

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Spartanburg County

Honorable Larry B. Hyman, Circuit Court Judge

CHRISTOPHER HAMPTON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-002374

APPENDIX

WANDA H. CARTER
Deputy Chief Appellate Defender

ALAN WILSON
Attorney General

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

JOHNNY ELLIS JAMES, JR.
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street
Columbia, SC 29201

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

INDEX

INDEX i

GUILTY PLEA TRANSCRIPT DATED APRIL 3, 20061

PCR ORDER OF DISMISSAL (2006-CP-42-3049) FILED NOVEMBER 5, 200746

APPLICATION FOR POST-CONVICTION RELIEF (2014-CP-42-1197)
FILED MARCH 24, 2014.....60

AMENDED APPLICATION FOR POST-CONVICTION RELIEF (2014-CP-42-1197)
FILED APRIL 15, 2014.....70

RETURN AND MOTION TO DISMISS (2014-CP-42-1197)80

POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED NOVEMBER 9, 201586

ORDER GRANTING RELIEF (2014-CP-42-1197) FILED OCTOBER 16, 201791

NOTICE OF APPEAL FILED NOVEMBER 8, 2017100

PCR HEARING RECONSTRUCTION TRANSCRIPT DATED NOVEMBER 26, 2018101

INDICTMENTS172

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG

2005-GS-42-3629

_____)
 THE STATE OF SOUTH CAROLINA,)
)
 -vs-)
)
 CHRISTOPHER L. HAMPTON,)
)
 Defendant.)
 _____)

TRANSCRIPT OF RECORD

April 3, 2006
Spartanburg, South Carolina

Ordered: October 5, 2006
Delivered: December 6, 2006

B E F O R E:

THE HONORABLE JOHN C. FEW, Presiding Judge.

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

MR. TREY GOWDY, Esquire
Solicitor for the State

MR. MICHAEL BARTOSH, Esquire
Attorney for the Defendant

Handwritten signature: Pamela Faucette
 Pamela Faucette
 Circuit Court Reporter

ATTORNEY GENERAL'S OFFICE

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I N D E X

State's Witnesses: Page:

(None)

Defendant's Witnesses: Page:

(None)

E X H I B I T S

State's Exhibits:	Marked:	Received:
1 - (Waiver and Statement)	15	15
2 - (Drawing and Ms. Huston's Family's Statements)	31	(Not Offered)

Defendant's Exhibits: Marked: Received:

(None)

Court's Exhibits: Marked: Received:

(None)

Recitation of Facts.....12

Prior Criminal Record.....15

Comments by Victim's Family/Friends.....20

Mr. Bartosh's Comments on Behalf of the Defendant.....40

Sentencing.....44

Reporter's Certification.....45

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1 April 3, 2006 PROCEEDING 10:33 a.m.

2 (Mr. Bartosh and Mr. Hampton step forward for plea.)

3 MR. GOWDY: Morning, Your Honor.

4 THE COURT: Good morning.

5 MR. GOWDY: This is The State of South Carolina v.

6 Christopher L. Hampton. It's indictment number 2005-GS-42-

7 3629. It's an indictment for murder, which has been true

8 billed.

9 Mr. Hampton is represented by Mr. Michael Bartosh. He is
10 standing before the Court to change his previously entered plea
11 of not guilty to a plea of guilty for murder. It is without
12 recommendation or negotiation, Your Honor.

13 THE COURT: Can you verify that you have complied with
14 the Victims' Rights Act?

15 MR. GOWDY: Yes, sir, Your Honor. The first two and a
16 half rows of the courtroom are Tamika Huston's family and
17 friends, Your Honor.

18 THE COURT: Mr. Bartosh, good morning.

19 MR. BARTOSH: Good morning, Your Honor.

20 THE COURT: You represent Mr. Hampton?

21 MR. BARTOSH: I do.

22 THE COURT: Have you explained to him the crucial
23 elements that the State would have to prove in order to convict
24 him of this crime, the maximum and minimum punishment that he
25 faces, and all of his Constitutional Rights?

1 client is competent to stand trial?

2 MR. BARTOSH: Yes, sir.

3 THE COURT: Are you aware of anything, in regards to his
4 state of mind, any mental issues, that I need to know about at
5 this time?

6 MR. BARTOSH: No, sir.

7 THE COURT: Mr. Hampton, is there anything regarding your
8 ability to understand what you're doing here this morning that
9 I need to understand?

10 THE DEFENDANT: No, sir.

11 THE COURT: You haven't taken any medication or anything
12 like that?

13 THE DEFENDANT: No, sir.

14 THE COURT: All right. You're thinking clearly this
15 morning?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right.

18 (Brief Pause)

19 THE COURT: Mr. Hampton, you're charged with murder.
20 That carries a minimum of thirty (30) years in prison. And it
21 carries a maximum of a life sentence. Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Now, this is a crime that is classified as a
24 violent crime and as a most serious crime. Do you understand
25 what those two classifications mean?

CHRISTOPHER HAMPTON GUILTY PLEA - April 3, 2006 Page 6

1 THE DEFENDANT: Yes, sir.

2 THE COURT: You've talked about that with Mr. Bartosh?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Now, because this crime is classified as
5 violent, and really because it is a murder crime -- a murder
6 charge, you will not be eligible for parole on whatever
7 sentence that you get. In other words, if you get a -- a life
8 sentence, then, you'll have to serve the entire sentence and
9 you will never be released from prison. Do you understand
10 that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: If you get anything less than life, then, you
13 will have to serve that sentence day-per-day. In other words,
14 you'll have to serve the entire sentence, and there is no
15 opportunity for you to be released early. Do you understand
16 that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And this is a crime that is classified, under
19 South Carolina law, as a most serious crime. That means you're
20 subjected to the State's two strikes and three strikes law.

21 If you're ever convicted of one more most serious crime,
22 then, regardless of what the maximum pun -- penalty is for that
23 crime, you would face a mandatory life sentence. Do you
24 understand that?

25 THE DEFENDANT: Yes, sir.

1 (Brief Pause)

2 THE COURT: When you plead guilty, you give up very
3 important Constitutional Rights, including your right to a
4 trial by jury. You also have the right to remain silent, the
5 right against self incrimination.

6 You're entitled to the presumption of innocence, and that
7 means that, if you were to stand trial on this charge, then,
8 you would be presumed innocent. And, in order to convict you,
9 the State would have to prove you guilty beyond a reasonable
10 doubt.

11 And, at trial, you would have the right to confront
12 witnesses called by the State to testify against you. Do you
13 understand all of those rights?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: You've discussed each of those rights with
16 Mr. Bartosh before?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you wish to give up all those rights and
19 plead guilty?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Are you completely satisfied with your
22 attorney?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Has he done everything in this case that you
25 feel he could have done or should have done?

CHRISTOPHER HAMPTON GUILTY PLEA - April 3, 2006 Page 8

1 **THE DEFENDANT:** Yes, sir.

2 **THE COURT:** Has he done anything in this case that you
3 feel he should not have done?

4 **THE DEFENDANT:** No, sir.

5 **THE COURT:** Now, do you have any complaint that you want
6 to make to me, about anything in this case, regarding your
7 attorney, regarding the solicitor's office, regarding law
8 enforcement, anybody?

9 **THE DEFENDANT:** No, sir.

10 **THE COURT:** Now, Mr. Hampton, you are on the trial
11 docket for this morning. And, if you choose to exercise your
12 right to a trial by jury, then, in just a few minutes, we will
13 qualify the jury and then, we will select a jury for your
14 case. Do you understand that?

15 **THE DEFENDANT:** Yes, sir.

16 **THE COURT:** Now, if you decide to exercise your right to
17 a trial by jury, are you satisfied that Mr. Bartosh is fully
18 prepared to defend you in the trial of this case today?

19 **THE DEFENDANT:** Yes, sir.

20 **THE COURT:** All right. You're not just pleading guilty
21 because you're going to trial today, are you?

22 **THE DEFENDANT:** No, sir.

23 **THE COURT:** You're not worried about going to trial?

24 **THE DEFENDANT:** No, sir.

25 **THE COURT:** All right. You're -- you're -- you're --

1 if you chose to exercise your right, to a trial by jury,
2 you're satisfied that Mr. Bartosh is ready to defend you?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: All right. Now, are you guilty of the crime
5 of murder?

6 THE DEFENDANT: Yes, sir.

7 (Brief Pause)

8 THE COURT: Do you agree that, if you exercised your
9 right to a trial by jury, that the State could produce
10 sufficient evidence to convict -- to convince the jury, beyond
11 a reasonable doubt, that you are guilty of the crime of murder
12 and that you would most probably be convicted?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Mr. Hampton, has anybody promised you
15 anything or held out any hope of reward in order to get you to
16 plead guilty?

17 THE DEFENDANT: No, sir.

18 THE COURT: Has anybody threatened you or used force or
19 pressure or intimidation in order to get you to plead guilty?

20 THE DEFENDANT: No, sir.

21 THE COURT: Have you had all the time you need to make
22 up your mind as to whether or not you wish to plead guilty?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Have you had all of the opportunities that
25 you need to discuss with your lawyer whether or not you wish

CHRISTOPHER HAMPTON GUILTY PLEA - April 3, 2006 Page 10

1 to plead guilty?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Have you understood all of your talks with
4 your lawyer?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Now, Mr. Hampton, you understand what the
7 Solicitor said a few minutes ago when he said that there were
8 no negotiations in this case? Do you understand what that
9 means?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: That means that the sentence is up to me.
12 Do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Has anybody told you what your sentence is
15 going to be, other than to tell you, you faced at least thirty
16 (30) years in prison and a maximum of a life sentence?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: What did they tell you?

19 THE DEFENDANT: Oh, no, sir, no, sir, no, sir.

20 THE COURT: Has anybody told you anything about what
21 your sentence is going to be?

22 THE DEFENDANT: No, sir.

23 (Brief Pause)

24 THE COURT: Now, Mr. Hampton, have you understood all of
25 the questions that I have asked you this morning?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Have you understood everything that you and
3 I have talked about here so far?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Is there anything that you want to tell me
6 now, or anything that you want to ask me about now concerning
7 what you and I have already discussed this morning?

8 THE DEFENDANT: No, sir.

9 THE COURT: Has anybody suggested to you how to answer
10 my questions other than to tell me the truth?

11 THE DEFENDANT: No, sir.

12 THE COURT: Has anybody told you specific answers that
13 you should give to my questions?

14 THE DEFENDANT: No, sir.

15 THE COURT: Have your answers to my questions been
16 truthful?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And they've been your own answers?

19 THE DEFENDANT: Yes, sir.

20 (Brief Pause)

21 THE COURT: Mr. Hampton, are you the one who made the
22 decision that you would plead guilty here today?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And did you make the decision to plead
25 guilty because you are guilty and for no other reason?

CHRISTOPHER HAMPTON GUILTY PLEA - April 3, 2006 Page 12

1 **THE DEFENDANT:** Yes, sir.

2 **THE COURT:** All right, Solicitor, tell me the facts,
3 please.

4 **MR. GOWDY:** May it please the Court, Your Honor. If
5 this State -- if this matter went to trial, the State would
6 offer, by way of direct and circumstantial evidence, the
7 following: That on August the 12th, two thousand and five
8 (2005), Christopher Hampton took police to a remote wooded
9 area, on the west side of Spartanburg County, and showed them
10 where he had buried the body of Tamika Huston.

11 This ended a fifteen (15) month search for her. Tamika
12 was last seen on May the 27th, two thousand and four (2004).
13 Her family reported her missing in early June in two thousand
14 and four (2004).

15 The police began their investigation, and in December of
16 two thousand and four (2004), interviewed Christopher Hampton.
17 He denied any knowledge about where Tamika was, the
18 circumstances surrounding her disappearance, or anything about
19 her well being.

20 In January of two thousand and five (2005), the police
21 found blood in an apartment that Mr. Hampton had rented in two
22 thousand and four (2004), ■■■ Fremont Apartments (phonetic).
23 He was confronted with this fact; again, he denied any
24 knowledge about what had happened to Tamika Huston and,
25 through a series of interviews with police, sought to

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1 implicate others, including some of his friends and some of
2 her family members.

3 In March of two thousand and five (2005), Mr. Hampton
4 wrote in a letter that the last time he saw Tamika Huston she
5 was alive and well. And, in fact, that she was doing just
6 fine when she walked away from him.

7 On August the 12th, two thousand and five (2005), after
8 being served with a murder warrant, Hampton finally admitted
9 what he had done.

10 On August 27th, he states, "Tamika was at his apartment.
11 And after she had asked to borrow some money, Hampton spun
12 around and hit her in the head with a hot iron."

13 According to him, she fell to the ground. Hampton rolled
14 her up in a comforter and put her in the closet, while he
15 borrowed some bleach from a neighbor, cleaned the floor, moved
16 her car, threw away the sheets and pillows, sipped a beer with
17 some friends, and had sex with another woman in the bedroom
18 with Tamika Huston's either dead or dying body a few feet away
19 in a closet.

20 The place where Mr. Hampton took Tamika's car was
21 actually further away than the Spartanburg Regional Emergency
22 Room would have been. And that's significant because Mr.
23 Hampton never called 911, never sought medical attention for
24 Tamika Huston, never asked anybody to intervene and help get
25 her to the emergency room.

CHRISTOPHER HAMPTON GUILTY PLEA - April 3, 2006 Page 14

1 He later moved her body, later that -- either later that
2 night or in the early morning hours of May the 28th. He -- he
3 moved her body to a car. He, then, drove to Wal-Mart, on the
4 west side of Spartanburg, where he purchased a shovel. He
5 drove to that remote -- remote area where he later took the
6 police and he buried her after he removed her clothes.

7 He went to jail in June of two thousand and four (2004)
8 for an unrelated offense. And, when he got out of jail, he
9 went back to the site where he had buried her body.

10 He had marked it with an "X." He went back to that site,
11 dug the body up, and removed the head, which he, then, put
12 into a plastic grocery bag and threw into a trash dumpster.

13 In the process of the police's investigation into a,
14 whether or not Tamika was -- had -- had succumbed to foul
15 play, Mr. Hampton was interviewed nearly ten (10) times.

16 He denied involvement every one of those times up to the
17 time he was served with a murder warrant in August, at which
18 time, he gave a video taped confession and a written
19 statement, which I would like, at this point, to -- to have
20 moved -- marked.

21 It's a waiver of rights form and his statement on August
22 the 12th to serve as a factual basis, if the Defense has no
23 objection, if Madam Court Reporter would mark it and submit it
24 to the Court.

25 **THE COURT:** Does it?

1 MR. BARTOSH: No objection.

2 (Whereupon, State's Exhibit Number 1 was marked for
3 identification and admitted into evidence without objection.)

4 (Documents handed up to the Court.)

5 MR. GOWDY: Your Honor, at the appropriate time, there
6 are several members of Ms. Huston's family that would like to
7 address the Court. And in conclusion, Mr. Hampton has
8 suffered convictions for theft by shoplifting and federal bank
9 robbery, unarmed federal bank robbery.

10 (Brief Pause)

11 THE COURT: Mr. Hampton, you heard the Solicitor
12 describe the facts of what happened, the facts that allegedly
13 constitute the murder. Is there anything that he said, about
14 what you did, that you disagree with?

15 (Brief Pause)

16 THE DEFENDANT: No, that's it.

17 THE COURT: Now, in your statement, that I have been
18 handed that's marked as State's Exhibit Number 1, I -- well,
19 let me take a second to look this over.

20 (Pause while Court reviews document from 10:47 a.m. till
21 10:53 a.m.)

22 THE COURT: All right. Mr. Hampton, I have just read
23 this statement that has been marked as State's Exhibit 1.
24 You're familiar with this?

25 THE DEFENDANT: Yes, sir.

CHRISTOPHER HAMPTON GUILTY PLEA - April 3, 2006 Page 16

1 THE COURT: Let me -- let me get the clerk, please, to
2 hand this to Mr. Hampton.

3 (Document handed to Mr. Hampton.)

4 THE COURT: And I'm going to ask you if you can identify
5 it, as your own writing, or tell me who wrote it, beginning on
6 page 2.

7 (Brief Pause)

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Are you the one who wrote out that
10 statement?

11 THE DEFENDANT: I didn't write out; I signed it.

12 THE COURT: You didn't write it?

13 THE DEFENDANT: Huh-uh (negative).

14 THE COURT: Who wrote it out?

15 THE DEFENDANT: Detective Steadman (phonetic).

16 THE COURT: All right. Now, have you had a chance to
17 review that statement -- did you have a chance to review that
18 statement right after she wrote it?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Were you telling her what to write down when
21 she was writing it out?

22 THE DEFENDANT: He.

23 THE COURT: He?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: I'm sorry.

1 THE DEFENDANT: I was telling him what to write.

2 THE COURT: You were telling him what to write?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And have you had a chance to review it?

5 THE DEFENDANT: No, sir.

6 MR. BARTOSH: You haven't?

7 (Off-the-Record Discussion)

8 THE COURT: Well, take a look at it and make sure that
9 you recognize it and make -- I want to make sure that you've
10 had a chance to review that statement.

11 (Brief pause while Mr. Hampton reviews statement.)

12 MR. BARTOSH: It's the same.

13 THE COURT: All right. And is it -- is it accurate?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Is there anything in there that's not
16 correct?

17 THE DEFENDANT: No, sir.

18 THE COURT: All right. Pass it back up here, please.

19 (Document handed back to the Court.)

20 THE COURT: Now, Mr. Hampton, you understand that, by
21 pleading guilty, you waive or you give up the right to
22 challenge anything regarding the statement that -- that you
23 just reviewed that has been marked here as State's Exhibit 1,
24 and also the video confession that the Solicitor referred to.
25 For -- for perhaps Constitutional Reasons, or other reasons

CHRISTOPHER HAMPTON GUILTY PLEA - April 3, 2006 Page 18

1 related to evidence, there is the -- the possibility that you
2 could challenge the right of the State to enter these
3 statements into evidence. You understand that?

4 **THE DEFENDANT:** Yes, sir.

5 **THE COURT:** You've talked about that with Mr. Bartosh?

6 **THE DEFENDANT:** Yes, sir.

7 **THE COURT:** And you understand that, by pleading guilty,
8 you waive the right to challenge that statement?

9 **THE DEFENDANT:** Yes, sir.

10 **THE COURT:** And it would come in -- it's now in evidence
11 and I can consider it as part of the basis of this plea. Do
12 you understand that?

13 **THE DEFENDANT:** Yes, sir.

14 **THE COURT:** And also, you understand that, by pleading
15 guilty, you waive any defenses that you might have had to the
16 charge of murder, and you also waive the right to claim that
17 you're guilty of a lesser included offense to the charge of
18 murder. Do you understand all of that?

19 **THE DEFENDANT:** Yes, sir.

20 **THE COURT:** All right. Mr. Hampton, I'm going to read
21 to you the indictment in this case. And, after I've done
22 that, I'm going to ask you whether or not what is alleged in
23 that indictment is true.

24 And I'm going to tell you that -- that what is alleged in
25 the indictment is what the State would have to prove in order

1 to convict you of the crime. So, I'm going to ask you whether
2 or not you understand that.

3 It is alleged in the indictment that Christopher Lamont
4 (phonetic) Hampton did, in Spartanburg County, on or about May
5 27th, two thousand and four (2004) feloniously, willfully, and
6 with malice aforethought, kill one Tamika Huston, by hitting
7 her and/or hitting her with an iron and/or causing her to
8 strike some object and that the victim died as a proximate
9 result thereof. Is all of that true?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: It's true that you hit her in the head?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And you did so with an iron? Is that -- is
14 that mean like a -- an electrical iron that you iron clothes?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: That's what you hit her with?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. And you understand what malice
19 aforethought is?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You talked that over with Mr. Bartosh?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And you understand that's one of the
24 elements that the State would have to prove in order to
25 convict you of murder, malice aforethought?

CHRISTOPHER HAMPTON GUILTY PLEA - April 3, 2006 Page 20

1 THE DEFENDANT: Yes, sir.

2 (Brief Pause)

3 THE COURT: Well, I think there's a sufficient factual
4 basis for the plea on the charge of murder. I believe that
5 Mr. Hampton's decision to plead guilty is freely and
6 voluntarily and intelligently made and I accept the plea.
7 Solicitor?

8 MR. GOWDY: Your Honor, if it please the Court, and with
9 the Court's indulgence ---

10 THE COURT: Certainly.

11 MR. GOWDY: I would have some of Tamika's family ---

12 THE COURT: Yes, sir.

13 MR. GOWDY: --- come up.

14 (Brief pause while family members step forward.)

15 MR. GOWDY: Actually, Your Honor, I did -- Rebkah Howard
16 (phonetic) is Tamika's aunt, and she has -- she is not present
17 today because she is pregnant with twins and she is on
18 doctor's orders not to travel. But she sent something and
19 asked me to read it to the Court, and I hope the Court would
20 indulge me and let me do so.

21 There -- there was never a stronger, more vocal champion
22 for Tamika, during the course of the search for her, than her
23 Aunt Rebkah, and I know that she is devastated to not be here
24 in front of Your Honor this morning, but she is under doctor's
25 orders not to travel from Florida.

CHRISTOPHER HAMPTON GUILTY PLEA - April 3, 2006 Page 21

1 If the Court would allow me to -- to read her statement.
2 "Tamika was more like a little sister than my first born niece
3 because we were only seven (7) years apart. As a young
4 teenager, I loved spoiling her when I could, driving her to
5 the mall to buy a new outfit or taking her to the movies with
6 friends.

7 "Later, when I became a mother, Tamika would dote on my
8 little daughter by fixing her hair in creative ways that I did
9 not have the skill to do, or hiding all of her bottles on her
10 second birthday, so, she would embarrass herself by simply
11 being too old to bottle feed, something that I did not have
12 the heart to do.

13 "Tamika was the center and joy of all our family
14 gatherings. This is when she seemed to be at her happiest and
15 when she shined the most. She would sing in that beautiful
16 voice of hers whenever we would ask or sometimes even when we
17 didn't.

18 "As the oldest cousin and sister among a dozen children,
19 she had the patience and kindness to occupy their time for
20 hours on end to the amazement of everyone. She often played
21 the role of peacemaker in our very large extended family,
22 encouraging others to forgive and forget and always reminding
23 us that family was so important.

24 "She was wise beyond her years and often revealed the
25 most profound thoughts and emotions through her writings.

CHRISTOPHER HAMPTON GUILTY PLEA - April 3, 2006 Page 22

1 Tamika was and still is a bright star, one of the brightest
2 that can never be extinguished despite Christopher Hampton's
3 best efforts.

4 "Although we know Tamika is still with us, in spirit and
5 we have our many memories to cling to, it does not ease our
6 daily grief. We are faced with the reality that we will never
7 see her on her wedding day or give birth and raise her own
8 children, a role that she was born to play.

9 "Personally, I grieve for the fact that Tamika will never
10 be able to play with my own twin sons who I am due to give
11 birth to this summer. After my own wedding, nearly three
12 years ago, Tamika would call me, at least once a month, to
13 ask, 'Are you pregnant yet?'

14 "It was something she looked forward to as much as my
15 husband and I did. I lack the words to describe just how sad
16 it is that she will not be here to share our joy.

17 "Christopher Hampton has forever changed our family by
18 taking Tamika's life in such a callous and brutal way. He
19 further added to our suffering by concealing her body and
20 later destroying many of her remains, so, we were left with
21 very little to bury on the day of her funeral.

22 "Moreover, he watched us plead for her whereabouts in
23 totally in radio and in the newspaper for nearly a year and
24 said nothing about what he knew to be the truth. He misled
25 investigators for months, which further led to our confusion

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1 and uncertainty.

2 "It was an inexcusable and unfathomable crime against a
3 kind and gentle soul. For those of us left behind, there is
4 deep sadness hanging over us that may temporarily lift from
5 time-to-time, but inevitably always finds its way back.

6 Ironically, knowing her personality, and the
7 enlightenment she has undoubtedly received by being closer to
8 God, Tamika may have already forgiven Christopher for his
9 crime. I am not there yet, nor can I be sure I ever will be.
10 However, I do know that on this day we plead for justice.

11 We plead for retribution. We plead for Tamika's death
12 not to be in vain. We plea for the maximum penalty to be
13 imposed upon this murderer so that he will have to spend the
14 rest of his days contemplating what he has done to Tamika and
15 the family who adored her and misses her so dearly. Rebkah
16 Howard, Miami, Florida."

17 **THE COURT:** Thank you.

18 **(Brief Pause)**

19 **UNIDENTIFIED FEMALE:** My name is Gabriella Simenehe. I'm
20 Tamika Huston's mother. The disappearance of my daughter has
21 been the most devastating experience of all of my years on
22 this earth.

23 Not knowing where my child was for fifteen (15) months
24 made me angry, confused, lost, and unable to work for a
25 prolong period of -- prolonged period and completely incapable

CHRISTOPHER HAMPTON GUILTY PLEA - April 3, 2006 Page 24

1 of living a normal life.

2 When, after a few months, blood was discovered in this
3 monster's apartment, and DNA testing proved that it was,
4 indeed, my daughter's blood, I was overcome with grief and
5 barely able to function. All I did was pray to God, "Let this
6 person reveal his or her heart."

7 When it was later revealed that this person bashed my
8 daughter, over her head with a -- a hot iron, and leaving her
9 there to die while he -- excuse me -- leaving her there to die
10 when the hospital was only minutes away, makes him a cruel
11 killer with no heart or feeling for human life.

12 Finding out -- finding out he stuffed her, in a closet
13 for more than six (6) hours, while he had sex with a fifteen
14 (15) year old girl, made it even more impossible to bear.
15 Then, he wrapped her lifeless body in a blanket and stuffing
16 her, into a back seat of a car, driving around for hours until
17 finally, settling for burying her alone in remote woods is
18 simply incomprehensible.

19 **(Ms. Simenehe becomes emotional.)**

20 **MS. SIMENEHE:** And he knew -- he knew what he did. He
21 knew what he had done while we were desperately looking for my
22 daughter, and he said nothing. He said nothing.

23 That is just pure evil, and now we knew the full extent
24 of his cruelty. I had to learn that he went back to the scene
25 weeks later, and taking my daughter's skull, and some of her

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1 remains, placing them in a plastic bag, and then, throwing it
2 in a dumpster like it was his trash.

3 (Ms. Simenehe becomes emotional.)

4 MS. SIMENEHE: How can he -- how did he do to a -- a child?
5 I was left with just a few bones and a few -- excuse me -- I
6 was just -- I was just left with just a few -- a jar and a few
7 bones to bury at her funeral over one year later.

8 No mother should have to go through this. I have lived
9 through hell for not knowing where my baby was and finding out
10 the way she died has been a nightmare for me day in and day
11 out. I can't think of about anything except wonder if my
12 little girl suffered.

13 I wonder how it was for her being there in the woods with
14 animals and the cold and darkness. How could this -- how
15 could this monster do this? How could he do this to someone
16 else's child and keeping it a secret for so long, while my
17 family and I were suffering and begging for answers?

18 Your Honor, I have been a complete basket case since
19 losing my only daughter, especially in the way that it all
20 happened, so brutal and insane. Nobody should have to go
21 through this. I wish I was the one gone, not her.

22 I wish it was me. I know I must overcome this for my two
23 younger sons, Tamika's little brothers. I tried to go on with
24 my life, but the memories of my daughter are always there with
25 me and not having her here leaves my life so empty I can't

CHRISTOPHER HAMPTON GUILTY PLEA - April 3, 2006 Page 26

1 imagine the rest of my life without her.

2 Please, punish Christopher Hampton for his crime for the
3 fullest extent of your ability -- your powers. Excuse me.
4 This will not bring my daughter back, but it will allow him --
5 it will not allow him to escape what he has done to Tamika,
6 me, and my family. Thank you, Your Honor.

7 **UNIDENTIFIED MALE:** Your Honor, I stand here on behalf of
8 my nephews and nieces.

9 **THE COURT:** Tell me your name, please, sir.

10 **MR. FUNK:** My name is Price Funk (phonetic). I am the
11 brother of my sister, Gabriella. Tamika was my niece. I have
12 four (4) children of my own.

13 Obviously, the crime speaks for itself, and the
14 devastation its caused my family and my sister, Tamika's
15 mother, is obvious. But the -- what's not maybe obvious is
16 the children, my -- her cousins.

17 She's -- she played a -- a unique role. She was their
18 cousin, but she was old enough to -- she was older in age that
19 she was like an aunt to them and an older sister. She played
20 a part that she was able to -- and we have in excess of twelve
21 (12) and growing cousins that she had; they looked up to her.

22 She was in a position to guide them in their life because
23 she was young enough to be cool and similar to them, but she
24 was older than them to be able to guide them. And they looked
25 up to her in a way that, you know, what she said they would

1 listen to, maybe not that a parent would say because she was
2 -- she was almost one of them, but older. That's gone now.

3 And Tamika was just a beautiful person. And I know that
4 these, you know, young children now are left without something
5 that might have changed their lives, the guidance that she
6 might have given, the love she might have given, might have
7 changed their lives.

8 When Tamika was -- when the police officers entered her
9 home, when they were looking for her, when she was lost, one
10 of the first things that they found was a Bible next to where
11 she slept. Next to that Bible was a notebook with notes in it
12 from the Bible.

13 I bring that up to say that, not only could she have
14 guided them in things of this world, which our kids gravitate
15 to which they shouldn't, she could have guided them with
16 things that have to do with God and things that could change
17 their live immensely.

18 There are very few people that follow that path, and she
19 -- she had both worlds. She knew the world and she knew
20 spiritual things. And that was a unique position that our
21 kids don't have today.

22 And she had the ability and the love and the respect of
23 these younger kids to be able to teach that to them. This
24 gentleman took that away.

25 I would also have to say -- I bring that up to say that

CHRISTOPHER HAMPTON GUILTY PLEA - April 3, 2006 Page 28

1 what -- the letter that the Solicitor read was absolutely
2 true, and he -- I didn't know that my sister wrote this, but
3 she talked about Tamika's spirituality and her ability to --
4 to maybe to have forgiven him if she was here.

5 I believe that to be true. I believe that she was
6 tremendous. She had wisdom beyond her years.

7 She brought us together when we would fight. We have a
8 very big family; she was all about looking to a higher, you
9 know, level of understanding.

10 And I believe that this evil act that was done by Mr.
11 Hampton, I believe that in her heart she might have been able
12 to forgive him. And in your sentencing, I say -- I say that
13 what we do in this world is judged even greater than what
14 could be done on this world.

15 And nobody escapes punishment. This man will not escape
16 punishment here; he will not escape punishment in the future.
17 But, with that, the only thing that exceeds God's judgement is
18 his mercy, if you're able to -- you know, to change in your
19 heart.

20 And Tamika was always somebody who was able to look
21 higher. And whatever you decide today, my family will -- will
22 understand it. And there is a higher judgement, and we don't
23 escape it. And thank you for your time.

24 **THE COURT:** Thank you, sir.

25 **UNIDENTIFIED FEMALE:** Yes, sir, my name is Megan Bristen

1 (phonetic). I am one of Tamika's aunts, step-aunt. And I'm
2 -- I have stuff written from her cousins. If I could just
3 read it.

4 "Tamika Huston was the first child, of her generation, in
5 our large extended family. We have fond memories of her from
6 the time of her birth throughout her childhood and into her
7 young adulthood.

8 "As we followed our sister Gabriella and had our own
9 families and our children, we were fortunate -- fortunate to
10 have had an exceptional, warm and caring older cousin in
11 Tamika.

12 "Tamika had boundless love and enthusiasm for all
13 children, especially those in her own family and for her young
14 cousins. It is her loss that is most tragically felt here,
15 per some experts, from our children. From Sidney, Rebkah's
16 daughter."

17 "Thoughts of hearing her experiment with different songs
18 on the speaker phone to my mom and grandma, preparing to sing
19 at my mom's wedding, cross my mind almost every day and make
20 me smile, remembering how happy I was when it was my turn to
21 speak to her.

22 "The last time I saw my cousin, she had come to Florida
23 to visit some friends and one evening stopped by our house. I
24 was really excited to see her, even though her visit was
25 short. It was getting late, so, I -- I had to go to bed, and

CHRISTOPHER HAMPTON GUILTY PLEA - April 3, 2006 Page 30

1 Tamika tucked me in.

2 "We ended up talking for an hour until she had to go.

3 The next morning, I found a note on my dresser from her saying
4 how much she loved me and to keep doing well in school.

5 "I could tell stories like this for hours because a part
6 of me doesn't want to stop telling them, but celebrating
7 Tamika's life and not mourning, it has been my -- me -- given
8 me the courage that she had always possessed to carry on."

9 And from my son, Matthew, "About two years ago, my family
10 was happy until one day we found out my cousin was missing.
11 She was twenty-four years old and living on her own in
12 Spartanburg.

13 "When we heard, we were confused and scared. We were
14 told to get photos, of the most recent possible, and send them
15 to the police in South Carolina. My family went to
16 Spartanburg as soon as possible.

17 "This event changed our lives forever. From the
18 beginning, she was always smiling and happy. She always made
19 people smile and feel good inside. She never had an enemy and
20 treated everyone with love and respect. You could never feel
21 down around her."

22 And from Caroline (phonetic), "My Aunt Becky's wedding
23 was the best day ever in my family because I was able to -- to
24 see almost my whole family. I got to see my oldest cousin,
25 Tamika, sing. She sang beautiful like an angel, but the fun

1 part was that everybody said she was already an angel. She is
2 the nicest, sweetest person I've ever met."

3 And that's it. And I have also a drawing from another
4 niece, Jennifer, of an angel, and I'll just leave it here.

5 **MR. GOWDY:** Your Honor, I would ask Madam Court Reporter
6 to mark this and let the Court see the drawing.

7 (Whereupon, State's Exhibit Number 2 was marked for
8 identification.)

9 (Documents handed up to the Court.)

10 (Brief Pause while Court reviews documents.)

11 **UNIDENTIFIED FEMALE:** Judge, Your Honor, my name is
12 Joanne Huston (phonetic), Anthony Huston's wife, Tamika's
13 father. And we wrote something -- I've wrote -- we wrote
14 something on behalf of -- of her father.

15 "Tamika would have been turning twenty-seven (27) years
16 old this year if her life had not ended so suddenly. Chris
17 Hampton took my daughter Tamika's life. He took a daughter, a
18 granddaughter, a big sister, a niece, a cousin, a friend who
19 we all grew to love so dearly.

20 "Now, we are all forced to face the killer, the guy
21 responsible for taking our precious jewel. No one can
22 imagine what our family has been through in the last two
23 years. It has truly been a endless nightmare.

24 "In order to fight this battle, as Tamika's father, I
25 have placed fond memories of our lives together to erase the

CHRISTOPHER HAMPTON GUILTY PLEA - April 3, 2006 Page 32

1 emptiness in my heart and our heads for losing my baby. I
2 frequently find myself drive -- driving and crying, asking God
3 for direction to just help me deal with the death of my
4 daughter.

5 "Not one day passes that I don't think of Tamika. I look
6 up to the sky daily and blow kisses to her. I know she's
7 singing carols to all the angels on high with her beautiful
8 voice.

9 "I remember the day when my angel was born. Her hair was
10 black and curly. Her eyes were brown. Her skin was an almond
11 color, and her perfect little fingers and toes. She was
12 complete. I was the proudest father.

13 "At two years of age, I remember taking Tamika to the
14 circus and seeing her face light -- light up with happiness.
15 Taking her to the park on sunny afternoons seemed to please
16 her the most.

17 "I remember comforting her when she wasn't feeling well.
18 I remember Tamika crawling up in bed with me, when she had bad
19 dreams, so that I could protect her. Tamika's first day of
20 school, I was present. I was there for parent/teacher
21 workshops. I was there for her sixth grade graduation. I was
22 there for her middle school graduation.

23 "I attended her high school graduation. I was there when
24 Tamika enrolled in Converse College in '98. I was there in my
25 daughter's life seemed like all the time, but the time she

1 needed me the most, was May 27th, when Christopher Hampton took
2 her life. I was not there to protect her, to get her out of
3 harm's way, to protect her from this evil person that had no
4 one -- no care for one's life.

5 "It's always hard to accept death. But a death that
6 ended so tragically, so unforeseen, and so young, has been
7 unbearable. I am blessed and I thank God for the twenty-four
8 (24) years he gave me with my daughter Tamika.

9 "I ask you to decide a sentence that will -- that will be
10 -- will be fair. He has snatched a part of our lives that can
11 never be replaced. Thank you for giving me the opportunity to
12 get my thoughts out and just listening to a father's cry for
13 his precious daughter." Thank you.

14 **UNIDENTIFIED MALE:** Good morning. I'm Anthony Huston.
15 Your Honor, this has totally destroyed my life. I can
16 remember my baby when she was a little baby. I knew there was
17 a God when my daughter was born. I would just stare at her.

18 I miss my baby. My life is just not the same. I never
19 would have expected to ever go through anything like this. I
20 just take one day at a time. It's just -- it's horrible.

21 **(Mr. Huston becomes emotional.)**

22 **MR. HUSTON:** It's terrible. I'm just messed up. He
23 took my angel, and I loved her. She was -- I'm just not the
24 same. I'll never be the same. I never -- I never thought
25 something like this would happen. I can't see my baby any

CHRISTOPHER HAMPTON GUILTY PLEA - April 3, 2006 Page 34

1 more. It's just terrible.

2 UNIDENTIFIED FEMALE: Your Honor, my name is Evelyn
3 Smith (phonetic). I'm Tamika's aunt, Anthony's sister.
4 Tamika was the first grandchild. Tamika was the first child
5 to her mom and dad. Tamika was the first niece. Tamika was
6 just a joy.

7 When you looked at her, you just -- it was just a dream.
8 I remember just a couple of weeks, before her life was taken,
9 Tamika called me and said, "Auntie, I'm going to school. I
10 need some books," because she was taking a course that I had
11 taken.

12 I said, "Well, I'll get the books for you and I'll get
13 them out." And she left a message on my answering machine,
14 which she did so often; if I wasn't at home, she would just
15 call my answering machine and she'd just sing (singing), "I
16 love you. You love me. We're a big happy family."

17 And it would just do my heart. I'd just grin and I would
18 just laugh and I'd turn it off. And I got the books out, and
19 I sat the books out. And my oldest daughter, I said,
20 "Tiffany," I said, "When is Tamika coming and get the books
21 because Tamika - Tiffany is five years younger, so, Tamika
22 kind of took her under her wings and she kind of guided her
23 and tried to tell her what not to do and what to do; what not
24 to do in the street. Who to talk to and who not to talk to.

25 And, through her telling her and trying to give her

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1 direction and what to do and what not to do, Tiffany knew
2 right from wrong just by listening to Tamika.

3 And I remember just going through my house now, it's
4 getting warm, so, you spring clean. And as I spring clean, I
5 pull -- reach up in the top of my closet and Christmas
6 presents that I had for Tamika are falling out of my closet,
7 from the top of my closet that I was never able to give her.

8 And those books that I had, they're still sitting there
9 that I was never able to give her. All I can remember now,
10 and all I have, is that phone message from Tamika and her
11 singing to me.

12 Tamika was Sugar Momma's baby, which was my mom. She was
13 the sun and how -- she was just like a star. When Tamika
14 walked into a room, that room would just brighten up.

15 The children, the younger children -- because she was the
16 oldest grandchild. She was the oldest niece. For a while she
17 was my only niece. And she would walk into that room and they
18 would say, "Hey, Meka," "Hi, Meka," and Meka would be like,
19 "Ah, Man." And she said, "Ah, man." And we'll never hear that
20 "Ah, man" again.

21 You know, Judge, today all I ask is that let God lead you
22 in the direction that's right because the Bible say we have to
23 forgive in order to see Heaven. And I know right now Tamika
24 is there in Heaven because I know Tamika, being the person
25 that she is, she has forgiven for what was done to her.

CHRISTOPHER HAMPTON GUILTY PLEA - April 3, 2006 Page 36

1 So, I just ask you today, right now -- right now, we just
2 beg you as a family to do what God has placed on your heart to
3 do. Thank you.

4 **THE COURT:** Thank you.

5 **UNIDENTIFIED FEMALE:** My name is Cassa Servas (phonetic).
6 I'm the -- the aunt of the -- her mom, Gabriella Simenehe.
7 I'm here to speak, on behalf of my children, my two boys, who
8 are Tamika's cousins, who adored her. They loved her very
9 much.

10 And today, since this tragic, terrible, horrendous
11 occurrence, they've been suffering, you know. They have been
12 suffering with bad dreams, with fears. They burst out in
13 tears in the car. As I'm driving, I turn around and they --
14 they cry. They cry. They miss her very much. We all miss
15 her very much.

16 This event has altered our whole family tremendously.
17 Today is my son's birthday, and we came from Washington. And
18 I approach him to ask him if I can leave. This is a special
19 day for him, if I could leave on this special day. He said,
20 "Please go."

21 He said, "I could -- I wish I could go to talk to Mr.
22 Hampton." He didn't say that, but of course, you know, the
23 person who did this. He said, "I would have something to tell
24 him." But he said, "Please, dictate as I'm telling you."
25 He's thirteen, he said, "Please, dictate, Mommy, bring a piece

1 of paper and a pen."

2 And I'm dictating and he's crying. And he told me to
3 write this. He said, "How dare you come in my family and kill
4 my cousin. She was the sweetest girl. We loved her very
5 much. By this deed, you have made so many of us suffer. This
6 is what I want you to know." Thank you so very much. Thank
7 you.

8 **UNIDENTIFIED FEMALE:** Your Honor, I am Tamika Huston's
9 best friend, Zelda Teamer (phonetic). Me and Tamika had been
10 friends since ninth grade at Carver Junior High School.

11 I remember the first day that I had met Tamika. She had
12 just moved back here from Washington, D.C. and I was working
13 at an office in the morning time because I had credits --
14 enough credits to, you know, work and not have to take a
15 class. So, they usually just let me help in the office.

16 And I can remember her coming in and she was so happy,
17 short -- I never had seen anyone that short before in my life.
18 She almost looked like a midget, and she was so beautiful.

19 And she looked at me and she said, "What's your name?"
20 And I told her my name, and she said, "Well, I want to take
21 all the classes that you -- you're taking because I like you.
22 There's just something about you."

23 And, at that point in my life, I had just had a -- a
24 daughter, which is Tamika's goddaughter, Alesha, who is eleven
25 (11) years old now. And I felt like I had let my mom and my

CHRISTOPHER HAMPTON GUILTY PLEA - April 3, 2006 Page 38

1 father and everybody down, but Tamika, she looked past my
2 teenage pregnancy and she instilled in me life and success and
3 hope. She believed in me when no one else would.

4 Me and Tamika often would talk about, when we would get
5 older and when we would get married, and she even had a song
6 that she wanted to sing at her wedding. So, I just feel that
7 for her life to end as drastically as it did, it's -- it's
8 just devastating.

9 I can remember introducing her one day to a neighbor of
10 mine who was on dialysis. And he needed a kidney. And I had
11 told Tamika about his story, and how he was suffering and he
12 didn't want to go anymore, and I introduced them.

13 And she said -- when she met this man, she said, "I don't
14 even know you, but I want to give you one of my kidneys." And
15 he was -- he was like, "She doesn't even know me. How could
16 she possibly want to give me one of her kidneys?"

17 Tamika went to the extent to use my phone to call her
18 mother to ask what was her deed -- her blood type because it
19 had to match in order for her to be able to do this. Her and
20 the guy talked about it. And it matched, a perfect match.

21 But, he was older and she was so young, he felt like, "I
22 wouldn't take that away from her, but she was willing to give
23 it to him. I mean, that's just what type of person she was.

24 And I believe that Tamika possibly knew what type of
25 person Christopher was, but she probably looked past his

1 faults. She loved everyone. And he probably knows that, and
2 for him to take her life, the way that she [sic] did, and for
3 us to have to bury her and me, instead of us picking out
4 wedding dresses, I had to pick out my best friend's casket, a
5 casket that was basically empty.

6 You know how everybody else have funerals and you can go
7 up and you can look. We -- we didn't have that. We went to
8 woods where you would even imagine a person even going; that
9 was her burial. And he took all of that away from us,
10 selfish.

11 And I just ask today that he is punished for what he has
12 done to us, my children. They've suffered in school. I have
13 suffered from depression and anxiety just wondering, you know,
14 how -- how could he do something so horrible to a -- a special
15 person in our lives that we will never forget.

16 We will never forget her. And I will never forget her as
17 long as I live. She was my best friend. And even though
18 Tamika had -- had me to say that she was my best friend, she
19 wanted me as her sister.

20 And I stand here today on her behalf, Your Honor, and I
21 just pray that you make the right decision and that is -- we
22 will not have her anymore. He has his life and she doesn't.
23 Thank you.

24 MR. GOWDY: Your Honor, that would be all on behalf of
25 the State, Your Honor.

CHRISTOPHER HAMPTON GUILTY PLEA - April 3, 2006 Page 41

1 about two months prior to this event. From what I can gather,
2 in talking with Chris, and also going over the discovery, the
3 argument that it happened was over some money. And, of
4 course, the Court can see by the -- by the statement the
5 tragic results.

6 Your Honor, I guess -- I guess what I want to point --
7 the most important thing I want to point out the to the Court
8 is this: As the Solicitor said, Mr. Huston -- Mr. Hampton was
9 interviewed by the police, at least four times, possibly six,
10 before he went to jail on his parole violation.

11 They went to see him, on at least two different
12 occasions, while he was incarcerated at Edgefield (phonetic).
13 Even the Solicitor went down and talked with him. He still
14 wouldn't -- wouldn't tell.

15 And they picked him up. When he was released from
16 Edgefield, the Spartanburg City Police were waiting for him
17 when he was released and he knew that they were going to serve
18 him with a murder warrant when he got back to Spartanburg.

19 They continued to question him on the way back from
20 Edgefield, and he didn't say anything. They got him back to
21 Spartanburg, they questioned him some more, about two hours or
22 so, and from talking with the -- with the detectives, what he
23 -- at about three o'clock (3:00), he said he just stood up and
24 said, "Let's go." And he took them to where the grave was.

25 There were never any promises made. He had no hope of

1 any kind of reward by doing this. They didn't have any
2 evidence, Your Honor. They could not -- I do not believe they
3 could have prosecuted him based on what they had when they
4 served him that -- that murder warrant.

5 What I sincerely believe is, that this had weighed on him
6 for over a year, and he finally couldn't take it anymore. The
7 remorse became too great. And so, he told them.

8 And I would point out, as -- as an example of that, is
9 his statement. All the details that you've heard about what
10 happened, and what happened afterwards, came from him. The
11 police had no independent collaboration of those events.

12 He, in no way, tried to lessen his involvement. He, in
13 no way, tried to soften what he did. He told the police
14 exactly what he did.

15 I think that shows remorse, Your Honor. I think that
16 shows that he has come to accept responsibility for what he
17 did, to show true sorrow for what he did.

18 I have seen him -- on several of our interviews, we'll
19 get halfway through with our conversation, and he'll just
20 break down. I truly believe, Your Honor, that he has come to
21 accept what happened and is truly remorseful for it.

22 And I think his actions show it's not him -- it's not
23 just lip service of him saying, "I'm sorry. I didn't mean to
24 do it," or whatever. He, in no way, is trying to evade
25 responsibility for what he did. He's accepted it and he's

CHRISTOPHER HAMPTON GUILTY PLEA - April 3, 2006 Page 43

1 given the police everything that happened.

2 Your Honor, I don't mean to -- and I'm not trying to
3 excuse what he did, but you have a broad discretion in
4 sentencing, thirty (30) years to life. And, as the Court
5 pointed out, those thirty (30) years are day-for-day, and
6 anything after that is day-for-day.

7 And I don't mean to -- to imply that a -- if -- since
8 forty (40) years will be a life sentence basically for him,
9 that he ought to get life, but I would point out to the Court,
10 Your Honor, forty (40) years is a long time in prison.

11 And, in effect, it takes away -- he's twenty-five (25)
12 years old, it takes away his 20's, his 30's, his 40's, and his
13 50's. If the Court were to sentence him to forty (40) years,
14 he'd be sixty-five (65) when he got out, if he survives. And
15 I think that's a big if to try to survive forty (40) years in
16 prison.

17 Your Honor, I would ask the Court respectfully ---
18 respectfully to take all of this into consideration, that he
19 has given this family closure. While it may have been a
20 horrible discovery, at least they know now.

21 He has not put them through the agony of having to relive
22 this in a trial. He has stepped up, he has taken
23 responsibility. He has told the police exactly what happened.

24 I think that shows remorse, Your Honor. And I would ask,
25 if you would, consider a term of forty (40) years rather than

1 a life sentence. Thank you.

2 THE COURT: Mr. Hampton, is there anything you want to
3 say?

4 THE DEFENDANT: No, sir.

5 (Brief Pause)

6 THE COURT: Anything further, Mr. Bartosh?

7 MR. BARTOSH: No, sir.

8 THE COURT: Solicitor?

9 MR. GOWDY: No, sir, Your Honor.

10 THE COURT: Mr. Hampton, the sentence of the Court is
11 that you be committed to the State Department of Corrections
12 for life.

13 MR. BARTOSH: Thank you, Your Honor.

14 (Whereupon, the proceeding concluded at 11:38 a.m.)

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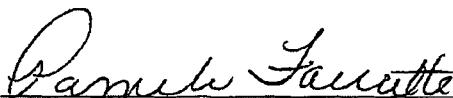
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REPORTER'S CERTIFICATE

I, the undersigned **PAMELA FAUCETTE**, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that I acted as the court reporter at the foregoing proceeding; that the foregoing pages, numbered 1 through 44, were transcribed by me and represent a complete and accurate transcription of said proceeding to the best of my knowledge and belief.

I do further certify that I am not of counsel for or in the employment of either of the parties to this action, nor am I interested in the results of this action.

December 16, 2006



Pamela Faucette
Official Court Reporter
Seventh Judicial Circuit

JK# 300077

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2006-CP-42-3049

Christopher Hampton, # 314697,
Applicant,

ORDER OF DISMISSAL

v.
State of South Carolina,
Respondent.

I. PROCEDURAL HISTORY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed September 15, 2006. An evidentiary hearing into the matter was convened on September 17, 2007, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by W. Jeffrey McGurk, Esquire. The Respondent was represented by S. Prentiss Counts of the South Carolina Attorney General's Office. This Court had before it the application, the respondent's return, the guilty plea transcript, the records of the Spartanburg County Clerk of Court and the Applicant's records from the South Carolina Department of Corrections.

At the hearing, the Applicant moved for a continuance to review discovery, specifically report produced by Detective Stedman. The Court denied this motion but allowed the Applicant time to review this document.

At the hearing, the State consented to allow the Applicant to pursue a direct appeal pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was

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indicted at the August 2005 term of the Spartanburg County Grand Jury for Murder (05-GS-42-3629) and Criminal Sexual Conduct with a Minor, Second Degree (05-GS-42-3630). The Applicant was represented by Michael Bartosh, Esquire. On April 3, 2006, the Applicant pled guilty to Murder. CSC with Minor, 2nd was *not pressed*. Applicant was sentenced by the Honorable John C. Few to confinement for Life.

A Motion to File Notice of Appeal Out of Time was filed on the Applicant's behalf on May 10, 2006 stating that trial counsel had passed away two (2) days after trial and had not filed Notice of Appeal. The Court of Appeals denied this motion by Order of Dismissal dated May 17, 2006. The remittitur was issued June 1, 2006.

II. SUMMARY OF TESTIMONY AND EVIDENCE PRESENTED AT THE PCR EVIDENTIARY HEARING

Applicant's Testimony

At the PCR evidentiary hearing the Applicant testified that counsel was ineffective for failing to move to suppress his statement. He stated that his statement was involuntarily given. The Applicant described the circumstances around giving his confession in great detail.

The Applicant was picked up by Detective Stedman and Detective Lamb from the Edgefield Federal Penitentiary. Shortly after departure, the Detectives pulled over to the side of the road and served the Criminal Sexual Conduct warrant on him. They did not serve the Murder warrant at that time. At that time, he refused to sign the pre-interrogation waiver and asked for an attorney. They continued to their destination and the Detectives informed him that a press conference had been set for that afternoon. The Applicant stated that the Detectives told him there would be "beatings" and that he was in "their" custody now. They stopped at the Clinton Detention Facility to allow the Applicant to use the restroom. Once arriving in Spartanburg, the Detectives took the Applicant to

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the narcotics building. There he ate a cheeseburger. He was not left alone and asked for an attorney. The Detectives continued talking to the Applicant and showed various evidence from the crime scene. The Applicant finally involuntarily gave in to the pressure and said, "let's go." The Applicant proceeded to take the Detectives to where he had buried the body. Later that night he signed a statement indicating he was guilty of the murder. He stated that he did not mention that the victim had a box-cutter in his statement because the Detectives told him to make up a story. They stated that Solicitor Gowdy had told them that the Applicant had the paintbrush and could to paint it however he liked.

The Applicant testified that counsel was ineffective for failing to move for a change in venue. He stated that the entire case happened in Spartanburg County and that he was prejudiced by having to proceed forward in that county.

The Applicant testified that counsel was ineffective for failing to explain to him that if he proceeded to trial, he had the opportunity to be found guilty of a lesser included offense. that counsel did not define malice for him and he was unaware that he had any other choices besides guilty or murder or not guilty of murder.

The Applicant testified that counsel was ineffective for failing to present further mitigating circumstances to the sentencing judge. He should have informed the Judge that he had a three year old daughter, that he had been working, and that he had a non-violent criminal history.

The Applicant testified that counsel was ineffective for failing to show him discovery from the State. He was never shown the videotape of his confession, his written statement, Detective Stedman's report, or his mental health evaluation.

The Applicant testified that counsel was ineffective for failing to adequately meet with the Applicant prior to his guilty plea. He stated that counsel only met with him twice for a little over an

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hour before he pled guilty.

The Applicant testified that counsel was ineffective for failing pursue a theory of self-defense. He stated that he sent counsel letters stating that the victim had a box-cutter and he only hit her in the head with a hot iron out of self defense. The reason he hid the body was because he was scared. The reason he lied to law enforcement and did not tell them she had a box-cutter was because he was scared. The reason he did not tell the *Herald Journal* about the box-cutter in their interview was because he was scared. The reason he returned after he had been released from jail on unrelated charges and dug up the body and decapitated her to dispose of her head in a dumpster was because he was scared.

The Applicant testified that counsel was ineffective for failing to object as Solicitor Gowdy read a letter from a family member of the victim asking for the maximum sentence. He stated that the State was not to recommend the maximum sentence at the plea. By reading Rebecca's statement, the Solicitor was allowed to indirectly ask the Court for the maximum sentence.

The Applicant testified that the reason he lied to the plea judge was because he just wanted to get it over with.

Detective Stedman's Testimony

Detective Jay Stedman testified regarding the details surrounding the Applicant's confession. He and Detective Lamb picked the Applicant up from Edgefield Federal Penitentiary on August 15, 2005 in an unmarked SUV. They took the unmarked SUV so they would have more room. Less than a mile from the penitentiary, they pulled over and served the Criminal Sexual Conduct warrant on the Applicant. At that time, the Applicant refused to sign the pre-interrogation waiver. Detective Stedman recalls casual conversation for most of the ride back. The Applicant was never threatened or coerced. He never asked for an attorney. No one ever threatened him with beatings.

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The Detectives did discuss certain facts of the case among themselves on the drive and they probably mentioned the press conference to the Applicant.

The Detectives stopped in Clinton and arranged with the County Jail to allow the Applicant to use their restroom. When they arrived in Spartanburg, they took the Applicant to the Narcotics building because they assumed the press would already be at the station. They put him in an interrogation room and re-read his Miranda rights. They gave the Applicant a cheeseburger and cigarettes. The Detectives showed the Applicant pictures of evidence and discussed the different lies he had told law enforcement previously. They told the Applicant that the victim's blood had been found in his apartment. The Applicant got up and stated, "let's go." He took them to the body. Later he gave a full, video-taped confession to law enforcement after signing a pre-interrogation form.

The Detective testified that the Applicant was never threatened or coerced. He never asked for an attorney. He was never denied food or water or access to a restroom. The Applicant was read his Miranda rights multiple times. The Applicant voluntarily showed the Detectives where the body was buried. The Applicant voluntarily gave a statement to law enforcement.

III. APPLICABLE LAW

Ineffective Assistance of Counsel

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 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. 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, 475 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

Statements During a Guilty Plea

Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate'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, 52 L.Ed.2d 136 (1977). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 317 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

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Trial Judge Colloquy Cures Counsel Statements

Even where counsel fails to advise, or even misadvises, a defendant regarding a critical aspect of his charges the error is cured where the trial court during a guilty plea properly advises the defendant about the matter in question. Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998). See also Knox v. State, 340 S.C. 81, 86, 530 S.E.2d 887, 889 (2000), *overruled on other grounds by State v. Gentry*, 2005 WL 524813 (S.C.).

Venue

It is the defendant's burden to demonstrate actual juror prejudice as a result of pretrial publicity. Sheppard v. State, 357 S.C. 646, 594 S.E.2d 462 (2004).

Time Spent with Applicant

The "brevity of time spent in consultation, without more, does not establish that counsel was ineffective." Easter v. Estelle, 609 F.2d 756, 759 (5th Cir. 1980). When claims of ineffective assistance of counsel are based on lack of preparation time, an Applicant challenging his conviction must show specific prejudice resulting from counsel's alleged lack of time to prepare. United States v. Cronin, 466 U.S. 648 (1984); U. S. v. LaRouche, 896 F.2d 815 (4th Cir. 1990).

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court has reviewed the testimony presented at the evidentiary hearing, observed witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court reviewed the Clerk of Court records regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, the transcripts and documents from the prior proceedings, and legal arguments of counsel. Pursuant to S.C. Code Ann. § 17-27-80 (1985), this Court makes the following findings of fact based upon all of the probative evidence presented.

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Direct Appeal Issue

At the hearing, the Applicant alleged that he was denied effective assistance of counsel when trial counsel failed to inform him of his right to appeal his guilty plea. The State consented to allow the Applicant to file his belated appeal pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).

This Court agrees that the allegation that the Applicant was denied a direct appeal is meritorious. Trial counsel must ensure that a criminal defendant is made fully aware of his appeal rights. White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974). In the absence of an intelligent waiver by the defendant, counsel must either initiate an appeal or comply with the procedure required by Anders v. California.¹ White, Id. Where the post-conviction relief judge determines that the applicant did not freely and voluntarily waive their appellate rights, the applicant may petition the South Carolina Supreme Court for review of direct appeal issues pursuant to White v. State. See Rule 227(g)(1), SCACR; Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986).²

The Court affirmatively finds that the Applicant did not knowingly and voluntarily waive his right to a direct appeal. The Court concludes that the Applicant is entitled to a belated review of his conviction(s). The Applicant's lack of a direct appeal can be remedied by a petition for belated review pursuant to White v. State.

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¹ 386 U.S. 738, 87 S.Ct. 1396 (1967).

² "Even where the post-conviction relief judge makes this finding, he may not grant relief on this basis. Instead, the applicant must petition this Court for a White v. State review." [Emphasis added]. Davis, 288 S.C. at 291, n. 1, 342 S.E.2d at 60.

Other Allegations of Ineffective Assistance of Counsel

This Court finds the Applicant's testimony to be not credible on all issues. This Court finds Detective Stedman's testimony to be credible.

This Court finds that no credible evidence was presented to prove that the Applicant's statement was involuntarily given. This Court finds that the Applicant's statement was freely and voluntarily given. Nevertheless, this Court finds that the Court informed the Applicant that by pleading guilty, he would be giving up his right to challenge the voluntariness of the statement (Tt. Pg. 17, lines 20 - Pg. 28, line 10). He informed the plea judge that he had discussed this with counsel and wished to waive that right. This Court notes that the Applicant told the plea judge that he had no complaints regarding law enforcement (Tt. p. 8, lines 5-9). The Applicant failed to present a valid reason why he should be allowed to depart from the truth of his statements during his guilty plea. This Court finds the Applicant freely and voluntarily waived his right to challenge his statement and denies and dismisses this allegation.

This Court finds that the Applicant has failed to prove he was prejudiced by counsel's failure to file a motion to change venue. The Applicant bears the burden of proving that pre-trial publicity would affect the jurors impartiality. Here, the Applicant waived his right to a jury trial, thus waiving his right to question the impartiality of the potential jury pool (Tt. p. 7, lines 4-14). The Applicant failed to present a valid reason why he should be allowed to depart from the truth of his statements during his guilty plea. The Applicant provided no evidence whatsoever that he was prejudiced in any way because this motion was not made. This Court denies and dismisses this allegation.

This Court finds that counsel was not ineffective for failing to explain to the Applicant that he could ask for a lesser included offense at trial. This Court finds that the Applicant is not credible. Furthermore, this Court finds that the plea judge informed the Applicant that he was waiving his

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right to claim that he was guilty of a lesser included offense. (Tt p. 18, lines 14-18). The Applicant responded that he wanted to waive that right. The Applicant failed to present a valid reason why he should be allowed to depart from the truth of his statements during his guilty plea. This Court finds that the Applicant was informed of his right to pursue a lesser included offense and freely, intelligently, and voluntarily waived that right.

This Court finds that counsel was not ineffective for failing to define malice for the Applicant. This Court finds that the Applicant is not credible. This Court notes that counsel informed the plea judge that he discussed the elements the State would have to prove to find him guilty of murder (Tt. p. 3, line 22 - p. 4, line 2). This Court also notes that the plea judge asked the Applicant if he understood the theory of malice aforethought and he stated that he did. (Tt. p. 19, lines 18-20). The plea judge also asked if he had discussed malice aforethought with counsel and he answered that he had (Tt. p. 19, lines 21-22). The Applicant failed to present a valid reason why he should be allowed to depart from the truth of his statements during his guilty plea. This Court denies and dismisses this allegation.

This Court finds that counsel was not ineffective for failing to inform the plea judge of mitigating circumstances during sentencing. This Court finds that counsel adequately presented mitigation to the plea judge. This included, but was not limited to, his age, his family background, his educational background, his work background, his ultimate cooperation with law enforcement and his remorse for what he did (Tt. p. 40, line 2 - p. 44, line 1). Furthermore, the Applicant has failed to prove that he was prejudiced in any way by the omission of his daughter and his non-violent criminal history. This Court finds the Applicant has failed to carry his burden and denies and dismisses this allegation.

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This Court finds that counsel was not ineffective for failing to share discovery with the Applicant. This Court finds that the Applicant was not credible. Furthermore, the Applicant has presented no evidence that he was prejudiced in anyway from failing to review videotape of his confession, his written statement, Detective Stedman's report, or his mental health evaluation. This Court notes that the Applicant was allowed to review his statement during the guilty plea proceedings (Tt. p. 16, lines 16-19). This Court finds the Applicant has failed to carry his burden of proof and denies and dismisses this allegation.

This Court finds that counsel was not ineffective for failing to meet with the Applicant for a sufficient amount of time before the guilty plea. This Court finds that the Applicant was not credible. This Court notes that the Applicant informed the Court that he had enough time to discuss his decision to plead guilty (Tt. p. 9, lines 24 - p. 10, lines 1). He also told the Court that he was completely satisfied with counsel, he had done everything he wanted him to do (Tt. p. 7, lines 21 - p. 8, line 1). The Applicant failed to present a valid reason why he should be allowed to depart from the truth of his statements during his guilty plea. Furthermore, the Applicant has failed to point to any specific matters counsel failed to discover which would have caused him to proceed with a jury trial instead of pleading guilty, aside from his other allegations of ineffective assistance of counsel. This Court finds this allegation is wholly without merit and denies and dismisses

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This Court finds that counsel was not ineffective for failing to pursue the theory of self defense at trial. This Court notes that the Applicant waived any defenses he had during his guilty plea (Tt. p. 18, lines 14 - 19). This Court finds that the Applicant was not credible. Furthermore, the Applicant failed indicate any elements of self-defense in his video-taped statement to police or his subsequent interview with the *Herald Journal*. During his guilty plea, the Applicant told the judge that his statement was accurate (Tt. p. 17, lines 13 - 17). He also agreed with the Solicitor's

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recitation of the facts (Tr. p. 15, line 11). The Applicant failed to present a valid reason why he should be allowed to depart from the truth of his statements during his guilty plea. The mere existence of letters written to counsel with an alternate version of events does not carry the burden to prove that counsel was ineffective for failing to pursue self-defense. This Court finds that the Applicant knowingly and intelligently waived his right to pursue self-defense and denies and dismisses this allegation.

This Court finds that counsel was not ineffective for failing to object as the Solicitor read a letter written by a family member of the victim. The record clearly indicates that the letter was not written by the Solicitor and did not convey his wishes. The plea judge would have easily understood this. The Court finds that this allegation is wholly without merit and denies and dismisses this allegation.

Furthermore, this Court finds that the Applicant's plea was freely and voluntarily given. He testified that his answers were his own, were truthful, and that no one had told him how to answer the questions (Tr. p. 11, lines 12 - 24). The Applicant failed to present a valid reason why he should be allowed to depart from the truth of his statements during his guilty plea. This Court finds that the Applicant has failed to prove prejudice from any alleged ineffective assistance of counsel received. The Applicant failed to show, with reasonable probability, that but for counsel's alleged ineffectiveness, he would not have pled guilty. This Court finds that the Applicant failed to carry his burden to show that trial counsel's representation fell below the standard of professional reasonableness for a criminal defense attorney in this regard. Strickland v. Washington; Cherry v. State. The Court finds that the Applicant cannot satisfy either requirement of the Strickland test

As to any and all allegations that were or could have been raised in the application or at the hearing in this matter, but were not specifically addressed in this order, this Court finds that the

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Applicant failed to present any probative evidence regarding such allegations. Accordingly, this Court finds that the Applicant waived such allegations and failed to meet his burden of proof regarding them. Accordingly, they are denied and dismissed with prejudice.

V. CONCLUSION

Based on all the foregoing, this Court finds and concludes that all allegations in this application for post conviction relief, with the exception of his belated appeal, must be denied and dismissed with prejudice. All other allegations or claims that were raised or could have been raised in this application are hereby dismissed with prejudice.

This Court further concludes that the Applicant is entitled to a belated direct appeal of his criminal conviction. White v. State; Davis v. State.


This Court advises Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, he must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 227 for appropriate procedures for appeal.

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IT IS THEREFORE ORDERED:

1. This application for post conviction relief is denied and dismissed with prejudice.
2. Within thirty days of service of this Order, counsel for the Applicant must file a Notice of Appeal to secure the appropriate review of the Applicants' convictions. Counsel and the Applicant are directed to Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986) and South Carolina Appellate Court Rule 227(g) for the appropriate procedure for securing belated appellate review
3. The Applicant is remanded to the custody of the South Carolina Department of Corrections to serve the remainder of his sentence.

AND IT IS SO ORDERED this 2nd day of November, 2007.



 ROGER L. COUCH
 Presiding Judge
 Seventh Judicial Circuit

, South Carolina.

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FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF Spartanburg)

Christopher L Hampton, #314697)
Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2014-CP-42-1197

APPLICATION FOR

POST-CONVICTION RELIEF

"Request for Austin hearing."

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 Broad River Correctional Institution, 4460 Broad River Road, Columbia S.C. 29210
2. Name and location of Court which imposed sentence Spartanburg County General Sessions Court, P.O. Box 3483 Spartanburg, S.C. 29304
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) MURDER (05-GS-42-3629)
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) April 03, 2006. "LIFE"
 - (b) _____

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- (c) _____
- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____
- 7. Did you appeal from the judgment of conviction or the imposition of sentence?
NO. (however, a notice of appeal "out of time" was filed on my behalf by Mr. Clay Allen Esq. Assistant Public Defender.
- 8. If you answered "yes" to (7), list:
 - (a) the name of each Court to which you appealed:
 - i. S.C. Court of Appeals
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. Dismissed.
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. 05/17/06
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. Denied - Pursuant to Rule - 234(b) SCAER
 - ii. _____
 - iii. _____
- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) I Was not informed of Right to appeal Guilty Plea.
 - (b) I had no independant knowledge that I could appeal.
 - (c) Counsel unfortunately passed away two days after sentence, therefore did not, if intended to, perfect my appeal.
- 10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: "Request Austin hearing"

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- (a) Illegal Confession: Violation of Miranda/Edwards Violation.
- (b) Ineffective assistance of Counsel/Involuntary Guilty Plea.
- (c) Vindictive prosecution/prosecutorial misconduct./Partial and Unreliable Judge. (Bias)

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

- (a) See reverse side of this page.
- (b) See reverse. "
- (c) See reverse. "

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.
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? Post-Conviction relief.
- (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? YES

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. (a) PCR relief.
- ii. (d) Notice of appeal to the Supreme Court 03/03/14
- iii. _____
- iv. _____

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

- i. Spartanburg County, General Sessions Court.
- ii. S.C. Supreme Court
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. An evidentiary hearing was Convened on 09/17/2007.
- ii. Pending.
- iii. _____

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11. (a) Involuntary Confession: During incustody Interrogation I was read Miranda rights in reference to the case in which I am incarcerated. I requested a lawyer and refused to sign that waiver. Despite that fact, I was still illegally interrogated for hours until I finally Confessed and later signed a waiver then signed my Confession statement that ended up being the only evidence used against me at my Plea proceeding.

(b) Ineffective Assistance of Counsel: ① Counsel failed to challenge and have Confession thrown out. ② Counsel failed to change venue as requested. ③ Counsel failed to request the Prosecutor be removed from case as requested. ④ Counsel failed to provide me with or share with me my discovery material. ⑤ Counsel should have challenged the CSC 2nd Charge instead of using the charge as a reason I should plea guilty to the murder charge. ⑥ Counsel failed to properly explain malice aforethought or prepare a manslaughter defense. ⑦ Counsel failed to inform me of my appellate rights nor did he file a notice of intent to appeal. ⑧ Counsel misinformed me to plea because of the three strikes law. ⑨ Counsel informed me to plea guilty because a Spartanburg Jury wouldn't acquit me of murder. ⑩ Counsel along with fellow Public defender James Cheeks visited me weeks before my trial date and pressured me hard into Pleaing guilty.

① Vindictive Prosecution: ① Prosecutor charged me with CSC 2nd degree in retaliation because I chose to exercise my procedural rights by walking out on an attempted interview by him because he threatened to charge me with sexual assault on a minor for not cooperating.

② Despite the lack of evidence of malice aforethought, Prosecutor never once considered lowering the murder charge to manslaughter, instead, he told the media that he believes I "maliciously Planned" the Killing. ③ Counsel at my request before entering the Courtroom attempted to negotiate 40 years but the prosecutor refused to do so.

Misconduct of Prosecutor: ① A few days after my Confession, leading investigators to the body then later explaining in my Confession that I had went back to the grave after 7 months and removed most of the bones including the skull, The Prosecutor maliciously inflamed the media with a rumor that the body had been beheaded before finding out the facts. ② After finding out the facts, and knowing that there were no aggravating circumstances, the prosecutor still hyped up the media with talks of the death penalty. ③ during my plea proceeding the prosecutor, during his reciting the case chose to further prejudice me by stating that I went back to the grave and removed the "head" when the fact is, he knew according to evidence that I removed multiple bones including the "skull" that malicious misconduct caused confusion and was misleading. ④ Prosecutor told the victim's already grieving family that I was having sex with a 15 year old and during victim impact testimony, the victim's mother told the court. The CSC case had not yet been tried and I should have been innocent until proven guilty. Instead the prosecutor's misconduct led to further prejudice toward me.

⑤ I was without negotiation or recommendation but that still didn't stop the prosecutor from reading a letter from the victim's Aunt that recommended the "maximum penalty" allowed. The prosecutor while reading the letter added extra emphasis on the words "Maximum Penalty allowed" The victim had two and a half rows of family members and friends present any one of them could have read that letter to the Judge.

Biased, Partial and Unreliable Judge: ① During victim impact testimony the Judge was obviously red faced and wiped away tears on several occasions. ② Judge failed to inform me of my right to appeal guilty plea or any other appellate rights I had.

iv. _____

(d) the date of each such disposition:

i. 09/17/2007. (September 17, 2007)

ii. 03/03/14 (March 03, 2014)

iii. _____

iv. _____

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

i. Dismissed.

ii. All allegations except belated appeal was denied and dismissed with prejudice (Order from PCR hearing)

iii. _____

iv. S.C. Supreme Court decision pending from notice of appeal.

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?

Yes.

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

(a) which grounds have been presented:

i. Illegal Confession, Miranda Violation

ii. Ineffective Assistance of Counsel.

iii. Involuntary Guilty Plea

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

i. PCR hearing.

ii. PCR hearing.

iii. PCR hearing

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) Vindictive prosecution / Prosecutorial Misconduct / Partial and

(b) unreliable Judge: Was informed by the prison Law

(c) Clerk that those grounds could only be raised on direct appeal.

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

CLERK OF COURT
SPARTANBURG
2014 MAR 24 AM 11:07
M. HOPE BLACKBERRY

- (a) your arraignment and plea? Yes.
- (b) your trial, if any? N/A
- (c) your sentencing? Yes.
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? No
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes / PCR

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. Trial Counsel: Michael Bartosh Esq. (deceased) Spartanburg County
Public Defender
258 North Church St.
Spartanburg, SC 29306
 - ii. PCR Counsel: W. Jeffrey McGurk. P.O. Box 3212 Sptbg S.C. 29304.
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. Guilty Plea Proceeding/sentencing
 - ii. PCR hearing.
 - iii. _____

19. State clearly the relief you seek in filing this application: Request Austin hearing; Vacate sentence/Vacate Plea/ and dismiss indictment.

20. Are you now under sentence from any other court that you have not challenged? No.

CLERK OF COURT
 SPARTANBURG
 2014 MAR 24 AM 11:11
 M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
County of Spartanburg)

VERIFICATION

Christopher L. Hampton
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.

Christopher L. Hampton

SWORN to and subscribed before me this 21st
day of March, 2014.

Susan H. Frye (L.S.)
Notary Public My Commission Expires
March 6, 2018

My Commission Expires: _____

CLERK OF COURT
SPARTANBURG COUNTY
2014 MAR 24 AM 11:00
M. HOPE BLACKLEY

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

Christopher L. Hampton
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.

Christopher L. Hampton
Applicant

SWORN or affirmed to and subscribed before me this
21st day of March, 2014.

Jessan H. Frye
Notary Public

My Commission Expires: _____ 5-2018

CLERK OF SUPERIOR COURT
SPARTANBURG, SOUTH CAROLINA
2014 MAR 24 AM 11:17
M. HOPE BLACKLEY

1. Ineffective assistance of PCR Counsel

- (a). PCR Counsel was ineffective for not explaining to the hearing judge the importance of the denied Continuance, because he had just provided me with the discovery material from my case that morning because my trial Counsel had failed to share or provide me with and I needed the time to look through it all to possibly find helpful information or evidence to help support my Issues.
- (b). PCR Counsel was very ineffective for not re-requesting the denied Continuance as soon as he had learned that Lt. Lamb was not present to testify at the PCR hearing. Lt. Lamb had been subpoenaed and his testimony was key to my issue that my Confession had been obtained illegally, because:
- (1). Lt. Lamb was the officer who read and checked off each "Miranda right" on the "Refused to Sign" pre-interrogation waiver presented several hours prior to Confession.
 - (2). It was Lt. Lamb that wrote "Refused to Sign" on the waiver after I had requested to him (Lt. Lamb) that I wanted a Lawyer appointed.
 - (3). It was Lt. Lamb who ignored my request for a Lawyer by asking me: "If you have nothing to hide why do you need a Lawyer for?"
 - (4). It was Lt. Lamb that sat in the back seat with me and did mostly all of the illegal interrogation during the drive from Edgefield to Spartanburg.
 - (5). It was Lt. Lamb that did most of the illegal interrogation once in Spartanburg inside the narcotics building's interrogation room.
 - (6). It was Lt. Lamb that produced and signed the Murder Warrant inside the Narcotics building and slammed it on the desk I was cuffed to, in anger because I was exercising my fifth Amendment right.
 - (7). It was Lt. Lamb's illegal and threatening interrogation that finally forced me into an involuntary Confession.
- Lt. Lamb's absence violated my right to Confrontation. If Lt. Lamb had been resubpoenaed along with me having the time to look through my discovery to find and add into my exhibit evidence the two pre-interrogation waivers from the day of my Confession, I could have proved my Confession as well as the Second Waiver, invalid.
- (c). PCR Counsel was very ineffective for not cross examining investigator Steadman and questioning him about the "missing" Audio recording from the drive from Edgefield as well as the "missing" Video/audio recording from the Narcotics building.
- (d) PCR Counsel was very ineffective for not perfecting the belated direct appeal that the hearing judge had granted me.
- (e) PCR Counsel was very ineffective for not serving and filing a notice of appeal from the denial of my PCR in which he assured me would be taken care of.
- (f) PCR Counsel "showed" his ineffectiveness assistance by not attempting to fix the damage he had caused when the Supreme Court Clerk wrote him concerning my PRO SE notice of appeal, advised him that he was still my attorney under rule 71.1(9) of the SCRPC. And wanted him to advise the Court on the day in which he received the written notice of the final order of denial so that the Court could determine the timeliness of my notice of appeal. However, my Counsel failed to respond and therefore my notice of appeal was dismissed as untimely because of PCR Counsel's deficient performance.

2. Bias and prejudice at PCR hearing:

(A) The prosecutorial misconduct at my guilty Plea hearing made its way to my PCR hearing and caused a misunderstanding from the assistant Attorney general responding for the State; the proof is:

(1.) During my PCR hearing, the Assistant attorney general made a statement saying: "Is that the reason why you went back and dug up the body to decapitate her?" or something along those lines. That statement prejudiced me because perhaps it made the judge feel that I wasn't fit for society and therefore he denied my issues with prejudice, that damaging statement by the assistant attorney general stemmed from the prosecutor at my plea trial making a similar statement: "... He went back to that site, dug up the body, and removed the head."

The fact is, after I confessed and led investigators to the remains, I explained to them that I had returned 7 months later and removed multiple bones including the skull. (Not a head) and the evidence later confirmed that the body wasn't "decapitated" The prosecutor knew this, but still, he insisted on creating a spiteful misunderstanding.

This prejudiced me by adding confusion and bias to my plea hearing as well as PCR hearing and undoubtedly impacted both Judge's decision.

(B) Prejudice was evident when my Continuance was denied despite the fact that a couple other applicants that had went in before me were granted Continuances.

The Court, without investigation or fact finding, denied my PCR at the end of the hearing; not only were my issues denied; they were dismissed with prejudice.

CLERK OF COURT
SPARTANBURG
2014 MAR 24 AM 11:14
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Christopher L. Hampton 314697
APPLICANT,

v

STATE OF SOUTH CAROLINA

RESPONDENT

IN THE COURT OF COMMON PLEAS

2014-CP-42-1197

AMENDED APPLICATION FOR

POST-CONVICTION RELIEF

• Petitioner hereby adds the following causes of action and allegations:

1.) Petitioner hereby alleges ineffective assistance of PCR Counsel in failing to file notice of appeal to the Supreme Court for writ of Certiorari of PCR Judge's Order of Dismissal.

2.) Petitioner hereby alleges PCR Counsel was ineffective in failing to file the belated direct appeal granted by the PCR Judge.

3.) Petitioner hereby alleges PCR Counsel was ineffective for failing to push the issue of a Continuance so that he could resubpoena Petitioner's key interrogator who had failed to be present at the hearing to testify. The testimony and the cross-examination was critical in proving the involuntariness of Petitioner's Confession.

4.) Petitioner hereby alleges PCR Counsel was ineffective in not placing into evidence the two pre-interrogation waiver forms served on petitioner on the day of Confession; the first of the two waiver forms would have served-

2014 APR 25 P 11 24 AM
M. J. P. B. H. N. V. L. Y.

as proof that petitioner had chosen to exercise his Fifth Amendment rights. Several hours prior to his confession and thus proved the second waiver invalid.

5) Petitioner hereby alleges PCR Counsel was ineffective for failing to raise the issue of trial counsel failing to investigate the voice and video evidence that had been in use by the Police in the hours that led up to petitioner's confession.

b) Petitioner hereby alleges PCR Counsel was ineffective in failing to himself investigate the afore-mentioned voice and video evidence which would have, if discovered and presented at the PCR hearing, served as proof that petitioner on the voice recorder, requested a lawyer inside the vehicle on the drive from Edgefield, then again on video inside the narcotics building's interrogation room. Both recordings would have also proved that the absent Lt. Steve Lamb had accounted for over 95 percent of the illegal interrogation on the day of petitioner's confession as well as verbally ignored petitioner's request for counsel.

7) Petitioner hereby alleges PCR Counsel was ineffective for failing to effectively cross-examine investigator Steadman by asking him the question as to why he (Steadman) being the driver on the drive from Edgefield to Spartanburg, failed to honor petitioner's request to take him straight to the Spartanburg County jail, which would have protected petitioner's privilege against self-incrimination. He (PCR Counsel) failed to ask why, since petitioner had requested a lawyer and refused to sign an early waiver of rights, why was petitioner taken into an interrogation room, cuffed to a desk and illegally interrogated, failed to contradict Steadman's press probably waiting at the station testimony when Steadman's excuse for taking the petitioner to the narcotics building was to "wait on the press." This question would have impeached Steadman's testimony, and his credibility.

8) Petitioner hereby alleges ineffective assistance of PCR Counsel in Counsel's failure to subpoena James Cheeks, Esquire, of the Spartanburg County Public Defenders office;

James Checks, had been present, and also played a part when trial Counsel pressured petitioner into pleading guilty.

9.) Petitioner hereby alleges PCR Counsel was ineffective for failing to explain to the PCR Judge that by trial Counsel's failure to share or provide discovery, Petitioner's guilty Plea could not be voluntary when he never knew what evidence the state had against him or what evidence was favorable to him; PCR Counsel also failed to inform the judge that he had just provided Petitioner with discovery and a Continuance was required in order for Petitioner to review discovery so that he could find evidence favorable to help support his claims to present as evidence

10.) Petitioner hereby alleges PCR Counsel was ineffective for not raising the issue of trial Counsel failing to move to have the plea judge disqualified upon seeing plea judge constantly wiping away his tears during victim impact testimony.

11.) Petitioner hereby alleges PCR Counsel was ineffective for failing to meet with him to discuss direct appeal issues and/or failing to go about Anders procedures if he felt there were no meritorious issues.

12.) Petitioner hereby alleges PCR Counsel was ineffective for not responding to letters over the years concerning his appeals, and for also failing to respond to the Supreme Court's concerning Petitioner's belated Pro Se notice of appeals.

13.) Petitioner hereby alleges PCR Counsel was ineffective for failing to raise and preserve the violation of Brady Petitioner, once finally able to review his discovery, no evidence of the voice recorder or the narcotics building's video. As petitioner had expected, the police and/or prosecution has withheld that confession and indictment impeaching evidence.

April 14, 2014

Christopher L. Hampton
Christopher L. Hampton 314097
PCCI Smu #144
4460 Bi-zel River Rd
Columbia, SC 29210

APR 15 8:11 AM
MURPHY BRADLEY

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

Christopher L. Hampton #314697
Applicant,

V.

State of South Carolina

AMENDED APPLICATION FOR
POST CONVICTION RELIEF

Respondent.

Petitioner hereby alleges Due Process Violations because of his inability to present evidence that includes but not limited to the following at his First PER hearing:

- 1) The two pre-interrogation waivers from the day of his Confession
- 2) Lt. Steve Lamb's testimony and Cross examination.
- 3) James Cheeks, Esquire (Spartanburg County Public Defenders Office), testimony and Cross-examination.
- 4) The Voluntary Statement of Petitioner's alleged CSC 2nd degree Charge that was along with the pre-interrogation waivers, found inside Petitioner's discovery. This statement would have provided missing issues.
- 5) Evidence of a Brady violation because of the missing recordings.

I. Significance of the Pre-interrogation waivers.

(a) The Presentation of the 9:20 a.m. "Refused to Sign" Pre-interrogation Waiver would have served as "on the record" proof that petitioner had in fact invoked his Fifth Amendment rights and did not wish to be interrogated ("If an individual indicates in any manner, prior to or during questioning that he wishes to remain silent the interrogation must cease.") Miranda v. Arizona, 384 U.S. at 473-474

Investigator Steadman's own testimony at the hearing confirmed that the interrogation never ceased, thus: petitioner being taken to the Narcotics building, inside an interrogation room cuffed to a desk and interrogated.

(b.) The presentation of the 14:18 p.m. pre-interrogation waiver would have, in light of the fact that the interrogation "never ceased," proved that the 14:18 p.m. waiver and confession statement was obtained in violation of Edwards, (where defendant had invoked his right to have Counsel present during Custodial interrogation, valid waiver of that right could not be established by showing only that he responded to police-initiated interrogation after being again advised of his rights; thus, use of defendant's confession against him at his trial violated his rights under the Fifth and Fourteenth Amendments to have Counsel present during Custodial interrogation.) Edwards v. Arizona, 451 U.S. 477, 489 101 S.Ct. 1880 (1981)

With the introduction of the waiver forms, along with the absence of the subpoenaed, Lt. Steve Lamb being informed to the PCR Judge, there is a reasonable possibility it would have been assumed that Lt. Lamb had something to hide and the petitioner perhaps could have proved his involuntary confession issue, and the outcome of the hearing would have been different.

II. Significance of the Voluntary Statement of the alleged CSC 2^d degree Victim.

• Petitioner hereby adds the following cause of action and alleges:

On the date of May 09, 2005, Solicitor Trey Gowdy, Assistant Solicitor Cindy Smith, Lt. Lamb and investigator Steadman drove down to visit Petitioner at a Federal Prison in Edgefield for an attempted interview, in reference to the Houston Missing Persons case. Less than ten minutes into the interview, Solicitor Gowdy, because of Petitioner's unwillingness to give any information, threatened to bring on a sexual assault on a minor charge against Petitioner; the threat caused Petitioner to abruptly walkout, ending the interview...

On the date of August 12, 2005, Petitioner was detained upon release from FCI Edgefield by Investigator Steadman and Steve Lamb. From the prison, Petitioner was driven to an abandoned wooded lot and there, sitting next to Petitioner in the back seat, Lt. Lamb served Petitioner with a CSC on a minor 2^d degree warrant... ("To punish a person because he had done what the law plainly allows him to do is a Due Process violation of the most basic sort, and for an agent of the State to pursue a course of action whose objective is to penalize a person's reliance on his legal rights is 'patently unconstitutional.'") Bordenkircher v. Hayes, 434 U.S. 357, 363 (1978)

Neal V. Cain 141 F3d 207, 214 ("vindictiveness may be demonstrated where a prosecutor brings additional charges against defendant to punish the defendant for his exercise of procedural rights.")

§ 16-3-655 Criminal sexual conduct with a minor aggravation and mitigating circumstances...

(B) A person is guilty of criminal sexual conduct with a minor in the second degree if:

- (1) The actor engages in sexual battery with a victim who is fourteen years of age or less but who is at least eleven years of age; or
- (2) The actor engages in sexual battery with a victim who is at least fourteen years of age but who is less than sixteen years of age and the actor is in a position of familial, custodial, or official authority to coerce the victim to submit or who is older than the victim...

According to the Voluntary Statement given by the alleged CSC victim, her date of birth reads [redacted]/88, and she was already five months pregnant the first time she and the petitioner had sexual contact in the middle of May 2004.

Petitioner hereby alleges that the exact date he and the alleged victim first had sexual contact was on 05/20/04, which in light of the Voluntary Statement, was ten days before the alleged victim's sixteenth birthday.

Petitioner hereby alleges that even though the CSC with a minor second degree was not processed, his revelation to the alleged victim's Voluntary Statement and given the details inside the statement that includes the birthdate, the victim's already pregnancy and her pretending to be 18, petitioner realized that there is a strong possibility that the CSC charge could have been easily thrown-out or acquittable.

For that matter, petitioner, with the Voluntary statement of the 'alleged' CSC victim placed into evidence at the PCR hearing, ineffective assistance of trial counsel and an involuntary Guilty plea could have been well established for the following reasons:

1.) Petitioner hereby alleges that had he been able to find, by viewing discovery, the alleged CSC victim's Voluntary Statement, and placed into evidence; trial counsel could have been proven ineffective for not moving to have the charge dismissed as vindictive. Also, ineffective assistance would have been established for trial counsel's over looking or disregarding the alleged CSC victim, was only several days away from the "legal" age set forth in § 16-3-655 (B)(2), was living an independant adult lifestyle and was already 5 months pregnant before Sexual Contact was ever made, given also the fact that she had lied about her age, doubts could have been cast on some of the allegations inside her voluntary statement. This charge, if trial counsel attempted, could have easily been thrown out, or, at the very least, given the circumstances, counsel should have had faith that the charge would not have held up at trial. Therefore, once trial counsel's ineffectiveness in not having attempt to get the charge thrown out, the following prejudice would have been shown; an involuntary guilty plea.

Petitioner hereby alleges that had not PCR counsel been ineffective in stressing to the PCR judge the importance of a Continuance, and a Continuance been granted, petitioner would have had time to review discovery, read the CSC statement, researched case law and statutes and when the rescheduled PCR date arrived the statement would have been placed into evidence. and petitioner could have attacked the voluntariness of his guilty plea because of the CSC charge.

Petitioner hereby alleges that trial counsel gave bad advice to plea guilty to the murder charge because of the CSC charge. Trial counsel warned petitioner that Even if Manslaughter was the case, A life sentence would still be given; once convicted of that, the CSC and my prior bank robbery charge that I was convicted on, 3 Strikes law would be an automatic life sentence. James Cheeks, Esquire had been present and was vouching and he too was pressuring a guilty plea.

Petitioner hereby adds the following cause of action and alleges:

On the date of April 03, 2006, Petitioner scheduled trial was to start, in less than ten minutes before jury selection Petitioner's trial Counsel began to again talk him into a guilty plea. Petitioner finally agreed under the condition that trial Counsel negotiate a 40-year deal with the solicitor. Trial Counsel stated he would try and left the room; a short time later he returned stating that the solicitor refused to make a deal.

Petitioner then began asking about the jury process but trial Counsel stated that judge Few was a pretty fair judge and to let him run the 40 years by him. Petitioner reminded Counsel about the 3 strikes law, At that, Counsel informed Petitioner that he would go see if he could get the solicitor to drop the CSC charge in exchange for the guilty plea. Trial Counsel left and shortly returned, informing petitioner that the solicitor agreed.

After the rejected 40-year proposal, Trial Counsel should have known the Solicitor's intention, so therefore, he should not have allowed me to proceed with the guilty plea.

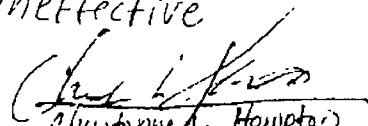
Petitioner hereby alleges that had he been able to view discovery and present the relevant evidence these allegations would have been raised at the PCR hearing.

Petitioner hereby alleges and adds the following Cause of action and grieves:

All allegations herein is result of ineffective assistance of PCR Counsel.

April, 14, 2014

8.


Christopher A. Hampton
BCEI Smu-144

2014 APR 15 11:47 AM
M. HOPE BEAUCLEY

CLERK OF COURT
OFFICE OF THE CLERK
COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

Christopher L Hampton 314697
v. Applicant

AMENDED APPLICATION FOR
POST-CONVICTION RELIEF

State of South Carolina
Respondent

Petitioner hereby respectfully request that the following be granted:

- 1.) Belated Direct Appeal and Austin v State Appeal.
- 2.) New PCR hearing; or
- 3.) Opportunity to re-argue the voluntariness of Confession because of Lt. Lamb's absence at First PCR hearing; and
- 4.) Opportunity to re-argue ineffective assistance of Counsel and the voluntariness of guilty plea, and present the evidence found in discovery to help support my claim; or
- 5. Remand and resentencing with information of right to appeal so that I may properly exhaust my state remedies

2014 APR 15 PM 2:47
HOPE BLACKLEY

Wherefore, petitioner prays that this Honorable Court grant the proper review and consideration in this case so that he may get his one fair bite of the apple that every PCR Applicant is entitled to in the state of South Carolina.

Respectfully Submitted
[Signature]

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG)	
<u>Christopher L. Hampton 314697</u>	)	2014-CP-42-1197
Applicant)	
v.	)	CERTIFICATE
State of South Carolina	)	OF
<u>Respondent</u>	)	SERVICE

I, Christopher L Hampton, 314697. being duly sworn upon my oath, deposes and say I have subscribed to the forgoing AMENDMENT FOR POST-CONVICTION RELIEF APPLICATION, that I know the contents thereof, that includes every ground known to me for vacating plea and/or vacating or setting aside the conviction and sentence in the above petition attached in this request and that the matter and allegations therein set forth are true and correct. I do hereby under oath and penalty of perjury certify that I have served copies of this document upon the below parties upon this exact date.

M. Hope Blackley
 Clerk of Court Spartanburg County
 P.O. Box 3483
 Spartanburg, S.C. 29304-3483

2014 APR 15 PM 2:47
 M. HOPE BLACKLEY

SWORN TO AND SUBSCRIBED BEFORE ME
 THIS 14th DAY OF April 2014
Suzanne A. Zipe
 NOTARY PUBLIC FOR SOUTH CAROLINA
 MY COMMISSION EXPIRES: My Commission Expires

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG)	
Christopher L. Hampton, #314697,	)	2014-CP-42-1197
)	
Applicant,)	
)	
v.	)	RETURN AND MOTION TO DISMISS
)	
State of South Carolina,)	
)	
Respondent.)	
)	

In response to the post-conviction relief application filed April 15, 2014, the Respondent would show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted at the August 2005 term of the Spartanburg County Grand Jury for Murder (05-GS-42-3629) and Criminal Sexual Conduct with a Minor, Second Degree (05-GS-42-3630). The Applicant was represented by Michael Bartosh, Esquire¹. On April 3, 2006, the Applicant pled guilty to Murder and the charge of CSC with Minor, 2nd was *not proessed*. Applicant was sentenced by the Honorable John C. Few to confinement for Life. The Applicant did not appeal his conviction or sentence.

2006-CP-42-3049

The Applicant subsequently filed an application for post-conviction relief (PCR) September 15, 2006. The State filed its Return. An evidentiary hearing was convened on September 17, 2007, at the Spartanburg County Courthouse, at which the Applicant was present and represented by W. Jeffrey McGurk, Esquire. The Applicant raised the following issues in his first PCR:

¹ Respondent notes that plea attorney Michael Bartosh passed away suddenly a few days after Applicant's plea.

1. Ineffective assistance of counsel, in that;
 - a. Counsel failed to challenge the voluntariness of his statement to police,
 - b. Counsel failed to move for a change in venue,
 - c. Counsel failed to explain to Applicant that if he proceeded to trial, there might be the option of being found guilty of a lesser-included offense,
 - d. Counsel failed to present mitigating circumstances to the sentencing judge,
 - e. Counsel failed to review discovery materials with Applicant, including the videotape of his confession, written statement, Detective Steadman's report, or the mental health evaluation,
 - f. Counsel failed to adequately meet with Applicant prior to the guilty plea,
 - g. Counsel failed to pursue a theory of self-defense,
 - h. Counsel failed to object when Solicitor Gowdy read a letter from the victim's family asking for the maximum sentence.

At the hearing, Applicant also raised the issue of his right to a belated review of direct appeal issues. The State consented to allow the Applicant to pursue the belated review of direct appeal issues pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).

The Honorable Roger L. Couch granted Applicant the right to have the belated review of direct appeal issues, but denied and dismissed the remainder of Applicant's application by written Order on November 2, 2007. The Applicant did not appeal the denial of his PCR application.

II.

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

1. Ineffective Assistance of PCR Counsel, in that;
 - a. Counsel failed to appeal the denial of Applicant's prior PCR application as instructed to by Applicant,
 - b. Counsel failed to appeal the denial of Applicant's prior PCR in order to secure the belated review of direct appeal issues as granted by the PCR judge,
 - c. Counsel failed to "push the issue of a continuance" to have time to re-subpoena Applicant's interrogator who was not present at the hearing,
 - d. Counsel failed to put into evidence the two pre-interrogation waiver forms to support claim of involuntary confession,

- e. Counsel failed to raise the issue of trial counsel failing to investigate the voice and video evidence used by police in the hours leading up to the Applicant's confession,
- f. Counsel failed to investigate the voice and video evidence to support the claim of an involuntary confession,
- g. Counsel failed to effectively cross-examine Investigator Steadman as to the events leading up to the involuntary confession, which would have impeached Steadman's testimony and credibility,
- h. Counsel failed to subpoena James Cheek, Esquire, to testify at the PCR hearing as to trial counsel's pressure on Applicant to plead guilty,
- i. Counsel failed to explain to the PCR judge that the plea could not be voluntary when Applicant did not know any of the State's evidence,
- j. Counsel failed to address trial counsel's failure to move to have the plea judge disqualified when the judge wiped away tears during the victim impact testimony,
- k. Counsel failed to meet with Applicant to discuss direct appeal issues,
- l. Counsel failed to respond to letters over the years from Applicant and the Supreme Court's letter concerning Applicant's belated pro se notice of appeal,
- m. Counsel failed to raise and preserve the Brady issues, which indicate the police and/or prosecution have withheld the confession and indictment impeaching evidence.

For the purpose of this Return, the Respondent incorporates the Clerk of Court records, the South Carolina Department of Corrections' records and the prior PCR records by reference. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

The Applicant alleges that he was denied the right to appeal the dismissal of his previous post-conviction relief application. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), a post-conviction relief applicant may petition the South Carolina Supreme Court for discretionary review of the dismissal of their application. The Respondent lacks sufficient information to admit or deny this allegation. The Respondent requests an evidentiary hearing on this ground for relief. Sharper, Id.; Austin, Id.

IV.

The Court should summarily dismiss all other claims because they are successive to the previous application for post-conviction relief. Successive applications for post-conviction relief are disfavored. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980). S.C. Code Ann. § 17-27-90 (2003) states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence, or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which, for sufficient reason, was not asserted or was inadequately raised in the original, supplemental or amended application.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." [Emphasis in original]. Id., 305 S.C. at 450, 409 S.E.2d at 394. If the Applicant could have raised these allegations in a previous application, then the Applicant may not raise those grounds in successive applications. Id. The Applicant bears the burden of showing that the allegations could not have been raised previously. Land, Id.

Respondent submits Applicant's contention that he received ineffective assistance of counsel on his prior post-conviction relief application is not a ground for relief and not a sufficient claim to warrant a successive application. There is no constitutional right to appointed counsel for collateral review of a conviction. Pennsylvania v. Finley, 481 U.S. 551 (1987). The Sixth Amendment right to effective assistance of counsel does not extend to state post-conviction relief actions. Coleman v. Thompson, 501 U.S. 722 (1991).

The South Carolina Supreme Court held the PCR rules “contemplate an adjudication on the merits of the original petition, one bite at the apple as it were.” Aice, 305 S.C. at 452, 409 S.E.2d at 395 (citing Gamble v. State, 298 S.C. 176, 178, 379 S.E.2d 118, 119 (1989)). The court also noted, “Finality must be realized at some point in order to achieve a semblance of effectiveness in dispensing justice.” Id. at 451, 409 S.E.2d at 395. Aice further held that “the contention that prior PCR counsel was ineffective is not *per se* a “sufficient reason” allowing for a successive PCR application under § 17-27-90.” Id. at 452, 409 S.E.2d at 394. Applicant’s contentions that prior PCR counsel was ineffective is not a sufficient reason warranting a successive PCR application.

Applicant failed to establish any sufficient reason why he did not raise his current grounds for relief in a previous application. With the exception of Applicant’s request for a belated PCR appeal, Respondent moves to summarily dismiss Applicant’s current application because it is successive to his previous application and fails to raise cognizable claims.

V.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

VI.

WHEREFORE, Respondent moves for an evidentiary hearing solely on the allegation of ineffective assistance of prior PCR counsel related to counsel’s failure to file an appeal and to summarily dismiss all other claims because they are successive to the Applicant’s prior PCR action and the allegations of ineffective assistance of PCR counsel are uncognizable.


Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN RATIGAN
Senior Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Deputy Attorney General

By: 
ATTORNEYS FOR RESPONDENT
P.O. Box 11549
Columbia, S.C. 29211

May 8, 2015.

State of South Carolina)	
	)	Court of Common Pleas
County of Spartanburg)	
	)	Post Conviction Relief
	)	2014-CP-42-01197
Christopher L. Hampton)	
vs.	)	Transcript of Record
)	
State of South Carolina)	
Defendant)	

November 9, 2015
Spartanburg, South Carolina

B E F O R E:

Honorable Larry B. Hyman, Jr., Judge

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

Alicia A. Olive, Assistant Attorney General
Attorney for the State

J. Brandt Rucker, Esq.
Attorney for the Defendant

Joy E. Holston
Official Court Reporter

1 THE COURT: Ms. Olive.

2 MS. OLIVE: Mr. Hampton, they are bringing him
3 around.

4 THE COURT: All right. Mr. Rucker, will you please
5 state the general allegations for me.

6 MR. RUCKER: Your Honor, in our PCR application, in
7 Mr. Hampton's case, we are alleging, it is an appeal
8 issue. He instructed his PCR attorney, previous PCR to
9 file notice of appeal and that was not done.

10 THE COURT: Okay. I will hear from you.

11 MR. RUCKER: Your Honor, I call my client,
12 Christopher Hampton to the stand.

13 Christopher L. Hampton, being
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 By Mr. Rucker:

17 Q Mr. Hampton, please speak loud enough so the Court
18 Reporter can hear. Okay.

19 A Okay.

20 Q What is your full name?

21 A Christopher Lamont Hampton.

22 Q And what is your current sentence that you are
23 serving?

24 A Life.

25 Q What was the underlying crime that you were convicted

1 A No, sir.

2 Q Is that what you are asking the Judge to do, is grant
3 you the relief of allowing you to file notice of appeal in
4 the case?

5 A That and my PCR pleadings.

6 Q So, specifically on the appeal you just want to make
7 sure other courts get to review these two cases?

8 A Yes, sir.

9 THE COURT: Let me get this straight, Mr. Rucker. He
10 asked for a belated appeal in his original PCR?

11 MR. RUCKER: Yes, sir.

12 THE COURT: All right, and the attorney did not file
13 that appeal?

14 MR. RUCKER: Yes, sir.

15 THE COURT: But he not only is appealing on the
16 grounds that he wants to file an appeal of his original
17 case but he wants to appeal the PCR where he was granted?

18 MR. RUCKER: I think more clearly, he wants the
19 original direct appeal. I think that is what matters most
20 to him, to restart that process.

21 THE COURT: He doesn't want to appeal the PCR where
22 he was granted that, right?

23 MR. RUCKER: No, sir. I am sorry if I was unclear on
24 my questioning.

25 THE COURT: Well, that is what he said. Mr. Hampton,

1 issues?

2 A Yes, sir. Especially my confession, I definitely
3 want that reviewed.

4 Q I am sorry, I couldn't hear you.

5 A My confession.

6 Q Okay.

7 A I have got a confession and I want to make sure that
8 is reviewed as well.

9 Q Are there any other issues you want this Judge to
10 hear today?

11 A Other than my confession and my guilty plea. And
12 that is about it.

13 Q Okay, no further questions.

14 MS. OLIVE: No questions, Your Honor.

15 THE COURT: All right, you may step down.

16 MR. RUCKER: Your Honor, that is our case.

17 THE COURT: I will hear from the State. I would
18 assume that the State takes no position or does not
19 oppose?

20 MS. OLIVE: That's correct, Your Honor.

21 THE COURT: All right. Relief is granted. I am
22 going to grant, the finding of ineffective assistance of
23 PCR counsel by failing to file a direct appeal which was
24 granted in his PCR and failing to file his appeal of both
25 portions of the PCR denying relief. That seems to be

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CERTIFICATE OF REPORTER

State of South Carolina)
)
County of Newberry)

I, Joy E. Holston, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the County of Spartanburg, South Carolina on the 9th day of November, 2015.

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

September 18, 2016

Joy E. Holston

Joy E. Holston, Court Reporter

My Commission expires: May 2, 2026

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)
)
 Christopher L. Hampton, #314697)
)
 Applicant,)
))
 v.)
 State of South Carolina,)
))
 Respondent.)

IN THE COURT OF COMMON PLEAS
 SEVENTH JUDICIAL CIRCUIT

2014-CP-42-1197

**ORDER GRANTING
 RELIEF**

CLERK OF COURT
 SPARTANBURG COUNTY
 2017 OCT 16 AM 10:11
 M. HOPE BLACKLEY

This matter came before the Court by way of an Application for Post-Conviction Relief (PCR). The Applicant is represented by Brandt Rucker, Esq. The State of South Carolina was represented by Assistant Attorney General Alicia Olive. The Applicant is currently serving a life sentence in the South Carolina Department of Corrections pursuant to a guilty plea to one count of murder.

A hearing was held on November 9, 2015. The Applicant appeared and testified. The applicant's former attorney for his previous PCR, Jeffrey McGurk, Esq., was not present. The applicant's plea attorney, Michael Bartosh, died two days after the guilty plea and as a result was not present for this hearing. The Court reviewed the entire case file, including the plea transcript, and heard the testimony of all parties and witnesses.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted on one count of murder (2005-GS-42-3629) at the August 29,

2005 term of the Spartanburg County Grand Jury. The Applicant was represented by Michael Bartosh throughout the case and at his guilty plea hearing which was held on April 3, 2006. Mr. Bartosh passed away two days after the guilty plea, and the Applicant was never informed about his right to appeal the guilty plea.

The Applicant subsequently filed an application for post-conviction relief (PCR) September 15, 2006. The State filed a Return. An evidentiary hearing was convened on September 17, 2007, at the Spartanburg County Courthouse, at which the Applicant and represented by W. Jeffrey McGurk, Esquire. In the first PCR Application, The Applicant raised the following issues in his:

1. Ineffective assistance of counsel, in that;
 - a. Counsel failed to challenge the voluntariness of his statement to police,
 - b. Counsel failed to move for a change in venue,
 - c. Counsel failed to explain to Applicant that if he proceeded to trial, there might be the option of being found guilty of a lesser-included offense,
 - d. Counsel failed to present mitigating circumstances to the sentencing judge,
 - e. Counsel failed to review discovery materials with Applicant, including the videotape of his confession, written statement, Detective Steadman's report, or the mental health evaluation,
 - f. Counsel failed to adequately meet with Applicant prior to the guilty plea,
 - g. Counsel failed to pursue a theory of self-defense,
 - h. Counsel failed to object when Solicitor Gowdy read a letter from the victim's family asking for the maximum sentence.

At the hearing, Applicant also raised the issue of his right to a belated review of direct appeal issues. The State consented to allow the Applicant to pursue the belated review of direct appeal issues pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).

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M. HEPPELBLACKLEY

The Honorable Roger L. Couch granted Applicant the right to have the belated review of direct appeal issues, but denied and dismissed the remainder of Applicant's application by written Order on November 2, 2007. The Applicant did not appeal the denial of his PCR application.

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

1. Ineffective Assistance of PCR Counsel, in that;
 - a. Counsel failed to appeal the denial of Applicant's prior PCR application as instructed to by Applicant,
 - b. Counsel failed to appeal the denial of Applicant's prior PCR in order to secure the belated review of direct appeal issues as granted by the PCR judge,
 - c. Counsel failed to "push the issue of a continuance" to have time to re-subpoena Applicant's interrogator who was not present at the hearing,
 - d. Counsel failed to put into evidence the two pre-interrogation waiver forms to support claim of involuntary confession,
 - e. Counsel failed to raise the issue of trial counsel failing to investigate the voice and video evidence used by police in the hours leading up to the Applicant's confession, f. Counsel failed to investigate the voice and video evidence to support the claim of an involuntary confession,
 - g. Counsel failed to effectively cross-examine Investigator Steadman as to the events leading up to the involuntary confession, which would have impeached Steadman's testimony and credibility,
 - h. Counsel failed to subpoena James Cheek, Esquire, to testify at the PCR hearing as to trial counsel's pressure on Applicant to plead guilty,
 - i. Counsel failed to explain to the PCR judge that the plea could not be voluntary when Applicant did not know any of the State's evidence,
 - j. Counsel failed to address trial counsel's failure to move to have the plea judge disqualified when the judge wiped away tears during the victim impact testimony,

CLERK OF COURT
SUPERIOR COURT
2017 OCT 16 AM 10:11
M. HOPE BLACKLEY

- k. Counsel failed to meet with Applicant to discuss direct appeal issues,
- l. Counsel failed to respond to letters over the years from Applicant and the Supreme Court's letter concerning Applicant's belated pro se notice of appeal,
- m. Counsel failed to raise and preserve the Brady issues, which indicate the police and/or prosecution have withheld the confession and indictment impeaching evidence.

This court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has had the opportunity to weigh the testimony of the witnesses, review the transcript, and review and weigh the evidence in this case pursuant to S.C. Code Ann. § 17-27-80 (2003).

The Applicant alleges he received ineffective assistance of counsel. For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). In order to prove prejudice, an applicant must show "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052). Additionally, in a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the

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evidence.” Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

The Applicant’s issues are based on the failure of his plea level attorney and PCR attorney to appeal. In South Carolina, the decision to grant a belated appeal from a guilty plea is found in Weathers v. State, 319 S.C. 59, 61, 459 S.E.2d 838, 839 (1995). The Supreme Court held “absent extraordinary circumstances, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea.” 319 S.C. 59, 61, 459 S.E.2d 838, 839 (1995). “The bare assertion that a defendant was not advised of appellate rights is insufficient to grant relief. Instead, there must be proof that extraordinary circumstances exist such that the defendant should have been advised of the right to appeal. One extraordinary circumstances which would require counsel to advise a defendant of the right to appeal from a guilty plea would arise when the defendant inquires about an appeal. *Id.*

As to the issue regarding belated appeals from an Order of Dismissal of the PCR Application, the South Carolina Supreme Court is clear regarding who is entitled to a belated appeal and the procedure to be followed. All applicants are entitled to a full and fair opportunity to present claims in one PCR application. Successive PCR applications and appeals are generally disfavored because they allow an applicant to receive more than “one bite at the apple as it were.” Matthews v. Evatt, 105 F.3d 907, 916 (1997) (quoting Gamble v. State, 298 S.C. 176, 379 S.E.2d 118, 119 (1989)). A successive PCR application is one that raises grounds not raised in a prior application, raises grounds previously heard and determined, or raises grounds waived in prior proceedings. Carter v. State, 293 S.C. 528, 362 S.E.2d 20 (1987); see S.C.Code Ann. § 17-27-90 (1976 & Supp.1997). In order to be entitled to a successive PCR application, the applicant must

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establish that the grounds raised in the subsequent application could not have been raised in the previous application. Tilley v. State, 334 S.C. 24, 511 S.E.2d 689 (1999).

Additionally, successive PCR applications are permitted in rare procedural circumstances. See, e.g., Case v. State, 277 S.C. 474, 289 S.E.2d 413 (1982) (allowing a successive PCR application where the applicant's first PCR application was dismissed without assistance of legal counsel and without a hearing); Carter v. State, 293 S.C. 528, 362 S.E.2d 20 (1987) (permitting a successive application where the applicant did not have PCR counsel that differed from his trial counsel).

This Court has allowed successive PCR applications where the applicant has been denied complete access to the appellate process. Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). Under the PCR rules, an applicant is entitled to a full adjudication on the merits of the original petition, or "one bite at the apple." Aice v. State, 305 S.C. 448, 452, 409 S.E.2d 392, 395 (1991). This "bite" includes an applicant's right to appeal the denial of a PCR application, and the right to assistance of counsel in that appeal. See Aice, 305 S.C. at 448, 409 S.E.2d at 392.

An Austin appeal is used when an applicant is prevented from seeking appellate review of a denial of his or her PCR application, such as when an attorney fails to seek timely review. See Aice, 305 S.C. at 448, 409 S.E.2d at 392; Hope v. State, 328 S.C. 78, 492 S.E.2d 76 (1997) (permitting an Austin appeal where original PCR counsel failed to appeal from the first denial of PCR). In Austin, the defendant never received a full procedural "bite at the apple" because he was prevented from seeking any review of the denial of his PCR application. Aice, 305 S.C. at 452, 409 S.E.2d at 395.

A PCR applicant is entitled to an Austin appeal if the PCR judge affirmatively finds

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either: (1) the applicant requested and was denied an opportunity to seek appellate review; or (2) the right to appellate review of a previous PCR order was not knowingly and intelligently waived. See King, 308 S.C. at 348, 417 S.E.2d at 868. If the PCR court finds an applicant was denied his right to appeal, the applicant can petition for certiorari and this Court will review whether the petitioner was prejudiced by the failure to obtain appellate review. Id.; see King, 308 S.C. at 349, 417 S.E.2d at 868 (outlining the procedure used to seek review pursuant to Austin v. State); Wicker v. State, 310 S.C. 8, 425 S.E.2d 25 (1992).

The Applicant presented evidence through his testimony. Applicant testified that he was seeking appellate review of his original guilty plea, and was seeking appellate review of his denial of PCR. Applicant testified that because of the death of his plea counsel, Michael Bartosh, he was never informed of his right to appeal, the deadline appeal, and the time limits for such appeal. The Applicant testified that Mr. Bartosh and he were supposed to meet in the time after his guilty plea, but because Mr. Bartosh died, he was not able to go over his options with him. He testified that he would have appealed his guilty plea had he been given the opportunity. The review of the plea transcript indicates that the Applicant was not informed of his right to appeal the guilty plea on the record, that there is an exceptional circumstance in this case in that Mr. Bartosh passed away before meeting with the Applicant regarding a potential appeal and the State produced no evidence that the Applicant had knowledge of his rights regarding an appeal or wished to waive his appeal rights. There is simply no contradictory evidence to the Applicants assertions.

Applicant also claims that he was not given an opportunity to appeal the Order of

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Dismissal of his PCR claim. The Applicant testified that his PCR attorney, Mr. McGurck, failed to appeal the Order of Dismissal of the Applicant's application despite the Applicant repeatedly requesting him to do so. This testimony is uncontradicted as Mr. McGurck did not appear at this hearing, and the State offered no evidence against the Applicant. It appears from the record and the testimony, that the Applicant is entitled to an appeal pursuant to Weathers v. State, 319 S.C. 59, 61, 459 S.E.2d 838, 839 (1995), regarding his guilty plea.


CONCLUSION

Based on the foregoing, the Court finds and concludes the applicant has met his burden, and that this case must be remanded for a new trial.

IT IS THEREFORE ORDERED:

1. The applicant is entitled to a belated appeal from his guilty plea and a belated appeal from the Order of Dismissal of his PCR application.

AND IT IS SO ORDERED this 4 day of October, 2017.



 The Hon. Larry Hyman
 Presiding Judge, Seventh Judicial Circuit

Camden
 Spartanburg, SC

Date: 10-4-17

Spartanburg County

Spartanburg County Court House
180 Magnolia Street
P. O. Box 3483
Spartanburg, SC 29304-3483

Phone (864) 596-2591
Fax (864) 596-2239



M. Hope Blackley
Clerk of Court
October 16, 2017

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

Christopher L. Hampton
Applicant # 314657

7TH JUDICIAL CIRCUIT

CASE # 2014CP2-1197

VS
Spice
Respondent

CERTIFICATE OF SERVICE

I certify that, on this date, I served a copy of the Order grt. Ruling
In this action dated 10-4, 2017 on 10-16-17

By mailing to him/her, at his/her last known address, by depositing it in the U.S. Mail, in an envelope with sufficient postage affixed, addressed as follows:

Valerie Cioknoli
Wendy McCoy
Christopher Hampton

RECEIVED
CLERK OF COURT
SPARTANBURG COUNTY
OCT 16 PM 1:48
M. HOPE BLACKLEY

10-16-17
(Date)

Colin Seay
(Signature)

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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NOV 20 2017

APPEAL FROM SPARTANBURG COUNTY
Circuit Court

S.C. SUPREME COURT

The Honorable Larry B. Hyman, Jr., Circuit Court Judge

Case No. 2014-CP-42-1197

State of South Carolina,

Respondent,

v.

Christopher Hampton,
#00314697,

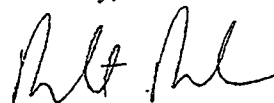
Appellant.

Notice of Appeal

Christopher Hampton appeals the order of the Honorable Larry B. Hyman, Jr., dated October 16, 2017. Appellant received written notice of entry of this order on October 24, 2017.

November 8, 2017

Sincerely,



Brandt Rucker
128 Millport Circle, Suite 200
Greenville, South Carolina 29607
(864) 271-9925
Attorney for Appellant

cc:

Other Counsel of Record:

Valerie Garcia Giovanoli, Esq.
S.C. Attorney General's Office
PO Box 11549
Columbia, SC 29211

I-N-D-E-X

WITNESSES:	DIRECT	CROSS	RE-DIRECT	RE-CROSS
Christopher Hampton				
By Ms. Carter	9			
By Mr. Cox		17		
By Ms. Carter			30	
Jeffrey McGuirk				
By Ms. Carter	32			
By Mr. Cox		37		
By The Court	41			
J.C. STEADMAN				
By Mr. Cox	43			
By Ms. Carter		50		
By Mr. Cox			55	
By The Court	56			
Prentiss Counts Shealey				
By Mr. Cox	57			
By The Court	62			
By Mr. Cox	63			
Christopher Hampton				
By Ms. Carter	64			
By Mr. Cox		65		
By Ms. Carter			66	

E X I B I T S

<u>NO:</u>	<u>DESCRIPTION:</u>	<u>ID.</u>	<u>EV.</u>
C-1	Investigation Report	45	
C-2	Order granting reconstruction of Petitioner's 2007 PCR hearing	70	
C-3	Order of Dismissal of November 2, 2007	70	
C-4	Petitioner's Application for PCR relief - 9/5/2006	70	
C-5	Respondent's Return - March 10, 2007	70	
C-6	Transcript of Petitioner's Guilty Plea -4/3/2006	70	
C-7	Petitioner's Clerk of Court records	70	

1 (WHEREUPON, COURT'S 1 MARKED PRIOR TO HEARING.)
2 THE COURT - All right, let's go on the record.
3 We're on the record in the case of Christopher L.
4 Hampton vs. The State of South Carolina. The case is
5 before me today on an Order of Remand from The South
6 Carolina Supreme Court. The case is Appellate Case No.
7 2017-002374. That Order was dated on August 2nd, 2018.
8 The case has been remanded to this Court for me to
9 determine whether or not a record in this matter, a record
10 of the petitioner's PCR case can be re-established. It's
11 my understanding that the original record of that hearing
12 is no longer available. The Court has asked me to make
13 that determination, and if the record can be reconstructed,
14 that I hold a hearing for the purpose of reconstructing
15 that record.

16 I'd ask that the attorneys that are present to
17 identify themselves and the parties they represent. First
18 of all, for the petitioner, ma'am, if you'll identify
19 yourself, please?

20 MS. CARTER - Please the Court, Your Honor. We
21 are here for the reconstruction hearing for Mr. Christopher
22 Hampton. Mr. Hampton pled guilty in 2006 in Spartanburg
23 County before Judge Few. He did not appeal, but he tried
24 to appeal pro se, and that appeal was dismissed. He filed
25 a PCR application on September 15th, 2006, and a hearing

1 was held before Your Honor in Spartanburg County on
2 September 17th, 2007. Your Honor filed an Order of
3 Dismissal in the case, but you did grant the direct appeal
4 versus (sic) White vs. State.

5 THE COURT - Yes, ma'am.

6 MS. CARTER - There was no PCR appeal from Your
7 Honor's Order of Dismissal, and Mr. Hampton filed a second
8 PCR application requesting a belated PCR appeal. There was
9 a hearing held with respect to that request. That request
10 was granted, however, we are without a transcript of the
11 first PCR hearing, and The Supreme Court has asked us to
12 reconstruct the record of that first -- I'm sorry -- that
13 first PCR hearing.

14 THE COURT - And I wanted you to identify
15 yourself, you're the attorney, and you're representing, I
16 believe, Mr. Hampton. Your name is?

17 MS. CARTER - Wanda H. Carter from Appellate
18 Defense in Columbia, South Carolina.

19 THE COURT - Thank you, Ms. Carter.

20 And for the State?

21 MR. JORDAN - Your Honor, Jordan Cox. I'm an
22 assistant attorney general with the South Carolina Attorney
23 General's office. I'm representing the respondent in this
24 case.

1 THE COURT - And, Ms. Carter, I believe, has
2 placed on the record the procedural history of the case.
3 Do you have anything you wish to add?

4 MR. COX - Your Honor, I -- as far as procedural
5 history, Ms. Carter covered it. I just want to make it
6 clear that today we are attempting to reconstruct the
7 record of the September 17th, 2007 PCR hearing to allow for
8 a meaningful appellate review of this petitioner's case.

9 THE COURT -- All right, and I will point out that
10 I have had a status conference call with the attorneys
11 involved in this case. During that conference call the
12 attorneys indicated to me that the witnesses who were
13 present at the hearing before me on the original PCR
14 application are still available and would be available to
15 testify today if necessary and felt that there would be a
16 reasonable possibility that the record of that hearing
17 could be reconstructed.

18 Did that correctly state our conference, Ms.,
19 Carter?

20 MS. CARTER - I beg, Your Honor? (sic)

21 THE COURT - Did I correctly state our telephone
22 conference, what we did?

23 MS. CARTER - Your Honor, we'd like to call Mr.
24 Hampton.

1 THE COURT - No, ma'am, I -- what I said was that
2 we had a telephone conference, you, myself, the State's
3 attorney, at which time I inquired as to whether or not you
4 felt that the -- would it be possible for us to reconstruct
5 the record, and after talking with both of you during that
6 conference, we came to the conclusion that because
7 witnesses were still available, that a hearing would
8 possibly produce a reconstructive record. Do you agree
9 that that's what we talked about ---

10 MS. CARTER - Yes, sir, Your Honor.

11 THE COURT - --- on the telephone?

12 And, counsel, do you also agree that that's what
13 we talked about?

14 MR. COX - Yes, Your Honor.

15 THE COURT - All right. Now, I believe Ms. Counts
16 has arrived.

17 All right, now -- well, at this point in time as
18 far as how we're going to proceed, I will be happy to
19 accept testimony from the persons present that you wish to
20 call. I will point out that in my Order of Dismissal,
21 which I will make a part of this record, and it was filed
22 in The Spartanburg County Clerk of Court's office on
23 November the 5th of 2007 in Case No. 06-CP-42-3049, in that
24 Order I did recap and review the testimony that I have
25 heard during the hearing. It's my understanding that our

1 purpose today is not to add to that record but to settle
2 that record. Am I correct in what I'm saying, Ms. Carter?

3 MS. CARTER - Yes, sir.

4 THE COURT - All right, and would that be your
5 agreement as well?

6 MR. COX - Yes, Your Honor.

7 THE COURT - All right, now do you wish to call
8 the applicant?

9 MS. CARTER - Mr. Hampton. We'd like to call Mr.
10 Hampton.

11 THE COURT - All right, Mr. Hampton, you need to
12 come forward to the witness stand, please, sir, right over
13 here.

14 Sir, if you'll first of all right in front of me
15 here. Place your left hand on the Bible; raise your right
16 hand, please, to the best of your ability.

17 CHRISTOPHER HAMPTON, AFTER BEING FIRST DULY
18 SWORN, TESTIFIES AS FOLLOWS -

19 THE COURT - State your name, please.

20 MR. HAMPTON - Christopher Hampton.

21 THE COURT - Thank you, sir. If you'll take the
22 witness stand over here to my right, please, sir.

23 (WHEREUPON, MR. HAMPTON COMPLIES)

24 COURT REPORTER - Judge, the P-A system doesn't
25 work in this courtroom.

CHRISTOPHER HAMPTON - DIRECT BY MS. CARTER

9

1 THE COURT - I found that out just now. I tried
2 to turn it on.

3 I'm going to try to speak. The public address
4 system is not working in here, so I'm going to speak as
5 loud as I can. Okay? And I suggest everybody else do the
6 same thing so we can hear.

7 All right, Ms. Carter, you may proceed. It's
8 your witness.

9 MS. CARTER - Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MS. CARTER -

12 Q Mr. Hampton, I need you to try to recall as much as
13 you can from the first PCR hearing held before Judge Couch.

14 A Yes, ma'am.

15 Q Let's start with your discovery. You mentioned
16 earlier that you did not receive or review all of the
17 discovery in your case. Can you tell us exactly what
18 happened with you and trial counsel with respect to a
19 review of the discovery?

20 A Uh, I never received it at all before I wrote my first
21 PCR. Like I say, like I never received it. He never --
22 Mr. Bartosh, he never provided me my discovery before my
23 PCR. He never gave it to me at all, and Mr. McGuirk, my
24 PCR attorney, he gave it to me like the morning of my PCR,
25 so I wasn't able to, you know, really go over it.

1 Q Okay, did you review your statement that was video-
2 taped?

3 A No, ma'am, I didn't review that statement. No, I'm
4 sorry, the written statement I did, but not the video-tape.

5 Q All right. Was there a mental health evaluation done?

6 A I went on one, but, you know, they -- they rescheduled
7 it, but they never ---

8 Q It was rescheduled.

9 A Rescheduled, but they never called me back for it.

10 Q What about the report from the detectives? I think
11 there was a Detective Steadman?

12 A (Indicating yes)

13 Q Were you able to review that report before ---

14 A Yes, yes, ma'am.

15 Q You did review that report.

16 A (No response)

17 Q All right. So, did you review your written statement?

18 A Yes, ma'am.

19 Q Just not the audio-visual ---

20 A Yes, ma'am.

21 Q --- statement. All right. Let's move to the
22 statement. You challenged your statement as involuntarily
23 given, and it's your position that trial counsel did not
24 investigate into that issue with respect to your statement?

25 A Yes, ma'am.

CHRISTOPHER HAMPTON - DIRECT BY MS. CARTER

11

1 Q All right, now, so why is it -- just tell the Court
2 what was it about the statement that was coerced? I
3 believe you asked for an attorney.

4 A Yes. As soon as they picked me up from Edgefield
5 Federal Prison, uh, Mr. Steadman he was driving, and
6 Lieutenant Lamb, he got in the back with me. And he, uh,
7 as soon as I got in the car, Mr. Lamb he, uh, served me
8 with a CSC warrant, and after that, you know, he pulled out
9 the tape recorder, and he told me, he said, he wanted to
10 discussed the Huston case.

11 Q This was in the car.

12 A This was in the car.

13 Q Okay.

14 A But that, you know, uh, -- I told him that I didn't
15 want to talk about it, I wanted a -- I wanted a lawyer and
16 take me straight to county jail, because, you know, because
17 I had a -- a hold on me. I think, uh, when I went to
18 prison, they put a detainer for a traffic ticket, so I told
19 them, I said, you know, just -- I ain't want to talk about
20 the case without a lawyer, just take me straight to county
21 jail, you know, so I can do my 30 days and get up out of
22 there, you know. And, you know, he got mad, he said, you
23 know, you're in our custody now and we'll take you to
24 county jail when we get done with you, and like I said, you
25 know, I asked for a lawyer, and he got out a tape recorder

1 just, that that's the proof, but I never seen, you know,
2 evidence of a tape recorder.

3 Q Okay, so you were picked up from ---

4 A From federal prison.

5 Q --- Edgefield ---

6 A (Indicating yes)

7 Q --- and transported to Spartanburg.

8 A Spartanburg.

9 Q And during that car ride, you were asked about waiving
10 your rights and you refused.

11 A Yes, because Lieutenant Lamb, he, uh, like I said he
12 provided a tape recorder. He asked me did I want to talk
13 about the Huston case; I told him, no, not without an
14 attorney, and, you know, he -- he got mad and -- he got mad
15 and he, you know, he refused to sign on the first waiver.

16 Q And so you asked for a lawyer in the car.

17 A Yes, ma'am.

18 Q And then when you arrived at the detention center in
19 Spartanburg, you were questioned again.

20 A No, I didn't -- they didn't take me to the detention
21 center.

22 Q Where did they take you?

23 A They took me some -- to, uh, some narcotic's place.

24 Q Oh.

1 A And they handcuffed me to a desk for four or five, six
2 hours.

3 Q So how long were you there?

4 A Hours. Yes, and instead of taking me straight to
5 county jail, they took me somewhere else.

6 Q Okay. So then where did they transport you?

7 A Later that night after -- after they got a confession
8 out of me, then they transported me.

9 Q To Spartanburg.

10 A Yes, ma'am.

11 Q So when was the video-tape made?

12 A That was after -- later that night after ---

13 Q That was after.

14 A Yes, ma'am, after.

15 Q And in Spartanburg did you ask for an attorney?

16 A Yes, ma'am, asked again, and every time I asked them,
17 Lieutenant Lamb he'll say, if you didn't do anything, what
18 would you -- why would you want a lawyer for.

19 Q Okay. So is there anything else you want to tell us
20 about that statement being coerced?

21 A Uh, nothing -- nothing, uh, -- no ma'am. It's just,
22 you know, like I said, they had -- they got audio proof
23 that, you know, and video proof.

24 Q Okay. And initially you wanted a trial by a jury ---

25 A Yes, ma'am.

1 Q --- and you changed your mind and you decided to
2 plead.

3 A Yes, ma'am, by the advice of ---

4 Q So were you explained all of the elements of murder
5 including malice? I mean was -- was everything explained
6 sufficiently to you by trial counsel?

7 A Yes, ma'am.

8 Q Okay. Okay, was there talk about a lesser included
9 offense if you went to trial? Was there anything -- any
10 talk about that?

11 A Not really. Mr. Bartosh he said -- he told me ---

12 Q Any discussions about manslaughter or any type of
13 conversation about that?

14 A I told Mr. Bartosh, I said, I told him that I didn't
15 feel it was murder, and he said -- he said -- he basically
16 said, uh, if I think that a Spartanburg County jury would
17 find me guilty of manslaughter, I'd have to -- he told me I
18 need to get my head checked. That's what he said, and Mr.
19 -- like I said, Mr. Cheeks he was there, he was present.
20 And Mr. Cheeks he's assistant public defender.

21 Q Okay.

22 A And like I said, Mr. Bartosh he said if I think a
23 Spartanburg County jury would give me a manslaughter
24 verdict, I need to get my head checked. So he basically
25 talked me out of, you know, going to trial.

1 Q Do you remember any conversations about a change of
2 venue to another county while you're contemplating rather
3 (sic) to -- whether you will plead guilty or have a trial?
4 Was there any talk about a change of venue?

5 A Yes, I talked to Mr. Bartosh because -- because like I
6 said, around this time this case it was -- it was big in
7 the news, you know. It was on the front page every day,
8 and I knew that I couldn't get a fair trial in Spartanburg.

9 Q In the Order of Dismissal, there's reference to self
10 defense. Do you want to tell anybody here today about
11 conversations with trial counsel about self defense as a
12 possible claim in the event you opted for a trial by a
13 jury?

14 A No, ma'am. I never -- uh, never indicated self
15 defense at all.

16 Q All right, so your major complaints circled around the
17 discovery information which you did not review ---

18 A Yes, ma'am.

19 Q --- in its entirety ---

20 A Yes, ma'am.

21 Q --- and your statement being coerced.

22 A Yes, ma'am.

23 Q Is there anything else you want to tell the Court that
24 you remember with respect to those two issues? Have we
25 covered everything?

1 A Pretty -- that's pretty much -- that's pretty much
2 everything.

3 MS. CARTER - All right, thank you, Your Honor.

4 THE COURT - Before we do cross examination, I
5 also want to put on the record, during our phone
6 conversation the attorneys and I agreed that the case would
7 be heard here in York County on today's date. Did you
8 agree to that, Ms. Carter, that the hearing be held here in
9 York County on today's date?

10 MS. CARTER - Sir?

11 THE COURT - Did you agree that the hearing in
12 this matter would be held in York County on today's date?

13 MS. CARTER - Yes, sir.

14 THE COURT - Okay, and you agreed to that as well.

15 MR. COX - Yes, Your Honor.

16 THE COURT - Okay. Thank you.

17 And let me be sure that -- Mr. Hampton, you
18 understand that the hearing would be held here in York
19 County on today's date? Is that correct?

20 MR. HAMPTON - Yes, sir.

21 THE COURT - And did you agree to that as well?

22 MR. HAMPTON - Yes, sir.

23 THE COURT - All right, thank you very much.

24 You may cross examine.

25 MR. COX - Can you hear me ---

CHRISTOPHER HAMPTON - CROSS BY MR. COX

17

1 COURT REPORTER - Yes.

2 MR. COX - You want me to stand closer?

3 COURT REPORTER - No, that'd be great. Thank you.

4 MR. COX - Good morning, Mr. Hampton.

5 MR. HAMPTON - Good morning, sir.

6 CROSS EXAMINATION

7 BY MR. COX -

8 Q In September of 2007 you testified at your PCR
9 hearing. Correct?

10 A Yes, sir.

11 Q As a part of that testimony you were -- you were
12 examined -- you were questioned by someone from the State.

13 A Yes, ma'am. (sic)

14 Q Correct?

15 A Yes, sir.

16 Q And that attorney went over a lot of what you said
17 during your plea or during your guilty plea hearing.

18 Correct?

19 A Yes, sir.

20 Q Okay. I want to go back over through some of that. I
21 want to make sure we have it on the record for appeal. You
22 appeared for your guilty plea in Spartanburg County.

23 Correct?

24 A Yes, sir.

25 Q Okay. And that was in front of Judge Few?

1 A Yes, sir.

2 Q Solicitor Gowdy was the prosecutor on that case?

3 A Yes, sir.

4 Q And you were represented by Michael Bartosh. Correct?

5 A At ---

6 Q At the guilty plea.

7 A Yes, yes.

8 Q Okay. To start off, your -- your defense attorney

9 passed away shortly after your guilty plea. Correct?

10 A He did.

11 Q And he did not file a notice of appeal on your behalf?

12 A Yes, he didn't.

13 Q Okay. Prior -- prior to your PCR hearing, the State

14 consented to allow you to go forward on your direct appeal

15 -- correct? -- as a part of your PCR?

16 A He granted that at my PCR.

17 Q Right. That was ---

18 A Yes. Yes, yes.

19 Q But the remaining allegations of your PCR applications

20 were denied. Correct?

21 A (Indicating yes)

22 Q Okay. Going back to your plea hearing in front of

23 Judge Few, do you recall swearing to tell the truth?

24 A Yes.

CHRISTOPHER HAMPTON - CROSS BY MR. COX

19

1 Q Okay. Do you recall the judge reading you the charges
2 as they were listed in the indictment?

3 A Yes, sir.

4 Q Okay. You were indicted by the grand jury for murder.
5 Correct?

6 A Uh, yes, I was.

7 Q Okay. And there was an indictment for criminal sexual
8 conduct. Right?

9 A (Indicating yes)

10 Q Now, that one ---

11 COURT REPORTER - He has to answer verbally.

12 MR. HAMPTON - Okay.

13 Q Now, that one --

14 A It was nol processed.

15 Q Right. You did not plead guilty to that one.

16 Correct?

17 A No.

18 Q You only pled guilty to murder.

19 A Yes.

20 Q And when you pled guilty, you understood the sentence
21 that you would be facing. Correct?

22 A Uh, I understood.

23 Q The possible sentence.

24 A Yes, I understood.

1 Q You understood that the judge would be making that
2 decision?

3 A Yes.

4 Q There was not a recommendation from the State.
5 Correct?

6 A There wasn't.

7 Q Okay. You understood that you had the right to a jury
8 trial. Correct?

9 A Yes, I understood.

10 Q But by pleading guilty, you would be waiving that
11 right.

12 A (Indicating yes) Yes, sir.

13 Q And there were several other rights that you would be
14 waiving by pleading guilty. Right?

15 A Yes, yes.

16 Q One of those was the right to confront your accusers
17 or any witnesses against you. Right?

18 A Yes.

19 Q Okay. And you would be waiving the right to remain
20 silent. Correct?

21 A (No response)

22 Q By pleading guilty you understood you would be waiving
23 the right to remain silent?

24 A I didn't understand that. He never told me that.

CHRISTOPHER HAMPTON - CROSS BY MR. COX

21

1 MR. COX - Your Honor, if I could have just one
2 moment.

3 THE COURT - Yes, sir.

4 MR. COX - Does Your Honor have a copy of the plea
5 transcript?

6 THE COURT - I do.

7 Q Mr. Hampton, the way I'll do this, a few times --
8 during your -- following your guilty plea there was a
9 transcript compiled of what was said during that day.

10 A (Indicating yes)

11 Q That transcript was used during your PCR hearing.

12 A Yes.

13 Q I'm going to reference ---

14 A Okay.

15 Q --- pages and line numbers, but if you have any
16 questions or if you need to review it, please, just let me
17 know. Okay?

18 A Okay.

19 MR. COX - Your Honor, I'm on page 7.

20 THE COURT - Just one second. Page what?

21 MR. COX - Page 7 of the guilty plea transcript.

22 THE COURT - All right, yes, sir, I'm just about
23 there. (Pause) All right, you may proceed.

24 MR. COX - Starting on line 2, Your Honor.

25 THE COURT - (Indicating yes) I've got that.

1 Q Mr. Hampton, do you recall Judge Few saying to you,
2 when you plead guilty, you give up very important
3 constitutional rights?

4 A Yes.

5 Q And do you recall one of those rights from Judge Few
6 saying, you also have the right to remain silent, the right
7 against self-incrimination?

8 A If you -- maybe -- maybe, yes.

9 Q Okay. If it's part of the transcript and was used at
10 your PCR hearing.

11 A Okay.

12 Q Okay. Now, Judge Few asked you a few times during
13 your guilty plea hearing, do you want to still plead
14 guilty. Correct?

15 A Correct.

16 Q Okay. And you said yes each time. Right?

17 A (Indicating yes) I said it.

18 Q That was your decision.

19 A It was -- it was my decision.

20 Q Do you remember Judge Few asking if you were, in fact,
21 guilty?

22 A He asked me.

23 Q Do you remember telling him yes?

24 A Yes, I said I was.

1 Q Okay. Do you remember Judge Few asking if you were
2 promised anything in exchange for your guilty plea?

3 A I remember that.

4 Q Do you remember saying you were not promised anything?

5 A I wasn't promised nothing.

6 Q Do you remember Judge Few asking you if you had -- if
7 anyone had been -- had threatened or mistreated you in
8 order to get you to plead guilty?

9 A Yes.

10 Q Correct?

11 A Yes, sir.

12 Q And you told him no one had done that.

13 A Didn't no one threaten me.

14 Q Do you remember Judge Few asking you if you were
15 satisfied with Mr. Bartosh's representation?

16 A I remember that.

17 Q Do you remember telling him you were?

18 A (Indicating yes)

19 COURT REPORTER - He needs to answer verbally.

20 A Yes.

21 Q Mr. Hampton, do you remember Judge Few asking you if
22 you had any complaints that you wanted to make about him as
23 a judge or about the attorneys -- about your attorney, the
24 solicitor's office or law enforcement?

25 A Probably, yeah, probably, yes.

1 Q Okay. He was asking if you had any complaints about -

2 --

3 A Yeah, he ---

4 Q --- everyone in the courtroom?

5 A Yeah, he asked a bunch of questions.

6 Q Okay. Do you remember telling him you did not have

7 any complaints ---

8 A Yes.

9 Q --- against law enforcement?

10 A Yes.

11 Q Or the solicitor's office.

12 A Yes.

13 MR. COX - Your Honor, for your reference, that is

14 on page 8, lines 5 through 9.

15 THE COURT - Give me a moment.

16 MR. COX - Yes, Your Honor.

17 THE COURT - All right, I've seen that. Thank

18 you.

19 Q Mr. Hampton, during your guilty plea the solicitor
20 gave a version of the facts in the case to Judge Few. Do -

21 --

22 A (Indicating yes)

23 Q --- you remember him doing that?

24 A Yes, I remember that.

CHRISTOPHER HAMPTON - CROSS BY MR. COX

25

1 MR. COX - Your Honor, that is -- starts at page
2 12 of the transcript.

3 THE COURT - All right.

4 MR. COX - Line 4.

5 THE COURT - All right, I'm there; you may
6 proceed.

7 Q As a part of that, Mr. Hampton, the solicitor said
8 that you took law enforcement in 2005 to a wooded area in -
9 - kind of in Spartanburg County, ---

10 A Yes.

11 Q --- you took them to the body of the victim in this
12 case. Correct?

13 A Yes.

14 Q The solicitor gave the facts about you giving your
15 statement to police as well. Correct?

16 A Yes. He never asked was it, you know, was it
17 voluntary given.

18 Q Right.

19 A He never -- he never asked me that.

20 Q Right. At that point when the solicitor was talking,
21 he did mention that you gave a statement to police.

22 A Yes.

23 Q Correct?

24 A Yes.

1 Q Okay. As a part of that, the solicitor made the
2 assertion that this victim was in your apartment, she asked
3 you to borrow some money and you spun around and hit her in
4 the head with a hot iron. Do you remember the solicitor
5 saying that?

6 A I remember him saying that.

7 Q Okay. Now, after the solicitor read the facts to the
8 judge, the judge asked you if you had understood what he
9 had told him. Correct?

10 A Yes.

11 Q And you said yes. You understood that, that that was
12 correct?

13 A Uh, I believe so.

14 MR. COX - Okay. Your Honor, that is on page 15,

15 ---

16 THE COURT - All right. Okay.

17 MR. COX - --- lines 11 through 16.

18 Q Mr. Hampton, I want to go back to the statement that
19 was written for you. You did not write that statement.

20 A No, I didn't.

21 Q You explained to law enforce -- you told law
22 enforcement what to write.

23 A Yes.

24 Q Correct? Okay. And they wrote it for you.

25 A Yes.

1 Q You signed it though.

2 A Yes, I signed it.

3 Q Now, at your guilty plea hearing, that statement was
4 shown to you.

5 A (Indicating yes)

6 Q Right? And you confirmed that it was what you had
7 told the police.

8 A Yes.

9 Q Right?

10 A (No response)

11 Q Okay. And you confirmed that it was your signature.

12 A I confirmed it.

13 Q Now, Mr. Hampton, during your guilty plea hearing when
14 the statement was entered into evidence, the judge
15 explained to you that by pleading guilty, you are giving up
16 your right to challenge that statement. Correct?

17 A Yeah, I thought he said but -- except for
18 constitutional reasons ---

19 Q Right.

20 A --- I could challenge it.

21 MR. COX - Your Honor, I'm going to reference page
22 17 starting at line 20.

23 THE COURT - Yes, sir.

24 Q Mr. Hampton, Judge Few -- do you recall Judge Few
25 saying the following at your guilty plea hearing. Okay,

1 I'm going to read what it says that Judge Few told you.

2 Okay?

3 A Okay.

4 Q Now, Mr. Hampton, you understand now by pleading
5 guilty you waive or you give up the right to challenge
6 anything regarding the statement, the statement you just
7 reviewed that has been marked here as State's exhibit and
8 also the video confession that the solicitor referred to?
9 For perhaps constitutional reasons or other reasons related
10 to the evidence, there is a possibility that you could
11 challenge the right of the State to enter these statements
12 into evidence. Do you understand that? And you said, yes,
13 you understood that.

14 A Yes.

15 Q Okay. The Court asked you if you had spoken to your
16 attorney about those possible challenges to the statement.
17 Right?

18 A Uh, ---

19 Q Do you recall talking to Mr. Bartosh about that?

20 A I -- no, sir.

21 Q Okay.

22 A He never told me I -- he basically told me -- you
23 know, I told him myself, he say, you know, basically told
24 him myself -- he say, no, like I couldn't -- he didn't say
25 that I could challenge it.

CHRISTOPHER HAMPTON - CROSS BY MR. COX

29

1 Q Okay. But the Court did ask you -- or did it explain
2 to you, Judge Few, explained that by pleading guilty, you
3 waive the right to challenge that statement, and you said,
4 yes, sir.

5 A Yes.

6 Q So you did understand that by pleading guilty you
7 could not challenge the statement?

8 A No, I didn't understand that.

9 MR. COX - Okay. Your Honor, I'm referencing page
10 18, lines 1 through 9.

11 THE COURT - Yes, sir, I'm there.

12 MR. COX - Mr. Hampton, I only have a few more
13 questions for you.

14 MR. HAMPTON - Okay.

15 Q One of the allegations you raised was that Mr. Bartosh
16 did not inform you about possible lesser included offenses
17 to murder?

18 A Yes.

19 Q Okay. But it was explained to you at your guilty plea
20 hearing that when you plead guilty you waive your ability
21 to raise that defense. Correct?

22 A Yes.

23 Q Okay. And the judge asked you if you understood that
24 you could not chall -- you could not plead to a lesser
25 included offense. Correct?

1 A I believe so, yes.

2 Q Okay. And you said, yes, sir, I understood that.

3 A Yes.

4 MR. COX - Your Honor, that's page 18, lines 14
5 through 19.

6 THE COURT - All right, I have reviewed that. You
7 may proceed.

8 MR. COX - Your Honor, if I could have just a
9 moment. (Pause) That's all the questions I have. Thank
10 you, Mr. Hampton.

11 THE COURT - Re-direct?

12 RE-DIRECT EXAMINATION

13 BY MS. CARTER -

14 Q All right, with respect to the waiver of your
15 constitutional rights when you pled guilty and with respect
16 to the waiver, with respect to the statement, um, there was
17 testimony obviously --

18 MS. CARTER -- I'm reading from page 4 of Your
19 Honor's Order of Dismissal, page 4.

20 Q --- there's testimony of -- you gave testimony that
21 you waived these rights at the guilty plea proceeding,
22 because you wanted to get it over with.

23 A Yes, ma'am.

24 Q That's true.

25 A Yes, ma'am.

CHRISTOPHER HAMPTON - RE-DIRECT BY MS. CARTER

31

1 Q Okay. And that means that you might not have been in
2 agreement or you were not in agreement with waiving your
3 rights, but you wanted to get it over with.

4 A Yes, ma'am.

5 MS. CARTER - All right. That's all, Your Honor.

6 THE COURT - Anything on re-cross?

7 MR. COX - No, Your Honor.

8 THE COURT - Sir, you may step down. Thank you
9 very much.

10 Does the applicant wish to call any other
11 witnesses? Wish to call any other witnesses?

12 MS. CARTER - Yes, sir, Your Honor. I would call
13 PCR Counsel, Mr. Jeffrey McGuirk.

14 THE COURT - Come forward, sir. Just step up
15 here, please. Thank you.

16 DEPUTY CLERK - If I could have you step here and
17 be sworn.

18 JEFFREY MCGUIRK, AFTER BEING FIRST DULY SWORN,
19 TESTIFIES AS FOLLOWS -

20 DEPUTY CLERK - Thank you, sir. Have a seat, sir.

21 THE COURT - Have a seat. Once you're seated,
22 please state your name.

23 MR. MCGUIRK - My name is William Jeffrey McGuirk.

24 THE COURT - Thank you.

25 Your witness, counsel. You may proceed.

1 MS. CARTER - Thank you.

2 DIRECT EXAMINATION

3 BY MS. CARTER -

4 Q Mr. McGuirk, it's my understanding that you
5 represented Mr. Hampton at his first PCR hearing.

6 A That's correct.

7 Q You were PCR counsel.

8 A Yes.

9 Q Can you give us what you remember about this issue
10 with respect to the statement of being coerced with respect
11 to the statement being given in violation of his right to
12 have counsel present?

13 A What I remember -- of course, it's been many years --
14 but there was a video-tape that Lamb and Steadman had of
15 the conference room where he was questioned at the
16 narcotics building here, and I know initially I didn't
17 think that Steadman or Lamb were going to be available for
18 the hearing, because when I went to issuing subpoenas they
19 were at a conference, but then Mr. -- Detective Steadman
20 showed up, but that video-tape to me seemed to be the only
21 real strong point that Mr. Hampton had for getting, you
22 know, his plea overturned at that point, but there was no
23 audio on that video-tape, there was only video, so Mr.
24 Hampton to the best of my recollection was pointing out
25 that on certain parts of the video-tape that's what he was

JEFFREY MCGUIRK - DIRECT BY MS. CARTER

33

1 saying is, I want an attorney, I want an attorney, and I
2 think the video-tape showed that they gave him a
3 cheeseburger and he was in the room and -- for periods -- I
4 don't -- I don't recollect that the video was five hours
5 long. I mean I don't know that they -- I'm not -- I'm not
6 saying they didn't keep him there for five hours, but I'm
7 saying that that video-tape did not have five hours worth
8 of -- so that's basically -- at the hearing, you know, Mr.
9 Hampton testified about some other stuff that he -- you
10 know, that he talked with you briefly about just a few
11 minutes ago, but -- that -- about the -- the -- his request
12 for a lawyer I don't have any specific recollections about
13 what the car all (sic) went. I just remember that there
14 was a video-tape that had no audio with it from the
15 narcotics room. I'm assuming that was placed in evidence
16 with the Court at the time of the PCR hearing, which likely
17 would no longer be available. I don't know if it would be
18 or not. At least that's my recollection.

19 Q Any recollection with respect to coercion or threats
20 or anything of that nature before the statement was given?

21 A Well, I think that Mr. Hampton told me some things
22 about maybe that kind of stuff and he probably said that at
23 the PCR hearing, but -- and it may be in the Order, but
24 there was no audio with the tape, and there was no, you
25 know, they weren't standing over him with bats or anything,

1 you know. You could see nothing from the video-tape that
2 indicated that he was in danger of any harm, but nobody
3 knows what he said.

4 Q During the video-tape. All right. But no
5 recollection on what happened prior to the taping of the
6 statement.

7 A I just remembered that they'd picked him up down in
8 Edgefield; they stopped in Clinton briefly and then they
9 took him to the narcotics office; they brought him food.

10 Q All right. With respect to the change of venue, was
11 that an issue at the PCR hearing?

12 A I have no recollection.

13 Q All right, that's fine. With respect to the elements
14 being defined specifically by trial counsel to Mr. Hampton,
15 any conversations or any testimony that you remember with
16 respect to malice in particular or any other elements, just
17 an explanation of the nature and the charges that he faced
18 -- the charge that he faced, excuse me?

19 A I don't have any recollection of other stuff so ---

20 Q Any recollection with respect to mitigation? Was
21 there sufficient mitigation issues with respect to the end
22 of the plea proceeding and before sentencing connected to
23 trial counsel?

24 A I don't recollect.

1 Q That's fine. Any position or any conversations on
2 whether or not Mr. Hampton would've pled guilty had he been
3 privy to this statement? Had this statement -- how did
4 that impact his decision to plead guilty?

5 A I mean it was Mr. Hampton's position with me that he
6 asked for attorneys many times and various -- over the
7 course of whatever hours that they had him, he basically,
8 you know, eventually said -- after he ate, he said, you
9 know, let's go, and he took them to the body, and then I
10 guess later he did his statement, so -- of course, you
11 know, if he had gotten an attorney and not taken them to
12 the body and then not signed a statement, then, obviously
13 his case would've gone totally different.

14 Q All right. My last question goes back to discovery.
15 Any other items of discovery that maybe Mr. Hampton had not
16 been privy to prior to the plea proceeding outside the
17 statement?

18 A There was -- I spent about six hours one day at the
19 public defender's office, went through several realms of
20 paper and made lost of copies of stuff, none of which
21 ultimately ended up yielding anything, you know, coroner's
22 report, stuff like that, nothing that really directly
23 affected the -- whether he asked for a lawyer, whether his
24 statements were voluntary and, you know, made after being
25 read rights and all that kind of stuff. There's -- there

1 may have been a statement side (sic) of that, but he wanted
2 a stack -- it was fairly stacked like that, and, you know,
3 I showed it to him the day we got to Court, and, you know,
4 I explained to him to him that none of that really affected
5 what his main -- the main claim was, that he was not
6 afforded counsel, but ---

7 Q So -- I'm sorry, go ahead.

8 A -- he did -- he did want to take more time to read
9 over all those pages.

10 Q And there was a written statement in addition to the
11 audio. Is that correct?

12 A His written statement that he signed somewhere some
13 time after I think that he had taken them to the body.

14 Q All right. So it was the statement that was just the
15 main thrust of the PCR proceeding.

16 A It was whether -- the thrust -- or the main thrust of
17 the PCR proceeding was whether he had requested counsel and
18 thus not been given it so that anything else should've
19 been, you know, kept out by Mr. Bartosh.

20 Q Exactly.

21 MS. CARTER - Thank you, Mr. McGuirk. I don't
22 have any other questions, Your Honor.

23 THE COURT - Thank you, ma'am.

24 You may cross examine.

25 CROSS EXAMINATION

JEFFREY MCGUIRK - CROSS BY MR. COX

37

1 BY MR. COX -

2 Q All right. Mr. McGuirk, how did you come to represent
3 Mr. Hampton in his PCR application?

4 A I was appointed.

5 Q Okay. Who filed the original application for PCR?
6 Was it Mr. Hampton or were you already representing him?

7 A I think Mr. Hampton did. I did not. I think Mr.
8 Hampton did.

9 Q Did you amend the application at any time?

10 A I have no recollection specifically.

11 Q Do you have any reason today to believe if you had
12 amended it, it would not have been included in the PCR
13 hearing? I'm sorry. That's a weird question.

14 A Yeah, it -- and I don't know what I would've amended
15 it for. I mean if there's anything, I think that he kind
16 of in his PCR maybe took a bit of a shotgun approach and
17 listed lots of different things that might've been -- but
18 the main one that after I met with him and discussed with
19 him and then reviewed the documents I saw on the video-
20 tape, then it looked like his best one was that, you know,
21 that he had requested an attorney and wasn't given one.

22 Q To the best of your recollection, were you able to
23 address completely the allegations he put forth in his
24 application for PCR at the hearing? Were you able to talk
25 about the all, raise them all?

1 A Yeah, I -- I mean I think that -- you know, I don't
2 have his PCR application right in front of me in Order,
3 didn't go by go (sic), but -- Judge Couch's Order said
4 that, you know, he had this claim, he had this claim, and
5 he sort of addressed them. I mean there was no real
6 evidence that I could find to a lot of the stuff, you know,
7 but -- except for the one we've been talking about about
8 the -- whether it was volun -- whether he was given counsel
9 upon requesting.

10 Q Okay. You did not file a 59(E) motion in this case,
11 did you, a Motion to Amend to Alter the Order from Judge
12 Couch?

13 A Did -- did not.

14 Q Okay. So you were satisfied with the content of the
15 Order of Dismissal, not the decision but as far as
16 testimony laid out and ---

17 A Right, I mean I think about maybe just a few minutes
18 before the PCR hearing started, counsel -- I think it was a
19 lady for the attorney general's office said that they were
20 going to agree to the belated appeal.

21 Q Okay. So the State consented to a belated direct
22 appeal under White?

23 A I thought it was -- it was related to an Austin appeal
24 I think is what they called it, at that point.

JEFFREY MCGUIRK - CROSS BY MR. COX

39

1 MR. COX - Your Honor, just for the record, the
2 Order does state at the hearing the State consented to
3 allow the applicant to pursue a direct appeal pursuant to
4 White v. State, ---

5 MR. MCGUIRK - Was it White? Yeah.

6 MR. COX - --- 263 SC 110.

7 A I don't remember. I just -- I ---

8 MR. COX - I was just giving it for the court
9 reporter.

10 MR. MCGUIRK - Okay.

11 MR. COX - 1974.

12 Q The remaining allegations put forth by the applicant
13 were denied. Correct?

14 A Correct.

15 Q Now, applicant -- or Mr. Hampton's defense Attorney,
16 Mr. Bartosh, passed away shortly after his plea. Correct?

17 A Within a week.

18 Q So at the PCR hearing there were two witnesses that
19 testified, Mr. Hampton and Detective Steadman?

20 A Yeah, I know that the only witness that we called was
21 -- I don't know, maybe we called Hamp -- Steadman, too, but
22 I know that is probably right. I know that I thought that
23 Steadman was not going to be available until either that
24 day or the day before.

1 Q Okay. I'd like to go over some of Detective
2 Steadman's testimony as you recall. If you don't, you can
3 just let us know. As a part of the process of Mr. Hampton
4 giving the voluntary statement, Detective Steadman
5 testified at PCR hearing that Mr. Hampton was never
6 threatened or coerced. Correct?

7 A I don't recollect whether he said that or not, but the
8 basic gist of his testimony was he denied that he had ever
9 asked for a lawyer or he didn't and that they had caressed
10 (sic) coerced or he wasn't under duress, that sort of
11 thing.

12 Q In preparing for the PCR hearing you would've reviewed
13 the guilty plea transcript. Correct?

14 A I did.

15 Q Okay. As a part of Mr. Hampton's guilty plea, reading
16 of the transcript, did you believe it was clear he was --
17 he was waiving those constitutional rights that we went
18 over during his testimony?

19 A Your Honor, I don't know that -- how to answer that
20 exactly.

21 Q Okay.

22 A I mean I was his counsel. I don't know if I can
23 answer that, but I -- I can say that he wanted it over
24 with. You know, I -- from my conversations with Mr.

JEFFREY MCGUIRK - BY THE COURT

41

1 Hampton, he could've -- he would've just said basically yes
2 to anything that was asked of him just to be done with it.

3 MR. COX - Your Honor, those are all the question
4 I have. Thank you, Mr. McGuirk.

5 THE COURT - Re-direct?

6 MS. CARTER - No further questions, Your Honor.

7 THE COURT - Sir, you may step down. Thank you
8 very much.

9 MR. MCGUIRK - Thank you, Your Honor.

10 THE COURT - Oh, Mr. McGuirk, if you would, take
11 the stand again. I have one question for you.

12 (WHEREUPON, MR. MCGUIRK COMPLIES)

13 EXAMINATION

14 BY THE COURT :-

15 Q During the PCR hearing held before me, do you recall
16 any motions that were made during that trial that were --
17 that you felt were not properly ruled upon or properly
18 addressed by the Court?

19 A No, not on -- well, no, everything that was -- I think
20 the day right before the hearing started -- and it's not in
21 the Order of Dismissal -- Mr. Hampton asked me to ask the
22 Court for a continuance based on the fact that he wanted to
23 sort through that big stack of material, and that was
24 denied, but I'm not -- I don't have any recollect of
25 anything else that was not ruled upon by you.

1 Q Okay. Or something that you felt like should be
2 preserved for appellate review?

3 A I don't have any recollection.

4 THE COURT - Okay. Thank you very much. You may
5 step down.

6 Applicant may call its next witness. Ma'am, do
7 you wish to call another witness?

8 MS. CARTER - I have no further witnesses.

9 THE COURT - Okay. State wish to call any
10 witnesses?

11 MR. COX - Yes, Your Honor. The State would call
12 Detective Steadman.

13 THE COURT - Come forward, sir, and be sworn.

14 J.C. STEADMAN, AFTER BEING FIRST DULY SWORN,

15 TESTIFIES AS FOLLOWS -

16 THE COURT - Please take a seat in this witness
17 stand. Once you're seated, state your name, please.

18 MR. STEADMAN - J.C. Steadman.

19 THE COURT - Thank you.

20 Counsel, your witness.

21 MR. COX - Thank you, Your Honor. May it please
22 the Court.

23 THE COURT - Yes, sir.

24 DIRECT EXAMINATION

25 BY MR. COX -

J.C. STEADMAN - DIRECT BY MR. COX

43

1 Q Mr. Steadman, around 2005 to 2007 where were you
2 employed?

3 A Spartanburg Public Safety Department.

4 Q And what was the nature of your position?

5 A At the time I was an investigator and FBI liaison.

6 Q Were you the investigator on the case of Ms. Huston's
7 murder?

8 A Yes, I was.

9 Q Okay. Is that how you became involved in the ---

10 A That's correct.

11 Q --- matter before us today?

12 A Yes.

13 Q Okay. And did you, in fact, testify at the PCR
14 hearing held in Spartanburg on September 17th, 2007?

15 A Yes, I did.

16 Q Okay. Mr. Steadman, do you recall who called you as a
17 witness? Was it the applicant or the State?

18 A I don't -- I don't remember anything about who called
19 or ---

20 Q Mr. Steadman, how did you become involved in -- well,
21 let me back up. If you could, walk us through your
22 investigation of Ms. Huston's murder, if you could?

23 A It's quite lengthy, so I mean it -- it began in 2004
24 as a missing person case. After many months of
25 investigating the case and looking at different people she

1 had relationships with, we were made aware of a friend she
2 had who ended up being Mr. Hampton. A key that was on her
3 key ring in her car that was found later abandoned in an
4 apartment complex nowhere near her home, we were able to go
5 back and find the actual locksmith who cut the key, and he
6 was able to tell us that he had cut the key for Fremont
7 School Apartments. That was a place where Mr. Hampton had
8 resided. During the investigation Mr. Hampton had
9 submitted a letter to the FBI, just a handwritten letter,
10 something about he had rented a RugDoctor to clean up some
11 ketchup, mustard, hot sauce, some things that had been
12 spilt in his apartment, otherwise we'd have never probably
13 pursued the avenue, but because of him we were able to
14 locate the apartment, do testing on the carpet and
15 determine that that was the actual crime scene, so through
16 that he became our primary focus as far as a suspect.

17 Q Okay. Mr. Steadman, I'm going to fast-forward a few
18 steps. Did you develop or did you put together a report on
19 your investigation in this case?

20 A Yes, I did.

21 Q Would you recognize that report if I showed it to you?

22 A Yes, I would.

23 MR. COX - Your Honor, may I approach the witness?

24 THE COURT - You may approach the witness.

J.C. STEADMAN - DIRECT BY MR. COX

45

1 Q Mr. Steadman, I am showing you what's been marked as
2 Court's Exhibit 1. Do you recognize that document?

3 A I do.

4 Q What does that document appear to be?

5 A It's -- this is one of the supplemental statements
6 that I compiled or supplemental reports that I compiled of
7 the investigation.

8 Q Does it appear to accurately reflect your report as
9 you put it together?

10 A Yes.

11 MR. COX - Your Honor, at this time we would move
12 that this exhibit be placed as a Court's Exhibit today.

13 THE COURT - Any objections?

14 (WHEREUPON, NO RESPONSE)

15 THE COURT - You want to show it to her?

16 MR. COX - She has reviewed it, Your Honor.

17 MS. CARTER - I've already seen it, Your Honor. I
18 don't have any objections.

19 THE COURT - All right, it'll be marked as a
20 Court's Exhibit for purposes of this hearing.

21 MR. COX - Thank you, Your Honor.

22 (WHEREUPON, DOCUMENT MARKED AS COURT'S EXHIBIT
23 NUMBER 1.)

24 Q Mr. Steadman, ---

25 THE COURT - Has it already been marked?

1 MR. COX - Yes, Your Honor.

2 THE COURT - Okay. I just want to be sure.

3 Let's proceed.

4 Q Mr. Steadman, were you present when Mr. Hampton gave
5 his -- gave a statement to police?

6 A Yes, I was.

7 Q Were you one of the transporting officers?

8 A Yes, I was.

9 Q Okay. Do you recall testifying at the PCR hearing in
10 2007 about that statement?

11 A Yes.

12 Q We've admitted your report, Mr. Steadman, but did that
13 take place on August 12th, 2005?

14 A That's correct.

15 Q Okay. If you would, ---

16 MR. COX - There are not page numbers on this,
17 Your Honor. If I may have just a moment. (Pause) For the
18 record, for Exhibit 1 I am now referring to page 6. It's
19 at the bottom.

20 Q Mr. Steadman, beginning on August 2nd (sic) 2015, that
21 paragraph, does it accurately -- accurately reflect your
22 conversations and what happened during the transport of Mr.
23 Hampton?

24 A On August the 12th?

25 Q August -- yes, excuse me, August 12th.

J.C. STEADMAN - DIRECT BY MR. COX

47

1 A Yes, it does.

2 Q Is that what you would've testified to at the PCR
3 hearing in 2007?

4 A Yes, it is.

5 Q Okay. I can find the paperclip if you lost it. Mr.
6 Steadman, was Detective Lamb the other officer present?

7 A He was. He was the lieutenant over the investigation
8 division at the time.

9 Q Could you walk us through from the time you picked up
10 Mr. Hampton and what occurred ---

11 A Yes.

12 Q --- as you testified in 2007?

13 A Yes. Um, we traveled to Edgefield Department of
14 Corrections in an unmarked SUV to pick up Mr. Hampton. We
15 had previously had a -- an arrest warrant countersigned for
16 service in Edgefield County. It was for sexual assault --
17 criminal sexual conduct, and after we picked him up, we
18 left the prison, we pulled over to serve that warrant, and
19 at that time he was presented with a pre-interrogation
20 waiver form and asked if he would like to speak about the
21 sexual assault. At that time he said, I ain't signing
22 anything, just take me back to Spartanburg, and that was
23 the end of that. So we continued to drive. I think we
24 stopped one time for a bathroom break. I don't think he
25 had to go at that time, but then he had to go later, so we

1 made arrangements with Clinton Police Department or Clinton
2 Detention Center, and he was able to go there, so we
3 traveled on back. There was a news conference planned for
4 that day, and we did not want to take him to the department
5 at that time for the news conference, so we took him to the
6 offsite of our narcotics division, and at that time he was
7 asked -- or provided with food, cigarettes, bathroom
8 breaks.

9 Q Was he ever threatened or coerced?

10 A No, he wasn't.

11 Q When you put him in the interrog -- or did you place
12 him in an interrogation room at the narcotics site?

13 A I don't think it's -- I'm not familiar with the
14 operations of the narcotics division. I don't consider it
15 an interrogation room.

16 Q Okay.

17 A It's not what we consider an interrogation room or an
18 interview room. I'm not familiar with the video system or
19 anything there. It was just a place to sit where we were
20 not around the other narcotics officers that were working.
21 While we were waiting -- because we wanted to go back and
22 question him about Tamika Huston, we were waiting to go
23 back to the department, and during that time we provided
24 him with food and myself and the lieutenant we discussed
25 the case. I think we did show Mr. Hampton some of the

J.C. STEADMAN - DIRECT BY MR. COX

49

1 evidence that we had on the Tamika Huston case. Like I
2 said, we -- he ate, and at one point he just stood up and
3 says, let's go, and we was like, where we going. He says,
4 I'm going to take you to the body.

5 Q Now, before -- before engaging into any kind of
6 discussions about the Huston case, did you -- did you read
7 the applicant his Miranda Rights?

8 A I'm pretty sure we had. We -- we had done pre-
9 interrogation waiver before on him for the same -- for the
10 same case.

11 MR. COX - Your Honor, I am -- for the record,
12 Your Honor, this is covered on page 5 of the Order of
13 Dismissal.

14 THE COURT - Thank you.

15 Q Did Mr. Hampton take you to the -- to where Ms. Huston
16 was buried?

17 A He did.

18 Q Afterwards did Mr. Hampton give a statement?

19 A He did.

20 Q Was that statement video-taped?

21 A It was.

22 Q Was there a written statement?

23 A It was.

24 Q Did Mr. Hampton sign that written statement?

25 A Yes, he did.

1 Q Again, Mr. Steadman, at any point during this process
2 was this applicant threatened or coerced by yourself or
3 anyone in law enforcement?

4 A No, it (sic) wasn't.

5 Q After being read his Miranda Rights and during the
6 process of taking you to where the body was buried and
7 giving his confession, did Mr. Hampton ever ask you for an
8 attorney?

9 A No, he didn't.

10 Q If he had asked for an attorney, what would've been
11 your action?

12 A All questioning would've stopped, and he would've been
13 provided access to counsel and booked on his warrants.

14 MR. COX - Your Honor, those are all the questions
15 I have for Mr. Steadman.

16 THE COURT - You may cross examine.

17 CROSS EXAMINATION

18 BY MS. CARTER -

19 Q All right, from what I'm understanding, Mr. Hampton
20 was given his Miranda warnings in the car.

21 A Correct.

22 Q As he was being transported from Edgefield to the city
23 narcotics building.

24 A Correct.

J.C. STEADMAN - CROSS BY MS. CARTER

51

1 Q Okay. And during that transportation, he refused to
2 sign a waiver.

3 A Correct.

4 Q That is correct.

5 A (No response)

6 Q But you had your tape recorder in the car.

7 A I don't recall a tape recorder.

8 Q All right. So from Edgefield you give him Miranda
9 warnings; he refuses to sign the interrogation, and you
10 move from Edgefield to the city narcotics building. That's
11 correct.

12 A Correct.

13 Q And this is all in one day.

14 A Yes.

15 Q And he's served with the criminal sexual conduct
16 warrant on the way in the car from Edgefield to city
17 narcotics. Correct?

18 A Correct.

19 Q Okay, so -- and at city narcotics, that's when he's
20 served with the murder arrest warrant?

21 A He wasn't -- I'm not -- I'm not sure exactly when the
22 murder warrant was served.

23 Q So there was not a straight shot from Edgefield to the
24 detention center in Spartanburg.

1 A No, we -- we were wanting to use the interroga -- the
2 interview room at the city hall for the interview of Tamika
3 Huston, but because of the press conference that was going
4 on, we didn't want him to go there.

5 Q So from Edgefield to city narcotics to the jail or the
6 detention center, the detention center. So it was like
7 three -- two -- two stops, from Edgefield to city narcotics
8 and then from city narcotics to the detention center, the
9 jail.

10 A No, we went from Edgefield to the city narcotics, then
11 he decided he was going to show us where the body was, he
12 took us to the body. From there we went back to the
13 department, um, and I think we ended up having, um, fire
14 trucks moved out of the department so that he could go
15 through the basement without going through the -- where the
16 press conference would've been and the reporters.

17 Q All right. So, um, with respect to the statement
18 being coerced, there was just a gradual build-up from place
19 to place that whole day until it ended at what time that
20 day?

21 A I have no idea ---

22 Q Okay.

23 A --- the timeframe. I'm ---

24 Q Okay, but it did happen during the course of a day.

25 A Yes.

J.C. STEADMAN - CROSS BY MS. CARTER

53

1 Q Okay, and during that course of the day, we have
2 another waiver that's actually signed by Mr. Hampton.

3 A Correct.

4 Q So we have a waiver that's not signed and then the
5 waiver that's signed, but it's gradually over the course of
6 the day with this build-up. Correct?

7 A Correct, two different cases.

8 Q Okay. All right. And at any point in time do you
9 recall Mr. Hampton asking for an attorney?

10 A No, I don't.

11 Q You don't recall?

12 A To my knowledge he never did.

13 Q And there were two of you in -- two investigators in
14 the car.

15 A Correct. I was driving.

16 Q And you can't quite naturally speak for someone else,
17 but you don't recall him asking for an attorney at any ---

18 A No, I would've heard him if he -- if he had.

19 Q Sir?

20 A I would've heard him ask if he would've ask for one
21 sitting in the backseat.

22 Q All right. So, um, this was a long time ago. How
23 many hours did you all spend at the city narcotics office?

24 A Roughly an hour, a half, (sic) maybe.

25 Q Hour and a half. Okay.

1 A Yeah.

2 Q And the drive from Edgefield to the city narcotics
3 office was about hour, two hours?

4 A Hour and a half, two hours maybe.

5 Q And then eventually the move from the city narcotics
6 building to the jail.

7 A City narcotics to the -- where the -- where he took us
8 to the body which is then to the department to give us a
9 statement about the facts that occurred during the
10 homicide, and then once he finished his statement, we took
11 him to the jail.

12 Q All right. And so the arrest warrant for the murder
13 was after the statement or before the statement?

14 A It was probably served at the jail.

15 Q At the jail.

16 A I'm not sure the ---

17 Q It's a long time, yeah. Okay, and during that span of
18 the whole day, nothing, no threats, no ---

19 A No, ma'am.

20 Q --- no nothing.

21 A Cordial conversation, um, ---

22 Q Conversation.

23 A --- conversation.

24 Q All right. Okay. All right. So that's a long time
25 to have conversations, but you don't recall any ---

J.C. STEADMAN - RE-DIRECT BY MR. COX

55

1 A Well, eating and ---

2 MS. CARTER - Thank you, Your Honor.

3 THE COURT - You may re-direct.

4 MR. COX - Yes, Your Honor.

5 RE-DIRECT EXAMINATION

6 BY MR. COX -

7 Q Mr. Steadman, when Mr. Hampton originally refused to
8 sign the waiver form, that was in response to being served
9 with the CSC warrant?

10 A That's correct.

11 Q Okay. Had nothing to do with the investigation of Ms.
12 Huston. Correct?

13 A That's correct.

14 Q And prior to any confessions or statement being given
15 by Mr. Hampton, you re-read him his Miranda Rights?

16 A That's correct.

17 Q And at no point did he ask for an attorney?

18 A He did not.

19 Q And at no point was he ever threatened or coerced?

20 A He was not.

21 MR. COX - Thank you, Your Honor. No further
22 questions.

23 THE COURT - Wish to re-cross?

24 MS. CARTER - I'm sorry, Your Honor?

25 THE COURT - Do you wish to re-cross?

1 MS. CARTER - No, Your Honor.

2 EXAMINATION

3 BY THE COURT -

4 Q One question the Court has, when you were talking
5 about the transport of the applicant back to Spartanburg,
6 in my review of the case, it appears that maybe there was a
7 stop in Clinton? Is that right?

8 A That's correct, Your Honor. It was for a bathroom
9 break for the defendant.

10 Q And that's all that occurred there.

11 A That's correct.

12 THE COURT - Okay. Anybody wish to follow-up any
13 questions on that particular issue?

14 MR. COX - No, Your Honor.

15 THE COURT - Ma'am, do you wish to follow-up any
16 questions?

17 (WHEREUPON, NO RESPONSE)

18 THE COURT - Do you wish to ask him any questions?

19 MS. CARTER - I have no further questions. Right.

20 Thank you.

21 THE COURT - Okay, thank you. You may step down.

22 Did you get that exhibit?

23 COURT REPORTER - Yes, sir, I've got it.

24 THE COURT - Okay.

25 State may call its next witness.

PRENTISS SHEALEY - DIRECT BY MR. COX

57

1 MR. COX - Your Honor, the State calls Ms.
2 Prentiss Shealey.

3 THE COURT - All right, come forward please.

4 PRENTISS SHEALEY, AFTER BEING FIRST DULY SWORN,
5 TESTIFIES AS FOLLOWS -

6 THE COURT - Please have a seat, and once you're
7 seated, state your name.

8 MS. SHEALEY - Prentiss Counts Shealey, P-r-e-n-t-
9 i-s-s, Counts, C-o-u-n-t-s, Shealey, S-h-e-a-l-e-y.

10 THE COURT - Counselor, your witness.

11 MR. COX - Yes, Your Honor. If I may have just
12 one moment. I want to make sure we've got the exhibit.

13 (WHEREUPON, DISCUSSION IS HELD WHICH THE COURT
14 REPORTER WHICH WAS NOT REPORTED.)

15 MR. COX - Good morning, Ms. Shealey.

16 MS. SHEALEY - Good morning.

17 DIRECT EXAMINATION

18 BY MR. COX -

19 Q Where were you employed during 2006, 2007?

20 A At the attorney general's office.

21 Q And what were your duties at the attorney general's
22 office?

23 A I started in the post-conviction relief section. I
24 had the Sixth Circuit and the Seventh Circuit, so I was the
25 attorney that handled those PCRs.

1 Q Okay, the Seventh Circuit makes up Spartanburg County?

2 A That's right.

3 Q How did -- how did you become involved with Mr.

4 Hampton's PCR case?

5 A He would've filed a case in Spartanburg County, so it
6 would've been assigned to me.

7 Q And just by the nature of PCR divisions, would you
8 have been the only attorney handling that PCR?

9 A Yes.

10 Q Did you file a return in this case?

11 A I would have, yes.

12 Q Okay. As a -- and to your recollection, based on your
13 return, did you believe an evidentiary hearing was needed
14 to address the allegations?

15 A I believe so. I think we did evidentiary hearings
16 back then almost -- well, I guess not for successive PCRs
17 or out of time, but, yes, we -- we did -- I did decide an
18 evidentiary hearing was needed.

19 Q This was Mr. Hampton's first PCR application.

20 A It was.

21 Q From the outset of the PCR, did you consent to a
22 belated appeal under White?

23 A Right. The -- at the very beginning. I -- I tended
24 to that in any case where the attorney couldn't testify
25 that they advised their client to that right or if the

1 judge didn't talk about it in the guilty plea. I don't
2 know if the -- my boss would've liked me doing that, but
3 especially in this case when I think the guilty plea was on
4 Monday and Mr. Bartosh died on Wednesday, I just -- I can
5 imagine what that office would've been like when -- because
6 Doug Strictler died this year and that was -- knew it was
7 coming and that kind of stopped everything in Columbia, and
8 with this I do not -- I think Mr. Bartosh's death was
9 sudden and unexpected, so I absolutely consented to a
10 belated appeal.

11 Q Now, leading up to this evidentiary hearing in this
12 case, how would you have typically prepared for such a
13 hearing?

14 A Right, so I would've obviously read the transcript and
15 anything in the record. I typically would've talked to the
16 defense counsel, but in this case Mr. Bartosh had passed
17 away, so I would've talked to Clay Allen who would've been
18 the acting public defender. I believe in this case I went
19 to the public defender's office and reviewed their file. I
20 think they had just gotten into new office across from
21 Wofford. I'm not a hundred percent sure about that. Um, -
22 --

23 Q Would you have reviewed the SCDC records?

24 A Right, sure.

25 Q Clerk of Court records?

1 A Right, everything in our file, everything in the Clerk
2 of Court records and then everything in Mr. Bartosh's file.

3 Q With regards to a guilty plea PCR, how would you have
4 handled a -- how would you have used the plea transcript
5 during the hearing?

6 A So at that point in time most attorneys in the office
7 kind of had a guilty plea cheat sheet that has the
8 different rights that you want to hit, and you have the
9 first ones that you have to do and then the ones that, you
10 know, it's nice to do, and I would've gone through the
11 guilty plea and on the page where the judge or the attorney
12 or the solicitor would've gone over that, I would've done
13 the page and the line number. If there was anything else,
14 I could've written that in the margins.

15 Q Now, do you recall using that strategy in this case?

16 A Right, I would've -- I would've done that in every
17 case, and then I used that when I was cross-examining the
18 applicant at the hearing.

19 Q Detective Steadman, how did you determine that
20 Detective Steadman would need to be a witness in this case?

21 A Um, I -- I believe, and I'm not a hundred percent sure
22 on this, but I believe that that there was an amended
23 application filed and in that they mentioned the allegation
24 of an involuntary statement, so I believe I called him, but
25 it could've been that Mr. McGuirk called him as well. I'm

1 pretty sure I talked to Detective Steadman before the
2 hearing, so I think I called him, because we didn't have
3 Bartosh to testify.

4 Q Right.

5 A I don't know that I would have in every PCR.

6 Q And Mr. Steadman did, in fact, testify at the PCR
7 hearing?

8 A He did.

9 Q Did he testify as to his conversations and what
10 happened ---

11 A Right, I can't remember exactly what he would've said,
12 but I reviewed the Order, and it appears that I would've
13 gone through and asked, you know, kind of hit on did the
14 res -- or did the applicant ask for an attorney and gone
15 through all of those, and I believe his testimony was the
16 same as it was today.

17 Q You said you reviewed the Order, aside from the
18 belated direct appeal, all of the allegations in this case
19 were denied. Correct?

20 A Correct.

21 Q If there had been -- for the Order of Dismissal, if
22 there were any issues or need to amend the application,
23 what steps could've been taken to do so?

24 A Do you mean to -- before the hearing started they
25 wanted to amend the application?

1 Q No, I'm sorry, the Order of Dismissal. After the
2 Order of Dismissal was filed ---

3 A Okay.

4 Q Let me ask it this way. After the Order of Dismissal
5 was filed, was anything filed by Mr. Hampton's counsel?

6 A I don't believe so, no.

7 Q So there was no Rule 59(E) motion to ---

8 A Not that I remember.

9 Q Okay.

10 MR. COX - Your Honor, if I could have just a
11 moment. (Pause) Your Honor, those are all of the questions
12 I have for Ms. Shealey.

13 THE COURT - Ms. Shealey, I have a couple of
14 questions for you.

15 EXAMINATION

16 BY THE COURT -

17 Q Do you recall any exhibits being placed into the
18 record by the State or the applicant in this matter?

19 A I don't believe so unless the statement was entered
20 in, but I don't -- unless I entered in his statement, other
21 than that -- and I don't remember. That's just a guess.

22 THE COURT - Thank you very much.

23 MR. COX - Your Honor, if I may, one follow-up ---

24 THE COURT - Yes, sir, please do.

25 MR. COX - --- question.

PRENTISS SHEALEY - RE-DIRECT BY MR. COX

63

1 RE-DIRECT EXAMINATION

2 BY MR. COX -

3 Q Ms. Shealey, if a voluntary statement had been entered
4 during the guilty plea proceeding, would you have
5 considered that part of the record during the post-
6 conviction relief proceeding?

7 A Right, anything that would've been on the record in
8 the guilty plea would've been in the record at the PCR.

9 MR. COX - Thank you, Your Honor.

10 THE COURT - Thank you. Ma'am, you may cross
11 examine.

12 MS. CARTER - Your Honor, I don't have any
13 questions for this witness, however, I would like to re-
14 call Mr. Hampton.

15 THE COURT - Well, let's see if the State's
16 finished after this.

17 MR. COX - Your Honor, we are -- I am finished
18 with Ms. Shealey.

19 THE COURT - You may step down. Thank you very
20 much.

21 And do you wish to call any additional witnesses?

22 MR. COX - No, Your Honor. Those are all of the
23 State's witnesses.

24 THE COURT - Any objection to Mr. Hampton being
25 re-called?

1 MR. COX - No, Your Honor. If it's for the
2 purpose of rebuttal for the State's side.

3 THE COURT - That's fine.

4 Sir, if you'll come forward, I'm going to remind
5 you that you've already been placed under oath.

6 MR. HAMPTON - Yes, sir.

7 THE COURT - You can come forward to the witness
8 stand.

9 And you acknowledge that your current testimony's
10 under that previous oath.

11 MR. HAMPTON - Yes, sir.

12 CHRISTOPHER HAMPTON, AFTER BEING PREVIOUSLY
13 SWORN, TESTIFIES AS FOLLOWS -

14 THE COURT - Thank you very much. You may
15 proceed.

16 MS. CARTER - Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MS. CARTER -

19 Q Mr. Hampton, I just have one question I did not ask
20 you, but with respect to the issues surrounding your
21 statement and the discovery, would you have pled guilty had
22 you been privy to this information that you did not review
23 prior to your proceeding?

24 A No, ma'am, I would not have, because like without that
25 statement, the State had -- they had nothing.

CHRISTOPHER HAMPTON - CROSS BY MR. COX

65

1 MS. CARTER - Thank you, Your Honor.

2 Thank you, Mr. Hampton.

3 MR. HAMPTON - Yes, ma'am.

4 THE COURT - Any follow-up questions from the
5 State?

6 MR. COX - Yes, Your Honor, if I could have one
7 moment.

8 CROSS EXAMINATION

9 BY MR. COX -

10 Q Mr. Hampton, as far as your statement, the
11 voluntariness of your statement to police, you understood
12 at your guilty plea hearing that that statement was going
13 to be used against you at trial. Correct?

14 A Uh, what you mean by that?

15 Q You knew the statement existed -- correct? -- before --
16 -- before pleading guilty?

17 A Yeah, I knew it existed.

18 Q Okay, and you had reviewed it. Correct?

19 A Yes, I reviewed it.

20 Q Okay, and you had signed it?

21 A (Indicating yes)

22 Q Correct?

23 A I signed it.

24 Q And Judge Few at your guilty plea hearing had gone
25 through it with you again. Right?

1 A Yes, he -- he let me read it.

2 Q Okay. And he explained to you that by pleading
3 guilty, you would be waiving any challenges to that
4 statement. Correct?

5 A Yes, I believe so.

6 MR. COX - Your Honor, no further questions.

7 MS. CARTER - One last question.

8 RE-DIRECT EXAMINATION

9 BY MS. CARTER -

10 Q So the waiver was really not a waiver, because you
11 lied to get this all over with. Correct?

12 A Yeah, I'm not going to say I lied, but I --, I just
13 wanted to get it over with, because, you know, ---

14 MS. CARTER - All right. Thank you.

15 THE COURT - You may step down. Thank you very
16 much.

17 I'm going to ask that you leave him in the
18 courtroom for right now. He can have a seat. We're going
19 to go over some things with the attorneys. He needs to be
20 present for that.

21 All right, I asked Ms. -- the State's attorney at
22 the PCR hearing Ms. Shealey the -- whether or not there
23 were any exhibits at the first PCR hearing. I didn't see
24 any in my Order referenced. Are you aware of any exhibits

1 that the Court took in at that first PCR hearing, ma'am,
2 Ms. Carter?

3 MS. CARTER - I'm sorry, Your Honor?

4 THE COURT - I'm asking you, at the first PCR
5 hearing are you aware of any exhibits that were introduced
6 by the applicant at that hearing, documents, things of that
7 nature that should be a part of this reconstructive record?

8 MS. CARTER - Not that I am aware of, Your Honor.

9 THE COURT - Okay. And is the State aware of any
10 documents or other exhibits that should be a part of this
11 record?

12 MR. COX - No, Your Honor, I don't believe ---

13 THE COURT - Other than the record of the case it
14 existed at that time.

15 MR. COX - No, Your Honor.

16 THE COURT - Okay. Now, I have received a package
17 of documents that relate to this case. They include the
18 Order of Dismissal signed by me on November 2nd of 2007,
19 the petitioner's Application for Post-Conviction Relief
20 September 5th of 2006, the Respondent's Return March 10 of
21 2007, the transcript of the Petitioner's guilty plea
22 proceeding April 3rd of 2006 and the petitioner's Clerk of
23 Courts records. Is there any objection to my making those
24 documents exhibits for this hearing?

25 MS. CARTER - No objection, Your Honor.

1 THE COURT - Any objection?

2 MR. COX - No objection, Your Honor.

3 THE COURT - Then I will give those to the court
4 reporter to be marked as exhibits.

5 Now, I'll hear from both sides concerning whether
6 or not you feel that the hearing record from today,
7 together with the other documents that I have reviewed, are
8 sufficient reconstruction of the record to allow the Court
9 to review the PCR ruling by this Court in a meaningful
10 fashion. I'll hear from the applicant.

11 MS. CARTER - Um, ---

12 THE COURT - Any argument you wish to make at this
13 time concerning the reconstruction of the record?

14 MS. CARTER - I will, Your Honor. I will send a
15 letter to the Court indicating that this hearing was held
16 today. There is one point I want to bring up. Your Honor
17 granted Mr. Hampton his *White v. State* direct appeal. We
18 are not challenging that, and we would like that to stand
19 as part of this record as well.

20 THE COURT - Okay. Well, my Order I think that I
21 signed in 2006 remains in effect at this time. The -- it
22 has not been overturned, and that's what's on appeal right
23 now. So that part -- portion of the Order would remain in
24 effect at this time. It will be up to The Supreme Court as
25 to whether or not they wish to take any action in regard to

1 my Order. I will not take any action to change it. It's
2 not my purpose here to do that. My purpose here is to
3 reconstruct a record for them to review, so I will not
4 change that -- that portion of the Order.

5 MS. CARTER - All right. Thank you, Your Honor.

6 THE COURT - Yes, sir.

7 MR. COX - Your Honor, the State would just ask
8 that this Court would find the record of September 17th,
9 2007 PCR hearing before Your Honor has been appropriately
10 reconstructed today in order for the appellate courts or to
11 allow petitioner meaningful appellate review of this case.

12 THE COURT - Any objections from the applicant?

13 MS. CARTER - No objection.

14 THE COURT - Okay. I will find that the record
15 has been reconstructed to the point that it would allow for
16 a meaningful review by the appellate courts, so a copy of
17 this transcript should be made available to The Supreme
18 Court along with the exhibits that I will make a part of
19 the record. I will ask the State to prepare an Order to
20 that effect. Please submit it to Ms. Carter for her review
21 before you submit it to me for my signature. I can be --
22 that should be sent to me at Post Office Box 2014,
23 Spartanburg, South Carolina, 29304.

24 MR. COX - 29304?

25 THE COURT - 4, yes, that's right.

1 MR. COX - Very well, Your Honor. Thank you.

2 THE COURT - All right, that concludes today's

3 hearing. Thank you very much.

4 (WHEREUPON, DOCUMENTS MARKED AS COURT'S EXHIBITS

5 2 THROUGH 7.)

6 (END OF TRANSCRIPT)

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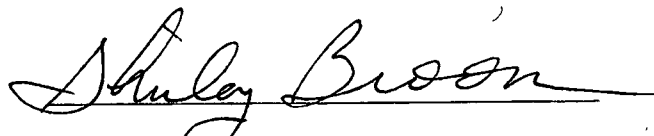
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C E R T I F I C A T E

I, Shirley Broom, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing 70 pages is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the proceedings of Christopher Hampton vs. State of South Carolina, as taken by me in The Court of Common Pleas for the Seventh Judicial Circuit on November 26, 2018, and provided by me this the 31st day of December, 2018.

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



Shirley Broom, CVR-M
Official Court Reporter,
Certified Verbatim Reporter, In and
for the State of South Carolina

CLERK
2006 APR
MARC

WITNESSES

J C Steadman

Sptg. Dept Public Safety

- 1. SENTENCE MADE
- 2. REPORT ENDED
- 3. CARD PULLED **Computer**
- 4. INDEXED
- 5. CHECKED WARRANTS
- 6. CHECKED SIGNATURE
- 7. ASSESSMENT AND ARREST WARRANT NUMBER
- H963501
- TRAFFIC VIOLATIONS COPY

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

APR 29 2006

TERM

THE STATE
vs.

ACTION OF GRAND JURY

True Bill

[Signature]

Foreperson of Grand Jury
Date: 8-25-05

VERDICT

CHRISTOPHER LEMONTE HAMPTON

*NP. Defendant seeking
a life sentence*

*4/4/06
to (Trey Gowdy)*

Indictment for

CRIMINAL SEXUAL CONDUCT
WITH A MINOR, SECOND DEGREE

SC Code: 16-03-655 (3)

Class FEL/C (V)

Foreperson of Petit Jury
Date:

WITNESSES

J STEADMAN

SPTG. DEPT. PUBLIC SAFETY

1. SEARCHED INDEX

2. REPORT INDEX

Computer

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. ARREST WARRANT NUMBER

7. ASSIGNMENT AND FILE CARD MADE

Computer

8. TRAFFIC VIOLATIONS COPY

ACTION OF GRAND JURY

True Bill

[Signature]

Foreperson of Grand Jury

Date: 8/25/05

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.

05-05-42-3629

The State of South Carolina

County of Spartanburg

TREY GOWDY, SOLICITOR

COURT OF GENERAL SESSIONS

2005

TERM

THE STATE

vs.

CHRISTOPHER LEMONTE HAMPTON

Indictment for

MURDER

SC Code 16-03-0010, 0020

CDR Code 116

Class FEL-EXM

