorder
 Alcohol Use Disorder, Severe, in a Controlled Environment
 Sedative, Hypnotic, or Anxiolytic Use Disorder, Moderate, in a Controlled Environment

The DSM-5 describes the criteria for posttraumatic stress disorder (PTSD) as exposure to trauma, intrusion symptoms related to the trauma, avoidance of stimuli associated with the trauma, traumatic events leading to negative alterations in cognitions and mood, and hyper-arousal stemming from the traumatic events. Ms. Gookins reported an extensive history of sexual, physical, and emotional trauma and abuse. She reported experiencing intrusive thoughts as well as reliving events from the past in the form of flashbacks and nightmares. She expressed negative cognitions (e.g. "the world is unfair") and subsequent depression stemming from her negative cognitions. She has avoided being reminded of trauma by frequently discontinuing or avoiding mental health treatment for PTSD. She also described avoiding sexual relations as it

Exhibit - K6

indicating "they took that person against their will." She further reported she is being charged with "Burglary First." She reported that when police charge someone with Burglary First they are indicating someone "broke into somebody's residence and stole." She reported she is being charged with a "weapon charge." She was educated that the official name of her charge and she verbalized understanding. She reported that the charge of Possession of a Weapon during Commission of a Violent crime "has to do with a gun in your possession if you don't have a weapons permit." She reported that the role of a defense attorney is to "argue my case, I guess." She reported her defense attorney is "supposed to be on my side." Ms. Gookins reported that the role of the solicitor is "to prove I did what they charged me with." Ms. Gookins reported the role of the judge is to "decide whether I'm guilty or innocent," but "not if there's a jury trial." With education, Ms. Gookins reported there are "12" members of the jury. She reported the jury is "neutral" and their role is to "listen to everything and decide." With education, she reported that in regards to how many of the jury have to agree for a guilty verdict to be reached she reported "all of them." She reported that if there is a disagreement she is "found innocent...start over." She was educated that no verdict is reached and it is considered a mistrial. She reported that the role of a witness is to "give info they saw or that they know." She reported that in terms of what side a witness is on she reported "both."

Ms. Gookin's reported a defendant who enters a guilty plea is saying "they did what they were accused of." She reported after a defendant is found guilty the judge "tells you what sentence." Ms. Gookins reported a defendant who enters a plea of not guilty is saying "they didn't do what they're accused of." She reported that if found not guilty that is the "end of case" and the defendant can "go home." She reported entering a not guilty by reason of insanity (NGRI) plea means they are "not guilty because they weren't in their right mind when they committed the crime." If found NGRI she reported the defendant will "go to a hospital for psychiatric treatment or jail." She was educated that a defendant would likely go to a state hospital for psychiatric treatment and not jail. She reported entering a plea of guilty but mentally ill (GBMI) means a defendant is saying they "committed the crime but have mental illness." She reported that if found GBMI a defendant will "go to prison and receive psychiatric treatment." She reported a plea bargain is "where prosecutions offers a different charge on a sentence to plead guilty to a charge."

Ms. Gookins' rational understanding of the proceedings against her was assessed. In regards to whether or not she should speak with the solicitor she reported that she "asked to speak with her because I wanted to talk to her about my case." When asked if that is a good idea she stated "not without my attorney present," "according to my attorney." Ms. Gookins' reported a good reason to take a plea bargain would be "if they knew they were guilty or would probably be found guilty or were facing a lot of time for it." She verbalized "if not a lot of evidence of course wouldn't want to take a plea bargain." When asked if she would testify if her attorney did not think it was a good idea, she reported "I don't know." In regards to whether or not she felt she would receive a fair trial she reported that she is "less likely" than others "because of what I'm accused of." She reported that "no" the prosecutor cannot require her to testify because there is a "right not to incriminate yourself." She reported "no opinion" when asked what side or neutral the judge is on because the "judge is going to do what the prosecutor wants." She reported she feels this way "because I've seen it a lot. In 14 months in jail, seen a lot of people

Exhibit-K7

found guilty." She reported that the only time you are supposed to talk in court is "when you're asked questions by the lawyers or the judge." She reported that if she did interrupt the proceedings they "could take me out of the courtroom" and acknowledged she could be charged with "contempt of court."

Ms. Gookins' ability to work with her attorney to assist in her own defense was assessed. Ms. Gookins reported the name of her attorney is "David Schwacke." She reported she "asked for a different attorney twice." Ms. Gookins reported he talked to her for "10 minutes." She reported she is concerned about her attorney because "he wasn't prepared" at her bond hearing. When asked if her attorney was prepared if she could work with him she reported "he's gonna have to show me a lot more of something for me to feel that way." She reported she felt like "he didn't use pertinent stuff to argue" for her bond. In regards to appropriate courtroom behaviors she reported that "you're supposed to" control yourself in the courtroom and not interrupt the proceedings. When asked if she thought she could control herself in the courtroom she reported "I don't know if I could." She reported "if someone is lying I might say something." She reported "I feel lost in all of this." And subsequently stating, "I don't trust anybody." She reported that the best thing she can do to help her attorney in her case is "tell him the truth which I've done to the best of my ability." When asked how she would handle a disagreement with her lawyer, Ms. Gookins reported "I don't know. I really don't. I will probably shutdown, sit there, and do nothing."

CLINICAL IMPRESSIONS REGARDING COMPETENCY TO STAND TRIAL:

Ms. Gookins has been diagnosed with Posttraumatic Stress Disorder, Borderline Personality Disorder, Alcohol Use Disorder, Severe, in a Controlled Environment, and Sedative, Hypnotic, or Anxiolytic Use Disorder, Moderate, in a Controlled Environment. Ms. Gookins is receiving psychiatric treatment in jail and verbalized adherence with her medications. These conditions do not currently affect the abilities typically associated with competency to stand trial.

Ms. Gookins demonstrated a factual understanding of the proceedings against her. Specifically, she understood her charges and the meanings of those charges. She was able to describe the various roles and pleas in the courtroom process. Ms. Gookins also demonstrated a rational understanding of the legal system. She demonstrated an understanding of the plea bargain process and rationally discussed several considerations she would take into account when deciding if a plea bargain was in her best interest. She understood the adversarial nature of the prosecutor. While she indicated she was unsure of how she would act in the courtroom, she verbalized understanding that it was against the law and she could be charged with contempt of court if she interrupted the proceedings. Lastly, Ms. Gookins demonstrated the ability to consult with her attorney with a reasonable degree of rational understanding. She was able to use education to correctly answer previously incorrectly answered questions which reflects an ability to be educated by her attorney. Her statements also indicated she has shown an ability to be educated by her attorney as she originally attempted to contact the solicitor but after meeting with her attorney she stated she will no longer do that without her attorney present. While her statements indicate she does not currently have total confidence in her attorney, her opinion is not influenced by any psychotic thought process. She understands how she can best help her

John Doe (Example)	Plea Agreement (Example)
VS	2013-GS-40-1990
The State	for Court of Common Pleas
Julie Lynn Gorkins 370379	2017-CP-08-2322
VS.	
State of South Carolina	

Exhibit B

This Agreement is made this 26th day of June, 2013 between and among the state of South Carolina as represented by (Ali Tyler) Deputy Solicitor 5th Judicial Circuit and the Defendant (John Doe) and defendants attorney (Alan Jones). In consideration of the mutual (Agreement) promises made here in the parties here to agrees to as follows:

- 1) The defense agrees to plead guilty to the following Indictment both the state and defendant remains free to be heard concerning sentencing within this range.
- 2) Upon the courts acceptance of the defendants guilty plea as detailed in (Paragraph f). Sentencing shall be deferred until the prosecution of the (defendant's) co-defendant is completed.
- 3) In exchange for the (defendant's) guilty plea The State agrees to dismiss the following Indictment.
- 4) The (Defendant) agrees to provide complete and thorough cooperation to the (solicitor's) office and all involved law enforcement agencies including giving true and honest testimony, at any Judicial proceeding.
- 5) The defendant further agrees that her hand written statement given to (investigators) in her attorneys presence on (1-17-2013) is True and Correct.

⁸⁴
to the satisfaction of the prosecution.

1) The state and Defendant agree that this agreement remains enforceable, in the event that the charges against the (co-defendant) are resolved in such a way, as to not require the testimony of the (defendant) provided by the defendant.

John Doe
-v- Example
The State
Julie Lynn Gookins 370329
vs.
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Plea Agreement (example)
2013-GS-40-1990
for Court of Common Pleas
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Example B

- 8) In the event that the (defendant) withdraws her plea the (defendants) plea agreement shall be vacated and the state will pursue all charges it deemed appropriate. The (defendant) cannot withdraw her plea after she formally enters her guilty plea in general sessions.
- 9) In the event that the (defendant) does not comply with the conditions of this plea agreement, at any time after her guilty plea to the charges listed in paragraph (2) her guilty plea shall remain in effect and she will be subject to the full penalty of each charge in the discretion of the court. Upon such breach of this plea agreement, the maximum (25) year cap will no longer apply and the state may restore all indictments dismissed pursuant to the plea agreement and prosecute the (defendant) accordingly.
- 10) The parties hereby agree that this plea agreement contains the entire agreement to the parties and this agreement to the parties and this agreement may be modified only in writing.

Solicitor

John Doe
June 25, 2013

Defendant

witness

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY	)	
	)	
Julie Lynn Gordon-Gookins, #370329,	)	Case No.: 2017-CP-10- 2322
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

Respondent, making its Return to the application for Post-Conviction Relief ("PCR") filed on October 11, 2017 by Julie Lynn Gordon-Gookins ("Applicant"), would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Berkeley County Clerk of Court. Applicant was indicted at the December 2014 term of the Berkeley County Grand Jury for burglary, 1st degree (2014-GS-08-01883), kidnapping (2014-GS-08-01884), and possession of a weapon during the commission of a violent crime (2014-GS-08-01885). On October 28, 2016, Applicant appeared before the Honorable Kristi L. Harrington, and pleaded guilty as indicated to burglary, 1st degree, kidnapping, and to the lesser included offense of assault and battery of a high and aggravated nature (ABHAN) (2014-GS-08-01886). The weapons charge was nolle prossed. Applicant was represented by David P. Schwacke Assistant Solicitor Anne M. Williams, prosecuted the case. Judge Harrington sentenced Applicant to imprisonment for a period of thirty years for the burglary, 1st degree, thirty years for kidnapping, and twenty years for the ABHAN offense. The sentences were to run concurrently.

On November 3, 2016, Applicant filed a timely notice of appeal. On February 10, 2017, the South Carolina Court of Appeals issued an Order dismissing Applicant's appeal for failure to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules (SCACR). State v. Julie Gordon-Gookins, Appellate Case No. 2016-002255 (2017). The remittitur was sent down on February 8, 2017.

II.

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

1. "Gross Ineffectiveness of Counsel."
 - a. "Failure of defendant's counsel to investigate the victim and her family's employment with Berkeley County Sherriff or Prosecutor's office."
 - b. "Judges Errors/ Government Agency Errors"
 - c. "Involuntary Plea"
 - d. "Violations of search and seizure."
 - e. "Right of adequate representation".

Attached to this Return are the records of the Berkeley County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the plea transcript, the appellate records, and the post-conviction relief application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Respondent submits Applicant's allegations of ineffective assistance of trial counsel are without merit. In a post-conviction relief 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 "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, 466 U.S. 668. First, Applicant must prove 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). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel’s deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel’s alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

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

IV.

Applicant also alleges her guilty plea was involuntary. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the Applicant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

The transcript reflects that the guilty plea was knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, [an Applicant's] right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621 (1977). Statements made during a guilty plea should be considered conclusively, unless an [Applicant] presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975) overruled on other grounds by U.S. v. Whitley, 759 F.2d 327 (4th Cir. 1985).

An Applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for trial counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993). Given the Applicant's burden of proof and the analysis to be applied to

this claim, Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it will be treated as such.

V.

Additionally, Applicant must specify any claims he intends to raise at the post-conviction relief evidentiary hearing. Any claims not specifically laid out in this post-conviction relief 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), SCRCP. 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, SCRCP. 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), SCRCP.

VI.

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

VII.

WHEREFORE, the State 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

RASHEEDA CLEVELAND
Assistant Attorney General

By: *Rasheeda Cleveland*
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March 7th, 2018

STATE OF SOUTH CAROLINA)

COUNTY OF BERKELEY)

JULIE GORDON-GOOKINS, #370329)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent,)

IN THE COURT OF COMMON PLEAS

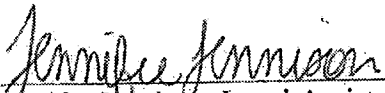
2017-CP-08-2322

AFFIDAVIT OF SERVICE BY MAIL

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

Lance S. Boozer, Esquire
 The Boozer Law Firm, LLC
 1400 Laurel Street, Suite 4A
 Columbia, SC 29201

DATED this the 7th day of March, 2018.


 Jennifer Jennison, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY	)	C/A NO: 2017-CP-08-2322
	)	
Julie Lynn Gordon-Gookins, #370329,	)	
	)	
Applicant,	)	
	)	FIRST AMENDMENT TO PRIOR
v.	)	APPLICATION FOR PCR
	)	
State of South Carolina,	)	
	)	
<u>Respondent.</u>	)	

The Applicant, through appointed counsel below, makes the following additional claim and amendment to her prior application for post-conviction relief filed:

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

(i) Applicant's relationship with plea counsel deteriorated to the point counsel should have requested to be relieved from Applicant's case and new counsel appointed. Counsel's failure to do so resulted in an involuntary guilty plea.

THE BOOZER LAW FIRM, LLC



Lance S. Boozer
Attorney for Applicant
1419 Pendleton Street
Columbia, SC 29201
Phone: (803) 608-5543
Fax: (803) 926-3463

Columbia, South Carolina
May 1, 2018

PROOF OF SERVICE

I, the undersigned of the Boozer Law Firm, LLC, Attorney for Applicant, do hereby certify that I served the foregoing First Amendment to Prior Application for PCR upon the persons below-listed by placing a copy, postage prepaid, in the United States Mail, addressed as follows:

Rasheeda Cleveland
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211

THE BOOZER LAW FIRM, LLC



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Fax: (803) 926-3463

Columbia, South Carolina
May 1, 2018

Amanda K. Haffenden, RPR, CRR
Circuit Court Reporter

E X A M I N A T I O N S

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Julie Gordon-Gookins	6	26	--	--
David P. Schwacke	36	43	50	--
Anne Williams	52	--	--	--

E X H I B I T S

<u>APPLICANT'S</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>ADMITTED</u>
1	Letter Written by Applicant	14	14
2	Letter Written by Applicant	19	19

1 (May 25, 2018.)

2 THE COURT: Next we got Julie Gordon-Gookins?

3 MS. OPPENHEIMER: That's correct, Your Honor.

4 THE COURT: All right. Go ahead.

5 MS. OPPENHEIMER: May it please the Court:

6 This is Julie Gordon-Gookins versus the State of South
7 Carolina, docket number 2017-CP-08-2322. During its
8 December 2014 term, the Berkeley County grand jury
9 indicted applicant for first degree burglary, kidnapping,
10 possession of a weapon during the commission of a violent
11 crime, and attempted murder. Assistant public defender
12 David Schwacke represented her on these charges.

13 Assistant solicitor Anne Williams of the
14 Ninth Circuit solicitor's office prosecuted the case. On
15 October 28, 2016, applicant appeared before the Honorable
16 Kristi Lea Harrington and pled guilty as indicted to
17 first degree burglary and kidnapping. Applicant also
18 pled guilty to the lesser included offense of assault and
19 battery of a high and aggravated nature. The weapons
20 charge was dismissed.

21 Pursuant to a negotiated sentence, Judge
22 Harrington sentenced applicant to a term of imprisonment
23 for 30 years for first degree burglary, 30 years for
24 kidnapping, and 20 years for ABHAN. The sentences were
25 to be served concurrently. Applicant filed a timely

1 notice of appeal and written order dated January 20,
2 2017. The South Carolina Court of Appeals dismissed
3 applicant's appeal for failing to provide a sufficient
4 allegation under Rule 203(d)1(b). The remitter was
5 issued on February 8, 2017.

6 On October 11, 2017, applicant filed an
7 application for post-conviction relief raising various
8 allegations including ineffective assistance of counsel,
9 involuntary guilty plea, and various constitutional
10 violations. Thereafter, on November 28, 2017, applicant
11 filed a pro se amendment raising similar allegations to
12 that in her original application. The State made its
13 return on March 7, 2018, requesting an evidentiary
14 hearing be held.

15 Thereafter through her counsel, applicant had
16 an amended application on May 1, 2018. In that
17 amendment, applicant alleged her relationship with plea
18 counsel had deteriorated to the point counsel should have
19 requested to be relieved, and his failure to do so
20 resulted in an involuntary guilty plea. Applicant is
21 present today and is represented by Lance Boozer.

22 THE COURT: Okay. You're Ms. Gordon-Gookins?

23 THE APPLICANT: Yes, sir.

24 THE COURT: So you pled guilty, you got
25 30 years pursuant to a negotiated plea agreement. You

1 want to set aside that.

2 Since one of the charges that you have
3 carries up to life in prison, I want you to be sure you
4 understand that if you are successful, then the State
5 could go back, try you on those original charges, and, if
6 you are convicted, you could face up to life in prison
7 without parole.

8 Do you understand that?

9 THE APPLICANT: Yes, sir.

10 THE COURT: And you still want to go forward?

11 THE APPLICANT: Yes, sir.

12 THE COURT: All right. You can sit down.

13 Mr. Boozer?

14 MR. BOOZER: Thank you, Your Honor. If it
15 pleases the Court, I will be calling -- and she prefers
16 to be called Ms. Gordon. I think there's some marital
17 issues that are in there. She's divorced now, so she
18 goes by Ms. Gordon, which I'll be referring to her as.

19 My client has filed, obviously, when she
20 first filed this PCR pro se, a number of allegations.
21 The amendment that I've filed, I will be focusing most of
22 my attention on that issue with her prior counsel, but at
23 this time I'll go ahead and call Ms. Gordon to the stand.

24 JULIE GORDON-GOOKINS,

25 having been first duly sworn,

JULIE GORDON-GOOKINS - DIRECT EXAMINATION

1 was examined and testified as follows:

2 THE WITNESS: Julie Gordon Gookins. My last
3 name is G-o-o-k-i-n-s, but I would prefer to go by Gordon
4 as I am now divorced.

5 DIRECT EXAMINATION

6 BY MR. BOOZER:

7 Q. Do you know why you're here today?

8 A. Yes, sir.

9 Q. What are we doing here today?

10 A. We're doing a PCR, which is post-conviction
11 relief. I have filed some paperwork alleging that David
12 Schwacke did not represent me adequately, and I've asked
13 for my case to go -- be reheard.

14 Q. Okay. And, obviously, His Honor questioned you a
15 little bit about that before we got started on the
16 record. What are you currently incarcerated for?

17 A. I'm currently incarcerated for kidnapping,
18 burglary first, and assault and battery of a high and
19 aggravated nature.

20 Q. What were you originally charged with?

21 A. A weapons charge, illegal possession of a weapon
22 during the commission of a violent crime, I think.

23 Q. In addition to the charges that you pled guilty
24 to?

25 A. And the ABHAN was not on the table. It was

JULIE GORDON-GOOKINS - DIRECT EXAMINATION

1 attempted murder, and I told David Schwacke I would never
2 plead guilty to attempted murder. So when ABHAN came up,
3 he never told me that ABHAN was a lesser included offense
4 to attempted murder or I would have never pled.

5 Q. We'll get to all that in just a moment. Let's go
6 through a little bit of the background.

7 So do you understand, as His Honor was asking,
8 that if you are successful -- and you and I have spoken
9 at length about this. Do you understand if we're
10 successful today, this Court, unfortunately, can't reduce
11 your sentence or make you parole eligible or change your
12 sentence or anything like that. The only thing this
13 Court can do is send your case back to trial court in
14 general sessions where you would proceed on a trial on
15 the original charges.

16 Do you understand that?

17 A. Yes, sir, I do.

18 Q. You understand there is certain risks in that?
19 You could go back and potentially get a life sentence, as
20 that was explained to you early on. Do you understand
21 that?

22 A. Yes, sir, I do.

23 Q. And is it your decision to go forward with this
24 PC --

25 A. Yes, sir, it is.

JULIE GORDON-GOOKINS - DIRECT EXAMINATION

1 Q. All right. So let's talk about -- when were you
2 first arrested, if you recall?

3 A. September 4th of 2014.

4 Q. All right. And you pled in October of 2016?

5 A. October 28, 2016.

6 Q. All right. When did you first get a lawyer?

7 A. They came and screened me for a public defender
8 immediately. I don't really remember because everything
9 was still fuzzy -- I was self-medicating, so I'm not
10 exactly sure, but I know it was within the first month
11 that I talked to David Schwacke.

12 Q. Was he the only lawyer who was ever involved in
13 your case?

14 A. No.

15 Q. Okay. Did you have another lawyer at any time?

16 A. I spoke to another lawyer about representing me
17 and had intended to hire that attorney, but my children
18 took money out of my bank account, so I didn't have the
19 money, so I had to stay with David Schwacke.

20 Q. But as far as officially representing you,
21 Mr. Schwacke?

22 A. He was the only one, yes, sir.

23 Q. And how many times do you think you met with your
24 lawyer from the time you got arrested to the time of your
25 plea?

JULIE GORDON-GOOKINS - DIRECT EXAMINATION

1 A. Maybe a dozen, over a 26-month period of time.

2 Q. All right. Did you get along with him?

3 A. No.

4 Q. All right. Explain that in a little bit more
5 detail. Why not?

6 A. Because from the very beginning, David Schwacke
7 really did not -- when he got my Rule 5, he did not go
8 over everything in my Rule 5. He just sent me a copy of
9 it, and I guess I was supposed to look through it all,
10 and anything that I had questions about I was supposed to
11 raise those questions, but I'm not a lawyer, and so I
12 didn't really know -- I was overwhelmed.

13 I didn't know what to do with all of this. So any
14 time I would say anything to David Schwacke, or I would
15 say, look, I don't feel like this is the appropriate
16 charge because I've gotten some of the law work from the
17 jail, and I just don't feel like this is appropriate.
18 Can you not, you know, talk to Anne Williams or to her
19 boss because I just don't feel like this is correct.

20 And he would tell me, Well, you're guilty. So
21 what do you want me to do? You're guilty. What do you
22 want me to argue for? I don't have any argument for you.

23 Q. Okay. Did you and your lawyer do anything to make
24 any preparations for a trial?

25 A. I asked for a psychological evaluation.

1 Q. Other than that, did y'all talk about trial
2 strategy or --

3 A. He said he didn't have one --

4 Q. For Madam court reporter, let me finish my
5 question first before you answer so we can get it in the
6 record, okay? Let me go back.

7 Y'all did not talk about any trial strategy?

8 A. No.

9 Q. How about defenses?

10 A. I raised defense to him and he told me that it was
11 not applicable.

12 Q. Okay. Let me ask you this: At any point did you
13 ever express to anybody or send letters to anyone
14 complaining about your lawyer or requesting that another
15 lawyer be appointed?

16 A. Yes, sir.

17 Q. All right. Tell us how you did that and how many
18 times you tried to do that.

19 A. I think the first time was in December of 2014. I
20 wrote to the public defender's office. I wrote to the
21 head of the public defender's office at that time, and I
22 told him that I didn't feel comfortable with David
23 Schwacke being my attorney, and I asked for a new
24 attorney. I got no reply. So I waited until March or
25 April of 2016, and I wrote again.

JULIE GORDON-GOOKINS - DIRECT EXAMINATION

1 Q. To who?

2 A. The head of the public defender's office.

3 Q. Okay.

4 A. And I got no reply. Then we had a psychological
5 evaluation done, and I told them during that
6 psychological evaluation that I had requested a different
7 attorney twice through the public defender's office and
8 gotten no reply, and then I requested a third time, and
9 when I requested the third time, I wrote it to David
10 Schwacke because the man who had been over the public
11 defender's office was no longer over the public
12 defender's office, so I wrote it to David Schwacke
13 himself and -- if I'm not mistaken, I wrote it to David
14 Schwacke himself. Anyway, David came to me within, I
15 guess, a week or so of getting the letter and told me
16 that he had gotten my letter and that he was still my
17 attorney and what did I want from him.

18 Q. Okay. Did you discuss or did you have any
19 conversation on those first few letters that you sent to
20 the public defender -- let me get you a tissue.

21 May I approach, Your Honor? Thank you.

22 Ms. Gordon, just take your time. My question is,
23 you had sent, it sounds like, a few letters before you
24 sent one to your lawyer, who you said was the head public
25 defender. After you sent those letters, were you having

1 any discussion with your lawyer, like I'm sending these
2 letters to your boss? I would like you off my case? Did
3 you have any discussions like that with him?

4 A. Not until the third one.

5 Q. Why were you not trying to file a motion with the
6 Court to have your lawyer relieved?

7 A. I'm not an attorney. I didn't know I could.

8 Q. You didn't understand that that's what would need
9 to sort of happen?

10 A. No.

11 Q. After you had this conversation with your lawyer
12 where he said he was still your lawyer, how did you take
13 that?

14 A. I told him that I didn't want him to be my lawyer,
15 that I didn't feel like he was going to adequately
16 represent me, that I had been told that if he stayed on
17 my case that I would go to prison for the rest of my
18 life, and that is actually how I felt, that he was not
19 working for me, that he did not care about me.

20 He had never even asked if I was innocent or
21 guilty. How could he adequately represent me without
22 having any faith in me?

23 Q. Let me ask you this: Between the letter that
24 you're talking about that you say Mr. Schwacke responded
25 to you directly, I guess, verbally, what was the timing

JULIE GORDON-GOOKINS - DIRECT EXAMINATION

1 of that letter in relationship to when your plea was in
2 October of 2016?

3 A. I'm honestly not sure.

4 Q. Okay.

5 A. I do know that after he came and he saw me, I sat
6 down and I wrote a letter on the 19th of October to the
7 Court to ask for a different attorney because --

8 Q. Let's talk about that.

9 MR. BOOZER: Your Honor, may I approach the
10 witness?

11 THE COURT: Yes.

12 BY MR. BOOZER:

13 Q. Ms. Gordon, I'm going to hand you a copy of the
14 document, and if you would, just take a moment, and if
15 you would, identify that for me.

16 A. It's a letter that I wrote to the Court.

17 Q. When you say the Court, which Court and when did
18 you write that?

19 A. I wrote it to the general sessions court, and I
20 just addressed it to Your Honors because I didn't know
21 who the judge was going to be, and I -- and it's dated
22 October 19, 2016.

23 Q. Okay. Is that a true and correct copy or accurate
24 copy of the letter you wrote back then?

25 A. Yes, it is.

JULIE GORDON-GOOKINS - DIRECT EXAMINATION

1 MR. BOOZER: Your Honor, at this time I would
2 move to have this marked as Applicant's Exhibit 1.

3 MS. OPPENHEIMER: No objection, Your Honor.

4 THE COURT: Admitted.

5 (Applicant's Exhibit No. 1 was marked for
6 identification and admitted into evidence.)

7 BY MR. BOOZER:

8 Q. Ms. Gordon, what was the purpose of that letter?

9 A. I wrote to the judge -- I was writing to the
10 judges to ask that David Schwacke be removed from my case
11 and that I be appointed a different attorney even though
12 it was late in my case. I just didn't feel like I could
13 work with David Schwacke.

14 Q. Okay. And --

15 MR. BOOZER: Your Honor, I'm going to be
16 referring to the transcript.

17 BY MR. BOOZER:

18 Q. During your plea, do you recall being asked if you
19 had any complaints about Mr. Schwacke? And this will be
20 on page 10, beginning at line 19. Do you recall that?

21 A. Yes, sir.

22 Q. All right. And the Court asked you: Any
23 complaints about the way he's handled the case? And you
24 responded at line 24: I wrote a letter to Your Honor on
25 the 16th. I'm sure you will have it, but the -- and then

JULIE GORDON-GOOKINS - DIRECT EXAMINATION

1 the Court interrupts and says they're not typically in
2 the habit of reading mail from individuals. And you
3 said: I just feel like -- I'm fine, yes, ma'am, and then
4 you're again asked if you have any complaints about
5 Mr. Schwacke, and you say, no, ma'am.

6 Is that the letter that you're referring to that
7 you just read that's marked Applicant's Exhibit 1?

8 A. Yes, sir.

9 Q. Why did you not go into a little bit more detail
10 with the Court and tell them about these prior letters
11 you had written and about sort of the complaints you had
12 with regard to your lawyer?

13 A. Because that morning -- I didn't even know I was
14 coming court for a plea hearing until I was woken up at
15 6:30. It was never discussed with me that I was coming
16 to court on the 28th for a plea hearing. I was woken up
17 and told get dressed, I came over here and he met with me
18 in that same counsel room that he just met with me. He
19 briefly went over one of the rules that I had to be made
20 aware of, and if he hadn't made me aware of it that
21 morning, it couldn't have gone forward. So he briefly
22 made me aware of it, but I didn't even realize what he
23 was talking about, and he and I kind of got into a verbal
24 altercation and --

25 Q. With your lawyer?

1 A. Yes.

2 Q. Okay.

3 A. And I told him that I felt like he was not working
4 for me and that he had promised me that I would not have
5 to go in front of Judge Harrington, that I could go in
6 front of Judge Dennis, and I had found out it was Judge
7 Harrington that I was going to go in front of that
8 morning, and I told him no, that I did not want to go in
9 front of her, and he told me that plea was only on the
10 table for that day and if I did not take it that day I
11 was going to go to prison for the rest of my life.

12 Q. Okay. Go ahead -- I'm sorry.

13 A. And he told me I had to be willing to give a
14 little to get a little, and I was asking him what was I
15 getting? I was getting a life sentence anyways.
16 Thirty years was a life sentence, and I told him I'll
17 just wait until I got in here, in the courtroom, and I'll
18 discuss it with the judge, and he told me that if I got
19 in here and I said anything to the judge, the only thing
20 I was going to do -- and excuse me, Your Honor. I'm
21 sorry. The only thing I was going to do was piss her off
22 even more than she was already pissed off with me.

23 Q. So is that the reason you didn't bring up any of
24 these complaints?

25 A. Yes, sir.

JULIE GORDON-GOOKINS - DIRECT EXAMINATION

1 Q. Prior to the plea, did you have any contact with
2 any of your children about the plea?

3 A. I called my daughter that morning when I found out
4 that I was coming to court. I guess it was around 7:00,
5 and she told me that David Schwacke --

6 MS. OPPENHEIMER: Objection. Hearsay.

7 THE COURT: Sustained.

8 BY MR. BOOZER:

9 Q. Don't say anything that anybody else told you, but
10 just answer my questions, okay? Did you have any
11 discussion with any of your family members prior to your
12 plea?

13 A. Yes, sir. I called my daughter at 7:00 that
14 morning.

15 Q. Did you speak to her?

16 A. Yes, sir.

17 Q. Did you receive any letters from any of your
18 family members prior to your plea?

19 A. In the courtroom.

20 Q. Okay. Who did you get a letter from in the
21 courtroom?

22 A. My daughter Megan.

23 Q. Okay. She sent you a letter or handwrote you a
24 note?

25 A. She handwrote me a note on David Schwacke's yellow

1 legal pad.

2 Q. And we'll certainly ask her about that. Did that
3 have an effect on your entering the plea?

4 A. Yes, sir.

5 Q. Okay.

6 MR. BOOZER: Your Honor, may I approach the
7 witness?

8 THE COURT: Uh-huh.

9 BY MR. BOOZER:

10 Q. Ms. Gordon, I'm going to hand you another
11 document, and, if you will, take a moment, look at it,
12 and, if you could, identify it for me.

13 A. On the date I had my court hearing on the 28th of
14 October, as soon as it was over, David Schwacke came over
15 to the counsel room back there and he asked me if I felt
16 better, and I asked him why was I supposed to feel
17 better? He had just got me a damn life sentence. And he
18 asked me, well, is there anything else I can do for you?
19 And I said the only thing you can do for me is file my
20 appeal right now. Go ahead and start it.

21 Q. So an appeal was filed?

22 A. Yes, sir, and he sent me paperwork telling me that
23 the appeal was filed and I had 20 days to give her a
24 valid reason why I had filed my appeal. Well, I thought
25 that was his job as my attorney, but he didn't do it, and

JULIE GORDON-GOOKINS - DIRECT EXAMINATION

1 so I wrote her a letter because I didn't know any other
2 way to do it. I'm not a lawyer, and I wrote her a letter
3 and told her why I was appealing.

4 Q. Okay. And so the document that's in your hand, is
5 that the letter you indicate you had written to the
6 appellate Court?

7 A. Yes, sir.

8 Q. Is that a true and accurate copy of that letter?

9 A. Yes, sir.

10 MR. BOOZER: At this time I would move to
11 mark this as Applicant's Exhibit 2.

12 MS. OPPENHEIMER: No objection, Your Honor.

13 THE COURT: Admitted.

14 (Applicant's Exhibit 2 marked for
15 identification and admitted into evidence.)

16 BY MR. BOOZER:

17 Q. Ms. Gordon, that letter you had written to the
18 appellate Court, sort of, if you could, were you still
19 complaining about your lawyer in that letter?

20 A. Yes, sir.

21 Q. Okay. And, specifically, what were some of the
22 complaints you were making or what were you informing the
23 Court of?

24 A. That I never felt like I received a fair and just
25 adequate representation, that I was submitting this

1 letter to them without assistance of my counsel to help
2 word it properly because --

3 Q. Did you inform the Court that you had written
4 previously to ask for another lawyer?

5 A. Yes, sir. In this letter, I did, and I sent this
6 copy that you marked as State's Exhibit 1 with it.

7 Q. And that's all part of the appellate record; is
8 that not correct?

9 A. Yes, sir, it is.

10 Q. Did you want to enter this plea?

11 A. No, sir, I did not.

12 Q. The question -- why did you enter the plea? Why
13 did you do it?

14 A. Because David -- I suffer from PTSD, and I suffer
15 from anxiety disorder, and that morning when David
16 Schwacke took me in that room and he started yelling and
17 cursing at me, I just kind of shut down and didn't know
18 what else to do. And when he came out here and talked to
19 my daughter and she sent me that note in there because of
20 something that she was told, I was scared that if I did
21 not do what he told me that I was going to go to prison
22 for the rest of my life.

23 Q. Okay. Now, you've got a number of allegations
24 that you raised on your own when you initially filed your
25 PCR, and I want to make sure we cover those. You got an

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1 allegation that your lawyer was ineffective because he,
2 didn't investigate the victim and her family's employment
3 with the Berkeley County sheriff or prosecutor's office.

4 If you could, explain what you mean by that, and
5 what is your understanding of that relationship?

6 A. I had someone tell me --

7 MS. OPPENHEIMER: Objection. Hearsay.

8 THE APPLICANT: I asked David Schwacke --

9 MR. BOOZER: Hold on a second.

10 THE COURT: I guess it would be -- depends on
11 why she's offering it, and so not for the truth of the
12 matter asserted, but to state the basis for why she is
13 making this complaint.

14 MR. BOOZER: Exactly.

15 THE COURT: Okay. Overruled.

16 THE APPLICANT: I had someone tell me that
17 Ms. Frayer (phonetic) worked in the capacity of a victim
18 advocate for either the Berkeley County sheriff's
19 department or the solicitor's office, and I asked David
20 Schwacke to please investigate it. And he told me that
21 he had asked Anne Williams, and he read the response from
22 Anne off of his cellphone to me, and it said I have never
23 worked with the victim in any capacity as a victim
24 advocate. Who told you that?

25 It did not say she was not a victim advocate,

1 it just said she had never worked in a capacity with her
2 on a case, and I asked David Schwacke if he would please
3 have that further investigated, and he told me his
4 investigator was out on sick leave, and I said for
5 26 months, your investigator was out on sick leave?

6 BY MR. BOOZER:

7 Q. So that was the end of that?

8 A. Yes.

9 Q. You've also got an allegation that you feel
10 like -- and part of this is only an appellate issue, of
11 course, but judge's errors and government agency errors,
12 would you explain what you mean by that?

13 A. I feel like the judge erred when she accepted my
14 pleas because even David Schwacke in the record says that
15 I had issues with him. It was on the record that I had
16 issues with his representation and I feel like when the
17 judge accepted that plea that she erred because he
18 admitted that there was a breakdown between our
19 attorney-client relationship, and I feel like if
20 Ms. Frayer was working as a victim advocate in either the
21 Berkeley County sheriff's department or in the Berkeley
22 County solicitor's office it biassed my case.

23 Q. Okay. Also, I think we covered this, but
24 involuntary plea, you've got an allegation that you
25 believe there were violations regarding the search and

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1 seizure. Is that an allegation you have?

2 A. Yes, sir.

3 Q. What do you think your lawyer should have done in
4 regard to any search issues?

5 A. I'm not sure how searches and seizures work, but I
6 know they served warrants on a 17-year-old child without
7 an adult present and took things and have refused for the
8 last four years to give her her personal belongings back.

9 They weren't mine. I didn't have access to them.
10 They served warrants on a dead person's cellphone. The
11 cellphones that we had in our care and custody belonged
12 to my mother, and my mother had died April 12th of 2014.
13 They also served a warrant on that property, and it was
14 rented and listed and deeded to her, and she was not
15 there to give her permission. She was deceased.

16 Q. Did your lawyer explain to you y'all could
17 potentially challenge some of that --

18 A. No.

19 Q. Those items?

20 A. No.

21 Q. All right. Now, this is obviously your day in
22 court.

23 A. Yes, sir.

24 Q. And I know we've covered a number of topics, but I
25 want to make sure we've covered everything you've alleged

1 in all your allegations as it relates to your case. Is
2 there anything that we have not covered in your case that
3 you want to raise?

4 A. I don't know.

5 Q. Well, we need for you to know because this is your
6 one shot. So is there anything that we've left out from
7 your application that we haven't gone over?

8 A. I would have to see my application again. I know
9 there were, like, 27 different things on my application.

10 MR. BOOZER: Your Honor, may I approach the
11 witness?

12 THE COURT: Yes.

13 THE APPLICANT: I worked over a period of
14 time on it.

15 MR. BOOZER: Hang on one second, okay?

16 BY MR. BOOZER:

17 Q. Have we covered everything?

18 A. No, sir. I put on here that I felt that the
19 prosecution had proved mens rea for the kidnapping
20 charge. I didn't even know anything about mens rea or
21 anything of that until I went to be incarcerated at
22 Camille Graham-Griffin and I started working on my PCR on
23 my own. My attorney never explained to me mens rea or
24 malice or aforethought or any of that. Those are things
25 that I had to learn on my own, and those were things I

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1 was trying to get him to let -- to give me understanding
2 so that I could help with my own case. There was no way
3 for me to even help this man because he wasn't open to
4 anything, nothing.

5 Q. Okay. So you did not have an understanding of the
6 elements of the crimes, or what the State would have to
7 prove had you gone to trial?

8 A. No, sir.

9 Q. Had that been explained to you prior to your plea,
10 would you have gone to trial or would you have entered
11 the plea?

12 A. I would not have entered that plea.

13 Q. Is there anything else we've missed? I think
14 we've covered everything, but I want to make sure.

15 A. I think pretty much -- oh, and that -- my mental
16 health history. I feel like my mental health history
17 should have been more adequately entered in relation to
18 the possible reasoning, I guess.

19 Q. Did you express some complaints to your mental
20 health provider about your lawyer?

21 A. Yes, sir.

22 MR. BOOZER: Ms. Gordon, those are all the
23 questions I have, but please answer any the State may
24 have.

25 THE APPLICANT: Yes, sir.

1 MS. OPPENHEIMER: May it please the Court,
2 Your Honor:

3 CROSS-EXAMINATION

4 BY MS. OPPENHEIMER:

5 Q. You said you discussed potential defenses with
6 Mr. Schwacke. What were those?

7 A. We did not discuss potential defenses.

8 Q. Even though you said that on direct?

9 A. Any time --

10 MR. BOOZER: Objection, Your Honor. I'm
11 pretty sure she said she didn't discuss any defenses.

12 MS. OPPENHEIMER: I'll move on.

13 BY MS. OPPENHEIMER:

14 Q. Did you ever discuss the fact you were taking
15 Klonopin with Mr. Schwacke?

16 A. Yes.

17 Q. And he told you that involuntary -- or voluntary
18 intoxication was not a defense, right?

19 A. Yes, he did tell me that.

20 Q. And you understood --

21 A. That morning.

22 Q. You were self-medicating, right? You had not been
23 prescribed Klonopin by a doctor?

24 A. No. I had been prescribed Ativan and ran out, and
25 I was taking Klonopin.

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1 Q. You were taking your mother's Klonopin, correct?

2 A. Yes.

3 Q. Now, do you recall being evaluated both by the
4 State and Dr. Knight?

5 A. Yes, I do.

6 Q. So you were evaluated by a mental health expert?

7 A. Yes, I was.

8 Q. And do you recall the results of those?

9 A. Yes, I do.

10 Q. And they found that you were competent, correct?

11 A. That's what they said, yes, ma'am.

12 Q. And that you were criminally responsible?

13 A. Yes, ma'am.

14 Q. And that you were feigning symptoms, right?

15 A. But I was not, and they don't live in my head, so
16 how do they know what I'm feigning and what I'm not?

17 Q. Are you a mental health expert?

18 A. Are you?

19 THE COURT: You need to answer the question.

20 THE APPLICANT: No, I'm not. Are you?

21 MR. BOOZER: Your Honor, I have an objection.

22 This isn't relevant to anything I brought out. I do
23 understand this is cross-examination, but we're not
24 alleging any issues of competency in the application.

25 MS. OPPENHEIMER: She brought up she wasn't

1 evaluated by a mental health expert and that her mental
2 health history should have been investigated by Mr.
3 Schwacke.

4 THE COURT: Overruled.

5 BY MS. OPPENHEIMER:

6 Q. Do you remember discussing each charge with
7 Mr. Schwacke?

8 A. No.

9 Q. Do you understand you went into the garage of this
10 home and that's why you were guilty of first degree
11 burglary?

12 A. I'm not guilty of first degree burglary, ma'am.

13 Q. But you pled guilty.

14 A. Because I was coerced and intimidated by David
15 Schwacke the morning that I came to court, which was
16 October 28, 2016. Yes, ma'am, I pled guilty.

17 Q. Okay. So you told Judge Harrington that you were
18 satisfied with Mr. Schwacke at your plea, right?

19 A. Yep.

20 Q. And you told her you had no complaints, correct?

21 A. I told her that I had written her a letter, and
22 she would not read the letter, and so I just shut down,
23 like I always do.

24 Q. Do you recall her telling you that she's not in
25 the habit of reading pro se letters from people that are

1 represented by counsel?

2 A. That's not exactly how I remember her wording it,
3 but I do remember her saying she does not read letters.
4 I'm pretty sure she said she did not read letters from
5 inmates who had written her letters that were represented
6 by counsel. That's not what the record shows, but I'm
7 pretty sure that's what was said.

8 Q. The record will reflect what Judge Harrington said
9 that day, and she made sure that you had no complaints,
10 right? She told you that this was your time to tell her
11 if you had any complaints, correct?

12 A. And I told her that there was a letter that she
13 would not read.

14 Q. But she asked you if there was anything in that
15 letter that you wanted to bring out, correct?

16 A. And I could not tell her with David Schwacke
17 standing next to me. I was intimidated beyond belief by
18 this man. I had never had a good working relationship
19 with him, and there was nothing that I could do for
20 myself.

21 Q. Now, do you remember Judge Harrington going over
22 your rights at trial?

23 A. Vaguely.

24 Q. But she did go over your rights?

25 A. I'm sure she did.

1 Q. And she reviewed that you had a right to a trial?

2 A. She did.

3 Q. And you told her that you understood those,
4 correct?

5 A. I did.

6 Q. And that you were waiving those rights, correct?

7 A. Because of what David Schwacke had told me, yes,
8 ma'am.

9 Q. And you also told Judge Harrington that no one had
10 threatened, coerced, forced, or promised you anything to
11 plead guilty, correct?

12 A. He told me that's what I was to tell her. He told
13 me I was not to tell her that I had been told that I --
14 that I would see Judge Dennis and not her. He told me to
15 tell her -- just to say yes to everything, and so that's
16 what I did. I did what my attorney told me. He told me
17 to just answer yes to everything, and that's what I did.

18 Q. Judge Harrington made it clear if you had any
19 issues to raise them then, that that would be your
20 chance, right?

21 A. I placed my appeal, ma'am.

22 Q. And you didn't raise those issues when she asked
23 you again and again --

24 A. I placed them on appeal, ma'am. I had ten days to
25 appeal. I appealed within that time. I placed them in

JULIE GORDON-GOOKINS - CROSS-EXAMINATION

1 my letter to the appellate Court, and I have placed them
2 in my PCR application.

3 Q. Okay. Now, you understand that you were facing
4 life plus 50 years, correct?

5 A. That is what she told me, yes, ma'am.

6 Q. And you actually pled down to 30 years; is that
7 right?

8 A. I asked David Schwacke to ask the prosecutor for
9 it to be a recommended plea, not a negotiated plea, and
10 he would not do that. I did not want a negotiated plea.
11 I wanted a recommended plea because then that left it
12 open for the judge to make her own decision on what kind
13 of time I should have been given. A negotiated plea left
14 it open, a recommended plea did not, and I asked him --

15 Q. But you are serving 30 years, correct?

16 A. I am.

17 Q. You said you had talked to another lawyer,
18 correct?

19 A. Yes.

20 Q. But you didn't hire him?

21 A. No, because the funds was taken out of my bank
22 account by my children, and I didn't have the money to
23 pay him.

24 Q. You knew you could get another lawyer if you
25 wanted?

1 A. If I had the funds, yes, ma'am. I did not.

2 Q. But you could have hired another lawyer?

3 A. But I did write to the Court and the public
4 defender's office three different times, the Court one
5 different time, asking for a different attorney to be
6 appointed because I was not getting along with my trial
7 counsel, and I didn't have the money to hire another
8 attorney.

9 Q. Now, you have no issues with how the warrants were
10 obtained, correct, just what they took?

11 A. I don't know what I have an objection to because I
12 have asked for copies of those warrants four different
13 times. I have written to the clerk of court and been
14 refused all four times. The last time I was referred to
15 the magistrate court. When I applied to the magistrate
16 court, the magistrate court told me that they didn't have
17 them. It would be part of the general record for the
18 general sessions court, and that's where I need to get
19 them from, but they have denied me all four times, so I
20 don't know what exactly my issues are with my search
21 warrants, but yes, I do have issues with the search
22 warrants and how they were obtained and what they did
23 obtain.

24 Q. Let's go through the facts of this case, please.
25 Now, you approached this 37-week pregnant woman, correct?

JULIE GORDON-GOOKINS -- CROSS-EXAMINATION

1 A. Yes, I did.

2 Q. In her garage?

3 A. Yes, I did.

4 Q. You had a gun?

5 A. No, I did not.

6 Q. Well, she wrestled a gun away from you, correct?

7 A. That's what the record says, yes.

8 Q. And she threw it into a pond?

9 A. That's what she said.

10 Q. And she was able to scream for help --

11 A. I have not seen anything from that gun. I have
12 not seen any ballistics on that gun. Nobody has told me
13 where that gun came from. I had said it belonged to my
14 daughter-in-law, but my son said my daughter-in-law has
15 her gun, so therefore I want to know where this magical
16 gun came from.

17 Q. Now, a neighbor was walking down and was able to
18 tackle you away from the victim, right?

19 A. He did not tackle me. What had happened is when
20 she hit me and I hit her and then she bit me, she started
21 yelling, and I went to run off. I was running off, and
22 he said he was a police officer, to stop, so I stopped
23 because he said he was a police officer.

24 He never had to tackle me, and he did not have to
25 sit on me, but he did, and he made me defecate myself

1 because I have a neck injury.

2 Q. And so when the police arrived and they looked in
3 your car, they found a baby bracelet with Baby Girl
4 Gookins on it?

5 A. I have no idea what they found in that car, ma'am.

6 Q. Well, that was in your car?

7 A. Okay, and that car was parked a block away, ma'am.

8 Q. And in that car they found baby clothes?

9 A. Yes. I have a granddaughter.

10 Q. And they found a car seat?

11 A. I have an 11-month-old granddaughter, ma'am.

12 Q. And they found a shovel, correct?

13 A. I had been -- my mother had died April 12th, and I
14 had been to the cemetery and cleaned off the cemetery to
15 get ready to place my mom's ashes out there with her
16 mother. Yes, they did find a shovel.

17 Q. And they found a tarp?

18 A. That was used when I was moving in July. My
19 daughter is here, and she can testify to that, ma'am.

20 Q. And they also found rope?

21 A. That rope was used to tie down the mattress and
22 box springs to the top of the car.

23 Q. Can you explain the list of surgical items that
24 you needed that was found in your car?

25 A. I take care of my son. He --

JULIE GORDON-GOOKINS - CROSS-EXAMINATION

1 Q. And you need surgical items to take care of your
2 son?

3 A. I didn't have those items. Did you ever find
4 those items?

5 Q. You had a list with those items.

6 A. Did you find them?

7 Q. Please answer my question: You had a list in your
8 car with scalpels and clamps, correct?

9 A. My mother, when she died, had all kinds of things
10 because she was a nurse. I took all of her stuff from
11 her house. I inventoried those things. I also had none
12 of those things in that car. There were no sharps, no
13 scissors, no nothing. My son had hurt himself at work, I
14 don't know, maybe a month beforehand. I had been taking
15 care of his leg.

16 Q. Okay.

17 MS. OPPENHEIMER: I have no further
18 questions, Your Honor.

19 THE COURT: Redirect?

20 MR. BOOZER: Nothing further, Your Honor.

21 THE COURT: You may step down.

22 MR. BOOZER: And, Your Honor, if I may have a
23 moment before I decide on the next witness?

24 THE COURT: All right. We'll take five.

25 (Recess taken.)

1 THE COURT: Okay. You got another witness?

2 MR. BOOZER: I do not, Your Honor.

3 THE COURT: Anything from the State?

4 MS. OPPENHEIMER: State would call David
5 Schwacke.

6 DAVID P. SCHWACKE,
7 having been first duly sworn,
8 was examined and testified as follows:

9 THE WITNESS: David P. Schwacke,
10 S-c-h-w-a-c-k-e.

11 DIRECT EXAMINATION

12 BY MS. OPPENHEIMER:

13 Q. Good morning, Mr. Schwacke. How long have you
14 been practicing law?

15 A. Since 1981.

16 Q. And where are you employed?

17 A. Currently at the office, Berkeley office, of the
18 Ninth Circuit public defender.

19 Q. And how long have you been there?

20 A. On a full-time basis, since around 2007. I was
21 there on a part-time basis between 2002 and that date.

22 Q. Now, were you appointed or retained in this case?

23 A. Appointed.

24 Q. And do you recall when?

25 A. I could refresh. I was appointed to her case on

—DAVID SCHWACKE - DIRECT EXAMINATION—

1 September the 9th of 2014, according to the file.

2 Q. So you had the case for about two years?

3 A. Correct, until the plea in October of 2016.

4 Q. Now, in that period of time, about how many times
5 did you meet with the applicant?

6 A. I met with her a total of about 15 times, not
7 counting one other additional time in the office of our
8 private mental health expert.

9 Q. Okay. And did you file any Brady or Rule 5
10 motions?

11 A. I did.

12 Q. And did you review that discovery material with
13 the applicant?

14 A. I did.

15 Q. And did you discuss the elements of the charges
16 with the applicant?

17 A. I did.

18 Q. And did you discuss the potential sentences?

19 A. I did.

20 Q. In particular, did you discuss criminal intent?

21 A. I'm sure I did in connection with the offenses and
22 their elements.

23 Q. Did you discuss the applicant's version of the
24 facts?

25 A. We went through a version of facts, and there were

1 other times there would be a different version of facts.

2 Q. So she gave you multiple accounts of this story?

3 A. That and also to our expert.

4 Q. Did she ever deny getting into a fight with the
5 victim?

6 A. She at different times said she didn't remember if
7 she passed out. The next thing she remembered was waking
8 up at the jail, so there were other times she would say
9 different things.

10 Q. And based on your conversations with the
11 applicant, did you have her mentally evaluated?

12 A. She was evaluated both by the State -- so there
13 was an evaluation done I guess at MUSC for both
14 competency and criminal responsibility, and beyond that,
15 we hired our own expert, Dr. Knight, to do a private
16 investigation.

17 Q. And what were the results of that?

18 A. The evaluation that was done by the State came
19 back that she was, in fact, competent to stand trial and
20 that she, in fact, had criminal responsibility on the
21 date of the offense.

22 Q. Okay. And were Dr. Knight's findings consistent
23 with the State's?

24 A. They were.

25 Q. Did you discuss any possible defenses with the

1 applicant?

2 A. When we discussed -- yes. I mean, the question
3 was within these facts, how were we going to develop a
4 defense and what was the defense going to be? So that
5 was discussed.

6 Q. Did you have any viable defenses?

7 A. I really think -- I mean, when we say viable
8 defense, obviously, could attempt at trial to claim the
9 criminal responsibility -- criminal responsibility
10 defense, but as far as having any confidence in it
11 succeeding, I would have had none.

12 Q. And that was based on your independent
13 investigation?

14 A. The independent -- the full-blown one by the
15 State, the independent one, just in dealing with the
16 client as well.

17 Q. Now, what kind of investigation did you do?

18 A. Basically, we were in a position where we were
19 reviewing what the evidence was in terms of that. There
20 were names, I think, at different times that were given
21 to us. I believe Ms. Gookins had some names of some
22 doctors she had seen. All of that would have been
23 collected and presented within the context of the
24 psychiatric evaluation that we had privately done.

25 Q. Okay. Now, did you inform the applicant of the

1 consequences of her plea?

2 A. Yes.

3 Q. And did you inform her of her constitutional
4 rights?

5 A. Yes.

6 Q. Were you prepared to go to trial if she had made
7 that decision?

8 A. If she had made that decision, we would have been
9 ready. I believe we were at a point with this when this
10 plea actually happened that it may have been accepting or
11 rejecting on the record, so there had been a number of
12 back-and-forths with the State as to what they wanted
13 recommendation-wise or negotiation-wise.

14 In addition, Ms. Gookins, on numerous meetings
15 that we had, would say I wouldn't plea to that; I'll
16 plead to this; I want you to send this to the solicitor.
17 I sent a number of those types of requests to try to have
18 the sentence being recommended by the State changed,
19 reduced, or some of the charges changed to other things.
20 Some of those requests from Ms. Gookins were offenses
21 that don't exist in South Carolina, so I know she was
22 reviewing the law in some other books, I guess, from the
23 jail, but every time we would discuss what the
24 back-and-forths were and what the back-and-forths meant
25 in terms of punishment of a plea of guilty or not.

DAVID SCHWACKE - DIRECT EXAMINATION

1 Q. And it was ultimately her decision to plead
2 guilty?

3 A. Yes.

4 Q. How would you describe your relationship with the
5 applicant?

6 A. I would say we weren't friends, but I don't feel
7 that's my responsibility as a defense attorney. My
8 responsibility is to make sure the client is fully
9 informed, makes good decisions based on what I've been
10 able to do for them or provide to them. Ultimately, it's
11 their choice to decide whether they want a trial or not,
12 and I'm on board with that when that happens.

13 Q. Did you see any reason that you would need to move
14 to be relieved?

15 A. No. I'm not going to say we didn't have some firm
16 discussions, but they were all -- to me, I felt like we
17 were being productive in terms of her realizing that the
18 facts were what the facts were going to be and that there
19 were some things that just didn't jibe with what her
20 version of the facts were.

21 Q. And you explained all of that to her?

22 A. I did.

23 Q. Did you ever get the feeling that she didn't
24 understand what you were explaining?

25 A. I got the opinion sometimes that she obviously

DAVID SCHWACKE - DIRECT EXAMINATION

1 didn't want to hear what I was saying.

2 Q. Okay.

3 MS. OPPENHEIMER: Beg the Court's indulgence.

4 BY MS. OPPENHEIMER:

5 Q. With regards to the appeal, what is your typical
6 process as a defense attorney?

7 A. So after -- it differs, I guess, between a plea or
8 a trial. After a trial, we automatically file them.
9 After a plea, we ask the client if they wish to file it.
10 Obviously, I believe in the filing of a plea we're
11 required to show some appealable issue within that.

12 This was a negotiated plea. The sentence was
13 within the appropriate range, and all of that sort of
14 central aspect was there, so at that point, it's my
15 understanding when we file our paperwork with the Supreme
16 Court, because of the language of that appeal, the client
17 is notified to see whether or not they have some
18 appealable issues they wish to be, I guess, made an
19 additional part of what has been presented to them to
20 make a decision as to whether they'll take an appeal or
21 not.

22 Q. So in this case, you did file a notice of appeal?

23 A. We did.

24 Q. At the applicant's request?

25 A. Yes.

DAVID SCHWACKE - CROSS-EXAMINATION

1 MS. OPPENHEIMER: No further questions, Your
2 Honor.

3 THE COURT: Cross?

4 CROSS-EXAMINATION

5 BY MR. BOOZER:

6 Q. Thank you. Mr. Schwacke, how are you doing?

7 A. Fine. How are you?

8 Q. I'm fine. Thank you. Would you describe this as
9 kind of a strained relationship with Ms. Gordon?

10 A. Not all the time. There were times I would get
11 the glare eye from her that I knew she was not wanting to
12 hear what I would have to tell her as part of her
13 representation, but, yeah, like I said, we weren't
14 friends, but that's not my place to be. My place is to
15 make sure she understands kind of what she's facing.

16 Q. Were you aware of any letters that she was writing
17 to the public defender's office in general? I think she
18 described it as maybe she was writing the head public
19 defender. Do you recall any correspondence she was
20 sending asking that she be relieved?

21 A. The only correspondence that I was aware of was, I
22 guess, the very last one because that prompted me to go
23 over to the jail next door and talk to her about it. She
24 was writing letters to the solicitor, she was writing
25 letters to the victim, but I'm not sure of a lot of

1 letters that she was writing to me.

2 Q. On the letter you said that prompted your visit,
3 what was the discussion that you two had?

4 A. See, I don't recall it as anything other than
5 me -- I guess she had indicated that she didn't want me
6 to be her attorney. I think we had maybe a court date
7 that was coming up for a bond reconsideration and I said
8 that would be a time that if she wanted to take that up
9 with the judge she could.

10 Q. Okay. Did you have -- do you recall if the letter
11 specifically asked that you be relieved or that you seek
12 to be removed from the case?

13 A. I think just that she didn't want me to be her
14 attorney.

15 Q. Okay. Which she would want you to be relieved,
16 get another lawyer?

17 A. Other ways to put it.

18 Q. Did you have any discussion with her specifically,
19 though, about that?

20 A. I know I would have said to her -- because this is
21 sort of standard, and she's not the first that has asked
22 for one of us to be relieved. We get that all the time
23 over there. The question is when we bring them over here
24 and they address the judge on the issue, the judge often
25 tells them, you know, you're entitled to a public

—DAVID SCHWACKE - CROSS-EXAMINATION—

1 defender, but you're not entitled to your choice of
2 public defender. Do you want to have a different
3 attorney? You can hire someone, so I'm sure I explained
4 that process to her because that's, in fact, what happens
5 when we do that kind of hearing.

6 Q. In the public defender's office, does it happen
7 where someone just can't get along with the lawyer or the
8 lawyer just can't get along with the client or both and
9 then another public defender's appointed? Does that
10 happen?

11 A. I haven't had it happen with me, so I don't know.
12 I'm not aware of it happening that way.

13 Q. Okay. At the plea, do you recall where the Court
14 asked if she had any complaints about how you were
15 handling the case and then she said, well, I sent a
16 letter? Do you recall that?

17 A. I recall her saying that.

18 Q. Okay. Did you have any discussion with Ms. Gordon
19 about that particular letter she was talking about that
20 she had sent to the Court?

21 A. I'm not sure I was aware of it until she said
22 that.

23 Q. Okay.

24 MR. BOOZER: Your Honor, may I approach the
25 witness?

1 THE COURT: Yes.

2 BY MR. BOOZER:

3 Q. I'm going to hand you what's been marked as
4 Applicant's Exhibit 1. I don't know if you've ever seen
5 that or not. I'm sure you can tell us, but just take a
6 moment and take look at that.

7 A. I can tell through the first page-and-a-half that
8 I've not seen it before.

9 Q. But she clearly expresses, I guess, where she
10 wants another lawyer, at least to have you relieved?

11 A. That I'm not doing what she wants me to do, right.

12 Q. Right. Was that kind of the gist of the letter
13 you received directly from Ms. Gordon I guess a couple
14 months back or whenever that would have been?

15 A. Yeah. When we get that kind of reaction -- not
16 reaction, but when we get that kind of message from our
17 clients, they always feel like, I feel like you're not
18 working for me. You're working for the state. You're
19 getting paid by the state. Y'all are state attorneys
20 too. Y'all work together. That's what we hear.

21 So this is a little different because she's not
22 saying I work for the state, but its definitely like I'm
23 not doing right by her to do what she wants specifically
24 with her case in terms of -- you know, not the decision
25 to plea or go to trial, but to sort of deal with how a

1 trial might be managed if we actually got to that point.

2 Q. Immediately before the plea actually happened,
3 were y'all still having any discussion about you
4 representing her or her expressing any desire for you to
5 be relieved?

6 A. No.

7 Q. Did y'all have any discussion prior to the plea
8 that may have been I guess I'll describe as heated, or
9 was there some disagreement?

10 A. We had a couple of -- loud talking. I don't know
11 that they were arguing, but sometimes it was just to make
12 sure the point got through.

13 Q. Let me ask you this: Have you ever asked the
14 Court to be relived in prior cases?

15 A. I never have.

16 Q. You never in your career as a public defender
17 asked to be relieved in a case?

18 A. No.

19 Q. Why is that?

20 A. I just feel like that I'm handling the case
21 appropriately. My client ultimately is going to
22 understand that I've done that for them, and they're
23 hopefully going to appreciate it, but that's not the way
24 it works sometimes.

25 Q. Do you think, though, that if a relationship gets

1 so strained to the point that there's either an absolute
2 lack of trust or that there's a complete breakdown in
3 communication that it then becomes incumbent to be
4 relieved that a lawyer request to be relieved?

5 A. I think that could happen, yes.

6 Q. Do you think that was happening in this case?

7 A. No, I don't.

8 Q. Do you think that she had trust in what you were
9 telling her?

10 A. She would on some occasions and other occasions
11 no.

12 Q. Okay. Let me ask you this: Going back to what
13 one of her allegations was regarding what she believed to
14 be maybe a conflict of interest or a victim being part of
15 the solicitor's office, do you recall anything about
16 that?

17 A. I recall her asking that question, and I recall
18 contacting the solicitor on the case to see if that fact
19 was true, and no one knew anybody who met the criteria
20 that she said in terms of working for the State, working
21 for the solicitor, that being a conflict of interest.
22 I'm not even sure it rises to the level of a conflict of
23 interest, but we did make inquiry of that.

24 MR. BOOZER: I beg the Court's indulgence.

25 BY MR. BOOZER:

DAVID SCHWACKE - CROSS-EXAMINATION

1 Q. Prior to the plea, did you have any instructions
2 for Ms. Gordon about how she should address the Court or
3 speak to the Court?

4 A. I would have said -- I do this every time. If
5 it's a male judge or if it's a female judge, if it's a
6 male judge, your answers are yes, sir; no, sir; no, Your
7 Honor; yes, Your Honor. If it's a female judge, no,
8 ma'am; yes, ma'am; no, Your Honor; yes, Your Honor; but
9 beyond that, I don't tell anybody how to answer a
10 question asked by a judge.

11 Q. Did you have any discussion with her about don't
12 bring up certain issues because you might, I think the
13 quote she used was, piss off the judge?

14 A. I'm not going to say that I haven't said you could
15 piss off a judge before, but I usually tell them what the
16 questions are going to be so they know what the answers
17 are going to be.

18 Q. Did y'all have a specific discussion about the
19 question that would be asked about whether she was
20 satisfied with your services or if she had any complaints
21 about your services?

22 A. No.

23 Q. Okay.

24 MR. BOOZER: Thank you. That's all the
25 questions I have.

1 THE COURT: Redirect?

2 MS. OPPENHEIMER: Briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MS. OPPENHEIMER:

5 Q. Do you recall Judge Harrington addressing you at
6 the plea?

7 A. Yes.

8 Q. And she asked you kind of about maybe some issues
9 that the applicant might be having with you?

10 A. Right.

11 Q. And what did you tell her, do you recall?

12 A. Well, okay. So that was one of those things you
13 sent last night, so I might need to look at it again, but
14 as I recall, there was some hesitancy. Apparently she,
15 Ms. Gookins, paused in the course of the proceeding, and
16 the judge kind of wanted to know what that was about, and
17 what we were discussing is that sort of jailhouse lawyers
18 over there oftentimes will give information that's wrong
19 or feel like that every case is factually the same and
20 entitled to exactly the same punishment as the next
21 person's case so that when people come back and kind of
22 compare notes over there, they feel like they were kind
23 of screwed in their case, either by the plea itself or
24 what the sentence imposed was.

25 So, in fact, that formed the basis of a letter,

1 one of the letters, I sent to Ms. Williams, the
2 prosecutor, in terms of trying to get her to agree to a
3 lesser charge, and in that instance, Ms. Gookins had
4 given me the specific name of an individual, and
5 Ms. Williams didn't respond to that but felt like in that
6 instance what that plea offer was was essentially an open
7 plea or a plea without any type of -- I lost my train of
8 thought. That in that instance, that person actually
9 pled too, without a recommendation, and the judge imposed
10 a sentence that was below what they were recommending.

11 Q. Okay.

12 MS. OPPENHEIMER: Your Honor, may I approach
13 the witness?

14 THE COURT: Yes.

15 BY MS. OPPENHEIMER:

16 Q. If you'll look at pages 28 through 29.

17 A. Okay. Okay. And that was another instance as
18 well. What that refers to is whether a garage qualifies
19 for a conviction for burglary in the first degree. In
20 this instance, the house, it was an attached garage
21 within the same curtilage, and it would qualify under the
22 law of South Carolina as a residence for the purpose of
23 burglary first.

24 Q. Did you explain that to the applicant?

25 A. I did.

~~ANNE WILLIAMS - DIRECT EXAMINATION~~

1 Q. Did you do everything that she asked of you?

2 A. I did except get her the plea that she wanted, but
3 that wasn't going to be forthcoming from the State
4 either.

5 Q. Was there anything you left on the table?

6 A. No.

7 MS. OPPENHEIMER: No further questions, Your
8 Honor.

9 THE COURT: Recross?

10 MR. BOOZER: Nothing further, Your Honor.

11 THE COURT: You may step down. Anything else
12 from the State?

13 MS. OPPENHEIMER: State would call assistant
14 solicitor Anne Williams.

15 ANNE WILLIAMS,
16 having been first duly sworn,
17 was examined and testified as follows:

18 THE WITNESS: Anne Williams, W-i-l-l-i-a-m-s.

19 DIRECT EXAMINATION

20 BY MS. OPPENHEIMER:

21 Q. Good morning, Ms. Williams. How long have you
22 been practicing law?

23 A. Twenty years.

24 Q. And how long have you been a solicitor?

25 A. Ten years.

ANNE WILLIAMS - DIRECT EXAMINATION

1 Q. In South Carolina?

2 A. Uh-huh, and ten years as a deputy prosecutor in
3 Arkansas.

4 Q. What were the facts of this case?

5 A. Briefly, the victim was somebody unknown to the
6 victim. We never figured out how she found out she was
7 pregnant, whether it was Facebook, or apparently the
8 defendant's landlord lived down the street, but the
9 defendant, the day before the burglary and the other
10 crimes, was seen right around the victim's house.

11 It just so happened that there was another crime
12 in that neighborhood, and there was some videotape of her
13 in a wig. The next day she went back to the victim's
14 house. The victim had two very small children, and she
15 was almost nine months pregnant, and she left her two
16 children, they were toddlers, right by the garage, went
17 into the garage to get a soda. The defendant, in a wig
18 and with a gun, accosted her out of the garage toward the
19 back of her home and was leading her to her car.

20 At that point, a neighbor saw them wrestling for
21 the gun. The victim got the gun away from the defendant
22 and threw it in a pond which was right there. All of
23 this was captured on videotape because that neighbor had
24 some kind of security system with a camera. Also on the
25 security tape was the defendant sort of lurking around

1 beforehand. He held her down until the police got there.
2 When the police looked in the car where she was leading
3 her to, they found a giant syringe filled with what was
4 later tested and found to be like a horse tranquilizer,
5 baby clothes, and a baby bracelet that said baby girl
6 Gookins, a car seat, and a list with scalpel, clamps, and
7 some other surgical items, a shovel, a tarp. The shovel
8 was not used. It was brand new.

9 Upon further investigation, they found out that on
10 the defendant's Facebook page she had been pretending to
11 be pregnant even though she had had a hysterectomy. She
12 had photographs on her Facebook page of the baby's
13 nursery. They soon learned that she had been pretending
14 to be pregnant to her boyfriend, and his mother had come
15 down to help take care of the fictitious baby. That's
16 pretty much it.

17 Q. Okay. And did you and Mr. Schwacke enter into
18 plea negotiations?

19 A. We did. Originally -- well, there was a lot of
20 things that happened. Ms. Gookins immediately started
21 trying to contact the victims, and the victims were so
22 afraid. The whole thing was so unsettling to them, and
23 what the defendant started doing was having people in the
24 jail send letters to the victim, and it was just chilling
25 for them. So from the victims' perspective, they were so

1 afraid of her ever getting out of jail that they really
2 didn't want there to be any chance -- they didn't want us
3 to offer anything. They wanted to go to trial.

4 Mr. Schwacke negotiated and negotiated and
5 negotiated and finally got us to a cap of 30. So she
6 could have gotten anywhere from 15 to 30 years, so we
7 agreed to it, and the victims agreed to it because she
8 was so emotionally distraught it got to the point where a
9 plea was better for her so she wouldn't have to relive
10 the whole thing, but I never really was comfortable with
11 that.

12 I wanted a negotiated 30, but Mr. Schwacke
13 negotiated the 30 cap, but then he came back in the 11th
14 hour and said, for whatever reason, she didn't want the
15 attempted murder. She wanted an ABHAN, and she didn't
16 want the weapons charge, so we agreed to that. He tried
17 to get us down, to take a lower number, and we just
18 weren't willing to go down from that. There was more
19 than one time that she was brought over to accept or
20 reject the offer on the record. I believe the time she
21 finally accepted the offer was at least the second time.

22 Q. All right. And if you had proceeded to trial,
23 were you seeking a life sentence?

24 A. We would have, given the facts. They were just
25 very, very disturbing. Her son also had information

1 about some prior activity where this might not have been
2 the first time, and he had written us a letter and we
3 found him and he was willing to testify, so given all
4 that information, we were going to ask for life if we had
5 gone to trial.

6 Q. And what led you to having the applicant evaluated
7 by the state agencies?

8 A. First of all, just the weird facts. The facts of
9 the case just seemed so outlandish that we were all
10 concerned that she might not have been in her right mind,
11 but then she kept sending me letters, and she would make
12 admissions in the letters, but then say please apologize
13 to the victims. I just blacked out. I'm just
14 remembering this now. It's like a dream.

15 So I was concerned about those letters, so at one
16 point, we had asked for an evaluation for competency, but
17 then when she started with the dream stuff, we then
18 wanted her evaluated for criminal responsibility, and
19 then I believe, unbeknownst to me, Mr. Schwacke already
20 had her evaluated by someone else, I'm not sure, but I
21 think he had.

22 Q. And do you recall the results of those
23 evaluations?

24 A. She was competent. She was criminally
25 responsible. She knew the difference between right and

1 wrong, and the doctors' opinions were that she was
2 feigning symptoms; malingering is the word that they
3 used.

4 MS. OPPENHEIMER: Beg the Court's indulgence.

5 I believe those are all the questions I have.
6 Please answer any questions Mr. Boozer may have.

7 MR. BOOZER: No questions for this witness,
8 Your Honor.

9 THE COURT: You may step down. Anything else
10 from the State?

11 MS. OPPENHEIMER: Nothing further, Your
12 Honor.

13 THE COURT: Anything else?

14 MR. BOOZER: Nothing further, Your Honor.

15 THE COURT: All right. Let's hear argument.

16 MR. BOOZER: Thank you, Your Honor. May it
17 please the Court: As I said, Ms. Gordon has a number of
18 issues which she raised in her original pro se
19 applications, which I'll let them stand on their own by
20 the testimony that was presented, but I'd like to focus
21 specifically on the issue that was raised in the
22 amendment of whether the relationship was so strained or
23 deteriorated that counsel should have requested to be
24 relieved.

25 Obviously, through the eyes of Ms. Gordon in

1 her testimony and even by the record she attempted a
2 number of times to contact someone -- and I don't think
3 she was taking the appropriate method, she certainly
4 isn't a lawyer -- to where she wanted another attorney.
5 She would send that to the public defender's office
6 apparently twice and then sent a letter directly to her
7 lawyer, and then, ultimately, she ends up sending one to
8 the Court prior to the plea, which the Court, of course,
9 didn't want to read from a represented party, expressing
10 complaints about her lawyer and wanting new counsel.

11 I think at some point it should have been
12 brought to the Court's attention that she was asking,
13 essentially, for a motion to relieve counsel, and that
14 motion should have been heard, and everything should have
15 been put on the record as to why she wanted her lawyer
16 relieved, and at that point the Court may have appointed
17 her another lawyer.

18 It's not like she had had three separate
19 lawyers and she was doing this again. She had one
20 lawyer. That was the only lawyer she was asking to be
21 relieved. She apparently tried to hire private counsel
22 but couldn't do so due to some money issues, so I
23 certainly think that the relationship got to the point
24 where she had no trust in her lawyer. That was the
25 reason she goes in there and enters this plea, is what

1 she says.

2 She should have been afforded at least the
3 right to have a hearing on the request to relieve counsel
4 and be given another lawyer, and that's the basis of --
5 well, really, there's a lot of bases for the application,
6 but that's what I want to bring to Your Honor's attention
7 and why she should go back and have a new trial. Thank
8 you, Your Honor.

9 THE COURT: All right. State?

10 MS. OPPENHEIMER: Mr. Schwacke testifies that
11 although it's not his job to be friends with his client,
12 his job is to explain everything to her and make sure she
13 understood. He did that in this case, and he testified
14 that there were a number of times in which the applicant
15 didn't even want to hear what he had to say, that she
16 just disagreed with him.

17 With regard to these letters, Mr. Schwacke
18 wasn't even aware of them until finally she sent a letter
19 directly to him, at which point he went to discuss with
20 the applicant about her letter, and he said that he did
21 not feel like he had a reason to be relieved. He had
22 done everything that she asked of him. He had went above
23 and beyond, had her evaluated by a mental health expert,
24 and at the plea, that was her chance to express her
25 complaints, and anything that she says that Mr. Schwacke

1 told her don't say this because you're going to piss off
2 the judge is just unfounded.

3 Mr. Schwacke said he would never say that to
4 any client. He just explains the questions that are
5 going to be asked. He explained the charges. He
6 explained the elements. He went through numerous
7 discussions with the solicitor asking to come down from
8 life, and eventually he was able to negotiate a cap of
9 30 years, which was far better than what the applicant
10 was looking at if she had proceeded to trial.

11 Additionally, at the plea she not only didn't
12 raise any complaints at the time despite Judge
13 Harrington's kind of prodding her: This is your time;
14 this is your time. She also was aware of her rights at
15 trial. She was aware she could go to trial. She was
16 aware that this was her decision and hers alone, and she
17 chose to plead guilty and not proceed to trial, so for
18 all these reasons, we ask that you deny the application.

19 THE COURT: All right. Well, I've listened
20 to the testimony, had the opportunity to review the
21 transcript and the supporting documents and find that the
22 applicant has failed to prove that Mr. Schwacke did
23 anything that fell below the level of competent counsel
24 in this case.

25 He negotiated an excellent plea

1 recommendation for her considering the facts of the case.
2 She also had an ample opportunity to complain to the plea
3 judge about Mr. Schwacke when, in fact, you read the
4 transcript prodded her about -- Judge Harrington actually
5 asked her, you, you know, have this opportunity. If
6 you've written a letter, you need to tell me what was in
7 it, if you want to bring anything to my attention.

8 She declined, and I don't find that she has
9 proven that Mr. Schwacke did anything that rose to the
10 level of ineffective assistance of counsel, so the
11 application for post-conviction relief is dismissed with
12 prejudice. State will prepare an order.

13 MS. OPPENHEIMER: Thank you, Your Honor.

14 - - -

15 (Whereupon, the proceedings were concluded.)

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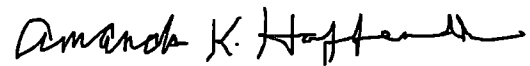
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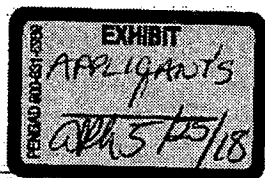
I, the undersigned, Amanda Kelly Haffenden, RPR, CRR, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Berkeley County, South Carolina, on the 25th of May 2018.

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

October 23, 2018



Circuit Court Reporter



RECEIVED

DEC 12 2016

SC Court of Appeals

October 19, 2016

Your Honors,

I am Julie Gordon-Bockins and have been incarcerated here at Hill-Flickler Detention Center since Sept. 04, 2014 and was appointed a public defender almost immediately. My public defender is David Schwacke. I have almost from the beginning had issues with him and his representation as have members of my family. He has continually told me of my guilt without really listening to me. He never wants to listen to me really and I was told the doctors who did my psychological evaluation that I didn't have confidence in him nor did I feel he would represent me well. That is in my evaluation report. Also I have written to the public defender's office on 3 separate occasions and requested a new public defender or pro bono attorney, but all three times Mr. Schwacke came back to me and told me he was still my attorney. Your honors, even the CO's in here have told me that he will make sure I go to prison for all of my life. He doesn't care about his clients and that is how I've felt the whole time and that he won't really work for me. I have been willing to plea from the start to what I feel I am guilty of but feel Mr. Schwacke won't argue the issue because everytime I ask him to do something he tells me he will but never does. I know and understand that it is late to ask for a new attorney but I've gone through the public defender's office and gotten nowhere so I am appealing to your honors to appoint me a new public defender or pro bono attorney so I can receive fair and just representation. I don't want to put my victims or family or community through the embarrassment or pain of a trial nor do I want

to put the state or community through the cost of a trial your honor I just want an attorney who will work to get the charges against me to a fair and just level or acceptable plea agreement so that I can move forward and have a chance to serve my time and return home to my family (siblings, children and grandchildren). When I was arrested my daughter was 17 had just graduated high school 1 yr early so she could go to college and get her life started but she hasn't been able to move forward with that because she has no support (emotional or financial) from her father and hasn't been able to get past her first 3 months because she has to work, has no emotional support, and no one she can turn to because my mother who passed away on April 13, 2014 and I were always the foundation for my children. Since I've been here her own father put our daughter and her friend on the line to go to jail by getting the girls to get surprise boxes for him so he could continue with his methamphetamine addiction. I was the one to tell her from here how much trouble this could have gotten her in and she left the area for a short time to get away from her dad and situation and will no longer do that for him now thanks to what I was able to tell her before he got her in trouble but her father didn't care about his child. Your Honor I just want an attorney who will do their best to help me so that maybe I'll be able to return to my family other than in a pine box 30 years from now.

I am guilty of something but not exactly of what I am charged with and I am willing to accept

responsibility and plea guilty to those things but I feel I need an attorney willing to work for that and Mr. Schwake is not.

I appeal to the court to please appoint me a different attorney who will work for instead of against me that I may still have some semblance of a life too. I have even written to the solicitor to apologize to my victims and try to appeal to the solicitor myself but I guess that wasn't the right course either as the solicitor even brought that up in court during my last bond reduction hearing. I myself have been a victim of crime while I've been incarcerated but because I have love for people chose to show mercy instead of anger and when I wrote the solicitor I was trying to be heartfelt and honest as I am now.

I thank you for your time and consideration in this matter.

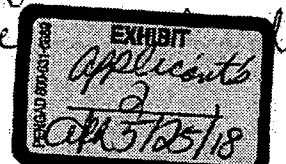
Sincerely,

Julie Gordon-Hookins

11-30-16 ①

Honorable Jerry Abbot Kitchens,

I just as of yesterday, 11-29-16 recieved the letter from my Public defender David Schwacke concerning the appeal that he has filed at my request. Your Honor I am asking for this appeal because I feel I never recieved fair, just or adequate representation. I am not an attorney and hope that as I write this and submit it to you that you will take that into consideration that I am submitting this without assistance of counsil's help to word and format properly. First of all I feel my attorney was inadequate because there were things I asked him to do as my attorney, motions I asked to be filed that he either didnt do, made excuses for not doing or told me he would do but never did. When I started considering a plea agreement I told him two particular judges I didnt want to go before he told me he would see to it that I would go before the judge I wanted to if I plead guilty but I did go before one of the two he said he would keep me from going before. Another reason I feel an appeal should be granted is because I wrote 3 letters to the Berkeley Co. Public defenders office from November 2014 until the middle of 2016 requesting a new public defender and never had any responses to the first two requests but the third one around the middle of 2016 Mr. Schwacke himself came to see me at the jail somugly with the letter and told me "well I am still your Attorney so what can I do for you?" Many times I told him he was suppose to working for me and I didnt feel that he was and he wasn't doing his job to which he always replied "well you're guilty so what do you want me to do for you." So finally after my last visit with him around the beginning of October 2016 I decided to write to the Court and ask the Judges to appoint me a new Attorney (Please see copy enclosed dated 10-19-16) public defender or Pro Bono because I felt I wasn't being represented well with no confidence in me, Schwacke.



On the morning of 10-28-16 I was brought to court from the jail I hadn't seen Mr. Schwacke and had no idea I was going to court when I went. I spoke to my attorney in the conference room told him people I wanted to speak on my behalf at the sentencing time had no notice and I felt I wanted them there, he also told me how the plea was worded which I had told him I wouldn't agree to a negotiated plea but a recommended plea because I knew with a nego. plea that's the amount of time I would receive he also told me at that time I wasn't going in front of Judge Dennis but in front of Judge Kristi A. Harrington which was one of the judges I didn't want to go in front of. When I told him no I didn't want to accept that plea in the conference room at the court house he became irate yelling at me saying "I had to give a little to get a little" to which I replied "what am I getting David, this is my life we are talking about". He then told me if I didn't accept this plea I would get life in prison to which I told him as I had many times 30 years was life for me at 46". When I went into the courtroom I told Judge Harrington about the letter I had written to the court on 10-19-16 asking for a new attorney and she told me "she didn't read letters from inmates and that now was the time to voice my concerns" and I tried but couldn't because of the intimidation I felt because of my attorney's intimidating behavior, yelling at and threatening me that I would get a life sentence if I didn't accept the plea that day as offered, he even went and spoke to my nineteen year old daughter and told her the same thing and convinced her if I didn't accept the offer I would get life and coerced her into writing a note on his legal pad saying what he had told her. He never gave my family more than 48 hours, usually 24 hours notice of my hearings, you can call my daughter Megan Dubose at (843) 751-0201 to confirm this if you'd like.

I had also asked Mr. Schwacke to ask that my probation, that I had completed 4 years of the 5 years from Dorchester Co. to be ran with the charges I had now so I wouldn't have to deal with that once I was done with this he told me he would do that as well but the morning I went to court 10-28-16 and I asked him about it he told me that would be handled while I was incarcerated but I have found out that more than likely it will still be hanging over me when I'm released which is why I asked Mr. Schwacke to have everything combined and he went back on his word to me.

During my time in county it came to my attention that my victim may have been an advocate or employed by Berkeley Co. and I asked my attorney to have this investigated to which he told me this investigator was on sick leave and that investigation wasn't done. I asked him to talk to Ms. Williams supervisor to try to negotiate lesser charges but that wasn't done either. He called her 1 time but never tried again even though I pleaded.

I also feel that since the solicitor agreed to drop the gun charge against me, that I should have been able to plea to 2nd degree burglary and also because it was a garage not living space I asked Mr. Schwacke over and over again to talk to my solicitor and her supervisor about this but all he kept telling me was she's not going to do that he wasn't trying to work for me and get my charges dropped even though I was willing to plea guilty.

I also was going through alot at the time of my crime and my psychological evaluation was done 1 year after my crime when I was back on my psychotic meds and things had changed emotionally in my life. I feel that was not right too much time had passed to judge what my state of mind was at the time it happened. Also in my eval I told the psychologist I had no confidence in Mr. Schwacke (see report) and wanted a new attorney. Also because I suffer from PTSD because of being sexually, verbally, psychologically, and emotionally abused and am prone to shut down (which is what happened on 10-28-16 in court) and kept asking for another attorney, preferably female to help me be comfortable enough to talk to that person.

I gave Mr. Schwacke some literature I came across during my incarceration that I felt may have been useful to him during my sentencing and he told me he had some of his own things that kind of went along with what I had given him that he intended to use but he never argued for me to be given less time. I was given the maximum sentence for the ABNA, kidnapping and Burg. 1st even with no real record. Malt traffic, 3rd misdemeanor, of felony that I was over 1/2 way through probation for. I guess I feel my sentence was extreme since no one was physically injured. I told my attorney who to contact for my medical records and feel since they weren't all provided at the time of my evaluation that my diagnosis wasn't totally correct either even though I was self medicating myself to deal with grief from an assault from my significant other and death of my mother and aunt that the fact I was using Kholopin and had been off my psych meds approx. 2 weeks should have been considered as well because I wasn't able to use normal judgment. I asked him to let them know that but he didn't. He use to be a prosecutor and I feel he forgets he is suppose to be working for not against his client.

I feel I had very inadequate counsel and should have been appointed new counsel. Mr. Schwacke even when asked by the judge on record stated I wasn't happy with his representation and I feel at that time the judge should not have accepted the plea, on all of this I feel I should be entitled to an appeal. I also feel that it would be a conflict to have to appear before judge Harrington in Berkeley Co. I was so intimidated by what Schwacke did I just bowed down like I always do. I pray that what I've said and provided will be enough to grant my appeal. Thank you for your consideration in this matter.

Please return a copy of this entire letter and other letters enclosed to me at.

Gookins, Julie 370329
CSCI R+E BRE 2134
4450 Broad River Rd. Columbia, SC 29210

Sincerely,
Julie Gordon-Gookins

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

Julie L. Gordon-Gookins, #370329,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2017-CP-08-2322

ORDER OF DISMISSAL

MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

2018 JUL 23 AM 11:29

FILED

PROCEDURAL HISTORY

This matter comes before the Court by way of an application for post-conviction relief filed October 11, 2017, by Julie L. Gordon-Gookins (Applicant). Subsequently, on November 28, 2017, Applicant filed a *pro se* amendment to her original application. The State (Respondent) made its Return on March 7, 2018, requesting an evidentiary hearing be held. Thereafter, on May 1, 2018, through her counsel, Applicant filed a "first amendment to prior application for PCR." An evidentiary hearing into the matter was convened on May 25, 2018, at the Berkeley County Courthouse before the Honorable Roger M. Young, Sr. Applicant was present at the hearing and was represented by Lance S. Boozer, Esquire. Assistant Attorney General Kelly Oppenheimer of the South Carolina Attorney General's Office represented Respondent.

The records before this Court indicate Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Berkeley County Clerk of Court¹. During its December 2014 term, the Berkeley County Grand Jury indicted

¹ The Charleston County Grand Jury also indicted Applicant for one count of bank fraud during its March 2011 term. On April 19, 2011, Applicant appeared before the Honorable Thomas L. Hughston, Jr., and pled guilty as indicted to this charge. Pursuant to a recommendation by the State, Judge Hughston sentenced Applicant to a term of imprisonment of five years, suspended to five years' probation. After the commission of the Berkeley County

Applicant for first-degree burglary (2014-GS-08-01883), kidnapping (2014-GS-08-01884), possession of a weapon during the commission of a violent crime (2014-GS-08-01885), and attempted murder (2014-GS-08-01886). Chief Public Defender, David P. Schwacke, of the Berkeley County Public Defender's Office, represented her on these charges. Assistant Solicitor Anne M. Williams, of the Ninth Circuit Solicitor's Office, prosecuted the case. On October 28, 2016, Applicant appeared before the Honorable Kristi L. Harrington and pled guilty as indicted to first-degree burglary and kidnapping. Applicant also pled guilty to the lesser-included offense of assault and battery of a high and aggravated nature. The weapons charge was dismissed. Pursuant to a negotiated sentence for a cap of thirty years imprisonment, Judge Harrington sentenced Applicant to a term of imprisonment of thirty years for first-degree burglary, thirty years for kidnapping, and twenty years for assault and battery of a high and aggravated nature. All sentences were to run concurrently.

Applicant filed a timely Notice of Appeal. Pursuant to a written Order dated January 20, 2017, the South Carolina Court of Appeals dismissed Applicant's appeal for failing to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv), SCACR. The Remittitur was issued on February 8, 2017.

In her application for post-conviction relief, Applicant alleges she is being held in custody unlawfully for the following allegations:

1. "Gross ineffectiveness of counsel;"
 - a. "Failure of defendants counsel to investigate the victim and/or her family's employment with Berkeley Co Sheriff or Prosictor's [sic] Office. (Government official);"
 - b. "Failed to fully explain legal terms and procedures while defendant was not medicated;"
 - c. "Failed to investigate victim and family when defendant heard they worked for county sheriffs or prosecutors office when defendant told him

crimes, a warrant for Applicant's arrest was issued due to her violation of her probation conditions. On March 24, 2017, Applicant appeared before the Honorable W. Jeffrey Young, who revoked Applicant's probation in full.

- what her family had heard in the lobby outside her preliminary [sic] hearing;"
- d. "Failure to call expert witness' to rebut evidence or raise issues of past and present psychological wellbeing;"
 - e. "Failure to prove criminal intent or argue against any allegations;"
 - f. "Defense counsel failed to explain mens rea was needed and to be proven by prosecution or to explain even what mens rea is;"
 - g. "Failure to raise issues of mental health, mental anguish, extreme or outrageous character at time or mental distress defendant was under;"
 - h. "No alternative defense provide [sic] as atty and I discussed just prior to hearing;"
 - i. "Failed to be adequately [sic] prepared or present any defense as discussed;"
 - j. "Had no defense prepared for trial told me he had none;"
 - k. "Threatened, intimidated [sic] and coerced me and my child to get me to plead guilty even when I told him prior that morning 10-28-16 I did not want to go in front of Judge Herrington [sic] or plead guilty and address it he yelled screamed and curse at me and told me all I was allowed to say was yes or no and I needed to just agree and go along with everything or I would get a life sentence but in essence that is what I got (30 years);"
 - l. "Violation of my 4th, 5th, 6th, 8th, and 14th constitutional rights;"
 - m. "Never discussed lesser included offense or told me ABHAN was a lesser included offense to Attempted Murder because he knew I'd never plead guilty to that because I had told him it was never my intent to kill anyone and I wouldn't say it was;"
 - n. "Violation of Due Process because of inadequate [sic] counsel;"
 - o. "Violation of search warrants never addressed even though I raised that concern - (Rule of Evidence/mitigating circumstances);"
 - p. "Tactics of trial court and failed to raise any arguments [sic] on my behalf;"
 - q. "Not objecting to any evidence that was discussed or entered, never discussed evidence to be used with me other than briefly once before;"
 - r. "No objection to prosecutors allegations to what defendant's intent was. That was never proven therefore objections should have been made;"
 - s. "Dismissing gun voids charges because lack of evidence, material aspect of crime dismissed (not armed) therefore defense atty should have argued for . . .;"
 - t. "Failed to object to trial court error-failed to object to hearsay evidence and improper argument [sic] made by prosecution;"
 - u. "Did not ever act as my advocate;"
 - v. "Counsel deficient for failing to object to improper charge [sic] of malice which improperly shifted the burden of proof from the state to the defendant + other matters that could otherwise be reviewed on direct appeal if not for defense counsels failure to properly preserve the issue;"
 - w. "Not arguing for defendant not to have to register on the sex offender's registry as part of plea agreement previously discussed;"

- x. "Failed to keep promises as part of plea, I was told by defendant counsel when I was asked if I was promised anything to say no even though I was promised things;"
- y. "Failed to run own tests on evidence as defense;"
- z. "Defense Attorney did not adequately [sic] argue the fact that the defendant was under the influence of mind altering medication at time of incident and as a result Diminished [sic] capacity doctrine applied to defense case;"
- aa. "Failure to assist the defendant through complete appeal process to the SC Court of Appeals causing appeal to be dismissed."
- 2. "Judges Errors/Government Agency Errors"
 - a. "Improper acceptance of plea due to defense counsel stating . . .;"
 - b. "Judges refusal to read letter that was written to the court 12 days prior on October 16, 2016 stating these issues I had with defense counsel and requesting new counsel to be appointed;"
 - c. "When defense counsel told judge I had an issue with his representation she should not have continued to accept plea (violates right to adequate [sic] counsel);"
 - d. "Arresting officers or victim possible agent of Berkeley county or Prosecutor's office that wasn't revealed to court or defense counsel. Defendant's family member heard talk of this a preliminary [sic] hearing but defense counsel never investigated properly."
- 3. "Involuntary [sic] plea"
 - a. "Not fully aware of constitutional rights and meanings;"
 - b. "Plea was unlawfully induced and not made voluntarily or within a complete understanding of the nature of the charges and inadequacies [sic] of plea potential;"
 - c. "Promised things to get me to plea that never happened or received;"
 - d. "Coerced by defense atty. as well as intimidated [sic] and threatened to get me to enter plea;"
 - e. "My atty. lead [sic] me to believe I could be sentenced to less than the cap requested by the prosecution if I pled guilty and that he would push for that because of my minimal criminal record;"
 - f. "I didn't understand I could withdraw my plea during the process my atty. told me doing so would only anger the judge and insure a life sentence."
- 4. "Violation of search & seizure;" and
 - a. "Search and seizure issues: Illegal search and seizure;"
 - b. "Police report of statements made at scene inadmissible because I was not mirandized at scene. I didn't sign my right (Miranda rights) sheet until 9-5-14, was held 9-4-14."
- 5. "Right of adequate representation."

In her *pro se* amendment to her original application, Applicant raised the following additional issues:

- 1. "Guilty plea was rendered involuntarily;"



2. "Arresting officers breach of its official investigation capacity misconduct in search and seizure of evidence obtained in violation of the 4th Amendment . . .,"
3. "Victim and/or victim's family member(s) are believed to be or have been employed by Berkeley County Sheriff's Dept. or the Solicitor's Office in an official capacity, acting as alter ego or were at the time of arrest and after without notifying defense or court;"
4. "The prosecution [sic] failed to prove mens rea in kidnapping charge and burden of proof was therefore shifted to defense which was never explained or discussed with defendant by her public defender;"
5. "Because victim was never harmed and released to a safe place, unharmed it constituted lesser charge of second degree kidnapping a lesser sentence when charge were discussed with defendants attorney he never seemed to want to argue for her, he only stating she was guilty;"
6. "Under the burden of proof for kidnapping § 48(a) states under some authority, all mental deficiencies and disorders when there is evidence of an underlying mental defect or disease, including conditions that causes loss of emotional control, may support a diminished capacity defense. Courts have determined that the exclusion of testimony evidence of P.T.S.D. constituted reversible error in prosecution for violent crimes . . .:
7. "The fact that the defendant suffers from P.T.S.D. and that it is documented in the State's ordered psychological evaluation should and did speak to § 48(a) diminished capacity defense . . . neither the prosecution or defense atty. was willing to make the court aware of this fact;"
8. "Because the garage door was open and force was not used to obtain entry into garage and unauthorized entry was not constituted regardless to the intent of the person entering. Reasonable belief that entry was allowed because defendant was never asked to leave, therefore entry was implied as agreeable and not unauthorized . . .;"
9. "Defendant never said she was guilty of burglary or kidnapping her response was 'the State says by their statute [sic] that I'm guilty, so I guess by the statute I'm guilty. The only crime the defendant plead guilty to was Assault and Battery of a High and Aggravated [sic] Nature which renderard [sic] the whole plea VOID;"
10. "The guilty plea was rendered involuntary. . . . I was on psych meds. definatly [sic] mind altering. . . . The guilty plea was not freely and voluntarily entered into. There was no guilty plea agreement entered prior to the hearing on October 28, 2016 to show that the (applicant) in this case at bar, freely and voluntarily waived her rights to a (trial by jury);"
 11. ". . .[T]he (applicant) maintains she didn't know prior to being woken up on the morning of October 28, 2016 by the C.O. that she was going to court that morning, that her attorney gave her his word that he would have her scheduled for Judge Dennis' Dockett [sic] or one of the visiting judges and she maintains she was harassed, threatened, and coerced by her public defender in various ways but that on October 28, 2016 he threatened that she would receive life in prison if she didn't plea guilty but in fact the 30 year sentence she received was in effect a life sentence for her at 46 years old. She also maintains she was under great duress caused by her court appointed attorney the entire time he was representing her. . . ."

12. "The (applicant) maintains that she wrote to the public defenders office on three separate occasions [sic] requesting that David Schwacke be replaced as her attorney, with no response before writing to the court on October 16, 2016 prior to the October 28th, plea date asking for her attorney to be changed due to his blatant [sic] ineffectiveness and because of his attitude towards her. . . .;"
13. "The Berkeley county sheriff searched a residence . . . in Dorchester County where the (applicant) did not reside and had last resided there in 1999 some 15 years prior removing items not belonging to applicant that many others used and had access to for the purpose of using as evidence against the (applicant) even though they belonged to (applicant's) daughter who live appart [sic] from (applicant) who's daughter advised law enforcement of such at the time of the search, and there were questions concerning warrant and searches which (applicant) has requested copies of warrant's (search) of from both her attorney David P. Schwacke and the solicitor in this case but have not been provided by either. . . .;"
14. " . . .The (applicant) did not freely waive her right to a jury trial, her right to confront her accuser nor did she willingly waive her right to appeal her guilty plea, (applicant's) attorney harassed, threatened, and intimidated her into doing so. . . .;"
15. " . . . Because of gun evidence that has only recently came [sic] to light the charges as charged do not apply causing all charges to be void. Also when (applicant) asked her attorney to investigate the evidence the solicitor planned to use and to have medical records subpoenaed he told (applicant) no his investigator was on medical leave. . . .;"
16. " . . .[T]he alleged deed was never carried out and completed it was left undone, the victim never left her own yard, never held for ransom, never moved a substantial distance (carried away) confined or abducted, the deed was left undone and unproven there by definition meaning no mens rea, no crime. . . . [D]efense attorney never informed the defendant of this and never argued any of this all he continually did was to tell the (applicant) she was guilty of the crime as charged. Defense attorney admitted to (applicant) several times that he had no defense prepared for her case if she chose to go to trial but would ask at the plea agreement that (applicant) not have to register on the registry but never followed through with that promise either. . . .;"
17. " . . .There was proof given to the defense and prosecution [sic] that such conditions[, mental disease or defect,] existed and was discussed with doctors during psychological eval. but defense refused to address it even when (applicant) told him she know [sic] something was wrong. . . .;"
18. "Defense counsel failed to object to hearsay evidence and improper argument [sic] of the prosecutor [sic];"
19. "Failure to keep promises of guilty plea and forced involuntary plea;"
20. " . . .[T]he State failed to disclose crucial evidence of the victim or victim's family members identity as a police or solicitor's agent for Berkeley Co.;"
21. "The property listed from [REDACTED] Ruth Ann Dr. Summerville, S.C. in Dorchester County was in violation of search and seizure because there was no probable cause for the warrant to obtain the items listed from that address . . .;"
22. " . . .[W]ith the denial of a right to appeal the guilty plea, when trial attorney did not advise or give any (instruction) on a guilty plea . . .;"
23. " . . .Procedural errors of criminal charges: Entering of a garage where the door is up and another door separates [sic] living space where no force was used to enter is not

1st degree Burglary and since the occurrence [sic] happened between 6 am – 6 pm the charge of First degree Burglary is incorrect . . .” and

24. “. . . Per People v. Picaroni Assault and Battery High and Aggravated [sic] Nature requires the intent, which was never proven to exist nor did intent exist to cause serious injury, there was no serious bodily injury, no indifference to human life, on the contrary the (Applicant) offered to assist the victim and call for (medical attention) help when the (victim) said she had gone into labor and her water had broken. The statute for ABHAN requiers [sic] that the perpatrator [sic] could be found guilty of manslaughter had the victim died which with no intent and indifference to life did not apply. Therefore this was an inadquate [sic] charge for this case at bar.”

Finally, in her “First Amendment to Prior Application for PCR,” submitted through her counsel, Applicant raised the following additional ground for relief:

1. “Applicant’s relationship with plea counsel deteriorated to the point counsel should have requested to be relieved from Applicant’s case and new counsel appointed. Counsel’s failure to do so resulted in an involuntary guilty plea.”

At the evidentiary hearing, Applicant proceeded forward on the allegations raised in her “First Amendment to Prior Application for PCR,” as well as allegations plea counsel was ineffective for failing to investigate Applicant’s prior history of mental health problems, failing to investigate the victim and her family’s employment with Berkeley County, failing to appeal, and failing to challenge the search warrant.

STATEMENTS OF FACTS ADDUCED AT THE PLEA

On September 4, 2014, a woman wearing a wig was seen in the Cane Bay neighborhood of Summerville, South Carolina, looking into the windows of various house. Tr. 12. The next day, September 5, 2014, the same woman was seen at the victim’s home. Tr. 12. The woman wearing the wig was Applicant. Tr. 12.

The victim, who was thirty-seven weeks pregnant at the time, had just returned home from the grocery store with her two young children. Tr. 12-13. As she was unloading groceries, Applicant approached the victim with a loaded pistol. Tr. 13, 18. Applicant told the victim she

would kill her, her children, and her unborn child if she did not go with her. Tr. 13. Applicant then grabbed the victim by her baby bump and led the victim to the back of the home, where Applicant had parked her car. Tr. 13, 18-19. The victim, however, pretended to go into labor and was able to wrestle the gun away from Applicant and throw the gun into a pond nearby. Tr. 13, 19. Applicant then grabbed the victim by her hair and began punching her. Tr. 19. The victim then screamed for help, and a neighbor came over, tackled Applicant, and sat on her until law enforcement could arrive. Tr. 13, 19.

When law enforcement arrived, they recovered the gun, which was a forty-five caliber pistol containing one round. Tr. 13. A magazine for the gun was also found in Applicant's car. Tr. 13. In addition to the magazine, law enforcement officers also found a baby bracelet containing the name "Baby Girl Gordon," a car seat, bottle, baby formula, infant clothing, rubber gloves, a new shovel, tarp, and a list containing the items scalpel and clamps in Applicant's car. Tr. 13-14. Also in the car was a wrist band that would be for a mother who had just given birth and a syringe containing the sedative diphenhydramine. Tr. 14.

Further investigation revealed Applicant had been pretending to be pregnant for months, despite having a hysterectomy ten years before. Tr. 14. Because of her fake pregnancy, Applicant and her boyfriend had furnished a full nursery, and her boyfriend's mother had traveled from out-of-state for the birth of the baby. Tr. 14.

Upon her arrest, Applicant told law enforcement she had come up with this plan with the victim's husband. Tr. 15. She also gave a fake name for the victim's husband, explaining the two would meet in a bar and she would refer to him by that name. Tr. 15. Law enforcement then obtained the victim's husband's cellphone and discovered there had been no contact between him and Applicant. Tr. 15.



Applicant's son also gave a statement to the police. Tr. 17. In that statement, he indicated Applicant is very manipulative, and this was not the first time she had done something like this. Tr. 17.

While in the county jail, Applicant had three other inmates send letters to the victim. Tr. 15. Applicant told these inmates the letters were for a psychiatrist, and they were to write the letter and return it to Applicant. Tr. 15-16. In addition to these letters, which were sent in February 2016, Applicant also wrote to the solicitor, encouraging her to speak with the victim and ask her not to ask for a lengthy sentence. Tr. 16.

Applicant was also evaluated for competency and criminal responsibility. Tr. 17. In both of those evaluations, Applicant was found competent and criminally responsible. Tr. 17. The evaluation further showed she was feigning symptoms and pretending to be psychotic. Tr. 17.

TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

At the evidentiary hearing, Applicant testified on her own behalf. Respondent presented testimony from plea counsel, Assistant Public Defender David P. Schwacke, (hereinafter "Counsel"), as well as Assistant Solicitor Anne M. Williams. This Court also had before it a copy of Applicant's plea transcript, the records of the Berkeley County Clerk of Court, Applicant's appellate records, and Applicant's records from the South Carolina Department of Corrections.

During the evidentiary hearing, Applicant testified she is currently incarcerated for kidnapping, assault and battery of a high and aggravated nature (ABHAN), and first-degree burglary; but she was originally charged with a weapons charge and attempted murder. She elaborated she did not plead to attempted murder and would not have pled to ABHAN because it

is a lesser-included offense of attempted murder. She also testified she was arrested on September 4, 2014 and pled guilty on October 28, 2016. She further testified around the time of this incident, she was self-medicating, so everything was hazy.

Applicant denied having a gun at the time of the crime and testified she had never seen a gun. She further testified she hit the victim, and the victim bit her. She elaborated she was running from the neighbor because he said he was calling 911. She elaborated the neighbor alleged he was a member of law enforcement and tackled her to the ground. She testified she had a baby bracelet, clothes, and a car seat in her car because she has an eleventh-month-old granddaughter. She further testified she had the shovel in her car because she had taken it to the cemetery, and she had subsequently cleaned it off. She also testified she had tarp and rope in her car because she was moving, and she had a list of surgical items because she had taken them from her mother's house, but they were not in the car.

Applicant testified Counsel was her only lawyer and was appointed within the first month of her arrest. She further testified they met approximately twelve times over a twenty-six month period, and the two did not get along. She elaborated Counsel did not review discovery materials with her but sent her a copy. She further elaborated she was overwhelmed by the discovery. She also testified based on her research in the jail, she told Counsel the charges were not the appropriate charges in her case, but Counsel told her "you're guilty, what do you want me to do?" She further testified she was not guilty of first-degree burglary. Applicant elaborated she was unable to help Counsel with her defense, as he was not open to anything.

Applicant also testified Counsel did not have a trial strategy, and they did not discuss any strategy or any possible defenses. She testified she asked Counsel about raising a possible defense, but Counsel told her it was not applicable. She also testified she asked Counsel for a

psychologic evaluation. She testified Counsel continued to tell her she would go to prison for her life but never asked whether or not she was guilty. Applicant further testified Counsel never explained to her mens rea and the necessary intent required for these charges, particularly kidnapping. She elaborated Counsel never explained malice aforethought to her. She further elaborated because she had no understanding of the necessary elements of each charge, she would not have pled.

Applicant testified Counsel never investigated the victim and her family's employment with Berkeley County. She elaborated someone told her the victim was a victim's advocate. She further elaborated Counsel inquired to the solicitor about this alleged employment, but Counsel indicated the victim never worked as a victim's advocate. Applicant also testified Counsel's investigator was out on sick leave during this time.

Applicant testified had Counsel investigated her mental health history, it would have assisted in explaining her reasoning at the time of these crimes. Applicant further elaborated she asked for a psychological evaluation, and she complained to the evaluators about Counsel. She testified at the evaluation she was found competent and criminally responsible. She further testified she was found to be feigning symptoms during her evaluation, but the evaluators "did not know what was going on in her head."

She also testified she had issues with the search warrants that were issued, but she does not know how they work. She elaborated law enforcement served the warrant on her seventeen-year-old child, who did not have access to Applicant's belongings. She further elaborated law enforcement obtained a search warrant for her deceased mother's cellphone. Applicant also testified Counsel never told her she could challenge the warrants, and when she asked for copies of the warrants, he refused to provide them to her.



She testified she sent a letter to the Public Defender's Office in March or April 2016, indicating she was not comfortable with Counsel and asking for a new attorney. She elaborated no one replied. She further testified she requested a different attorney twice during her psychological evaluation but also received no reply. Applicant testified she told Counsel three times she wanted a new attorney, but he told her he was still her attorney. She elaborated it was not until her third letter to the Public Defender's Office or to Counsel that Counsel visited her regarding her request for a new attorney.

Applicant further testified she attempted to hire and spoke with another lawyer, but her children had taken the money out of her bank account, so she could not afford to hire new counsel. Applicant testified she never made a motion to relieve counsel, because she did not know that she could make such a motion.

Applicant also testified she sent a letter to the court on October 19th asking for Counsel to be removed and asking for a new attorney. She further testified when the plea court asked her if she had any complaints of Counsel she told the plea court she did not have any complaints. She elaborated she did not detail any of her complaints from her letter to the plea court. She elaborated she was unaware she would be coming to court for a plea, and Counsel never discussed the plea with her. She further elaborated on the morning of her plea, Counsel reviewed the rules with her, during which they got into a verbal altercation. Applicant testified Counsel promised her she would not have to plead before Judge Harrington, but rather would be able to plead before the Honorable R. Markley Dennis, Jr. She also testified Counsel told her the plea was the only option that day, and she would have to "give a little to get a little." Applicant elaborated Counsel told her not to raise any issues with him before the plea court, as she would only "piss off" the court.

A handwritten signature in black ink, consisting of a large, stylized capital 'P' followed by a cursive 'er'.

Applicant further testified she called her daughter the morning of the plea, and they had a discussion prior to her plea. She elaborated the letters she had written prior to the plea had an effect on her decision to plead.

Applicant testified she did not want to plead guilty, as she suffers from post-traumatic stress disorder and anxiety. She testified because she did not have an understanding of the elements of the charges, she would not have pled. She further testified because Counsel was yelling and cursing at her, she was scared and did not know what to do. She elaborated because Counsel was not open to anything, she had no way of helping him prepare her defense. Applicant also testified the plea court erred by accepting the plea, because Applicant's issues with Counsel were on the record. She elaborated Counsel admitted the breakdown in their relationship at the plea. She further elaborated the plea court's acceptance of her plea biased her case.

Applicant also testified at the plea, she told the court she was satisfied with Counsel. She testified the plea court reviewed her right to a jury trial and each of her rights at trial with her, to which she responded she understood. She further testified she told the plea court she was waiving those rights.

She testified the Counsel told her after the plea the only thing he could do was file an appeal, and she had twenty days to explain to the Court of Appeals her reasons for appealing. She further testified she believed this was Counsel's job as her attorney. She elaborated she wrote a letter to the Court of Appeals, in which she complained about Counsel.

Following Applicant's testimony, Respondent presented the testimony of Counsel. Counsel testified he has been practicing law since 1981, and he has been working at the Public Defender's Office full-time since 2007. He elaborated from 2002 to 2007, he was working part-



time at the Public Defender's Office. He testified he was appointed to Applicant's case on September 9, 2014, and he had the case for two years. He elaborated he met with Applicant fifteen times. He further testified during these meetings, Applicant gave him multiple accounts of this incident, and several times she indicated she did not remember anything except for waking up in the jail. He testified he reviewed the discovery material with Applicant and discussed the elements of each charge. He elaborated they also discussed possible defenses.

Counsel also testified he attempted to develop a defense within the facts and thought he could attempt a criminal responsibility defense. He elaborated, however, based on his investigation, he had no confidence in that defense.

Counsel testified because Applicant alleged she could not remember the incident, she was evaluated by the State at the Medical University of South Carolina for competency and criminal responsibility. He elaborated the State found she was both competent and criminally responsible. He also testified he had her evaluated independently by Dr. Knight, whose findings were consistent with those of the State.

Counsel testified he discussed with the State numerous times about a plea, and they went back and forth between a recommendation and a negotiation. He elaborated he sent a number of requests to the State asking them to reduce the charges, which he discussed with Applicant. He elaborated he discussed the consequences of the plea with Applicant and also discussed her constitutional rights. He testified it was Applicant's decision to plead guilty, and had she decided to go to trial, he would have been ready.

Counsel also testified he and Applicant were not friends during his representation of her, but that is not his job as a defense attorney. He elaborated his responsibility was to ensure Applicant was fully informed of everything so that she could make good decisions. He further

elaborated he had no reason to move to be relieved as Applicant's counsel. He testified although they had firm discussions, they were productive. He explained at times, Applicant did not want to hear what he had to say, but he explained the facts were what they were. Counsel also testified he did everything Applicant asked him to, and he left nothing on the table.

He also testified Applicant asked him to investigate whether or not the victim was employed by the Berkeley County Sheriff's Office. He elaborated he contacted the Solicitor's Office, and no one had any information regarding the alleged employment. He elaborated there was no conflict.

Counsel testified his representation of Applicant was not strained during the entire course of representation. He elaborated at times, Applicant would glare at him and would not want to hear what he had to tell her. He further elaborated the only correspondence he received from Applicant regarding her discontent was the last letter she sent, which they discussed at the jail. He explained during this conversation Applicant informed him she did not want him to be her attorney anymore, to which he replied she could take it up with the judge if she wanted. He further explained he explained to Applicant the court would explain to her she was not entitled to her choice of Public Defenders should she move for Counsel to be relieved. He also testified he and Applicant did not discuss relieving him as her counsel prior to the plea. He elaborated they had a couple of boisterous discussions, but they were not arguing. He further elaborated he did this in an effort to get his point across. Counsel also testified he did not ask to be relieved, as he was handling Applicant's case appropriately.

Counsel testified prior to the plea, he told the Applicant to respond respectfully, but never told her how to answer the court's questions. He elaborated he typically informs his clients of the questions they will be asked prior to the plea.

He elaborated Applicant indicated he was not doing what she wanted him to do and felt he was working for the State, rather than her. Counsel also testified at the plea, Applicant informed the court she had sent her a letter, but he did not recall if he and Applicant ever had a discussion about that letter, as he has never seen the letter to the court.

He also testified Applicant's hesitation at the plea concerning her first-degree burglary charge was due to some incorrect information she had been provided by "jailhouse lawyers." He elaborated he explained to Applicant the elements and further explained to her that a garage qualified as part of the home for a conviction of first-degree burglary.

Counsel testified with regards to an appeal, he files a notice of appeal if his client wishes him to do. He elaborated he filed an appeal in this case, but there was no appealable issue, as this was a negotiated plea and the sentence was within the appropriate range.

Following Counsel's testimony, Assistant Solicitor Anne M. Williams testified. Assistant Solicitor Williams testified she has been practicing law for twenty years, ten of which have been in South Carolina and ten of which have been in Arkansas.

She testified Applicant did not know the victim, but somehow Applicant found out the victim was pregnant. She elaborated the day before this incident, Applicant was seen outside of the victim's home, which was on camera. She testified on this day, while the victim's toddlers were in the garage, Applicant accosted the victim and led her to her car. She elaborated a neighbor saw them wrestling, which was also captured on video. She further elaborated the victim was able to throw Applicant's gun into a pond nearby. She also testified inside Applicant's car was a syringe containing a horse tranquilizer, baby clothes, a baby bracelet, a car seat, a list indicating scalpel and clamps, a brand new shovel, tarps, and a rope. Assistant

Solicitor Williams also testified around this time, Applicant had been pretending to be pregnant and had posted pictures of the nursery she and her boyfriend set up.

She also testified because of the oddity of these facts, everyone was concerned whether or not Applicant was in the right state of mind. She explained Applicant made admissions in her letter but indicated she had blacked out during the incident. She further explained she had Applicant evaluated for competency and criminal responsibility. She elaborated Applicant was found competent, criminally responsible, and to be feigning symptoms at the evaluation.

Assistant Solicitor Williams also testified she and Counsel entered into plea negotiations. She explained the victim did not want Applicant to have any chance of getting out of prison and did not want the State to make any plea offers, because Applicant had immediately attempted to contact the victim after this incident. She further explained Applicant had people in the jail send letters to the victim. She also testified after a while, due to the victim's distress and believing a plea would be the better route, Counsel negotiated a cap of thirty years. She further testified at the eleventh hour, Applicant did not want to plead to attempted murder or the weapons charge.

She also testified had Applicant not accepted the plea and proceeded to trial, she would have sought a life sentence. She further testified Applicant's on wrote her a letter indicating this was not the first time Applicant had done something like this and he was prepared to testify at her trial.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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



testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

Ineffective Assistance of Counsel

In a post-conviction relief action, an applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant alleges ineffective assistance of counsel as a ground for relief, the applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668 (1984); *Butler*, 286 S.C. 441, 334 S.E.2d 813.

The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Butler*, 286 S.C. 441, 334 S.E.2d 813. The applicant must overcome this presumption to receive relief. *Cherry v. State*, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." *Cherry*, 300 S.C. at 117, 385 S.E.2d at 625 (citing *Strickland*). 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. In order to satisfy the prejudice prong of this test following a guilty plea, the applicant "must show that there is a reasonable probability that, but

for counsel's errors, [s]he would not have pleaded guilty and would have insisted on going to trial." *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

After careful review based on the standard discussed above, this Court finds Applicant has failed to carry her burden in this action. Below are this Court's findings in regards to each of Applicant's allegations of ineffective assistance of counsel.

Counsel's alleged failure to investigate Applicant's prior mental health history

Applicant alleges Counsel was ineffective for failing to investigate Applicant's prior mental health history. Applicant further contends had Counsel investigated her previous mental health issues, it would have helped explain her actions.

"Although counsel should conduct a reasonable investigation into potential defenses, *Strickland* does not impose a constitutional requirement that counsel uncover every scrap of evidence that could conceivably help their client." *Tucker v. Ozmint*, 350 F.3d 433, 442 (4th Cir. 2003) (quoting *Green v. French*, 143 F.3d 865, 892 (4th Cir. 1998)). Moreover, "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), *abrogated on other grounds by Smalls v. State*, 422 S.C. 174, 810 S.E.2d 836, 839 (2018) (citing *Moorehead v. State*, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)). "In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments." *Wiggins v. Smith*, 539 U.S. 510, 521-22 (2003). Here, Counsel testified Applicant was evaluated not only by the State's experts but also by an independent mental health expert. The results of these evaluations were consistent, indicating

Applicant was not only criminal responsible and competent but also feigning symptoms. As Counsel did, in fact, investigate whether or not he would have a viable defense based on Applicant's mental health, this Court finds Applicant has wholly failed to establish any deficiency on the part of Counsel.

Similarly, this Court finds Applicant has failed to establish any resulting prejudice from this alleged deficiency. Because Applicant neither produced any medical records concerning her mental health "nor offered the testimony [of some mental health expert] in some other manner consistent with the rules of evidence," what this additional testimony would have been, and similarly what her medical records would have shown, is "purely speculative." *Bannister v. State*, 333 S.C. 298, 304, 509 S.E.2d 807, 810 (1998). This Court finds this allegation must be denied and dismissed with prejudice.

*Counsel's alleged failure to investigate the victim's alleged
employment with Berkeley County*

Applicant alleges Counsel was ineffective for failing to investigate the victim's alleged employment with Berkeley County. Specifically, Applicant alleges Counsel was ineffective for failing to investigate whether or not the victim was employed with the Berkeley County Solicitor's Office. This Court finds Applicant has wholly failed to establish any deficiency on the part of Counsel or any resulting prejudice therefrom. When asked by Applicant to investigate the victim's alleged employment with the Berkeley County Solicitor's Office, Counsel contacted the Solicitor's Office to inquire whether or not the victim worked there. This investigation proved fruitless, as there is no indication whatsoever the victim had any connection to the Solicitor's Office. Moreover, even if the victim had a connection to the Solicitor's Office,



no conflict would exist such that it would prejudice Applicant. Based on the foregoing, this allegation is denied and dismissed with prejudice.

Counsel's alleged failure to appeal

Applicant alleges Counsel was ineffective for failing to assist her with her appeal. Counsel has a constitutionally-imposed duty to consult with a defendant about an appeal when there is reason to think either: (1) that a rational defendant would want to appeal or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. *Roe v. Flores-Ortega*, 528 U.S. 470 (2000). When a defendant has pled guilty, "there must be proof that extraordinary circumstances exist, such as where a defendant inquires about an appeal, in order for counsel to be required to advise a defendant of the right to appeal." *Rolen v. State*, 384 S.C. 409, 415, 683 S.E.2d 471, 474-75 (2009) (citing *Weathers v. State*, 319 S.C. 59, 61, 459 S.E.2d 838, 839 (1995)). When counsel has consulted with the defendant regarding the right to appeal, "Counsel performs in a professionally unreasonable manner *only* by failing to follow the defendant's express instructions with respect to an appeal." *Flores-Ortega*, 528 at 478 (emphasis added).

Here, Counsel testified Applicant asked him to appeal, so he filed a notice of appeal. "If the appeal is from a guilty plea, . . . a written explanation showing that there is an issue which can be reviewed on appeal" must accompany the notice of appeal. Rule 203(d)(1)(B)(iv), SCACR. Such an explanation should "identify the issue(s) to be raised on appeal and the factual basis for the issue(s) including how the issue(s) was raised below and the ruling of the lower court on that issue(s)." *Id.* Counsel testified, however, there were no appealable issues from Applicant's guilty plea, as it was a negotiated plea and the sentence was within the statutory requirements. Based on the foregoing, this Court finds Applicant has wholly failed to establish

Counsel was deficient or suffered any resulting prejudice from this alleged deficiency. Accordingly, this allegation must be denied and dismissed with prejudice.

Counsel's alleged failure to challenge the search warrant

Applicant contends Counsel was ineffective for failing to challenge the search warrant. Specifically, Applicant contends law enforcement served the warrant on her seventeen-year-old child, who did not have access to Applicant's belongings, and they obtained a warrant for her mother's cellphone. Applicant, however, has wholly failed to establish any basis on which Counsel should have challenged the search warrants. Accordingly, this allegation must be denied and dismissed with prejudice.

Involuntary Guilty Plea

Applicant further alleges her guilty plea was not voluntarily made. This Court finds Applicant's guilty plea was freely and voluntarily made. In evaluating issues concerning guilty pleas, this Court will consider the entire record, including the transcript of the guilty pleas and the evidence presented at the post-conviction relief hearing. *Roddy v. State*, 339 S.C. 29, 528 S.E.2d 418 (2000). Voluntariness of a guilty plea is not merely determined by an examination of a specific inquiry by the plea court alone but rather is determined by the record of both the guilty plea proceeding and the post-conviction relief hearing. *Id.* In order to find a guilty plea was knowingly and voluntarily entered into, the record must establish the defendant had a full understanding of the consequences of her plea and the charges against her. *Boykin v. Alabama*, 395 U.S. 238 (1969). 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 v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 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 [s]he should be allowed to depart from the truth of [her] statements." *Id.* (citing *Crawford v. United States*, 519 F.2d 347 (4th Cir. 1975)); *Edmonds v. Lewis*, 546 F.2d 566 (4th Cir. 1976).

This Court finds this allegation is without merit, and Applicant has failed to carry her burden of proving that her guilty plea was involuntarily made. This Court further finds Applicant's plea was entered into freely and voluntarily. The record before this Court reflects that the plea court thoroughly reviewed all of Applicant's constitutional rights with her, including her right to a jury trial. Upon explanation of each constitutional right, Applicant indicated she understood and waived her constitutional rights. Applicant further indicated she no one had promised her anything, threatened her, or forced her to plead guilty.

Furthermore, this Court finds Counsel's testimony concerning this allegation credible, whereas Applicant's testimony is not credible. Specifically, Counsel testified he reviewed all discovery materials with Applicant and reviewed all of the elements which the State would be required to prove at trial to Applicant. Moreover, Counsel testified although he was not friends with Applicant and Applicant was difficult to work with at times, he was able to fully inform her of the consequences of her plea, her constitutional rights, and able to fully inform her of the circumstances so that she could make a decision regarding whether or not to plead.

Therefore, this Court finds Applicant had a full understanding of the consequences of her plea and the charges against her, and the plea court correctly found Applicant's plea was freely, voluntarily, and intelligently made. Consequently, this allegation must be denied and dismissed with prejudice.

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 her application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

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

IT IS THEREFORE ORDERED:

1. That this application for post-conviction relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to and remain in the custody of the State

AND IT IS SO ORDERED this _____ day of 7/18, 2018.

 ROGER M. YOUNG, SR.
 Presiding Judge
 Ninth Judicial Circuit

 _____, South Carolina

AMW2014-09-01994

WITNESSES

[Signature]

Berkeley County Sheriff's Office

AGENCY CASE NUMBER

201409041944

ARREST WARRANT NUMBER

2014A0810401021

DATE OF ARREST

September 5, 2014

ACTION OF GRAND JURY

True Bill

Thomas Mackie Jr.
Foreperson of Grand Jury

Date: 12-16-14

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2014GS0801883

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

December Term 2014

THE STATE

vs.

JULIE LYNN GOOKINS

DOB: [REDACTED]
/F

Indictment for

Burglary, First Degree

FILED
14 DEC 16 PM 1:47
CLERK OF COURT
BERKELEY COUNTY, S.C.

CLP

189

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

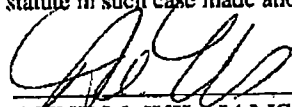
INDICTMENT

At a Court of General Sessions, convened on December 16, 2014 the Grand Jurors of Berkeley County present upon their oath:

Burglary, First Degree

That Julie Lynn Gookins did in Berkeley County, South Carolina, on or about September 4, 2014, enter the dwelling of Cassandra Faylor, located at [REDACTED] Decatur Drive, without consent and with the intent to commit a crime therein. That, in addition, the defendant was armed with a semi-automatic handgun; in violation of Section 16-11-311 of the South Carolina Code of Laws (1976) as amended.

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



ANNE M. WILLIAMS
ASSISTANT SOLICITOR

AMW2014-09-01994

WITNESSES

[Signature]

Berkeley County Sheriff's Office

AGENCY CASE NUMBER

201409041944

ARREST WARRANT NUMBER

2014A0810401022

DATE OF ARREST

September 5, 2014

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury

Date: 12-16-14

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2014GS0801884

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

December Term 2014

THE STATE

vs.

JULIE LYNN GOOKINS

DOB: [REDACTED]

/F

Indictment for

Kidnapping

FILED
-14 DEC 16 PM 1:47
CLERK OF COURT
BERKELEY COUNTY, S.C.

CLSA

197

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

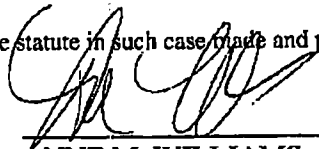
INDICTMENT

At a Court of General Sessions, convened on December 16, 2014 the Grand Jurors of Berkeley County present upon their oath:

Kidnapping

That Julie Lynn Gookins did in Berkeley County, South Carolina, on or about September 4, 2014, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one Cassondra Faylor, without authority of law, in violation of Section 16-03-910 of the South Carolina Code of Laws (1976) as amended.

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



ANNE M. WILLIAMS
ASSISTANT SOLICITOR

AMW2014-09-01994

WITNESSES

[Signature]
Berkeley County Sheriff's Office

AGENCY CASE NUMBER

201409041955

ARREST WARRANT NUMBER

2014A0810401023

DATE OF ARREST

September 5, 2014

ACTION OF GRAND JURY

True Bill

Thomas Martin Jr.
Foreperson of Grand Jury

Date: *12-16-14*

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2014GS0801885

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

December Term 2014

THE STATE

VS.

JULIE LYNN GOOKINS

DOB: [REDACTED]

/F

Indictment for

Possession of a Weapon During the
Commission of a Violent Crime

FILED
14 DEC 16 PM 1:47
CLERK OF COURT
BERKELEY COUNTY, S.C.

CLS

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

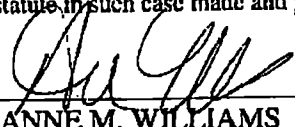
INDICTMENT

At a Court of General Sessions, convened on December 16, 2014 the Grand Jurors of Berkeley County.
present upon their oath:

Possession of a Weapon During the Commission of a Violent Crime

That Julie Lynn Gookins did in Berkeley County, South Carolina, on or about September 4, 2014, possess a semi-automatic handgun or visibly display what appeared to be a handgun during the commission, or attempted commission, of attempted murder, a violent crime. This is in violation of 16-23-490 of the South Carolina Code of Laws, (1976) as amended.

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



ANNE M. WILLIAMS
ASSISTANT SOLICITOR

AMW2014-09-01994

WITNESSES

Berkeley County Sheriff's Office

AGENCY CASE NUMBER

201409041944

ARREST WARRANT NUMBER

2014A0810401025

DATE OF ARREST

September 5, 2014

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: 12-16-14

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2014GS0801886

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

December Term 2014

THE STATE

vs.

JULIE LYNN GOOKINS

DOB: [REDACTED]
/F

Indictment for

Attempted Murder

FILED
14 DEC 16 PM 1:47
CLERK OF COURT
BERKELEY COUNTY, S.C.

CLP

195

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

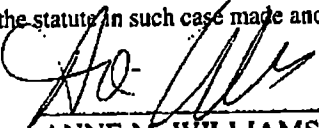
INDICTMENT

At a Court of General Sessions, convened on December 16, 2014 the Grand Jurors of Berkeley County present upon their oath:

Attempted Murder

That Julie Lynn Gookins did in Berkeley County, South Carolina, on or about September 4, 2014, willfully, feloniously, and intentionally attempt to kill another person, Cassondra Faylor, with malice aforethought, either expressed or implied, by means of a handgun, in violation of §16-03-0029 of the South Carolina Code of Laws (1976) as amended.

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



ANNE M. WILLIAMS
ASSISTANT SOLICITOR