

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Honorable Michael G. Nettles, Circuit Court Judge

STEPHEN FRANCOIS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-002016

APPENDIX

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	10-GS-10-4535 et al
	)	
Stephen Francois, <i>et. al.</i>	)	
	)	
Defendant.	)	

TRANSCRIPT OF HEARING

The within Hearing was held on January 19, 2011, before The Honorable The Honorable R. Markley Dennis, Jr. in Courtroom 3B of the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina; attended by counsel, as follows:

APPEARANCES:

Scarlett Wilson, Solicitor
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 Appearing for State of South Carolina

Peter Brown, Esq.
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 Appearing for Defendant Stephen Francois

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1

2 JANUARY 19, 2011

2:00 P.M.

3

(DEFENDANT PRESENT)

4

THE COURT: Solicitor, be glad to
5 hear from you.

6

SOLICITOR WILSON: Thank you, Your
7 Honor. First of all, we have the State of South
8 Carolina verus Miguel Dominique Starks. For the
9 record that's 10-GS-10-5744 for criminal sexual
10 conduct first degree; 10-GS-10-4564 for
11 kidnaping; 10-GS-10-4562, another count of
12 kidnaping; 10-GS-10-4561, possession of a
13 firearm during the commission of a violent
14 crime; 10-GS-10-4559, an indictment for armed
15 robbery; 10-GS-10-4557, an indictment for
16 burglary in the first degree; 10-GS-10-4552,
17 possession of a firearm during a violent crime;
18 10-GS-10-4550, for kidnaping; 10-GS-10-4549 for
19 burglary in the first degree; 10-GS-10-4548 for
20 armed robbery.

21

We also have the State versus Reginald
22 Anthony Rice: 10-GS-10-4573, kidnaping; 10-GS-
23 10-4571, kidnaping; 10-GS-10-4570 for possession
24 of a firearm during a violent crime; 10-GS-10-
25 4569, an indictment for armed robbery; 10-GS-10-

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1 4565 for burglary in the first degree; 10-GS-10-
2 4556, possession of a firearm during a violent
3 crime; 10-GS-10-4555, kidnaping; 10-GS-10-4554
4 for burglary first degree; 10-GS-10-4553 for
5 armed robbery.

6 Then finally, the State of South
7 Carolina versus Stephen Francois: 10-GS-10-4574
8 for possession of a firearm during a violent
9 crime; 10-GS-10-4547 for kidnaping; 10-GS-10-
10 4546 for burglary in the first degree; 10-GS-10-
11 4545 for armed robbery; 10-GS-10-4544 for
12 kidnaping; 10-GS-10-4543 for kidnaping; 10-GS-
13 10-4541 for possession of a firearm during a
14 violent crime; 10-GS-10-4540 for armed robbery;
15 and 10-GS-10-4535 for burglary in the first
16 degree.

17 Your Honor, these are the charges
18 against the defendants. They are here today to
19 enter guilty pleas to these offenses. We have
20 all agreed, the defense attorneys and I that we
21 would ask the Court to defer sentencing pending
22 any potential cooperation that the defendant(s)
23 may give in this case.

24 THE COURT: Thank you, Solicitor.
25 Where is Mr. Starks?

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1 CHRIS SKIPPER: Your Honor, this is
2 Miguel Starks.

3 THE COURT: Mr. Rice?

4 MS. WILLIAMS: Right here, Judge.

5 THE COURT: Okay. Mr. Francois?

6 DEFENDANT FRANCOIS: (Raises hand).

7 THE COURT: Okay. Mr. Starks, you
8 are present today with your lawyer, Mr. Skipper;
9 is that correct?

10 DEFENDANT STARKS: Yes, sir.

11 THE COURT: I would ask you to raise
12 your right hand. Do you solemnly swear or
13 affirm that all of your responses to my
14 questions today will be the truth and nothing
15 but the truth, so help you, God?

16 DEFENDANT STARKS: Yes, sir.

17 THE COURT: You may put your hand
18 down. Have you had the opportunity, Mr. Starks,
19 to discuss these charges with your lawyer?

20 DEFENDANT STARKS: Yes, sir.

21 THE COURT: Has he investigated this
22 case on your behalf and has he shared the
23 results of that investigation with you, sir?

24 DEFENDANT STARKS: You've had a
25 chance to ask him any questions that you may

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5
5

1 have concerning that investigation?

2 DEFENDANT STARKS: Yes, sir.

3 THE COURT: After fully consulting
4 with him, you desire to enter a plea; is that
5 correct?

6 DEFENDANT STARKS: Yes, sir.

7 THE COURT: And you've signed the
8 sentencing sheet which has been submitted to
9 you for each indictment; is that correct?

10 DEFENDANT STARKS: Yes, sir.

11 THE COURT: Are you today under
12 the influence of any alcohol, any medication?

13 DEFENDANT STARKS: No, sir.

14 THE COURT: Have you consumed any
15 alcohol or taken any type of medication in the
16 last twenty-four hours?

17 DEFENDANT STARKS: Yes, I took
18 medication for migraine.

19 THE COURT: Have you taken that
20 today?

21 DEFENDANT STARKS: Yes, sir.

22 THE COURT: Have you taken it
23 consistent with and pursuant to the directions
24 of dosage, the amount that you should take?

25 DEFENDANT STARKS: No, sir.

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1 THE COURT: Have you taken more than
2 you should?

3 DEFENDANT STARKS: Oh, no, sir.

4 THE COURT: You took the correct
5 dosage?

6 DEFENDANT STARKS: Yes, sir.

7 THE COURT: How long have you been
8 taking it?

9 DEFENDANT STARKS: For six or seven
10 years now.

11 THE COURT: Does it affect in any way
12 your cognitive ability or skills?

13 DEFENDANT STARKS: No, sir.

14 THE COURT: You fully understand what
15 you're doing here today?

16 DEFENDANT STARKS: Yes, sir.

17 THE COURT: Your lawyer has also
18 discussed with you that in one of the indictment
19 that it appears, and he has indicated to me,
20 that it is your desire to enter a guilty plea
21 under *Alford*; is that correct?

22 DEFENDANT STARKS: Yes, sir.

23 THE COURT: Has he explained to you
24 that principle of law?

25 DEFENDANT STARKS: Yes, sir.

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1 THE COURT: And you fully understand
2 it?

3 DEFENDANT STARKS: Yes, sir.

4 THE COURT: An Alford plea, and
5 basically I am certainly paraphrasing what the
6 law says, but basically it says either one or
7 two things -- either 'I am not guilty' or 'I
8 don't know whether I am guilty of this offense.'
9 Is that correct?

10 DEFENDANT STARKS: Yes, sir.

11 THE COURT: 'But that there is some
12 benefit offered to me to enter this plea.'
13 Correct?

14 DEFENDANT STARKS: Yes, sir.

15 THE COURT: What is the benefit?

16 DEFENDANT STARKS: May I speak to
17 my lawyer?

18 THE COURT: Yes.

19 DEFENDANT STARKS: (Sidebar with
20 Mr. Skipper). That there was a possibility of
21 proceeding with life without parole and not
22 interfering with my ---

23 THE COURT: Solicitor, was there a
24 contemplation of proceeding -- was there a
25 possibility in this case, given the ---

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1 SOLICITOR WILSON: Yes, sir.

2 THE COURT: --- present state of the
3 law?

4 SOLICITOR WILSON: Yes, sir.

5 THE COURT: And the State has agreed
6 not to do that, is that correct?

7 SOLICITOR WILSON: That's correct.

8 THE COURT: And that was a
9 significant benefit to you, Mr. Starks?

10 DEFENDANT STARKS: Yes, sir.

11 THE COURT: So that's the benefit
12 that you want to obtain, is that correct?

13 DEFENDANT STARKS: Yes, sir.

14 THE COURT: Because as your lawyer
15 has explained, and you must understand that you
16 believe, based on what the State is prepared to
17 prove in connection with that charge, you would
18 have to believe that a jury, if they heard that
19 evidence, most probably would find you guilty
20 beyond a reasonable doubt? Is that true?

21 DEFENDANT STARKS: Yes, Your Honor.

22 THE COURT: Do you understand that
23 you will have a conviction for the charge
24 notwithstanding an *Alford* plea?

25 DEFENDANT STARKS: Yes, sir.

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1 THE COURT: And that I could sentence
2 you the same as a conviction by a jury or a
3 straight guilty plea?

4 DEFENDANT STARKS: Yes, sir.

5 THE COURT: Indictment 10-5744
6 charges you with criminal sexual conduct in the
7 first degree; do you understand that?

8 DEFENDANT STARKS: Yes, sir.

9 THE COURT: And that is the charge
10 that you've talked with your lawyer about and
11 that is the charge that you are entering a
12 guilty plea under *Alford*?

13 DEFENDANT STARKS: Yes, sir.

14 THE COURT: Do you understand that I
15 could sentence you up to thirty years for that?

16 DEFENDANT STARKS: Yes, sir.

17 THE COURT: What is your plea?

18 DEFENDANT STARKS: *Alford*.

19 THE COURT: Guilty under *Alford*?

20 DEFENDANT STARKS: Yes, sir.

21 THE COURT: Okay. Indictment 10-4548
22 charges you with armed robbery; do you under-
23 stand that?

24 DEFENDANT STARKS: Yes, sir.

25 THE COURT: Your lawyer has explained

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1 to you that that -- that for that I could
2 sentence you up to thirty years in jail and that
3 there is a minimum sentence of ten years?

4 DEFENDANT STARKS: Yes, sir.

5 THE COURT: Understanding the nature
6 of that offense and the possible punishment for
7 that offense, what is your plea?

8 DEFENDANT STARKS: Guilty.

9 THE COURT: Indictment 10-4549 is an
10 indictment charging you with burglary in the
11 first degree; do you understand that?

12 DEFENDANT STARKS: Yes, sir.

13 THE COURT: Your lawyer has explained
14 to you that offense and the fact that I could
15 sentence you a minimum of fifteen years to a
16 maximum of life in prison?

17 DEFENDANT STARKS: Yes, sir.

18 THE COURT: Your lawyer has explained
19 to you that, what is your plea?

20 DEFENDANT STARKS: Guilty.

21 THE COURT: Kidnaping is an
22 indictment charging you -- 10-4550 charges you
23 with kidnaping. Do you understand that for that
24 offense that I could sentence you up to thirty
25 years in jail?

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11

1 DEFENDANT STARKS: Yes, sir.

2 THE COURT: Understanding the nature
3 of that offense and the possible plea -- the
4 possible punishment, what is your plea?

5 DEFENDANT STARKS: Guilty.

6 THE COURT: 10-4552 is an indictment
7 charging you with possession of a firearm during
8 the commission of a violent crime. Do you
9 understand that?

10 DEFENDANT STARKS: Yes, sir.

11 THE COURT: Has your lawyer explained
12 to you the nature of that charge?

13 DEFENDANT STARKS: Yes, sir.

14 THE COURT: And the possible
15 punishment of five years?

16 DEFENDANT STARKS: Yes, sir.

17 THE COURT: And the possible
18 punishment that it can be arranged -- it could
19 be consecutive and that the five years is day
20 for day?

21 DEFENDANT STARKS: Yes, sir.

22 THE COURT: And you understand that
23 if the court, in sentencing you, -- you're
24 saying concurrent sentences. I'm assuming that
25 the concurrent sentences are -- is that a part

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1 of it, as well?

2 SOLICITOR WILSON: Yes, Your Honor.

3 THE COURT: You understand that the
4 five years would be a part of that then? Of
5 course that would be a recommendation. Do you
6 understand that?

7 DEFENDANT STARKS: Yes, sir.

8 THE COURT: What is your plea?

9 DEFENDANT STARKS: Guilty.

10 THE COURT: 10-4557 is another
11 indictment for burglary first. Do you
12 understand again that I could sentence you to
13 fifteen years, minimum, up to life in prison?

14 DEFENDANT STARKS: Yes, sir.

15 THE COURT: What is your plea?

16 DEFENDANT STARKS: Guilty.

17 THE COURT: 10-4559, another
18 indictment for armed robbery. Again, I could
19 sentence you up to thirty years in jail with a
20 minimum sentence of ten years?

21 DEFENDANT STARKS: Yes, Your Honor.

22 THE COURT: How do you plea?

23 DEFENDANT STARKS: Guilty.

24 THE COURT: 10-4561 is an indictment
25 charging you with -- another indictment for

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13

1 possession of a firearm in the commission of a
2 violent crime. Again I could sentence you up to
3 five years. What is your plea?

4 DEFENDANT STARKS: Guilty.

5 THE COURT: 10-4562 and 10-4564 are
6 indictments for the offense of kidnaping. Again,
7 you understand that crime and do you understand
8 that I could sentence you up to thirty years in
9 jail?

10 DEFENDANT STARKS: Yes, sir.

11 THE COURT: How do you plea?

12 DEFENDANT STARKS: Guilty

13 THE COURT: Are you totally satisfied
14 with your lawyer?

15 DEFENDANT STARKS: Yes, sir.

16 THE COURT: Any complaints about the
17 way that he has handled your case?

18 DEFENDANT STARKS: No, sir.

19 THE COURT: Do you understand that
20 these charges -- with the exception of the --
21 the violent crime is not most serious, but all
22 the others are most serious offense; do you
23 understand that?

24 DEFENDANT STARKS: Yes, sir.

25 THE COURT: Are they most serious or

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1 serious?

2 SOLICITOR WILSON: Most serious.

3 THE COURT: Your lawyer has explained
4 to you?

5 DEFENDANT STARKS: Yes, sir.

6 THE COURT: He has also explained to
7 you that -- not the violent crime, that's day
8 for day, but that the others are nonparolable
9 offenses, meaning that you will serve a minimum
10 of eighty-five percent of any sentence imposed?

11 DEFENDANT STARKS: Yes, sir.

12 THE COURT: And it is still your
13 desire to enter a guilty plea?

14 DEFENDANT STARKS: Yes, sir.

15 CHRIS SKIPPER: Judge, just for the
16 record, on the two burglary counts, burglary
17 firsts, we have agreed to a cap of thirty years.
18 You indicated life. I explained that to him,
19 and I just want to clarify it for the purposes
20 of the record.

21 THE COURT: At least at this point,
22 the only thing that I would know is that that is
23 a recommendation?

24 CHRIS SKIPPER: Correct, Your Honor.
25 Mr. Starks is aware of that.

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15

1 THE COURT: And you understand I,
2 that any Circuit judge is not bound by a
3 recommendation?

4 DEFENDANT STARKS: (Affirmative
5 nod).

6 THE COURT: You understand that?

7 DEFENDANT STARKS: Yes, sir.

8 THE COURT: Okay. Thank you very
9 much. Mr. Francois, if you would raise your
10 right hand, please.

11 DEFENDANT FRANCOIS: (Complies).

12 THE COURT: Do you swear or affirm
13 that the testimony that you're about to give in
14 this case, or your responses to my questions,
15 will be the truth and nothing but the truth, so
16 help you God?

17 DEFENDANT FRANCOIS: Yes, sir.

18 THE COURT: Thank you, sir, you may
19 put your hand down. You are present today with
20 Mr. Brown. Is he your lawyer?

21 DEFENDANT FRANCOIS: Yes, sir.

22 THE COURT: He has explained to you
23 the charges that have been presented to me?

24 DEFENDANT FRANCOIS: Yes, sir.

25 THE COURT: And you've heard me talk

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1 with Mr. Starks?

2 DEFENDANT FRANCOIS: Yes, sir.

3 THE COURT: You had similar
4 conversations with him?

5 DEFENDANT FRANCOIS: Yes, sir.

6 THE COURT: He's answered any
7 questions that you may have concerning these
8 charges?

9 DEFENDANT FRANCOIS: Yes, sir.

10 THE COURT: And he has discussed
11 with you the ramifications and the results of a
12 guilty plea in this case?

13 DEFENDANT FRANCOIS: Yes, sir.

14 THE COURT: You signed sentencing
15 sheets that have been submitted in connection
16 with each of these indictments, indicating a
17 desire to enter guilty pleas; is that correct?

18 DEFENDANT FRANCOIS: Yes, sir.

19 THE COURT: And that is your desire,
20 sir?

21 DEFENDANT FRANCOIS: Yes, sir.

22 THE COURT: Are you totally satisfied
23 with your lawyer?

24 DEFENDANT FRANCOIS: Yes, sir.

25 THE COURT: Are you today under the

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17

1 influence of any medication or any type of
2 drugs?

3 DEFENDANT FRANCOIS: No, sir.

4 THE COURT: Have you consumed any
5 alcohol or taken any medication in the last
6 twenty-four hours?

7 DEFENDANT FRANCOIS: No, sir.

8 THE COURT: All right, sir. Your
9 lawyer has explained to you each of these
10 charges, the nature of the charge, that is the
11 elements that the State would have to prove to
12 obtain a conviction?

13 DEFENDANT FRANCOIS: Yes, sir.

14 THE COURT: You fully understand
15 that?

16 DEFENDANT FRANCOIS: Yes, sir.

17 THE COURT: And he has explained to
18 you the possible sentences in each of the
19 charges?

20 DEFENDANT FRANCOIS: Yes, sir.

21 THE COURT: And you fully understand
22 those?

23 DEFENDANT FRANCOIS: Yes, sir.

24 THE COURT: Indictment 10-4546 and
25 Indictment 10-4535 charge you with burglary in

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1 the first degree. Do you understand that?

2 DEFENDANT FRANCOIS: Yes, sir.

3 THE COURT: Mr. Brown, is there also
4 your understanding that there is a similar
5 recommendation, a cap of thirty years?

6 PETER BROWN: Yes, sir.

7 THE COURT: Is that your under-
8 standing, Mr. Francois?

9 DEFENDANT FRANCOIS: Yes, sir.

10 THE COURT: But you understand, of
11 course, that I am not bound by that
12 recommendation?

13 DEFENDANT FRANCOIS: Yes, sir.

14 THE COURT: Understanding then, Mr.
15 Francois, that if I -- that I could sentence you
16 up to a minimum of fifteen years and a maximum of
17 life in prison each of these, how do you plead?

18 DEFENDANT FRANCOIS: I plead guilty,
19 Your Honor.

20 THE COURT: As to each indictment?

21 DEFENDANT FRANCOIS: Yes, sir.

22 THE COURT: Okay. Indictment 10-4545
23 and Indictment 10-4540 charge you with the offense
24 of armed robbery; do you understand that, sir?

25 DEFENDANT FRANCOIS: Yes, sir.

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19

1 THE COURT: Your lawyer has explained
2 to you that I could sentence you up to thirty
3 years for that?

4 DEFENDANT FRANCOIS: Yes, sir.

5 THE COURT: And a minimum sentence of
6 ten years for each one?

7 DEFENDANT FRANCOIS: Yes, sir.

8 THE COURT: Understanding the nature of
9 the offense and the possible punishment, what is
10 your plea?

11 DEFENDANT FRANCOIS: Guilty.

12 THE COURT: 10-4543, 4544, 4547 are
13 indictments charging you with the offense of
14 kidnaping, do you understand that?

15 DEFENDANT FRANCOIS: Yes, sir.

16 THE COURT: Your lawyer has explained
17 to you that I could sentence you up to thirty
18 years on each of those?

19 DEFENDANT FRANCOIS: Yes, sir.

20 THE COURT: Understanding the nature of
21 those offenses and the possible punishments, how
22 do you plead?

23 DEFENDANT FRANCOIS: I plead guilty.

24 THE COURT: 10-4754 and 10-4541 charge
25 you with the possession of a firearm during the

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1 commission of a violent crime; do you understand
2 that?

3 DEFENDANT FRANCOIS: Yes, sir.

4 THE COURT: Your lawyer has explained
5 to you that I could sentence you to five years?

6 DEFENDANT FRANCOIS: Yes, sir.

7 THE COURT: And he has explained to you
8 that that is a day for day sentence?

9 DEFENDANT FRANCOIS: Yes, sir.

10 THE COURT: How do you plead?

11 DEFENDANT FRANCOIS: Guilty.

12 THE COURT: Your lawyer has also
13 explained to you, just as I asked Mr. Starks, that
14 with the exception of possession of a firearm
15 during the commission of a violent crime, all the
16 others are most serious offenses?

17 DEFENDANT FRANCOIS: Yes, sir.

18 THE COURT: Do you understand that and
19 the significance of that term?

20 DEFENDANT FRANCOIS: Yes, sir.

21 THE COURT: You also understand that
22 they are nonparolable offenses, ---

23 DEFENDANT FRANCOIS: Yes, sir.

24 THE COURT: --- which means that you
25 must serve a minimum of eighty-five percent?

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21

1 DEFENDANT FRANCOIS: Yes, sir.

2 THE COURT: It's still your desire to
3 enter a guilty plea in each of the cases?

4 DEFENDANT FRANCOIS: Yes, sir.

5 THE COURT: Again, you're fully
6 satisfied with your lawyer?

7 DEFENDANT FRANCOIS: Yes, sir.

8 THE COURT: Mr. Rice, I would ask you
9 to raise your right hand.

10 DEFENDANT RICE: (Complies).

11 THE COURT: Do you swear or affirm that
12 you responses to my questions shall be the truth
13 and nothing but the truth, so help you, God?

14 DEFENDANT RICE: Yes, Your Honor.

15 THE COURT: Thank you. You may put
16 your hand down, sir. You're standing with Ms.
17 Williams. She is your lawyer?

18 DEFENDANT RICE: Yes, Your Honor.

19 THE COURT: And you've had a chance --
20 you've heard me ask the questions of Mr. Francois
21 and Mr. Starks concerning these charges, and
22 you've had a similar opportunity with Ms.
23 Williams; is that correct?

24 DEFENDANT RICE: Yes, sir.

25 THE COURT: She has investigated the

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1 matter -- these matters -- fully on your behalf?

2 DEFENDANT RICE: Yes, Your Honor.

3 THE COURT: And shared the results of
4 her investigation with you?

5 DEFENDANT RICE: Yes, sir.

6 THE COURT: After fully consulting her,
7 is it your desire to enter pleas to these
8 indictments? Is that correct?

9 DEFENDANT RICE: Yes, sir.

10 THE COURT: And you've signed
11 sentencing sheets reflecting that, is that true?

12 DEFENDANT RICE: Yes, Your Honor.

13 THE COURT: And you fully understand
14 what you're doing here today?

15 DEFENDANT RICE: Yes, Your Honor.

16 THE COURT: Are you today under the
17 influence of any alcohol, any type of
18 medication?

19 DEFENDANT RICE: No, sir.

20 THE COURT: Have you consumed any
21 alcohol or taken any type of medication or drugs
22 in the last twenty-four hours?

23 DEFENDANT RICE: No, sir.

24 THE COURT: Indictment 10-4565 and
25 10-4554 are indictments charging you with

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1 burglary in the first degree. Do you understand
2 that?

3 DEFENDANT RICE: Yes, sir.

4 THE COURT: Your lawyer has discussed
5 with you that offense and explained to you that
6 I could sentence you up to life imprisonment
7 with a minimum sentence of fifteen years, and
8 that there will be a recommendation of a cap of
9 thirty years?

10 DEFENDANT RICE: Yes, Your Honor.

11 THE COURT: But you understand that
12 the court is not bound by a recommendation?

13 DEFENDANT RICE: Yes, Your Honor.

14 THE COURT: Understanding that you
15 could receive a maximum sentence of life
16 imprisonment, what is your plea?

17 DEFENDANT RICE: I plead guilty, sir.

18 THE COURT: Indictment 10-4553 and 10-
19 4569 are indictments charging you with the offense
20 or armed robbery. Do you understand that?

21 DEFENDANT RICE: Yes, Your Honor.

22 THE COURT: Your lawyer has explained
23 to you that I could sentence you up to thirty
24 years in jail for those?

25 DEFENDANT RICE: Yes, Your Honor.

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1 THE COURT: And that there is a minimum
2 sentence of ten years on each?

3 DEFENDANT RICE: Yes, sir.

4 THE COURT: Understanding the nature of
5 the offense and the possible punishment, how do
6 you plead?

7 DEFENDANT RICE: Guilty, sir.

8 THE COURT: Indictment 10-, ---

9 SOLICITOR WILSON: Your Honor, before
10 you move to that one, do you have 10-GS-10-4566,
11 which is also an armed robbery?

12 THE COURT: On this gentleman?

13 SOLICITOR WILSON: Yes, sir.

14 THE COURT: I do not. Yeah -- no.
15 I do not.

16 LAUREN WILLIAMS: For the record, I
17 don't either.

18 THE COURT: Okay. 10-4555, 4571 and
19 4573 are indictments charging you with the
20 offense of kidnaping. Do you understand that?

21 DEFENDANT RICE: Yes, Your Honor.

22 THE COURT: Your lawyer has explained
23 that I could sentence you up to thirty years for
24 those?

25 DEFENDANT RICE: Yes, Your Honor.

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1 THE COURT: How do you plead?

2 DEFENDANT RICE: Guilty.

3 THE COURT: 10-4570 and 10-4556 are
4 indictments that charge you with possession of a
5 firearm during the commission of a violent
6 crime. Do you understand that?

7 DEFENDANT RICE: Yes, Your Honor.

8 THE COURT: Your lawyer has explained
9 that I could sentence you to five years for
10 that?

11 DEFENDANT RICE: Yes, sir.

12 THE COURT: And that that is a day
13 for day sentence?

14 DEFENDANT RICE: Yes, sir.

15 THE COURT: How do you plead?

16 DEFENDANT RICE: Guilty.

17 THE COURT: Have you discussed with
18 your lawyer the fact that these charges, with
19 the exception of possession of a firearm during
20 the commission of a violent crime, the others
21 are all most serious offenses?

22 DEFENDANT RICE: Yes, sir.

23 THE COURT: And you understand the
24 significance of that term, sir?

25 DEFENDANT RICE: Yes, Your Honor.

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1 THE COURT: And that they are non-
2 parolable offenses, do you understand that?

3 DEFENDANT RICE: Yes, Your Honor.

4 THE COURT: And you understand that
5 means that you will have to serve a minimum of
6 eighty-five percent?

7 DEFENDANT RICE: Yes, Your Honor.

8 THE COURT: Is it still your desire
9 that I accept your guilty pleas, sir?

10 DEFENDANT RICE: Yes, sir.

11 THE COURT: Gentlemen, have any of
12 you ever been treated for any mental illness,
13 any emotional conditions or any problems of that
14 nature? Mr. Rice?

15 DEFENDANT RICE: No, sir.

16 THE COURT: Mr. Francois?

17 DEFENDANT FRANCOIS: No, sir.

18 THE COURT: Mr. Starks?

19 DEFENDANT STARKS: No, sir.

20 THE COURT: Mr. Skipper, you've had
21 the chance to discuss with Mr. Starks all of
22 these charges, as he has indicated; is that
23 correct, sir?

24 CHRIS SKIPPER: Yes, Your Honor.

25 THE COURT: And you have investigated

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1 the matter fully on his behalf?

2 CHRIS SKIPPER: Yes, Your Honor. I
3 have.

4 THE COURT: As he has indicated,
5 you've discussed the results of your
6 investigation fully with him?

7 CHRIS SKIPPER: Yes, sir.

8 THE COURT: He has indicated a desire
9 to enter guilty pleas and a guilty plea under
10 Alford; is that correct?

11 CHRIS SKIPPER: That's correct.

12 THE COURT: Did you fully explain to
13 him the significance and consequences of
14 accepting an Alford plea?

15 CHRIS SKIPPER: Yes, Your Honor, I
16 have.

17 THE COURT: And he fully understands
18 that?

19 CHRIS SKIPPER: I believe so, Your
20 Honor, (affirmative nod).

21 THE COURT: You have discussed with
22 him fully the rights that he has been
23 relinquishing?

24 CHRIS SKIPPER: I have, Your Honor.

25 THE COURT: And he comprehends and

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1 fully appreciates those, in your opinion?

2 CHRIS SKIPPER: Yes, sir, I believe
3 that he does.

4 THE COURT: Based on your
5 investigation, do you concur with your client's
6 decision to enter the guilty plea?

7 CHRIS SKIPPER: Yes, Your Honor, I
8 do.

9 THE COURT: And do you agree with his
10 assessment that if he went to trial on the
11 criminal sexual conduct, based on what the State
12 is prepared to prove, that there is a
13 probability that a jury would find him guilty
14 beyond a reasonable doubt?

15 CHRIS SKIPPER: Yes, Your Honor, I
16 do.

17 THE COURT: Thank you, sir. Mr.
18 Starks, is all of that correct, what your lawyer
19 has just said?

20 DEFENDANT STARKS: Yes, Your Honor.

21 THE COURT: Mr. Brown, you too have
22 had the opportunity, as your client has
23 indicated, to discuss the matter fully with him,
24 sir?

25 PETER BROWN: Yes, sir, Your

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1 Honor.

2 THE COURT: And you have, as he has
3 indicated, investigated it fully on his behalf?

4 PETER BROWN: Absolutely, Your
5 Honor.

6 THE COURT: After discussing it with
7 you, he indicated a desire to enter the pleas?

8 PETER BROWN: Yes, sir, he has.

9 THE COURT: Did you advise him of the
10 rights that he would be relinquishing and the
11 consequences of his decision?

12 PETER BROWN: Yes, sir, I have.

13 THE COURT: Based on your
14 discussions, do you believe that he fully
15 understands or appreciates both?

16 PETER BROWN: Yes, I do.

17 THE COURT: And based on your
18 investigation, do you concur with his decision
19 to enter the guilty plea?

20 PETER BROWN: I do, Your Honor.

21 THE COURT: Ms. Williams, you have --
22 as your client has indicated, you have discussed
23 it fully with him?

24 LAUREN WILLIAMS: Yes, I have.

25 THE COURT: And you have shared your

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1 investigation with him?

2 LAUREN WILLIAMS: I have, Your Honor.

3 THE COURT: After fully discussing it
4 with you, he indicated his desire to enter these
5 guilty pleas?

6 LAUREN WILLIAMS: He did, Your Honor.

7 THE COURT: Did you advise him fully
8 of the right that he would be relinquishing and
9 the consequences of his decision?

10 LAUREN WILLIAMS: Yes, sir.

11 THE COURT: And do you think that he
12 fully understands and appreciates both?

13 LAUREN WILLIAMS: I do, Your Honor.

14 THE COURT: Based on your
15 investigation, do you concur with the decision
16 to enter the guilty pleas?

17 LAUREN WILLIAMS: I do, Your Honor.

18 THE COURT: Gentlemen -- let me ask
19 Mr. Rice and Mr. Francois, what your lawyer has
20 represented to me, is that correct, Mr. Rice?

21 DEFENDANT RICE: Yes, sir.

22 THE COURT: Is that correct, Mr.
23 Francois?

24 DEFENDANT FRANCOIS: Yes, Your Honor.

25 THE COURT: Gentlemen, then you fully

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1 understand, realize and appreciate that if I
2 accept the guilty pleas that you will not a jury
3 trial in any of these cases; that at the trial,
4 you would certainly not have to prove anything,
5 you don't have to prove your innocence. Rather,
6 the State has to prove each of these charges
7 beyond a reasonable doubt. That by accepting
8 the plea, you won't have a jury trial. Is that
9 your understanding, Mr. Rice?

10 DEFENDANT RICE: Yes, sir.

11 THE COURT: Is that your
12 understanding, Mr. Francois?

13 DEFENDANT FRANCOIS: Yes, sir.

14 THE COURT: Is that your under-
15 standing, Mr. Starks?

16 DEFENDANT STARKS: Yes, sir.

17 THE COURT: Do each of you understand
18 that if you had a trial that you would have a
19 chance to see and hear the witnesses, confront
20 the witnesses, challenge the witnesses'
21 testimony through cross-examination by your
22 attorney? Since you're not going to have a
23 trial, you give up the right to confront the
24 witnesses. Mr. Starks, do you understand that?

25 DEFENDANT STARKS: Yes, Your Honor.

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1 THE COURT: Mr. Rice, do you
2 understand that?

3 DEFENDANT RICE: Yes, Your Honor.

4 THE COURT: Mr. Francois, do you
5 understand that?

6 DEFENDANT FRANCOIS: Yes, Your Honor.

7 THE COURT: Do each of you make the
8 decision to waive your jury trials, the right to
9 confront the witnesses, to talk with me and
10 admit your guilt here today because you're
11 guilty and not because someone has threatened
12 you in some way or promised you something to get
13 you to plead guilty. Is that correct as to you,
14 Mr. Starks?

15 DEFENDANT STARKS: Yes, Your Honor.

16 THE COURT: Is that correct as to
17 you, Mr. Francois?

18 DEFENDANT FRANCOIS: Yes, Your Honor.

19 THE COURT: And is that correct as to
20 you, Mr. Rice?

21 DEFENDANT RICE: Yes, sir.

22 THE COURT: Do each of you realize,
23 understand and appreciate that you absolutely
24 have no obligation to prove or disprove
25 anything, that you have the right to remain

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1 silent, but that by answering my questions
2 today, that by admitting your guilt, you're
3 further giving up your Constitutional right to
4 remain silent. Mr. Starks, do you realize and
5 understand that?

6 DEFENDANT STARKS: Yes, Your Honor.

7 THE COURT: Mr. Francois, do you
8 realize and understand that?

9 DEFENDANT FRANCOIS: Yes, Your Honor.

10 THE COURT: Mr. Rice, do you realize
11 and understand that?

12 DEFENDANT RICE: Yes, sir.

13 THE COURT: Solicitor, if you would
14 tell me the facts, please.

15 SOLICITOR WILSON: Yes, sir, Your
16 Honor. Just to give you sort of overview before
17 I get into the specific facts, this case
18 involves two separate home invasions. There are
19 two sets of victims on separate days. The same
20 five codefendants were involved in each event.

21 The first one was on February 24th,
22 2010. The victim was [REDACTED] [REDACTED] and his
23 girlfriend. Mr. [REDACTED] had known Reginald Rice
24 from his days at The Citadel. His girlfriend
25 had no connection to Mr. Rice or any one of the

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1 other defendants.

2 Two days later, the second home
3 invasion occurred with Mr. [REDACTED], who knew
4 both Reginald Rice and Miguel Starks from The
5 Citadel. Mr. [REDACTED] worked as an assistant
6 coach in football at The Citadel, where Mr. Rice
7 had played and Mr. Starks was currently on the
8 football team.

9 As I mentioned, Mr. Starks was enrolled
10 at The Citadel at the time of these events. Mr.
11 Rice had been a cadet in the past but was no
12 longer there.

13 The other three defendants, Mr.
14 Francois and the two women who were involved,
15 were students at the College of Charleston when
16 all of this unraveled.

17 These cases, although they happened
18 with Mr. [REDACTED] first and then with Mr. [REDACTED],
19 they were solved in reverse.

20 Starting from the beginning, on
21 February 24th of last year, Mr. Rice and Mr.
22 Starks began planning the home invasion of
23 [REDACTED].

24 I should right now, Judge, that with
25 the media and others involved that there has

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1 been some inference or allegation that these two
2 events were drug deals gone bad. They weren't,
3 at all. These men were targeted. They were
4 targeted by people who knew them and knew that
5 they could be taken advantage of.

6 Mr. Starks and Mr. Rice began to plan.
7 Mr. Starks enlisted the help of his friend, Mr.
8 Francois, and Mr. Francois' girlfriend, whose
9 name is Sasha Gaskins. The plan was for them to
10 use a ruse to gain entry to Mr. [REDACTED]'s home
11 and steal anything that they could find, whether
12 it was marijuana, drugs, electronics, whatever.

13 On that evening of the 24th, all of the
14 defendants were together, including Miss Gaskins
15 and Miss Bruster. They had dinner together,
16 then they hung out at Mr. Starks' apartment
17 where they talked further about doing this
18 robbery.

19 The three men were all dressed in
20 black, they had two guns that they used in the
21 robbery and also a sword that they used in the
22 robbery.

23 They rode to Mr. [REDACTED]'s home and what
24 they did was to have Miss Gaskins go to the
25 door, knock on the door, claim that she needed

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1 help, wanted to use the phone. As she did that,
2 Mr. [REDACTED]'s girlfriend went to get the phone,
3 allowed her to use it, Mr. Starks goes rushing
4 in and Mr. Rice come in after him.

5 Your Honor, at that point the robbery
6 and brutalization of the people lasted somewhere
7 between two and three hours. They went in, they
8 duct-taped them, blind--, -- duct-taped their
9 eyes closed.

10 At one point during the robbery, Mr.
11 [REDACTED]'s pants were pulled down and the sword
12 was rubbed up against his genitals as he was
13 threatened that if he didn't 'give it up', 'give
14 up a stash, give up money, give up whatever he
15 had' that they would basically castrate him.

16 Also during the robbery Mr. [REDACTED]'s
17 girlfriend at the time was hit in the head with
18 a pistol, she was forced to perform oral sex on
19 who we believe was Mr. Starks. There are
20 circumstantial evidence to that effect, although
21 there is no DNA indicating that. Based on the
22 testimony, we believe that it was Mr. Starks and
23 that we can prove that.

24 During that time they recovered Mr.
25 [REDACTED]'s credit cards, ATM card. Mr. Starks

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1 actually left with Mr. Francois and the women to
2 go to an ATM machine to try to get cash, leaving
3 Mr. Rice there with the two victims.

4 As I mentioned earlier, this went on
5 for several hours. Mr. Starks and the others
6 returned from the ATM machine. I do not believe
7 that they were successful in that attempt. They
8 became unloading various electronics from the
9 home into the car.

10 That was all on Wednesday night.
11 Evidently they were not satisfied with what they
12 recovered in that robbery and began to discuss
13 doing another one. The chosen victim this time
14 was [REDACTED] [REDACTED]. There was discussion that the
15 reason that they thought that it would work with
16 Mr. [REDACTED] was because he was a nice guy, he
17 would fall for their ruse.

18 So two nights later, on Friday night
19 into Saturday morning, their plan began to
20 unfold. In that event, -- Mr. [REDACTED] lived in an
21 apartment complex that you had to take an
22 elevator to get to his residence. What they did
23 was have Miss Gaskins call and claim to be a
24 girlfriend of an acquaintance and claim that she
25 was broken down, that she needed help, and could

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1 he come get her and she explained where she was.

2 This was the middle of the night,
3 obviously, but Mr. [REDACTED] got up -- I think that
4 he was a little suspicious, because he began
5 trying to contact the acquaintance to see what
6 was going on with his girlfriend as he was
7 getting ready to go and rescue her.

8 He gets ready. He comes down, comes
9 out of the bottom of his apartment, where he is
10 immediately confronted by Mr. Rice with a gun.
11 He drops to his knees, he drops his cell phone.
12 The other two join in and they take him back
13 upstairs, they duct-tape him, duct-tape his eyes
14 closed and began ransacking his apartment. They
15 put him in the bedroom. They eventually got his
16 dog and put his dog in a bedroom. His dog was
17 going crazy, as you might imagine. Continued to
18 look for anything that they could find of value.

19 Again, Mr. Starks found his card. Left
20 the apartment, in Mr. [REDACTED]'s car, met back up
21 with the girls and they went to get money from
22 an ATM machine. I believe that time they were
23 successful, that he had gotten the PIN number
24 from Mr. [REDACTED] -- as he had with Mr. [REDACTED] the
25 previous time. They were able to get some cash.

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1 They went back and began to unload Mr.
2 [REDACTED] s belongings into the car where the women
3 were. They drove away and left.

4 In both situations -- in the situation
5 with Mr. [REDACTED] he thought that he recognized
6 Reginald Rice's voice. Then in Mr. [REDACTED] s
7 situation, he thought that he recognized both
8 Mr. Starks' and Mr. Rice's voice; although
9 neither of them could see their face.

10 Mr. [REDACTED] immediately got untied from
11 his duct-tape and went next door to the nursing
12 home, because he didn't have a phone, to call
13 police. The police came immediately and met up
14 with Mr. Francois and Mr. Rice, who were nearby,
15 and stopped them. Mr. [REDACTED] was called out to
16 identify them. Obviously he had not seen their
17 faces but they fit the description of clothing
18 and otherwise.

19 Mr. Rice did not give a statement
20 immediately but Mr. Francois, under questioning,
21 broke and began to tell pieces of what happened;
22 which obviously led to Mr. Starks. Again,
23 because of the voice recognition, Mr. Starks was
24 already a suspect very early on in this.

25 At this point the County and the City,

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1 they're realizing that they have very similar
2 MO's in these cases and began to piece it
3 together. Mr. Starks eventually was arrested,
4 as were the two girls, all of whom -- except for
5 Mr. Rice -- gave statements which while somewhat
6 minimized their own culpability as to who
7 exactly planned it or who exactly did what
8 first, but the general picture that everyone
9 gave fit as to what happened these two nights.
10 Again, there was some minimization that went on
11 in those statements but clearly there was
12 cooperation against each other, which we believe
13 they would be convicted on all these charges.

14 Since the time of their arrest, more
15 recently, Mr. Rice has begun to cooperate. He
16 has had one session where he told his version of
17 what happened. It fits generally with what we
18 had heard from the other defendants.

19 Search warrants were executed and much
20 of the loot or the items that were stolen from
21 Mr. [REDACTED]'s home and from Mr. [REDACTED]'s home were
22 recovered in Mr. Starks' apartment, and also
23 from a friend of the two women involved. They
24 had deposited some of the items with a friend,
25 who we don't think had any involvement. Those

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1 items were recovered, as well.

2 Those would be the general facts that
3 we would present if we were going forward with
4 trial.

5 THE COURT: Thank you very much.
6 Mr. Starks, with the exception of the factual
7 recitation concerning the charge of criminal
8 sexual conduct, are those facts correct as
9 stated by the Solicitor as they pertain to you,
10 sir?

11 DEFENDANT STARKS: Yes, Your Honor.

12 THE COURT: And as to the facts
13 concerning the recitation concerning the
14 criminal sexual conduct allegation, you believe
15 based on your conversations with your lawyer,
16 that the State has a witness or witnesses who
17 will testify to those facts?

18 DEFENDANT STARKS: Yes, Your Honor.

19 THE COURT: And of course that was a
20 condensed version, but you believe that if a
21 jury hears that testimony that they most
22 probably would find you guilty beyond a
23 reasonable doubt?

24 DEFENDANT STARKS: Yes, Your Honor.

25 THE COURT: Mr. Starks, how old are

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1 you, sir, today?

2 DEFENDANT STARKS: Twenty years
3 old.

4 THE COURT: And what is your
5 education, sir?

6 DEFENDANT STARKS: Business.

7 THE COURT: How far did you go in
8 school? I know you were in college at the time?

9 DEFENDANT STARKS: Yes, sir. I was
10 a sophomore.

11 THE COURT: Is there anything about
12 any of the questions the court has asked you
13 today that you need clarification or you did not
14 fully understand?

15 DEFENDANT STARKS: No, Your Honor.

16 THE COURT: Have you truthfully
17 responded to all of my questions?

18 DEFENDANT STARKS: Yes, Your Honor.

19 THE COURT: You realize and under-
20 stand that I will be relying on your responses?

21 DEFENDANT STARKS: Yes, Your Honor.

22 THE COURT: Mr. Francois, the factual
23 recitation by the Solicitor as it pertained to
24 you, are they correct?

25 DEFENDANT FRANCOIS: Yes, sir.

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1 THE COURT: How old are you, sir?

2 DEFENDANT FRANCOIS: Twenty.

3 THE COURT: What is your education?

4 DEFENDANT FRANCOIS: I was in
5 college, as well. I was a double major in
6 political science and business.

7 THE COURT: Have you fully understood
8 all of my questions here today?

9 DEFENDANT FRANCOIS: Yes, Your Honor.

10 THE COURT: Have you truthfully
11 responded to my questions?

12 DEFENDANT FRANCOIS: Yes, Your Honor.

13 THE COURT: And you fully understand
14 what you're doing?

15 DEFENDANT FRANCOIS: Yes, Your
16 Honor.

17 THE COURT: You realize and
18 understand that I will be relying on your
19 responses?

20 DEFENDANT: Yes, Your Honor.

21 THE COURT: And that is what you wish
22 me to do?

23 DEFENDANT: Yes, Your Honor.

24 THE COURT: Mr. Rice, the factual
25 recitation by the Solicitor, is it true as it

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1 pertains to you? Is it correct, sir?

2 DEFENDANT RICE: Yes, Your Honor.

3 THE COURT: And you are how old, sir?

4 DEFENDANT RICE: Twenty-three.

5 THE COURT: And what is your
6 education, sir?

7 DEFENDANT RICE: Sports management.

8 THE COURT: And did you complete your
9 college degree?

10 DEFENDANT RICE: No, Your Honor. I
11 was up to my junior year in college.

12 THE COURT: Have you fully understood
13 all of my questions here today, sir?

14 DEFENDANT RICE: Yes, Your Honor.

15 THE COURT: Have you truthfully
16 responded to each of them?

17 DEFENDANT RICE: Yes, sir.

18 THE COURT: You realize and
19 understand that I will be relying on your
20 responses?

21 DEFENDANT RICE: Yes, Your Honor.

22 THE COURT: That is what you wish for
23 me to do?

24 DEFENDANT RICE: Yes, Your Honor.

25 THE COURT: Mr. Skipper, is there

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1 anything further from you concerning my
2 acceptance of the pleas here today?

3 CHRIS SKIPPER: No, sir. Nothing
4 further from me, Your Honor.

5 THE COURT: Mr. Brown, anything
6 further from you, sir, concerning my acceptance
7 of the pleas here today?

8 PETER BROWN: No, sir, Your Honor.

9 THE COURT: Ms. Williams, anything
10 further from your client concerning my
11 acceptance of his pleas?

12 LAUREN WILLIAMS: No, Your Honor.

13 THE COURT: Thank you very much.

14 Gentlemen, based on your statements and your
15 responses here today, I first would find and
16 conclude that you have had the benefit of very
17 competent counsel. Each of you has indicated
18 that you're totally satisfied with his or her
19 representation. I find further that you fully
20 understand your rights that you are
21 relinquishing by my accepting your plea, that
22 you freely, voluntarily, knowingly and
23 intelligently are waiving those rights. That
24 there is certainly a sufficient factual basis to
25 support each of your pleas, including the Alford

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Before The Honorable R. Markley Dennis, Jr.

1 plea on criminal sexual conduct.

2 Solicitor, I will therefore accept the
3 pleas. We will defer sentencing until a later
4 date. Thank you very much.

5 (HEARING CONCLUDED)

6 (SENTENCING ON MARCH 22, 2011)

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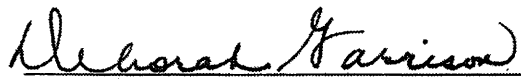
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CERTIFICATE OF REPORTER

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I, the undersigned, Deborah Garrison,
official court reporter for the 9th Judicial
Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true,
accurate and complete transcript of the hearing
held before The Honorable R. Markley Dennis,
Jr., on January 19, 2011;

I further certify that I am neither kin nor
counsel to any of the parties and have no
interest in the outcome of this action.



Deborah Garrison
Circuit Court Reporter
9th Judicial Circuit

Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	10-GS-10-4535 et al
	)	
Stephen Francois, et. al.,	)	
	)	
Defendant.	)	

TRANSCRIPT OF HEARING

The within Hearing was held on March 22, 2011, before The Honorable The Honorable R. Markley Dennis, Jr. in Courtroom 4D of the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina; attended by counsel, as follows:

APPEARANCES:

Scarlett Wilson, Solicitor
 9TH CIRCUIT SOLICITORS OFFICE
 100 Broad Street, Suite 400
 Charleston, South Carolina 29401
 Appearing for State of South Carolina

Peter Brown, Esq.
 749 Johnnie Dodds Blvd
 Mount Pleasant, South Carolina 29466
 Appearing for Defendant Stephen Francois

DEBORAH GARRISON
Circuit Court Reporter - 9th Judicial Circuit
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1

2 (GUILTY PLEA ENTERED ON JANUARY 19, 2011)

3

(DEFENDANT PRESENT)

4

THE COURT: Ladies and gentlemen,

5

I have had a conversation with the Solicitor.

6

We're here to go forward with the pleas that I

7

accepted in each of your cases on January 19th,

8

2011, today being the day that we will hear

9

from the State and you concerning sentencing.

10

And I know that we all stood -- all

11

three did during the -- when I accepted the

12

pleas. Because there may be varying lengths

13

in the pleas and some people may speak; some

14

people may not speak, I'm going to allow the

15

State -- first, I'm going to hear from the

16

State, Solicitor, as I indicated, fully, from

17

any victims from any of the cases. It doesn't

18

matter. But when I start -- and, gentlemen,

19

you may remain seated during that time.

20

Typically, you stand, and I understand that.

21

But I'm giving you permission, if you choose

22

to, to remain seated during the presentation

23

by the State.

24

And then we will go -- after I hear

25

fully from the State, I will then hear from

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3

1 you. And the order -- as I have indicated to
2 your attorneys -- it does not matter to me.
3 I have all three packets here. I'll just defer
4 to you. You can go in the order that you
5 choose, and that'll be perfectly all right.
6 Okay?

7 If that's acceptable with everyone,
8 unless you have an objection, I assume it is
9 acceptable. (No response). There are no
10 objections.

11 Solicitor, good afternoon, and I'll be
12 happy to hear from you.

13 SOLICITOR WILSON: Thank you,
14 Judge. What I thought I'd do was go through
15 the facts again, since there are so many
16 defendants. And we've had a trial since we
17 were all last together and learned some new
18 information.

19 But just by way of background, we have
20 the defendant Starks and Rice who knew each
21 other from the Citadel and were together
22 initially in planning these home invasions.

23 Mr. Starks was still at the Citadel at
24 the time that these things occurred. Mr. Rice
25 had left the Citadel and was back in town

1 visiting that week, and had been visiting with
2 Mr. Starks, partying with him and with other
3 folks during the days before this began.

4 When they decided to do this first
5 home invasion, of [REDACTED], they elicited
6 the help of Mr. Francois, Stephan Francois.
7 And their idea -- their way that they thought
8 they would get into Mr. [REDACTED]'s house was to
9 come up with some sort of ruse. And that's
10 where Mr. Francois's girlfriend, Sasha Gaskins,
11 came into the picture. They were going to use
12 her as a way to get into the house.

13 Mr. Francois and Ms. Gaskins were
14 classmates, girlfriend and boyfriend, stayed
15 together at either of their rooms at the
16 College of Charleston.

17 Meanwhile, apart from all of this,
18 Ms. Gaskins decided to try to set up Mr.
19 Starks and her friend Breanna Bruster, to see
20 if they wanted to date. So Ms. Bruster was
21 sort of the last to come into this picture,
22 and was the least involved. That's why we
23 negotiated the minimum ten-year sentence on
24 her.

25 But as these things unfolded, as I

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1 told you when we met last time, it was a
2 little confusing, I think, in the media and at
3 first with law enforcement to figure out what
4 was going on. Because the second robbery was
5 actually the one that was discovered first by
6 law enforcement.

7 And there were several reasons for
8 that. One, there was a delay in reporting
9 from Mr. [REDACTED] and the other victim in that
10 case. They didn't immediately call the police
11 because the victim was -- the victim of the
12 assault was very upset and just wanted to get
13 home, get herself together before they then
14 went to the police. Also, they didn't have
15 solid identifications initially in that case.

16 So the second robbery was the one
17 where law enforcement cracked the case very
18 quickly, and that led us to the first robbery.

19 This happened, as I told you, on
20 February 24th of last year. And, again, the
21 ruse was that Ms. Gaskins would knock on the
22 door of Mr. [REDACTED] and they planned to rush
23 in and to steal whatever he had. When they
24 knocked on the door, I think everyone was
25 surprised that the victim of the assault

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1 answered the door. Ms. Gaskins told her that
2 her car was broken down or she needed some
3 help; could she use the phone. Ms. Michallak
4 went to go get the telephone to give it to her
5 to make the call, and as she did those things
6 in that foyer area of the home, Mr. Starks and
7 Mr. Rice rushed in. They both had guns. They
8 were dressed in all black. They had on masks.

9 When they got inside they set about
10 duct taping Mr. [REDACTED] and Ms. [REDACTED].
11 They put duct tape around their eyes, their
12 hands and feet. I think we all are grateful
13 that either they knew enough or didn't think
14 to try to duct tape their mouth and nose.
15 Because so many times we see that where people
16 die from that.

17 They duct-taped them and immediately
18 just started ransacking the house, looking for
19 anything that was valuable. They took Mr.
20 [REDACTED] into a room apart from Ms. [REDACTED]
21 and pulled his pants down. There was a sword
22 that they had brought, a small sword, but a
23 sword nonetheless that Mr. Starks put against
24 his genitals and threatened him if he didn't
25 tell where his stash was.

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1 Also, while being duct taped Mr.
2 Starks forced himself on Ms. [REDACTED]. He
3 forced her to perform oral sex on him. For
4 some time during the investigation there was
5 a question as to who did what. But based on
6 Mr. Rice and Mr. Francois and their piecing
7 together what happened, as well as what the
8 girls -- some of the conversation that
9 happened in the car later, we always felt like
10 it was Mr. Starks, and he has since admitted
11 that it was his that did that to the victim.
12 And, in fact, Mr. Rice, a couple of times
13 tried to wave him off, saying 'that's not what
14 we're here for, move on.' He didn't move on.
15 And he, as I said, forced oral sex on Ms.
16 [REDACTED] which, as you might imagine, was
17 quite traumatic for her.

18 One of the brazen things about this
19 whole situation was how long it took. They
20 were in the house for hours, again, rummaging
21 around. At one point, while Mr. Francois and
22 Breanne Bruster and Shasha Gaskins were
23 outside waiting, Mr. Starks comes out with an
24 ATM card of the victims and the four of them
25 leave, and leave Mr. Rice there to guard the

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1 two captives. And they go to try to get money
2 out of the ATM machine.

3 And that takes some time. They
4 finally get back and pretty much everybody
5 helped unload TVs or whatever valuables were
6 in the house. They went back to Mr. Starks's
7 apartment and continued to "party on" that
8 night and discuss what had happened.

9 One of the sad things about this
10 story, early on, Ms. Bruster was interviewed,
11 before cooperating with my office. And she
12 talked about lying in the bed with Mr. Starks
13 and how he had on a cross necklace, and how
14 she teased him about the fact that he had done
15 an armed robbery wearing that cross necklace,
16 and that he was probably going to hell for
17 that. They all laughed and that was funny.

18 And that was a common theme of this
19 in the car and in the apartment. There was
20 much laughter about [REDACTED] and, you
21 know, him being scared to death with the sword
22 put in front of him.

23 And so that was the mood. Again,
24 this wasn't a situation where, you know, it
25 happened so fast things got out of hand. This

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1 was some time, some days in planning, many
2 hours in the home. And then when it's over,
3 much reflection. And it was comical.

4 Unfortunately, they didn't feel like
5 they got enough, and they started trying to
6 think of who else they could rob. They came up
7 with [REDACTED]. [REDACTED] had been a mentor and friend
8 of Mr. Starks's at the Citadel. He was an
9 assistant coach at the Citadel, and had
10 actually promised Mr. Starks's family that he
11 would look after Miguel Starks and had been
12 good to him.

13 It was for precisely that reason,
14 again, according to some of the early
15 statements that we got, that they picked him.
16 Because they knew he was a nice guy. They
17 knew that if he got a call from someone in
18 distress that he would help. And so that's
19 exactly what happened.

20 Again, a similar ruse. It couldn't
21 work exactly the same way because in the
22 apartment where [REDACTED] lived there was
23 some sort of code that you had to use or some
24 way in order to get up to the door. It wasn't
25 going to work the same way, to just knock on

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1 the door.

2 So the plan was, again, for Sasha
3 Gaskins to make the call and claim to be
4 someone else, another friend's girlfriend,
5 stranded nearby, claiming to need [REDACTED] s
6 help.

7 I should add -- just let me break
8 for a minute -- there had been some talk in
9 the trial that we had -- Sasha Gaskins's trial
10 -- that there was some sort of duress. All of
11 these defendants cooperated and testified that
12 there was no duress. And there was actually a
13 portion of Ms. Gaskins's and Ms. Bruster's
14 conversation that was recorded on the cell
15 phone by accident that showed them laughing
16 and joking around while the robbery of Mr.
17 [REDACTED] was going on.

18 These gentlemen or these defendants,
19 excuse me, clarified that there were no
20 threats. And, in fact, they gave Ms. Bruster
21 the opportunity to get out of the car. They
22 offered to take her home before the [REDACTED]
[REDACTED] robbery, and she said "no, I'm along
24 for the ride." And she went along for it.

25 But, anyway, Ms. Gaskins agreed to

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1 make the call. She made the call. [REDACTED]
2 was a little bit skeptical. But, again, he's
3 awoken from slumber. It's the middle of the
4 night. He's told by Ms. Gaskins that she's
5 broken down and that she's the girlfriend of
6 another friend. And so he starts getting
7 dressed and getting ready to go help her.
8 Meanwhile, he's trying to call his friend to
9 see if that's really her, what's going on or
10 why he isn't helping; what the situation is.
11 He wasn't able to get him where he could
12 understand. The friend was in a nightclub.
13 The friend couldn't understand him. They
14 agreed to text.

15 Meanwhile, he's going to his car.
16 As he comes down, that's when he was rushed by
17 these defendants at gunpoint. You know, he
18 thought about trying to make a run for it, but
19 he saw, you know, after the first man
20 approached -- he saw that he was armed. Then
21 he's immediately out numbered, and at least
22 two of them appear to be armed.

23 They take him back up to his
24 apartment. Same M.O. They begin to duct tape
25 him. They try to take care of his dog,

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1 because the dog's making a fuss. They put
2 [REDACTED] in the bed in a room and out of the way.
3 They close the dog up somewhere else, because
4 he's raising Cain.

5 And, once again, we aren't talking
6 of them being in there for minutes. This
7 dragged on for hours because they're going
8 through all his stuff, looking for as much --
9 as many valuables as they can find. They had
10 the impressions, based on Mr. Starks's
11 relationship with Mr. [REDACTED], that he had some
12 sort of big inheritance money, and that they
13 were going to find all sorts of goodies, I
14 suppose.

15 Again, they threatened Mr. [REDACTED].
16 He certainly was in fear for his life. It was
17 just luck that his girlfriend wasn't there
18 that night. I would hate for us to have two
19 sexual assault victims. But she, luckily, was
20 not there that night.

21 While the men were rummaging through
22 the apartment -- again, the brazenness. Mr.
23 Starks takes [REDACTED]'s car keys and takes
24 his Mustang, leaves the apartment complex to
25 go back to a teller machine to try to get more

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1 money for Mr. Starks, driving his car. He
2 meets up with Sasha and Breanna at some point
3 and they go to -- I believe they went to a gas
4 station. Did he go to a gas station with
5 them? ATM -- just the ATM.

6 But he's driving his car. They come
7 back and, once again, all of them help unload
8 whatever valuables they thought they could
9 carry from [REDACTED] apartment.

10 After they leave it takes a little
11 bit of time, but [REDACTED] is able to free himself
12 from the duct tape. He gets free. He tried
13 to knock on the doors of the apartment. He
14 doesn't have any luck there. He runs to a
15 nearby office area and is able to get someone
16 to help him and to call 9-1-1. He calls 9-1-1
17 and, unfortunately, pretty much immediately
18 everyone's skeptical of him. And that went on
19 for some time, and that was compounded by some
20 of the statements that the defendants made,
21 implying that he was some sort of drug dealer,
22 which he is not.

23 But he was able to -- two of the
24 men, Mr. Francois and Mr. Rice were stopped in
25 another car pretty soon after the robbery and

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1 Mr. [REDACTED] was able to identify them.

2 Then we get the tie-in with the
3 other robbery, and the victim of the assault
4 is able to identify Sasha Gaskins as being the
5 woman who knocked on her door. And things
6 started unraveling then.

7 We get a statement of Mr. Francois,
8 although he didn't tell all the truth
9 immediately. He was the first of the three
10 men to come in without a proffer, without
11 anything, and give a pretty detailed statement
12 to the police. It was later that other
13 statements were taken.

14 As I mentioned, Ms. Gaskins decided
15 to go forward and have a trial. These men
16 testified for the State. They cooperated for
17 the State, and I believe, for the most part,
18 I'm sure there are some details that we could
19 quibble about, they testified and testified
20 truthfully as we asked them to do.

21 Ms. Gaskins was convicted in short
22 order. She testified in her own behalf. She
23 didn't really challenge the meat of the
24 robbery. She claimed she was under duress and
25 that she was forced to do these things, which

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1 was just not true.

2 Mr. Starks does not have a record.

3 Mr. Rice has an '05 contributing to
4 the delinquency conviction that involved sex
5 with a woman or a girl who was not of age, but
6 who did consent.

7 Mr. Francois has a 2007 hit-and-run
8 and criminal trespass.

9 Your Honor, the victims and some of
10 their parents would like to address you. And
11 after that I'll address the Court about
12 sentencing. I believe we will start -- if we
13 could start with Mr. [REDACTED].

14 Again, Mr. [REDACTED] testified at the
15 trial, has been very cooperative and
16 supportive of this prosecution. Are you
17 ready?

18 MR. [REDACTED]: Yes, ma'am.

19 SOLICITOR WILSON: His father
20 is here also. This is [REDACTED], Your
21 Honor.

22 THE COURT: Very well. Good
23 afternoon, Mr. [REDACTED].

24 MR. [REDACTED]: I'm [REDACTED].
25 I'm the victim of a robbery at [REDACTED]

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1 [REDACTED], James Island. I've got a few things
2 to say. But because I get a little nervous,
3 I wrote things down so I wouldn't misjudge the
4 time.

5 THE COURT: You take your time and
6 don't worry about being nervous. That's
7 perfectly understandable.

8 MR. [REDACTED]: Thank you, Your Honor.
9 Since the incident I've been in school and
10 working fulltime. I just want to get my life
11 back together, first of all. Once this
12 happened, they stole my feelings of being safe
13 at home. I was forced to move out. My family
14 and friends and loved ones have been put under
15 a great deal of unnecessary stress and
16 uncomfort (sic) during this past year or so
17 process of trial.

18 Another thing that really bothers
19 me, I knew Reggie Rice as a friend at the
20 Citadel. You know, we used to be up to no
21 good. I'm not going to lie. We used to smoke
22 weed together and that kind of thing. And now
23 he moved back to Augusta, the last I heard. I
24 called him on the phone to see if he wanted
25 to smoke with me some time. He said he was

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1 out of town that weekend of the incident.

2 The next thing I know, I'm cooking
3 steaks trying to have a romantic evening with
4 my ex-girlfriend, Ms. [REDACTED]. And I hear a
5 yell in the house, because I'm out in the yard
6 cooking steaks, trying to have a decent
7 evening.

8 So I feel like he's betrayed me
9 beyond anything I can think of. After not
10 speaking to him for a year, the next thing
11 I know he's putting a gun in my face and
12 threatening to kill me along with his
13 associates over there.

14 They took advantage of me and my
15 trust, quite obviously. I have trouble
16 trusting anyone nowadays. I feel unsafe even
17 in my parents' home, even though I should feel
18 safe there. The reason why, they also
19 threatened -- well, Reggie dropped me off, I
20 believe, one time at my parents' house when we
21 were attending the Citadel. So I'm sure he
22 knew where it was, and around the corner was
23 where I was living at the time. He also
24 threatened to beat up my parents and rob them
25 while they were in their sleep, just to see if

1 they could get anything out of their house. I
2 immediately -- I shouldn't have done this, but
3 warned him that was an alarm system and a
4 shotgun underneath my dad's bed.

5 So, anyhow, to wrap this up, I was
6 severely traumatized and I've been going
7 through therapy lately. It's not cheap. But,
8 anyhow, I've been trying to get my head right.

9 So that's basically what I wanted to
10 say, Your Honor, just to get things off my
11 chest. Thank you for your time.

12 THE COURT: Thank you for being
13 here. I'm sorry that you had to be here under
14 these circumstances.

15 MR. [REDACTED]: I appreciate it, sir.

16 MR. [REDACTED]: I'm [REDACTED]
17 [REDACTED].

18 THE COURT: Mr. [REDACTED], good
19 afternoon, sir.

20 MR. [REDACTED]: He's had a
21 rough time, not just from, you know -- there
22 were a lot of things that were compounded.
23 A tough situation, ongoing, to have the abuse
24 piled on him. I feel like it's kept him a bit
25 unorganized, not a great direction in mind,

1 that kind of thing. He has been trying, I'll
2 say that.

3 And as far as Ms. [REDACTED], we are
4 very sad that this -- that she was with him
5 that evening. You know, it would have been
6 a lot easier had that not been the case.

7 I just want to say that we had a
8 rough time. We're getting through it, but --
9 and I really feel sorry for everyone involved,
10 to be honest about it. But this situation is
11 -- it's uncalled for.

12 THE COURT: Thank you, Mr. [REDACTED].
13 And the last -- all of it was certainly well
14 spoken, but the last portion is profoundly
15 accurate. Thank you, sir.

16 SOLICITOR WILSON: Next, Your
17 Honor, will be Ms. [REDACTED].

18 MS. [REDACTED]: [REDACTED].

19 I just want to say that before this incident I
20 really had my life together. I was going to
21 school fulltime and worked at Roper Hospital
22 for about five years. And that's all been set
23 back. Now, it's no sleep and I'm on
24 medications now that I don't want to be on and
25 have been going to rehab for the past year.

1 My life still just has not been able to get
2 back on track. I just hope seeing having them
3 deserve what they do deserve will help me get
4 through my life, you know, one day at a time,
5 a little bit easier than I can.

6 There are certain triggers that they
7 put upon me that I have to go through everyday
8 life that I can't even help. It just puts
9 flashbacks in my mind and it's going to take
10 a couple of years to get over it.

11 I miss the safety of home. I've
12 been living with my dad ever since it
13 happened, because I don't feel safe in the
14 house by myself or anything like that.

15 That's what I need to say.

16 THE COURT: Thank you, ma'am.
17 And thank you for your positive approach to
18 dealing with something that no one should have
19 to face in their life. And I commend you that
20 you came in and I pray and hope that your life
21 will continue to move forward. Thank you.

22 MS. [REDACTED]: Thank you.

23 SOLICITOR WILSON: Your Honor,
24 next is Mr. [REDACTED]. This is Terry
25 [REDACTED].

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1 THE COURT: Mr. [REDACTED], good
2 afternoon, sir.

3 MR. [REDACTED]: I'm [REDACTED] s
4 father.

5 THE COURT: Yes, sir.

6 MR. [REDACTED]: I've always heard
7 of things like this happening to people and
8 never thought it would happen to us. It's
9 been a very difficult time. My daughter's
10 probably better at it than I am. I have a
11 difficult time talking to people about it, but
12 nevertheless it's something that we all have
13 to come to reality with.

14 It was a horrible event. She was
15 sexually assaulted. Her life was threatened
16 if she didn't perform adequately, according to
17 Mr. Starks. Anybody, that's been a father,
18 that has children, has daughters -- it's
19 inconceivable what it feels like. I had a
20 very difficult time showing up here in the
21 beginning. I didn't think I could control my
22 emotions. But I sat through the Gaskins
23 trial. I'm here for my daughter today. And
24 one thing that just keeps going through my
25 mind is the hand of one is the hand of all.

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1 They were all involved in this.

2 You know, what if somebody was
3 killed? I mean, what if it got so out of hand
4 that somebody got killed? Does the person
5 that killed an individual, does he get more
6 punishment than the others? I don't know. I
7 mean, it's just one of those things where
8 nobody plans it to go awry. But when you're
9 doing something like this -- and it doesn't
10 make any sense to me, and I don't think that
11 my daughter is ever going to try to make sense
12 of this whole mess.

13 She's done great in therapy and
14 she's finally getting back into school. You
15 know, the sparkle left her eyes. That smile
16 -- it's just tough.

17 so, anyhow, I'm here in support of
18 my daughter. I love her very much. I just
19 hope that justice prevails.

20 THE COURT: Thank you, sir. Thank
21 you very much for being here.

22 MR. FINCH: Will Finch. I'm
23 [REDACTED] s stepdad. I have a few statements that
24 I'd like to say, please.

25 THE COURT: Sure.

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1 MR. FINCH: When victims are faced
2 with crimes this heinous, they may want
3 vengeance. Society may want vengeance. But
4 acts of vengeance are not appropriate.
5 Maximum penalty is justified. What a society
6 demands is justified. This is why laws exist.

7 These horrible crimes of home
8 invasion are committed while playing on the
9 compassion and the goodness in people to help
10 others in need. This is the most vile sort of
11 cynical trickery that's imaginable. It's our
12 societal duty to clearly establish that this
13 will not be tolerated.

14 Everyone in this courtroom is a
15 victim of these crimes. This Courts owes it
16 to society to give the maximum penalty. This
17 will an example and also serve as a deterrent
18 for others. Societal retribution demands that
19 you project a deterrent and the maximum
20 penalty is imperative. There will be no
21 rehabilitation if there is no punishment.

22 THE COURT: Thank you, sir.

23 CAROLYN FINCH: I'm Carolyn

24 [REDACTED] Finch. I would like to say a few
25 words for my daughter.

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1 THE COURT: Certainly.

2 CAROLYN FINCH: I never imagined
3 that such a violent crime that involved
4 trickery, brutality and loss of human dignity
5 would be here in our Charleston city. There
6 is no community across our United States that
7 would tolerate this violence. These criminals
8 will never been received by our community.

9 My daughter is emotionally paralyzed
10 by the actions of these criminals. [REDACTED] has
11 not known the comfort of feeling safe even in
12 our own home since this occurred. In the
13 past, [REDACTED] has met her fears head on. She
14 overcame sickness and death and worked
15 directly with patients at Roper Hospital and
16 wanted to help people. [REDACTED] overcame her
17 struggles with academics, and she obtained B's
18 in her courses. [REDACTED] overcame her fear of
19 independence and developed into a dignified,
20 graceful young woman.

21 Then just a year ago she was
22 stripped of all her dignity and fear consumed
23 her very being. Today, [REDACTED] has replaced her
24 work and her academics with countless hours of
25 counseling. She has to go to her doctor on

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1 several occasions to make numerous medication
2 adjustments. She can't find a balance. She
3 can't sleep. She can't work. She can't go to
4 school like she was a year ago.

5 The effects of such trickery,
6 brutality and violence in this home invasion
7 has been numerous. They replaced safety with
8 fear. They replaced with comfort with fear.
9 And they replaced her home with fear.

10 It is my earnest prayer that [REDACTED]
11 becomes whole again. It will take keeping
12 these criminals from re-entering our community
13 and our communities across the world. And so,
14 Judge Dennis, your Court is [REDACTED]'s only
15 safety net. Thank you.

16 THE COURT: Thank you, Ms. Finch.

17 SOLICITOR WILSON: Your Honor,
18 next is Mr. Jim [REDACTED]. He's the father of
19 [REDACTED].

20 THE COURT: Okay. Good afternoon,
21 Mr. [REDACTED].

22 JIM [REDACTED]: Good afternoon, Judge
23 Dennis. There's a lot of victims in this
24 courtroom -- a lot. We, the family, of the
25 people that got attacked and the family and

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1 friends of other people that these happened.

2 In my heart, I have no anger. I
3 have pity and a lot of frustration.

4 My family, most importantly my son,
5 distrusts -- his world, he lived alone in an
6 apartment. He was called Blue Twisted Steel
7 when he walked on as a walker at the Citadel.
8 You can look at his pass. Four years, he
9 played. Coach Ellis Johnson named him that
10 because he wouldn't quit. He's got guts. His
11 strength is so strong -- he's fought this, and
12 I'm so proud of him. He's not over it.
13 There's a lot of issues going on with him.

14 Yes, we're still alive. There's no
15 inheritance. I just want to make that point.

16 THE COURT: Good.

17 JIM [REDACTED]: We do and have
18 supported him in his endeavors. A lot of
19 misinformation has been floated out there.
20 I've done my part to make certain I take care
21 of that, and I will continue to as long as I
22 live.

23 THE COURT: Good for you.

24 MR. JIM [REDACTED]: But he's a victim.
25 We've had financial impact. The condominium

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1 -- if you've ever tried to get up police dust
2 -- they don't send Safety Kleen over there to
3 clean it up. All the floors scratched,
4 electronics broken, even though we got some of
5 the stuff back.

6 But, all in all, that's just things.
7 I've had one set of parents to approach me and
8 apologize. Before the session started, I
9 approached her again and I hugged her because
10 I love her, she and her husband. That's Mr.
11 and Mrs. Starks. And I hurt for them, because
12 I know what they're going through in their
13 heart with their son.

14 But he did this. They did this.
15 And all I ask for is justice. I trust your
16 judgment. Thank you, sir.

17 THE COURT: Thank you so much, Mr.
18 [REDACTED].

19 SOLICITOR WILSON: Your Honor,
20 finally, [REDACTED].

21 THE COURT: Certainly.

22 [REDACTED]: [REDACTED], Your
23 Honor.

24 THE COURT: Good afternoon, Mr.
25 [REDACTED].

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1 [REDACTED]: Good afternoon,
2 sir. Your Honor, it would be easy for me to
3 stand here and tell you that I hated these
4 three men, that I wish nothing but the worst
5 for them. But, in reality, that's not true.

6 Your Honor, Mr. Starks could have
7 been a National Football League quarterback.
8 Mr. Starks could have been a starter in the
9 baby leagues.

10 Mr. Rice had the athletic ability of
11 Mr. Starks. He just didn't have his physical.

12 From what I hear, Mr. Francois was a
13 good football player himself.

14 All of that's gone now, Your Honor.
15 Each and every one of them made the decision
16 to throw their lives away. My house is not a
17 house. My house is a crime scene. The yellow
18 tape's gone, but it's still a crime scene.
19 There's holes in my carpet. There's finger-
20 print dust everywhere. There's broken glass
21 that I still find. I can't even go in my
22 spare bedroom because that's where I was
23 taken. I can't even look at the spot where I
24 was put down on my knees and had a gun to the
25 back of my head.

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1 Your Honor, I was a Division One
2 football coach. Now, I'm a volunteer high
3 school coach. They've taken everything.

4 The post-traumatic stress disorder
5 that they described, it's unbearable. I
6 haven't been able to sleep in a year. I
7 haven't been able to eat. I'm not big to
8 begin with, and I've already lost twenty-five
9 pounds.

10 Your Honor, all I ask for is
11 justice. That's it. Thank you, Your Honor.

12 THE COURT: Thank you, Mr. [REDACTED].

13 SOLICITOR WILSON: Your Honor, I
14 think that's all. I just wanted to add a few
15 things.

16 THE COURT: Certainly, Solicitor.

17 SOLICITOR WILSON: First of all,
18 the victims in this case are fortunate to have
19 the family support that they have.

20 THE COURT: Amen.

21 SOLICITOR WILSON: Thank
22 goodness for that. They have been with them
23 every step of the way. Sometimes you don't
24 see that. But I think the point that they
25 made about this being a home invasion is

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1 that's your sanctuary. And that's gone.

2 Now, I am not one to ever say that a
3 crime has ruined somebody's life, because I
4 think you've got to have hope. But certainly,
5 these victims have been set on a path that
6 they didn't choose. From getting to know
7 them, they are making the best of it, trying
8 to recover from that. But it's hard when
9 choices in your life aren't your own.

10 I hope that they will continue
11 recovering and continue getting the help that
12 they need to recover from this. But, you
13 know, I think Mr. [REDACTED] was stating something
14 that I can't imagine. And that's sending my
15 child off to a town to go to college. And the
16 worry that he had of just protecting your
17 child from themselves and the things that they
18 do voluntarily. I cannot imagine having a
19 child victimized when you sent them off to
20 better themselves at school.

21 The parents are victims. I can't
22 imagine [REDACTED] [REDACTED] and what he must go
23 through, knowing that he couldn't protect his
24 girlfriend. That's something that I would
25 imagine affects a man for a long time in his

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1 relationships. And, of course, [REDACTED] and what
2 she went through. You know, one thing I want
3 to say in this court room full of people and
4 with all of us here is so many times we judge
5 women who have been sexually assaulted because
6 they don't react how we think they should
7 react. In this case, there is no question
8 what happened to her. It has been admitted.
9 She has told her story and done so valiantly
10 on the stand with great composure.

11 I hope it makes all of us think
12 again the next time we read an incident report
13 or a statement, that we take into
14 consideration that everyone reacts differently
15 when something so intimate and so violent
16 happens to them.

17 But she did come forward and she did
18 tell the truth. And she will recover. It's
19 going to take awhile, but she's going to be
20 all right. She's a strong girl, and she made
21 a step to be independent before and she can do
22 that again.

23 One of the things that has been
24 mentioned and I'm sure will be mentioned again
25 is that nobody planned a sexual assault.

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1 Well, that's fine and dandy. But it happened.
2 And it after it happened everyone of these
3 guys knew that things can go wrong. Things
4 can go awry. It's not always as planned. And
5 the next thing they do is plan another one.

6 And as I said earlier, thank
7 goodness Mr. [REDACTED]'s girlfriend wasn't there.
8 But the fact that after things went so
9 horribly awry, in our minds -- the only thing
10 that went awry in their minds was they didn't
11 get enough in the first one. They planned the
12 second one.

13 I would remind the Court of the
14 benefit that they've been given already. We
15 agreed that these sentences would be
16 concurrent. We stand by that. I also would
17 ask the Court to think of all that you've
18 heard from the victims and think of the
19 severity of these crimes and the opportunity
20 that these guys have. They had more
21 opportunity than those.

22 The apartment where they staged the
23 robberies and where they went back after the
24 robberies was full of stuff. I mean it was
25 just a great apartment. Anybody in college

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1 would have loved to live there. This was not
2 some situation of someone stealing for need.
3 It was for the thrill of it. It had to be.

4 Judge, I hope that you are honored
5 by the fact that the prosecution and the
6 offense have all agreed that we trust you in
7 your decision. We appreciate your being
8 patient with us and the bifurcated proceeding
9 and hearing from everyone. And we just ask
10 you to do the right thing based on what the
11 facts are and based on all the circumstances
12 of these offenses.

13 THE COURT: Is there anything --
14 because I have what's written, and I just want
15 to be sure what's before me before I turn it
16 over to them. I understand it's concurrent.
17 Is there still a cap, or has the cap been
18 removed?

19 SOLICITOR WILSON: No, sir. It's
20 still there.

21 THE COURT: The cap is as written,
22 thirty years in two and -- I can't read it.
23 Twenty-three, is that what is, or is it thirty
24 for everybody?

25 SOLICITOR WILSON: There's a 30-

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1 year cap for everybody.

2 THE COURT: Everybody. Okay.

3 SOLICITOR WILSON: And that's on the
4 burglary first.

5 THE COURT: Right. And then
6 everything else is concurrent.

7 SOLICITOR WILSON: That's right.

8 THE COURT: Thank you. Thank you
9 very much. The recommendations have at least
10 been discussed with the victims, Solicitor,
11 I'm sure.

12 SOLICITOR WILSON: Yes, sir.

13 THE COURT: They're aware of that.

14 SOLICITOR WILSON: Yes, sir.

15 THE COURT: Thank you very much.

16 All right, I'll hear from you in whatever
17 order you wish to proceed. What I propose to
18 do is hear from each of you before pronouncing
19 the sentence. But we'll do them one at a
20 time.

21 MS. WILLIAMS: Thank you, Your
22 Honor.

23 THE COURT: Ms. Williams.

24 MS. WILLIAMS: Lauren Williams on
25 behalf of Reginald Rice. I'm not sure where

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1 you want us.

2 THE COURT: Anywhere that you're
3 comfortable.

4 MS. WILLIAMS: I'll stand here so
5 that you can hear us very clearly.

6 THE COURT: That'll be fine.

7 MS. WILLIAMS: First, on Mr.
8 Rice's behalf, I want to thank the victims for
9 being here. And I'll go into that some more,
10 Judge. But one of the biggest things is that
11 Mr. Rice did not want to put them through a
12 trial and he didn't want them to have to keep
13 coming back. We know that they're coming back
14 at least once after this. So we know that is
15 not easy for them. Closure is drawn out.
16 They'll get a big chunk of closure today,
17 which I hope pleases them, even though there's
18 more coming.

19 Judge, just to give you a little bit
20 of background about this. My involvement in
21 this case came several months in. I wasn't on
22 the case immediately. So I got involved. I
23 met with the family. Met with the client,
24 read the discovery and looked at this over-
25 whelming case. And I went and met with

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1 Reggie, and one of the first things he said to
2 me is "how do I tell them that I'm sorry?"
3 And I said, "Well, Reggie, you know, there's
4 multiple ways to do that. It's a little
5 premature to be writing them letters at this
6 point." But that's one of the first things he
7 ever brought up to me, Judge.

8 So there's no question about what route
9 this case was going to go. He made horrible
10 decisions. It was week of his life --
11 terrible decisions that will have horrible
12 effects on the victims, on their families, on
13 his family, on the Citadel, on this community.
14 I mean, the repercussions of their actions are
15 innumerable.

16 But what he has done is asked me
17 'how do I make it right', from day one. And,
18 you know, he has limited power, Judge, because
19 he's a defendant. Obviously, he doesn't have
20 a magic wand. He can't undo what he did. And
21 he can't change his mind from the horrible
22 decisions that he made.

23 But, Judge, he did agree to get up
24 and plead guilty. He did not want to put
25 these people through a trial. He didn't want

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1 to see Mr. [REDACTED]. He didn't want to see Mr.
2 [REDACTED]. He didn't want to see Ms. [REDACTED]
3 up on the stand testifying and having to
4 relive those moments while looking him in the
5 eye.

6 He agreed to cooperate. He
7 proffered with the State, Judge. We met with
8 them for about ten hours total and on several
9 different occasions. He spent three hours on
10 the stand at Ms. Gaskins' trial, and he did
11 not equivocate one bit, Judge. He accepted
12 full responsibility. He didn't minimize his
13 behavior. He didn't maximize others'
14 behavior. He just told the truth at that
15 trial.

16 Judge, obviously, Ms. Wilson went
17 through the facts. And I don't know that it's
18 productive to parse the facts at this point,
19 because they are terrible facts. And there's
20 no question about that.

21 One redeeming quality, if one, about
22 Mr. Rice's involvement in these incidents is
23 that he did attempt to put a stop to the
24 assault on Ms. Michallah. Mr. [REDACTED], is
25 right -- the hand of one is the hand of all;

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1 there's no question there. But if there is a
2 redeeming quality, it's that Reggie stood up
3 when things went awry in that respect.

4 Judge, I would also argue that his
5 proffer was instrumental in getting Mr. Starks
6 to accept responsibility for the assault,
7 which at least -- I would hope gave Ms.

8 [REDACTED] a little bit of pleasure. I don't
9 like to use the word "comfort." But when
10 someone admits to what they have done and
11 there's included a grieving victim involved,
12 I think that that's part of the road to
13 healing.

14 Judge, the family is here. You see
15 we have a packed court room here. And I won't
16 rehash the sentencing memo that I filed with
17 you before our last sentencing date that got
18 continued. But there are several people, lots
19 of whom have things to say on his behalf.

20 Judge, his mother is a nurse. His
21 stepdad who has raised him since he was four
22 is a corporal in the military. He's from a
23 solid family. There's no question there. I
24 don't have a troubled childhood to put in
25 front of you. I don't have abuse to put in

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1 front of you. I have a family that is
2 grieving, not like the way the victims and
3 their families are, but they are grieving as
4 well.

5 Judge, he has two young children
6 with his long-time girlfriend, Kayla Thurmond
7 who is here. You will hear from her. He has
8 a four-year-old daughter, [REDACTED]. He has an
9 infant son, [REDACTED] [REDACTED] who he has never
10 seen but with the video monitors at the jail.

11 Two younger siblings as well, Judge,
12 a little girl and a little boy, [REDACTED] and
13 [REDACTED]. He was a role model to them for a
14 very long time. And now these young people
15 are trying to make sense of their big brother,
16 their hero, standing here before you in
17 shackles and in a jumpsuit.

18 Judge, I'd like to introduce a bunch
19 of people on his behalf.

20 THE COURT: Certainly.

21 MS. WILLIAMS: And a few people
22 would like to speak. Mr. and Mrs. Foster, if
23 you would stand and acknowledge the Court.

24 THE COURT: Good afternoon.

25 MS. WILLIAMS: These are his

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1 parents, Judge, his mother and his stepdad.

2 THE COURT: Thank you.

3 MS. WILLIAMS: His aunt, Melissa
4 Dennis, is also here. Kayla Thurmond, who I
5 mentioned, Judge, his long-time girlfriend and
6 the mother of his children is here.

7 Edward Richardson, his best friend
8 for life.

9 His grandparents are here, Judge,
10 Lola Dennis and Leon Foster. Will you stand,
11 please? Thank you.

12 He has a bunch of friends here,
13 Judge, who are also in shock. It took a long
14 time, I might add, Judge, for the family to
15 process this with the Reggie that they know.

16 Gregory Osborne, he's known for
17 about seven years. He is here on his behalf.

18 Alfred Jones who has known him since
19 middle school. He's got quite a middle school
20 crew here, Judge, all football buddies and
21 people who have known him for a long time:

22 Anthony Ramsey, Alvin Thomas and Marcus
23 Daniels are also here in support of Mr. Rice.

24 Modestine Westbury is here, Judge.
25 She's his aunt. And his uncle, Thomas Lanier.

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1 Judge, I know that his mother would
2 like to address the Court, if you would
3 entertain that.

4 THE COURT: I'd be delighted to
5 hear from her. If she wants to come forward
6 to the rail so she can be heard. If you could
7 give me your full name, please, ma'am, and
8 anyone that wishes to speak.

9 ZENNA FOSTER: Your Honor, like
10 the defendants and the victims, I'm just as
11 hurt as they are also.

12 THE COURT: Certainly.

13 ZENNA FOSTER: I wrote out some
14 stuff so I wouldn't leave out stuff, not that
15 it's not from my heart.

16 THE COURT: I understand. And I
17 don't fault you for doing that, ma'am.

18 ZENNA FOSTER: Your Honor, and
19 other representatives of the Court, my name is
20 Zenna Foster and this is my husband Reginald
21 Foster. That's my son, Reginald. All the men
22 in my life is Reginald. I have five, the
23 oldest is Reginald also. And I love him. All
24 my life I've been Reggie Rice's mom. And I
25 hold my head up today. I'm still Reggie

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1 Rice's mom. He made some bad choices. And
2 when I spoke to him on the phone I said,
3 "Reggie, I'm going to cry, but it's okay,
4 because I'm mom. I'm going to cry because
5 I love you and I'm mom. And it's okay. I'm
6 going to cry because I love you."

7 And, like I said, all my life, in
8 middle school when Reggie was five, everybody
9 knew me as Reggie Rice's mom. And today,
10 being in Court today -- and, yes, Reggie made
11 some bad decisions, and he made some mistakes.
12 At twenty-two and twenty-three, I made bad
13 decisions. I made bad mistakes. And I wish I
14 could relive and everybody didn't know about
15 those mistakes. My husband knows about those
16 mistakes. God knows about those mistakes.
17 Everybody's quick to judge about everybody
18 making all the bad mistakes, but their
19 mistakes are behind closed doors, Your Honor.

20 I may feel that I'm with anger, but
21 I've got to get myself together.

22 But, like he said, a family member
23 said that they had only one family that said
24 that they were sorry. I didn't know who to
25 come to to say that I was sorry to.

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1 THE COURT: I understand.

2 EMMA FOSTER: And Reggie's an adult.
3 He made the mistakes. He's called me on the
4 phone several times. We talk about five times
5 a week. And when I visit him, he's very
6 remorseful of his mistakes that he's done.

7 I know in his heart he's sorry for
8 hurting the victims. He's sorry. He's
9 mentioned plenty times that he's sorry for
10 hurting Mr. [REDACTED], Mr. [REDACTED], and he's sorry
11 for any involvement with Ms. [REDACTED]. And I'm
12 sorry.

13 And I can give you a hug, but it
14 won't make it be any better. But I'm sorry
15 that you had to go through that. I have a
16 daughter too, and I wouldn't want her to go
17 through that either. And I'm so sorry.
18 I'm so sorry you had to go through that.

19 And I didn't know who to hug. I
20 didn't know who to tell that I was sorry to in
21 all the times in Court. But God knows my
22 heart -- he knows in my heart -- he knows my
23 son's heart. He knows my husband's heart that
24 raised him since the age of five. I always
25 disciplined Reggie to love God, to respect

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1 himself and be a productive person in society.

2 Now, I've been a nurse since 1993.

3 I'm a NICU nurse, and I love what I do. I sow
4 many seeds when I go to work every day, and I
5 bless many families every day when I go to
6 work. We're not bad people.

7 Reggie made some bad mistakes. He's
8 not the worst scum of the earth. He's my son.
9 Eighteen hours of labor and I breastfed him
10 for sixteen months. That's my baby right
11 there, and I love him. And he has a good
12 character, Your Honor.

13 My husband has been in the military
14 for twenty years. He's a Major in the United
15 States Army. He's been deployed three times
16 to Iraq. And the times that he's been
17 deployed, Reggie had to take the responsi-
18 bility to help me his younger sister and
19 younger brother. I commend him for that. He
20 had to babysit when I worked the long hours,
21 you know. He had to be big brother, the
22 second head of household.

23 He's not -- you know, these crimes
24 are horrible. They are horrible. And the mom
25 -- where's the mom? I'm so sorry. I couldn't

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1 imagine going through this with my daughter.
2 She's nine years old, and I could never
3 imagine that. I could never in a million
4 years, and I feel your pain as a mother. I
5 feel your pain.

6 But that's my baby also, and I feel
7 his pain also. I feel it. And the hardest
8 thing, Your Honor, right now is not addressing
9 the Court. It's to see my son over there. I
10 haven't hugged him for a year, and I would
11 just love to hug him more than anything. I
12 have not hugged him and put my arms around him
13 for one whole year.

14 You have your daughter, so embrace
15 her. And I'm glad you can hug her. I'm glad
16 that you've got counseling. We have
17 counseling too. I have been on medication,
18 too.

19 But I also pray every day for my
20 son. And I'm not going to say it wasn't
21 stupid, it wasn't dumb. It was all of the
22 above.

23 And I'm sorry to the Court. But our
24 family's going to be here to support Reggie
25 during his time of incarceration. We're going

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1 to be here.

2 I've did researches to -- researched
3 program to transition him back into society.
4 There's a lot of programs out there for people
5 that's convicted of felonies, charges, to help
6 him. And anything that Reggie has done, he
7 needs counseling.

8 And me, as a nurse, that's what I
9 want to see. I want my son to be helped like
10 I help people. That's what I would like, for
11 him to get some counseling. He needs
12 counseling to be involved in any of these
13 events. He needs counseling. He needs help.
14 He needs rehabilitation, and he needs a hug.

15 I love you, Reggie. I love you so
16 much, with all of my heart. And my head is
17 held high. Even though that I'm crying, it's
18 okay. I'm going to be okay. I'm going to be
19 okay. I said I wasn't going to get up here
20 and cry, but I'm mom. And I love him. I love
21 all three of my children with all of my heart.
22 And my two grandkids, I love them with all of
23 my heart.

24 THE COURT: I understand.

25 MS. WILLIAMS: Thank you, Ms.

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1 Foster.

2 ZENNA FOSTER: Just let me say
3 one more thing, please.

4 MS. WILLIAMS: Okay, do you need
5 a minute?

6 REGINALD FOSTER: While she's giving
7 her a minute, Your Honor, my name is Reginald
8 Foster. Thank you for allowing me the
9 opportunity to speak on Reggie's behalf today.

10 I'm been happy to serve my country
11 and the United States Army for the past twenty
12 years. Reggie has been an integral part of
13 this lifestyle since the age of five. By the
14 nature of my profession, discipline is at the
15 forefront of our household. Reggie has
16 displayed good character throughout his
17 adolescence and his young adult life.

18 When children are apart from home,
19 whether it be to join the military, to attend
20 college or seek employment, we do not expect
21 them to get in activities that Reggie has
22 pleaded guilty to.

23 Reggie has clearly experienced a
24 lapse in judgment, and he has been very
25 remorseful in his actions. He has always been

1 a stand-up kid who took the opportunity to be
2 a productive citizen.

3 Reggie realizes that his actions
4 will have lasting implications on the victims'
5 lives, and he often talked to me the remorse
6 he has for the victims and their families.

7 Your Honor, I respectfully ask that
8 you display leniency in your sentencing of
9 Reggie and give him an opportunity to be a
10 model citizen.

11 THE COURT: Thank you, Mr. Foster.
12 And thank you for the service that you render
13 to each one of us. Thank you, sir.

14 ZENNA FOSTER: Again, I'm sorry
15 for getting upset in your courtroom. This is
16 like a birthing process. When you birth a
17 child you go through a lot of pain.

18 THE COURT: Yes, ma'am.

19 ZENNA FOSTER: But it's got to be
20 a good outcome. It's a good outcome. There's
21 something better on the other side. God knows
22 Reggie's heart. He knows my heart. He knows
23 my family. He's a friend of mine. He's a
24 friend of Reggie's.

25 Like I said, I spoke to Reggie every

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1 week -- every day, about five times a week.
2 And when I visited him he's very sorry. He's
3 sorry to the victims.

4 And I can apologize for mom, that
5 I'm sorry. I'm sorry also.

6 THE COURT: You have and you did.
7 Thank you, ma'am. You've apologized. Ma'am,
8 I'm a parent. I'm a grandparent. I under-
9 stand what you're saying fully. I fully
10 appreciate and understand why you're here and
11 what you would love to say and what you would
12 love to do, as any parent would. We'd love
13 to undo and keep our children from making the
14 mistakes that many of us made -- maybe not at
15 this level -- but the mistakes in judgment
16 that we make. But the reality of it is, it's
17 a tough thing about being a parent. We can't.
18 And there's nothing you can say today to undo
19 it. I understand. You've expressed to
20 everyone and I appreciate that.

21 ZENNA FOSTER: But did you under-
22 stand me, Your Honor, because I'm upset.

23 THE COURT: Ma'am, I do understand.

24 ZENNA FOSTER: I just want to
25 know did I make my point across?

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1 THE COURT: Ma'am, you've made your
2 point, and I assure you this -- and this is in
3 no way to diminish this case.

4 ZENNA FOSTER: Okay.

5 THE COURT: But from the standpoint
6 of seventeen years of doing this and twenty-
7 one years of being a lawyer where your son's
8 lawyer is, I understand what you're saying. I
9 wish it was something that wasn't -- there's
10 one common denominator. It was said earlier,
11 and you've said it too. There are a lot of
12 victims in this, and there always will be.
13 That's the tragedy of a heinous criminal act,
14 of all criminal acts. It does affect
15 everyone.

16 And, you know, I wrote down
17 something because I don't think I'd given
18 thought to this one, so it did hit home. I
19 never thought about the fact that you can't
20 hug your child, how difficult that would be.
21 So I understand, okay?

22 ZENNA FOSTER: Can I give him a
23 hug, Your Honor?

24 THE COURT: No, ma'am. That's not
25 part of the -- I don't change the procedure.

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1 Thank you, ma'am.

2 MS. WILLIAMS: Thank you, Mr. and
3 Mrs. Foster. Obviously, she's very emotional.

4 THE COURT: Understandably so.

5 MS. WILLIAMS: Understandably. I
6 mean, this was a shock to everyone. Even
7 though they've had a year to process it, you
8 know, it's hard for a parent to accept -- up
9 to this moment, up to the moment you pronounce
10 sentence, Judge, I'm sure they'll have some
11 struggles with that.

12 Judge, two brief statements left, if
13 the Court would entertain it.

14 THE COURT: I'll be happy to hear
15 from anyone.

16 MS. WILLIAMS: Thank you, Judge.
17 The first is Edward Richardson. He is with
18 Mary Richardson, his wife.

19 THE COURT: Mr. Richardson, come
20 forward, sir.

21 MS. WILLIAMS: Judge, standing
22 with him is Kayla Thurmond, who is, as I said,
23 Reggie's long-time girlfriend and the mother
24 of Reggie's young children.

25 THE COURT: Give me your full name,

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1 please, sir.

2 EDWARD RICHARDSON: Edward
3 Richardson.

4 THE COURT: Yes, sir.

5 EDWARD RICHARDSON: They said
6 "best friend," but I want to kind of deepen
7 that. I look at him as my brother. Every
8 since he came from Texas, long, lean, big
9 feet, all front teeth. That's all you could,
10 front teeth, always smiling. Since day one we
11 picked up, since he moved down here. He's my
12 best friend. Like they said, he's got a nine-
13 year-old sister, my sister is nine years old.
14 We used to jive about it all the time. 'Man,
15 we've got 40-year-old parents that have kids.'
16 We just to jive them about that.

17 I remember when we were in the ninth
18 grade. But, like I said, his parents were out
19 of town and his dad was overseas and we wanted
20 him to come out with us. But he said, 'I'm
21 watching my little sister right now.' He was
22 a good person.

23 Reggie would be the leader. Even
24 during the time that he's been locked up I've
25 talked to him on the phone. He say read

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1 Matthew 16. 'Reggie, what's that verse
2 about?' Just, bam, bam, off the top of his
3 head, he know the Bible like the back of his
4 hand. And he's been that way since the day I
5 met him. We are always taking each other to
6 church, Sunday School, all that. So he knows
7 the Word, he knows the Word. Like I said, he
8 is a leader.

9 School, academic-wise, in eighth
10 grade, brain surgeon. I asked him what he
11 wanted to me, and he was like he wanted to be
12 a brain surgeon.

13 I don't know what to say about it
14 but I'm begging for leniency right now. I'm
15 speaking like -- that's my brother right
16 there. I feel his pain. Every week when I
17 talk to him -- I've got a friend myself, and
18 when I see his girlfriend -- (emotional).

19 THE COURT: Thank you, Mr.
20 Richardson.

21 MS. WILLIAMS: Thank you. Again,
22 this is Ms. Thurmond.

23 KAYLA THURMOND: Your Honor, I'm
24 Kayla Thurmond.

25 THE COURT: Ms. Thurmond.

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1 KAYLA THURMOND: Forgive me for
2 being emotional. It's been a rough two weeks.
3 I suffered two great losses in my family and
4 this is just the icing on the cake.

5 Me and Reggie, we have two kids. I
6 know how that sounds, but in reality Reggie
7 would have married me a long time ago, but I'm
8 the reason that we're not, so I don't want
9 anybody judging him on the fact, you know,
10 that we have two kids and I'm just his
11 girlfriend.

12 But my daughter -- the hardest thing
13 for me is -- because she's four, she knows
14 that he's missing. My son is only seven
15 months. He doesn't know him, which is sad in
16 itself. I was four months pregnant when this
17 happened. And she -- even last night she
18 asked -- she told me, "I miss Daddy." And I
19 hear that so often. And, for me, being her
20 mother, what do I say? What do I tell her?
21 She's only going to believe that he's at work
22 for so long. She's very smart. And she's
23 been to see him. So now he's not at work, but
24 he's on TV. She asks me often 'when is Daddy
25 getting out of the TV?' I can't tell her one

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1 thing without her asking about something else.
2 And it's hard for me. I can't tell her
3 something because she's going to know why. If
4 I tell her Daddy's in jail, she's going to say
5 why. If I tell her what happened, she's going
6 to say why. These are questions that I just
7 can't answer for her. She has always -- she
8 adores him. And it breaks my heart that she
9 has to suffer because of mistakes that he's
10 made. And I have to suffer too, because
11 that's my baby. And I don't like to see her
12 hurt. And sometime she cries because Daddy's
13 been away for a year. It's been over a year,
14 and she knows that it's only a couple of
15 months at most that she hasn't seen him.

16 And yet somebody had mentioned that
17 he did come back to Augusta, and he always
18 comes back because that's where his family is,
19 his daughter is. And he wanted a real family.
20 He always did because he loves her. And when
21 they're together it's just father and
22 daughter, and they're so good together. They
23 have a bond that she and I just don't have.
24 It's just not there like it is with her daddy.

25 And as far as my son goes, I gave

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1 him his name. I wasn't too -- everybody
2 thought I was crazy for doing that,
3 considering. But I've always stood beside
4 Reggie and I still will, regardless of what
5 happens. I don't think I would have named my
6 son Reginald the fourth if that wasn't the
7 case. I stand by my decision to do that.

8 And I just don't -- it's hard, like
9 I said. I feel more hurt for my kids because
10 they'll have to grow up without a daddy. And
11 I don't want that. I never wanted that for my
12 kids. It just -- it breaks my heart. It just
13 breaks my heart because I never -- I didn't
14 plan -- I never said to myself -- I never
15 prepared myself to do that, to have to -- it's
16 hard -- it's hard taking care of two kids by
17 myself, with just help from mostly my mom.
18 They -- his parents don't live in Augusta,
19 they no longer live there. It's hard. I'm
20 basically by myself. I have to work. I have
21 to get back into school. It's just been hard
22 for me to get back on track, considering
23 everything that's going on.

24 I know that Reggie hurts too,
25 because he loves our daughter. And he loves

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1 our son too, even though he's only seen him on
2 the screen. But he remind me so much of him.
3 He's a big baby, a really big baby, just like
4 -- and I know he'll be just like his daddy
5 when he grows up.

6 I can only hope that I can steer
7 them in the right direction so that I won't
8 have to be in his mother's position.

9 THE COURT: I hope so too.

10 MS. WILLIAMS: Thank you, Kayla.

11 THE COURT: Thank you.

12 MS. WILLIAMS: Judge, Ms.

13 Thurmond brought up a very good point. I'd
14 love to give you a reason why all this happen-
15 ed. You know, this is just one of those cases
16 where the why question can't be answered.
17 And, you know, after Reggie and I got to know
18 each other, once I started representing him,
19 you know, I came to Reggie and I said, 'You
20 know, what on earth -- what compelled your
21 guys to make that decision?' And Reggie's
22 answer to me is "I don't even recognize that
23 person. I don't know who that person was who
24 made those decisions during that week."

25 Because when he's reflecting in jail

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1 and he thinks about, you know, what
2 opportunities he might have in the future,
3 the idea of making the kind of decisions
4 that he did never even crosses his mind.

5 Judge, I know he has some things
6 to say to you, and I believe he's written
7 them down.

8 THE COURT: Certainly. I'll be
9 happy to hear from him. Before I hear from
10 him, though, I want to make the record that
11 Court's Exhibit 1 is the sentencing
12 information that you have provided to me for
13 purposes of this plea. Thank you, Ms.
14 Williams. It will be incorporated fully in
15 the record of this case for purposes of
16 review.

17 (SO ENTERED AS COURT'S EXHIBIT 1)

18 MS. WILLIAMS: Thank you, Your
19 Honor.

20 THE COURT: Mr. Rice?

21 DEFENDANT RICE: I totally prepared
22 myself because I didn't want to leave out
23 anything -- any issues that I wanted to
24 address or make light of any situation that
25 didn't need to be made light of.

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1 THE COURT: I understand, sir.

2 DEFENDANT RICE: First of all, I
3 would like to thank you, Your Honor, for
4 giving me an opportunity to speak and address
5 the Court.

6 Next, I want to say I fully under-
7 stand how serious each one of my crimes are.

8 I want to take this time right now
9 to express my apologizes to [REDACTED],
10 [REDACTED] and [REDACTED]. I deeply am
11 remorseful for the crimes I've committed
12 against you all and I am seriously very
13 apologetic.

14 I want to apologize to [REDACTED] for the
15 pain she had to endure for me and my co-
16 defendants, especially for the criminal sexual
17 act she was forced into.

18 I also want to apologize to her
19 family. I understand my actions have placed a
20 lot of stress and unwanted trouble in their
21 lives.

22 I want to apologize to [REDACTED]
23 and [REDACTED]. I betrayed our friendship
24 and placed both of you in situations that a
25 friend is not supposed to place another friend

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1 into, let along a Citadel brother. I'm sorry
2 that I abused our trust to commit such hideous
3 crimes.

4 I also apologize to the [REDACTED] family
5 and the [REDACTED] family as well. I know if I
6 were in any one of their shoes I probably
7 would not forgive myself. However, I have
8 been praying that eventually one day you will
9 find it in your hearts to forgive me.

10 I deeply regret the decisions I made
11 on February 24th and February 28th, 2010, and I
12 sincerely, from my heart, apologize.

13 Another thing I want to express to
14 the Court and to the families of [REDACTED], [REDACTED]
15 and [REDACTED] is that even though I deeply
16 regret the decisions I made and I can't
17 apologize enough, I'm truly thankful that I
18 was caught. This entire year that I've been
19 incarcerated I have been praying for numerous
20 things to God. And one of the main things is
21 for a chance to turn all this negativity into
22 some form of a positive.

23 I know while now I might not be able
24 to reconcile things with [REDACTED], [REDACTED] or
25 [REDACTED], but I do truly believe my relation-

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1 ship with Jesus Christ and my family's
2 relationship with God has definitely been
3 strengthened. I do believe if I had not been
4 caught that I would have continued living the
5 sinful life I was living out there, eventually
6 condemning me to hell.

7 So I thank God he allowed me to be
8 caught in the situation and saving me from
9 being caught in an eternal situation that
10 there's no coming back from.

11 I want to apologize to my family for
12 the stress I've placed in their lives as well.
13 You definitely did not raise me to be the man
14 that I've portrayed in these crimes I've
15 committed. And I apologize to basically
16 taking all the moral values and Christian
17 values that you installed in me as a child and
18 basically throwing them down the drain.

19 Next, I'd like to apologize to God.
20 Not only did I sin against my other brethren,
21 but I sinned against you. I apologize for
22 taking all your blessing for granted, taking
23 life in general for granted. I apologize that
24 my life had to come to all this for me to
25 finally start truly searching for you. I

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1 should have already been reading the Bible.
2 I should have already been going to church.
3 I should have already been living righteous.
4 But, instead, I allowed drugs and alcohol and
5 my own greed to take me down an avenue I
6 deeply regret and I didn't want to take. Once
7 again, I thank you because I needed this
8 correction and life and correction of spirit.

9 Your Honor, I take full responsi-
10 bility of my actions, and I throw myself at
11 the mercy of the Court. Even though I don't
12 deserve it, I just ask that today in
13 sentencing me, you have some leniency and give
14 me an amount of time that justifies my
15 actions, yet reasonable enough for me to
16 return to my family's lives, return to my
17 four-year-old daughter and seven-month-old son
18 and be the positive father figure I should
19 have already been, return to life and be a
20 productive citizen and perhaps have a chance
21 to turn all this negative into some other form
22 of positive.

23 I also would like to apologize to my
24 children's mother, Kayla Thurmond, and the
25 stress that I've placed on her and our family,

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1 basically forcing her into being a single
2 mother. I deeply regret that.

3 And, in closing, I want to apologize
4 again to the [REDACTED], [REDACTED] and
5 [REDACTED] and their families as well.

6 Thank you, Your Honor.

7 THE COURT: Thank you, Mr. Rice.
8 Let me ask you a question. Mr. Rice, we were
9 last together on January the 19th, 2011, at
10 which time I discussed with you your plea.
11 You answered my questions then. Do you
12 confirm and affirm those responses today?

13 DEFENDANT RICE: Yes, Your Honor.

14 THE COURT: And you stand by those
15 responses?

16 DEFENDANT RICE: Yes, Your Honor.

17 THE COURT: Very well. Thank you
18 very much.

19 MS. WILLIAMS: Thank you, Judge.
20 Just a few things to point out. I want to
21 point out that what Reggie just read to you --
22 and he knew he would be nervous, so he wrote
23 it down -- is a version of the apology he's
24 been working on since before he even met me,
25 Your Honor. He had that in hand the first

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1 time I met him. So, you know, he's had his
2 eye on the ball the whole time, knowing that
3 there were people out there that he hurt that
4 may never recover, not just his family and
5 what his people are going through but these
6 innocent people who had no idea what was
7 coming to them on that week in February.

8 Judge, the memo you just made part
9 of the record, as you know, that week in
10 February of 2010 was a major low point in Mr.
11 Rice's life. It doesn't excuse any of his
12 actions. But, ironically, Judge, he's been in
13 jail since then. And he's sober for the first
14 time in years. He's been there for 388 days,
15 Judge. He's tried to get involved in programs
16 at the jail but because of his classification
17 and the crimes that he's charged with, he's
18 not eligible for any drug treatment or
19 anything like that.

20 But I did meet with Mr. Koon at the
21 jail to see if he could him into any programs.
22 But that just wasn't -- that wasn't an option.

23 Judge, you have before you a young
24 man who is taking full responsibility,
25 accepting everything he's done, no matter how

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1 hard it is to swallow, no matter how hard it
2 is to stand in front of these victims, in
3 front of his mother, in front of his grand-
4 mother, and say the things that he did. But
5 he has never hesitated to do so.

6 As far as the sentence, Judge, he's
7 a young man who still has something to give.
8 Judge, he does have productivity in him. He
9 does have things that he could share with the
10 community.

11 What I would ask you, Judge, is
12 that, although you're under statutory
13 obligations to give him many years in jail --
14 we're talking about a mandatory minimum of
15 fifteen years. There's no question there. I
16 would also ask, Judge, that he be given time
17 to prove himself and give back after he does
18 his hard time.

19 As Ms. Wilson indicated to you, the
20 victims have indicated their approval of the
21 recommendation of a thirty year cap. Judge,
22 it's hard in a case like this to ask for a
23 minimum sentence because it's just one of
24 those things. You look at these people and
25 you say how do you do that? How do you ask

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1 for fifteen years?

2 But, Judge, that is what I'm asking
3 for him. He has a support network that is
4 huge. He has an understanding of his crimes.
5 They were an aberration. I'm asking that you
6 sentence well below the recommended cap. If
7 you see fit, sentence him to the minimum and
8 put him under the most lengthy supervision
9 that you have the power to do so.

10 Reggie himself asked me, "Will I
11 have a chance to prove myself to the Court
12 after jail, no matter how long it is? Will
13 somebody be watching? Will they see that I
14 mean this; that I really am going to give
15 back?" And I said, "Well, Reggie, I don't
16 really have a doubt that there will be some
17 sort of supervision after jail." But he
18 brought that up himself.

19 Judge, we'd ask that you accept the
20 recommendation of concurrent sentences. And,
21 again, he's served 388 days. We would ask
22 credit for that time served. Thank you,
23 Judge.

24 THE COURT: Thank you very much.

25 DEFENDANT RICE: Thank you, Judge.

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1 THE COURT: Thank you, Mr. Rice.

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

4 THE COURT: Yes, sir, Mr. Skipper.
5 Mr. Skipper, before you start, I have what's
6 now been marked Court's Exhibit Number 1 which
7 is your sentencing information. Thank you
8 very much for that. It's Court's Exhibit 1
9 and it is also incorporated fully into the
10 record of this proceeding for purposes of
11 review. Thank you.

12 MR. SKIPPER: Thank you, Your Honor.
13 Just as a matter of housekeeping, Judge, back
14 when we appeared before Your Honor on January
15 19th, Mr. Starks entered a plea under *North*
16 *Carolina v. Alford* on the CSC indictment. In
17 light of his cooperation with the Solicitor's
18 Office, as well as his testimony at the trial
19 of Sasha Gaskins, I believe it appropriate
20 that that be converted to an actual guilty
21 plea. I've addressed that with Mr. Starks.
22 And, just for purposes of the record, Your
23 Honor, we would ask that the Court accept that
24 and convert the offer to plea to a guilty plea
25 on Indictment 2010-GS-10-5744, Your Honor.

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1 THE COURT: Mr. Starks, you're
2 present today and you're still under oath in
3 this matter. You're heard what your lawyer
4 has stated concerning the plea, the criminal
5 sexual conduct plea, which was present as an
6 offered plea. We discussed what an *Alford*
7 plea meant when we were last together. Is
8 that correct?

9 DEFENDANT STARKS: Yes, Your Honor.

10 THE COURT: And you basically told
11 me -- and I'm paraphrasing and summarizing.
12 But basically you said, based on the evidence
13 that you weren't telling me you did or didn't
14 do it. But you believed if you went to trial
15 there was a probability a jury would find you
16 guilty beyond a reasonable doubt. Today it's
17 my understanding that you wish to modify that
18 plea that was stated, and changed it from an
19 *Alford* plead to a guilty plea. Is that
20 correct?

21 DEFENDANT STARKS: Yes, Your Honor.

22 THE COURT: And you understand that
23 that doesn't change anything, and that is your
24 decision.

25 DEFENDANT STARKS: Yes, Your Honor.

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1 THE COURT: And one that you make
2 freely and voluntarily.

3 DEFENDANT STARKS: Yes, Your Honor.

4 THE COURT: And having had full
5 opportunity to discuss with your lawyer.

6 DEFENDANT STARKS: Yes, Your Honor.

7 THE COURT: That, for the purposes
8 of the record, is Indictment 2010-GS-10-5744,
9 criminal sexual conduct in the first degree.
10 Thank you, Mr. Skipper.

11 MR. SKIPPER: Thank you, Your Honor.
12 We have a number of folks that traveled from
13 Atlanta today, Judge. And instead of going
14 through each one individually and taking the
15 Court's time, I'm just going to ask if they'd
16 all stand up, if that's okay with the Court,
17 Your Honor.

18 THE COURT: Certainly.

19 MR. SKIPPER: The folks that came
20 from Atlanta for Mr. Starks, if you would
21 please stand up (number of people stand).

22 THE COURT: Thank you all for being
23 present. Thank you for coming here. I know
24 he appreciates it as well. The Court
25 certainly does.

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1 MR. SKIPPER: Judge, there are grand-
2 mothers, aunts, godparents, obviously his
3 mother and his father. In an effort to parse
4 this down a little bit, Judge, I'm not going
5 to have everyone that came speak to Your
6 Honor. But I wanted the Court to know they
7 took a 15-passenger van this morning to come
8 here for purposes of appearing before the
9 Court today.

10 THE COURT: Thank you.

11 MR. SKIPPER: Judge, I would ask
12 you to hear briefly from Mr. Terry Kelly. He
13 is Miguel's godfather. He wants to address
14 the Court.

15 THE COURT: I'll be delighted to
16 hear from him.

17 MR. KELLY: Your Honor, Reverent
18 Terry Kelly. I'm from Atlanta, Georgia. I
19 was sitting here and I was listening to the
20 victims. And, you know, there was a remark
21 made that they would come in and try to sway
22 the Court, and I would not do that.

23 I thought about you all. I was in
24 you all's seat once before in my life and it
25 kinda brought some rough stuff happened. My

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1 son, who was a tremendous basketball player.
2 My son's friend, one of his best friends, came
3 down and blowed him away. And, you know, it
4 broke my heart to sit here to hear what y'all
5 were saying. I know what you're saying, even
6 though you all still might be here. I know
7 the hurt of what you're going through, the
8 distrust of a friend, you know, that you gave
9 your friend your trust.

10 But I thought when I saw them family
11 members -- I thought when they took their
12 family members and had that guy to go do
13 certain things, I thought about what if it had
14 been the other way around? It could have been
15 my son that killed his son. And I thought
16 about, you know, mercy. And I said, you know,
17 if anything you want, you want mercy for
18 everybody's kids. Things happen one way or
19 the other. And I was sitting here and I
20 thought about, 'well, bless his heart' -- I
21 thought about when my son got killed, and his
22 mother, when she was fifteen years old, she
23 came to the church. We talked and we took in.
24 And she grewed up under me as our daughter,
25 our spiritual daughter. And she brought more

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1 children. And she got expecting -- after she
2 got married and got expecting, I told my wife,
3 "we've got another son." As they grow, we
4 watch them grow and we counsel them and we
5 talk to them. And he went off to college, it
6 kind of broke my heart because we can't be
7 there to give them that counseling and, you
8 know, that love and that concern. Because,
9 you know, this world is so messed up.

10 We thank God for it, but we've got
11 to look out for our kids. I always said -- I
12 had three kids of my own. Now I've got two.
13 I always said when they're around me, I've got
14 three kids. When they're away from me, I have
15 three kids. And I have -- I always preach
16 that I've got six kids. And people question
17 me about it. I said there's three when they
18 are with me but when they're away from me, I
19 don't know what my kids are doing. So I never
20 tried to tell them I had the best kids in the
21 world.

22 Things happen, and we can't undo it.
23 I can't go get my son back. I can be mad and
24 violent. I can't be upset with them parents,
25 because the parents didn't have nothing to do

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1 with it. But one thing I can realize and I
2 can look at, you know, the mercy of both
3 sides. Because I feel both parents. I feel
4 both sides of it.

5 And my hearts breaks for -- my heart
6 breaks for your young daughter. My heart
7 breaks for you. Because I've got two
8 daughters right now -- two daughters. And
9 I've got six grandchildren, and five of them
10 are girls. And, you know, one of them's in
11 college. And it breaks your heart to feel
12 that -- you know, that happened.

13 But one thing I've got -- I'm still
14 thinking about the other parents. I'm not
15 trying to sway nobody. God knows I would try
16 to do that. But I feel the hurt for both
17 sides.

18 MR. SKIPPER: Thank you so much, Mr.
19 Kelly.

20 MR. KELLY: And I wish to God for
21 mercy. Just remember, Your Honor -- I know
22 that thirty years is a lot of time. But I
23 feel like it should be, Your Honor. But
24 that's not my job. But I've talked to God
25 about it, prayed about it, looked in my Bible.

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1 The good thing about the love of God is how he
2 share us many things, hurts and things that we
3 did.

4 Thank you, Judge. I thank Your
5 Honor for this opportunity. I thank you all
6 for sharing and being in my heart, for him and
7 for you all.

8 THE COURT: Thank you, sir.

9 MR. KELLY: And I thought when I
10 saw them parents -- the first thing on my mind
11 is crucify. Crucifying can't help my son. He
12 didn't only just kill him for something, he
13 just killed him for nothing, just 'cause he
14 got mad over a pool game. And he went home
15 and got a gun and came -- and when he thought
16 about it, it was too late then. My son laid
17 in the street and died. But I thank God I had
18 mercy enough to go to his family and know it
19 was their son. I know everybody has
20 responsibilities, you're responsible for what
21 you do, but I thank God for everybody.

22 THE COURT: Thank you, Reverend
23 Kelly.

24 MR. SKIPPER: Thank you. Judge,
25 Pastor Anthony Walker, Your Honor.

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1 ANTHONY WALKER: Your Honor, to the
2 Court, thank you for this opportunity.

3 THE COURT: Yes, sir. Thank you,
4 sir.

5 ANTHONY WALKER: Certainly, it
6 grieves our heart because I've known this
7 family for over twenty-five years. And I
8 sympathize and empathize with the victims and
9 their families. We've entered into much
10 prayer for them as well as for Miguel.

11 It's also often been said that we
12 could undo it, we would undo it. Well,
13 that's an impossibility in this situation.

14 THE COURT: Correct.

15 ANTHONY WALKER: But I stand today
16 and ask for your mercy on Miguel. He's a
17 young man. Knowing him, this was totally out
18 of character what has taken place in his life.
19 He's always been a considerate young man, an
20 intelligent young man and concerned about
21 others. So when this happened, this situation
22 came about concerning it, it brought us all to
23 shock -- out of character for a young man
24 who's in a great school and a tremendous
25 athlete, and a young man who's been concerned

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1 about others.

2 So I plead for mercy on his behalf
3 and pray that the victims might find it in
4 their hearts to be forgiving. Because there's
5 a hurt, that it we fail to forgive it hinders
6 the process of being healed. He's remorseful
7 for what he's done. Truly, he would change it
8 if he could.

9 But he has much life ahead of him.
10 And though the victims are -- they have their
11 families -- I'll ask the Court to consider a
12 second chance for Miguel, not to put him away
13 for his life and destroy the rest of his life.
14 Because I believe that he has great value to
15 this society. That what he's gone through and
16 changed even from what has taken place.
17 Because he was raised in a Christian home. I
18 heard someone mention that how could he defile
19 that cross that he wore around his neck. But
20 his parents taught him.

21 THE COURT: I'm sure.

22 ANTHONY WALKER: And they cared for
23 him greatly to teach him what was right. Yet,
24 I believe that he has great value to this
25 society; that he will be a great impact and

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1 influence on others that could possibly end up
2 here in this court or in some court, facing
3 the same thing; that he could be a force to
4 avert some young people from doing the same
5 thing by sharing his experience.

6 Yes, we are to be held accountable
7 for our actions. We all make mistakes. And
8 that doesn't justify making them. But I do
9 ask the Court to have mercy and consider that
10 he has much to give to this society. And in
11 the sentencing take that in account, that his
12 life matters, and the impact. He's already
13 made tremendous impact.

14 I'll say this and I'll sit down.
15 But because of what has happened, large
16 numbers of people have come to the Starks'
17 home and gathered in prayer, not only for
18 Miguel, the other young ladies that got
19 involved, the other victims -- the victims and
20 their families. And it's affecting a lot of
21 young people's lives. And they're considering
22 that their actions have consequences to them.
23 And it's helping to turn around a lot of young
24 people. I believe that even being released,
25 that he could be a positive force, even in our

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1 ministry, to share his experience that would
2 minister to a lot of young people to avert
3 this kind of situation. We ask for mercy from
4 this Court. Amen.

5 THE COURT: Thank you, sir.

6 MR. SKIPPER: Judge, Michael
7 Starks, his father, briefly, Your Honor.

8 THE COURT: Certainly.

9 MICHAEL STARKS: Your Honor, I
10 would like to speak on behalf of my son.

11 THE COURT: Yes, sir.

12 MICHAEL STARKS: The actions that
13 took place that particular is not my son. I
14 mean, I know you don't -- you don't know him,
15 and you don't have the opportunity to know
16 him. But the way the media and the paper and
17 everybody portrayed him, that is not him. I
18 know the actions that happened that week, I
19 ask everybody -- all the family members to for
20 us. But that is not my child. You can ask
21 anybody at that Charleston County Detention
22 Center -- anybody that knows my child, that
23 is now Miguel. What happened that week, God
24 knows. I have no idea what happened.

25 And it's hard to believe. It's like

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1 that movie -- (emotional) -- that movie
2 *Groundhog Day* that plays over and over in
3 your mind and you're trying to figure out
4 what happened, because you don't know.
5 (Emotional) -- excuse me, Your Honor.

6 And, I mean, we made all the right
7 decisions and we sealed my son. We sealed
8 him. We did this and we did that, because
9 we sent you off to go to school. We did
10 everything we could to make sure that he would
11 never go down this road. So we took care this
12 and we took care of that.

13 So I'm just asking you to have mercy
14 upon my child, to give him a second chance.
15 Because I feel like he can stop a lot of other
16 people from going down this road. Because the
17 things that he's been through, he can go to a
18 lot of different colleges to stop other
19 athletes from going down this road. Because I
20 heard it day after day after day, of college
21 students -- athletes -- that are going down
22 this reasonable doubt for no particular
23 reason. We don't understand why it's
24 happening.

25 But I feel like you have mercy upon

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1 his soul. I know God has. God's going to
2 give him a second chance. If you give him a
3 second chance, he can turn this thing around.
4 He can be a productive citizen in his life.
5 I know he can. And the family -- Mr. [REDACTED],
6 the family, I love all of them. I really love
7 them. I don't know all the families, but I'm
8 sorry it happened to you. But I love you. I
9 mean it, from the bottom of my heart.

10 And if you never had a chance to
11 know my son, that was my son. I don't know
12 what happened that week, but I am sorry. And
13 we ask your forgiveness.

14 MR. SKIPPER: Judge, his mother,
15 Sharon Starks (phonetic).

16 THE COURT: Okay.

17 SHARON STARKS: Your Honor, if I
18 can please speak to the victims.

19 THE COURT: Certainly.

20 SHARON STARKS: Miss [REDACTED], I am
21 in your shoes. The worst thing that you would
22 ever know -- as a young adult I was raped by
23 somebody that I trusted, that was a teacher of
24 mine. And nothing ever happened.

25 To all of you, I was in an armed

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1 robbery. [REDACTED] or [REDACTED], I've been on your
2 side. I've been in your shoes, and I'm sorry.

3 [REDACTED], I never came and said I'm
4 sorry -- because I didn't know.

5 [REDACTED], I never came and said I'm
6 sorry -- because I didn't know who you were.

7 [REDACTED] is just like a son of mine.

8 When [REDACTED] would go through things at a
9 football game, he would come and find me and
10 call me Mama Starks. Ask anybody.

11 My son? I don't know what happened
12 that week. But I can tell you that's now him.
13 I know you guy met a different Miguel, but the
14 Miguel that grew up in my household was the
15 Miguel, who at the age of nine decided to give
16 up part of his Christmas to feed the homeless.
17 And that's a project that has continued in
18 downtown Atlanta, even today, even now has
19 gotten so large that my church has become a
20 part of it. But it started because of a nine-
21 year-old little boy who wanted to give up, to
22 see people that we saw in the streets without.

23 My son, in high school, the Miguel
24 that grew up in my house, because he was a
25 star athlete, would take those that were

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1 physically and mentally challenged to school
2 and would sit down and eat lunch with them so
3 that no one else would pick on them, no one
4 else would make fun of them.

5 I know that this is bad. I know
6 that there are consequences. But I'm asking
7 you -- I know you guys have the gift, but I'm
8 asking you to have mercy.

9 You're right, Judge. Miguel was
10 drafted. He was drafted by the Anaheim Angels
11 right out of high school for baseball as a
12 pitcher. You're right. He had an opportunity
13 to play in the National Football League
14 because of God-given abilities and talent.

15 I don't know what happened when he
16 left my house in May of 2008 at the age of
17 seventeen to come off to school. Yes, Ms.
18 Wilson, you're correct, he had a beautiful
19 apartment. Because as parents, we wanted to
20 make sure that he did have the best of the
21 best. Right, wrong, we have processed that
22 wrong. And I'm sorry.

23 To my son, I'm sorry if I've failed
24 you in any way. But you are my son, and I
25 will love you unconditionally. Yes, every

1 Saturday we have driven up to Charleston
2 County to spend fifty to fifty-five minutes
3 with our child. Yes, we talk to him every
4 day. He's our only boy child. He's all that
5 we have, as far as being born.

6 I'm begging for mercy of the Court.
7 I know there were bad things, as I said, and
8 I've walked in each of your shoes. I've
9 walked there. But son is the one that I know
10 that brought all the kids who had nowhere to
11 live, nowhere to go, even when he got up here
12 at The Citadel, the kids whose parents
13 couldn't come -- "don't worry, my mom will
14 take care of you." So many times his Freshman
15 year, when I got hotel rooms I had more kids.
16 And I would have to go and say I need another
17 room or 'I need this.'

18 This is the one that you guys never
19 got a chance to meet. So I'm begging for
20 mercy. Because, as my husband said, he does
21 have a testimony. He does have opportunity,
22 if you would give him leniency, to share his
23 story, to share what he's gone through with
24 those other young adults that we read day
25 after day that are going through the same

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1 thing. So I am begging for mercy.

2 He asked me not to cry. I'm going
3 to be strong and not cry. He wrote me a
4 letter. We just got it yesterday -- of
5 apology, saying how sorry he was, which is
6 what he's been saying.

7 So I'm not going to ramble. I'm
8 just begging for mercy, Your Honor. That's
9 all I'm asking for. Thank you.

10 THE COURT: Thank you, Ms. Starks.

11 MR. SKIPPER: Obviously, getting
12 involved at the outset in a case like this,
13 the normal impression, I'm sure, that you
14 yourself, back before you were on the Bench is
15 how in the world and why in the world would
16 something like this happen.

17 THE COURT: You can't answer that.

18 MR. SKIPPER: I don't believe,
19 Judge, that there's anyway -- certainly, I
20 know I didn't have the ability to answer that
21 question. And I offer this, Judge, because
22 there is no excuse. Miguel's never made an
23 excuse for the actions that he took on that
24 day or those days.

25 But I had to have some explanation.

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1 I had to have some something to help explain
2 it for me to understand it, just personally,
3 Judge. So we looked at what caused someone
4 who had seemed to have all of the right
5 things, to have all of the correct upbringing,
6 what caused him to suddenly go so astray.
7 And, Judge, there's not a single answer. It's
8 not one thing. It's not this. It's not that.
9 It's not the other. It's a multitude of
10 things that occurred all in a given short
11 period of time that ultimately led to this.

12 And, Judge, I believe one of those
13 things -- I sent him to Dr. Schwartz-Watts for
14 evaluation. I would ask you to hear from her
15 with respect to the evaluation of that and
16 what her findings are in conjunction with Dr.
17 Brawley (phonetic) who also did some testing
18 on Miguel, Your Honor.

19 THE COURT: Certainly, I'll be
20 happy to hear from her.

21 MR. SKIPPER: Judge, may she come
22 forward?

23 THE COURT: She may.

24 MR. SKIPPER: Thank you, Your Honor.

25 THE COURT: Good afternoon, Dr.

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1 Schwartz-Watts.

2 DR. SCHWARTZ-WATTS: How are you?

3 THE COURT: Fine.

4 DR. SCWART5Z-WATTS: And I believe

5 I made a copy of the report that Ms. Wilson

6 got and also copies of all this for you.

7 THE COURT: Do you have a copy of
8 the report?

9 MR. SKIPPER: It's in the body.

10 THE COURT: I apologize. I'm
11 sorry.

12 MR. SKIPPER: That's okay, Your
13 Honor.

14 THE COURT: But it is a part of the
15 memo.

16 MR. SKIPPER: And the Solicitor
17 does have it.

18 DR. SCHWARTZ-WATTS: Yes, sir,
19 Your Honor, I saw Mr. Starks. I went to the
20 detention center and I evaluated him on July
21 18th of this last year.

22 I've spoken with his mother and
23 father, who are very supportive.

24 What I did, Your Honor, I interview-
25 ed Mr. Starks. Early on in the interview I

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1 could tell that there were cognitive
2 impairment. He's a very quiet young man.
3 Not the person I thought I would see at all.
4 I thought I was going to come in and meet a
5 sociopathic young man, and that was not it at
6 all. He was subdued, quiet young man and it
7 was very surprising to me.

8 I gave him a mental status exam and
9 had some concerns, some big concerns, about
10 his brain functioning. I called his mom and
11 dad and they were able to give me some history
12 that was quite helpful.

13 His mother called him a miracle
14 baby, by the way. She had tried a long time
15 to get pregnant and she had hyperdemiesis
16 gravidarum when she found out that she was
17 pregnant with him. But she got through that
18 and he was raised in a very loving and stable
19 environment, which I think is important.

20 By the time he was nine year old he
21 was already going to the doctor and had a
22 history of migraines, which is pretty rare for
23 a child that young. By the time he was ten he
24 had a CAT scan that was abnormal. I don't he
25 has every done anything about it. The

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1 ventricles on his CAT scan were too big for
2 his age. He's got a family history of
3 Alzheimer's Disease which causes me great
4 concern.

5 After I talked with his mom and dad,
6 he had numerous concussions as an athlete, as
7 you can imagine. And he didn't give me that
8 history, by the way. He thought maybe he was
9 knocked around a little bit in football, but
10 until I talked with his parents I wasn't able
11 to determine those things.

12 There's one situation where the
13 father talks about in a game where he looked
14 up and Miguel was being carried off the field
15 on a stretcher. So, again, I had some grave
16 concerns.

17 He gave a limited effort on all the
18 tests I gave him. But I was very concerned
19 about things like -- I was going to test the
20 verbal fluency. The test for that is you give
21 somebody a time limit and you say name every
22 word you can think of that begins with a
23 certain letter. He had a lot of trouble
24 generating words and that sort of that.

25 We got all of his medical records.

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1 Even at the Citadel he's been treated for
2 migraines nonstop. Even during the games he
3 would get sick and they would give him a shot
4 and he'd go back and play. So he has a long
5 history of headaches, pretty severe, abnormal
6 CAT scan.

7 I had Dr. Baldwin see him, and her
8 results were very surprising, Your Honor.
9 This is a guy that had some trouble in the
10 Citadel. They attempted to remediate him.
11 He was doing a little bit better, but he had a
12 hard time his first year.

13 His full I.Q. was 86.

14 And verbal learning ability -- these
15 are just all the tests she gave -- almost
16 every area of his brain was significantly
17 impaired. His verbal learning is ninety
18 percent, meaning that his ability to learn
19 words and do lists and things like that, is
20 ninety percent. He's the ninth from the
21 bottom out of a hundred.

22 Recall -- learning and retaining
23 information, the third percentile.

24 Delayed recall -- what you remember
25 after you've learned it one time, third

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1 percentile

2 Verbal fluency, which is what I had
3 him tested, second percentile.

4 In addition to the verbal parts of
5 his brain -- this is what was very concerning
6 -- she had him do motor tests. One of the
7 tests is you put pegs in a pegboard. On his
8 right hand he scored in the first percentile.
9 In his left hand the second percentile. This
10 is a star athlete. His manual speed was
11 seventh percentile.

12 So she is very concerned about this
13 testing of his brain. He's obviously had some
14 pretty severe brain injuries over the years
15 according to the family history.

16 Now, he certainly wasn't helping it,
17 smoking marijuana. That was not good.

18 I don't know how to explain to you
19 all how these things happened. I've got some
20 ideas. He had some difficulty with the
21 football team. He had gotten injured. He had
22 played the whole season with an impaired
23 ankle. I think there were some differences
24 with him returning to perform and play on an
25 injured ankle. I think his family was very

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1 concerned because they took him to their own
2 doctor, whom they trusted, and there were some
3 discrepancies about the level of care and
4 treatment.

5 Mr. Starks told me -- Miguel's
6 father -- that Miguel was not the same person
7 he was at Christmas. That he didn't want to
8 go back to school. He begged his family not
9 to send him back, and they thought that it was
10 best that he return and finish out the school
11 year. He was looking at other schools and
12 attempting -- he was looking at Appalachian
13 State. So he was not feeling welcome there.
14 His father stated that over the Christmas
15 holidays he stayed in his room. He wasn't
16 engaged and so his family was worried about
17 him.

18 I looked at the statements of the
19 various school officials and some of the
20 witnesses, and I think they noticed that the
21 decline in his function also, Your Honor. Dr.
22 Adair noted he's had the flu in January. So
23 on top of not feeling well, smoking lots of
24 drugs, smoking a lot of marijuana, noticed he
25 wasn't paying attention in school and putting

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1 his head on the desk.

2 J. D. Leford (phonetic), on his
3 statement on April 18th, he went to her and
4 told her about the pressure he was getting
5 from the coach, stating he was depressed, not
6 sleeping and lack of energy. She wanted him
7 to get treatment and tried many attempts to
8 get him into treatment. She also said in her
9 statement that he was he was easily
10 distracted.

11 So I think for him he quit caring at
12 some level. He has a very bad brain. I
13 believe that many people that over-estimated
14 his intellectual ability, and that probably
15 put a lot more pressure on him as well.

16 He is a very articulate young man.
17 And I think that, like many people with those
18 deficits, that they hide those.

19 I also think that when you put a
20 group of kids together, they lose their
21 individual consciousness. All these
22 defendants seemed to have had very good
23 upbringing and certainly know right from
24 wrong, as he does. And he had capacity to
25 conform his conduct. He doesn't have an

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1 chronic impulse, as do some people. He is not
2 a sociopath. He has no antisocial features at
3 all.

4 But I think all of these things
5 illnesses raise the point that he certainly
6 has the capacity for this. If I were in North
7 Carolina (sic), I would probably be cut off
8 and not allowed to testify (phonetic). I mean
9 it does rise to that level.

10 But when I think when you put
11 teenagers together or young adults that are
12 athletes, that have accolades and people honor
13 and respect them, and you put them in a group,
14 they make even worse decisions than they would
15 individually. If you combine drugs with that
16 as well it's just a horrible situation.

17 I want to address the victims just
18 very briefly and tell you all that you are so
19 brave. The fact that you are in Court today
20 will help you all heal. That you're taking
21 part in this process, you are very brave. And
22 you are in my thoughts and prayers as well.

23 THE COURT: Thank you, Dr.
24 Schwartz-Watts.

25 MR. SKIPPER: Thank you, Judge.

1 Briefly, his roommate, Toby Akindele, would
2 like to address the Court, Your Honor.

3 THE COURT: All right.

4 DR. SCHWARTZ-WATTS: May I be
5 excused?

6 THE COURT: You may. Thank you for
7 being here. Please state your full name for
8 the record, please.

9 TOBY AKINDELE: First of all, I'd
10 like to say thank Your Honor for giving me a
11 chance to speak in Court.

12 THE COURT: Certainly.

13 TOBY AKINDELE: As an eighteen
14 year old young man who comes from Houston,
15 Texas to play football for The Citadel, it
16 was a great thing for me, to be here at the
17 Citadel. And three years later it's been a
18 great ride.

19 When I got on campus I didn't really
20 know anybody. I knew the coaches. I knew a
21 couple of players. One of the first ones I
22 met was Miguel Starks. We really didn't talk
23 much, but after a couple of days we started
24 talking more about our life experiences. I
25 told him about mine, and he told me about his.

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1 The first thing he said is he'd like for me to
2 meet his mother. And we drove back to Atlanta
3 that weekend and I met his parents. And it
4 was just great because it reminded me so much
5 of my family. And being so far from home, it
6 was good to find a new family away from home.

7 I sit in Court here and listened to
8 everybody talk. It's a very emotional case.
9 I'm not taking sides on any subject. Being a
10 brother to many of the young brothers, I think
11 we all make mistakes. And the mistake here
12 made may be bigger than most mistakes -- I
13 don't know where he went wrong. Because I've
14 tried my hardest, and I think we all did, to
15 make sure to do the right thing. And I think
16 for the most part he did. One bad decision
17 cost me a brother.

18 I hope the rest of us young brothers
19 out here, it don't matter what race, learn
20 from somebody's mistakes. For me, it's been
21 hard because I try to run with a situation
22 rather than attack it. As a young man who has
23 been through many things, this has been one of
24 the hardest things. And to the victims'
25 families, on his behalf, I apologize. I

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1 apologize to his family. I felt like I let
2 people down, but I'd take care of him better.
3 Maybe if I'd said more or maybe if I'd done
4 more, maybe he wouldn't have put himself in
5 that situation. But, you know, you never
6 really know.

7 I just hope that while he's put away
8 I hope that you all please give him some help,
9 as a society. Because the person that I knew
10 and the person that committed these crimes are
11 two different people. I'm not saying he's
12 right or if he's wrong. That's not how it
13 plays. All I'm saying is I hope the Court
14 will grant my brother another chance. Thank
15 you, Your Honor.

16 THE COURT: Thank you, sir. And
17 thank you for being here.

18 MR. SKIPPER: Judge, would you hear
19 from Mr. Starks?

20 THE COURT: Certainly.

21 DEFENDANT STARKS: Good afternoon..

22 THE COURT: Good afternoon, Mr.
23 Starks.

24 DEFENDANT STARKS: Thank you for
25 allowing me to speak. I just want to

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1 apologize to you and to everybody in the
2 courtroom. I also apologize to the victims
3 and the victims' families. I also apologize
4 to my co-defendants and my co-defendants'
5 families.

6 Having a year to reflect on this
7 situation, I realize that I've hurt a lot of
8 people. I don't know how to explain anything
9 that happened. I don't know where I was. All
10 I can actually do is just please find it in
11 your heart to forgive me.

12 I have flashbacks of what I did do.
13 That's how I know that person that night was
14 not me. That person that night was not
15 Reginald Rice. That person that night was not
16 Stephan Francois. That person that night was
17 not them girls.

18 To [REDACTED] and to [REDACTED]
19 [REDACTED], I apologize. And I just apologize for
20 all that. [REDACTED], I thank you for everything
21 that you did for me, and I'm sorry to you and
22 your family. I apologize to your family.

23 I can't even stand here and say that
24 I can ask for leniency, Your Honor, because
25 everything I did was wrong and I accept full

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1 responsibility for everything. All I can ask
2 is just do what you feel is right in your
3 heart. And I know whatever happens, I'll make
4 it through. Because I've learned a lot and I
5 can actually tell and say to myself that I am
6 a man. Thank you.

7 THE COURT: Thank you, Mr. Starks.
8 Let me ask you, sir -- and, again, I remind
9 you you're still under oath. All the
10 responses that you gave to my questions on
11 January the 19th, 2011, you today confirm and
12 reaffirm those responses?

13 DEFENDANT STARKS: Yes, sir.

14 THE COURT: Very well. Thank you
15 so much. Mr. Skipper, anything else?

16 MR. SKIPPER: Thank you, Judge.
17 Just briefly, Your Honor.

18 THE COURT: Certainly.

19 MR. SKIPPER: Judge, when I got
20 the call about this case and met with Miguel,
21 I really had much the same reaction that you
22 heard from Dr. Schwartz-Watts. I expected
23 something different because of the nature of
24 the crimes. It's not what I got.

25 Judge, what happened that week truly

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1 was an aberration, I believe, for this young
2 man. It was something that, quite frankly,
3 the people closest to him saw something was
4 wrong, saw something was different, saw
5 something that had changed from the person
6 that they had known to that point.

7 Even his coach, on that Tuesday when
8 he was released or suspended from the team for
9 the semester -- there was a team meeting, a
10 team intervention, actually, according to the
11 coach. And one of the questions was, "Miguel,
12 are you ready? Do you want it? Are you on
13 this team? Are you in?" And his response was
14 -- Miguel's -- "I don't even know who I am."
15 It caused the coach to write in his words, in
16 his notes, it was obvious that Miguel knew his
17 attitude was bad, but he was struggling to
18 change.

19 Judge, it was something to the
20 extent that he even said to another member,
21 'Make sure he gets to the counseling center.
22 I want him to go and see a counselor.' And
23 they took him, and he went to the counseling
24 center that Friday, right in the middle of all
25 this, Judge, and had two appointments set for

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1 the following week to speak with a counselor.

2 Three different teachers and a
3 teaching aide in the -- with the athletes,
4 they have some folks that help them with
5 studying. Three different people in the
6 course of the week prior and that week leading
7 up to that noticed something, something wasn't
8 right. He was depressed. He wasn't the same
9 Miguel that they were used to seeing. 'Let's
10 get him help.' One went to the team, went to
11 a coach, 'Let's get him some counseling.
12 Something is not right.' That's in the middle
13 of this, Judge.

14 I think that the stress of the team
15 and getting kicked off the team, the histories
16 that you heard Dr. Schwartz-Watts talk about,
17 you add drugs and alcohol on that, and then
18 you take away the stability of what had always
19 been there for this young man. And that was
20 forced.

21 He always -- he wasn't going out
22 late at night because he was always getting up
23 -- he had practice or workout or what-not in
24 the morning time. When that team -- that was,
25 I guess, the straw at the end, on that

1 Tuesday. When he lost that stability, he went
2 haywire, Judge.

3 Does it excuse it? Absolutely not.
4 And that's the last thing Miguel has ever
5 intended for that. He never would even tell
6 me that, Judge. That's me having to go find
7 that, Judge. And I say "find it," because it
8 was there, because other people had seen it.
9 It was just a matter of right there at the
10 crux of the time, Judge, and this certainly
11 played a part in the leading to these
12 horrible, horrible decisions.

13 I probably have met with this young
14 man certainly no less than forty times of the
15 jail over the course of the past year. I've
16 never represented a client when I come in that
17 the detention officers are asking me about
18 him, not because he was Miguel Starks, the
19 football player, but because they're actually
20 concerned about his well being. Is he doing
21 okay? That kind of thing.

22 Judge, as I included in the document
23 there and that I'm sure Your Honor saw -- I'm
24 not going to go into that in great detail.
25 Judge, that's the Miguel that I've met and

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1 known over the course of the last year.
2 That's the Miguel that his parents had told me
3 about. That's certainly not the Miguel that
4 [REDACTED], [REDACTED] and [REDACTED] met. And for that I'm
5 truly sorry. And he's truly sorry, Judge.

6 Obviously, this is a serious case.
7 All the facts -- admittedly, Your Honor. But
8 I do think that this is a salvageable young
9 man. And if -- you can flourish in the
10 Department of Corrections -- quite frankly, I
11 think that's what he'll do. Because I think
12 he's that kind of character. And I really
13 believe that, Judge.

14 I think you can accomplish the goals
15 of sentencing in this case by sentencing him
16 to a number that is closer to fifteen than it
17 is to thirty, Your Honor. And I'm going to
18 ask Your Honor to consider that and give him
19 an opportunity to, when he does get through
20 that time, that he will still be there and
21 have a life to live. Thank Your Honor for your
22 consideration.

23 THE COURT: Thank you, Mr. Skipper.
24 Mr. Brown? Thank you, sir.

25 MR. BROWN: Thank you, Your Honor.

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1 THE COURT: While you're coming
2 forward, Mr. Brown, thank you for your
3 sentencing information as well which I have
4 made Court's Exhibit Number 1 for purposes of
5 Mr. Francois's plea. And I will incorporate
6 it now fully in the record for purposes of
7 review.

8 MR. BROWN: Thank you very much,
9 Your Honor. Your Honor, on behalf of Stephan
10 Francois and his family -- they are here.
11 Please stand in the courtroom, please.

12 This is Marlon Francois, his father.

13 Your Honor, as you alluded to the
14 Court, you practiced law for twenty-one years
15 as a well-seasoned trial attorney and well
16 respected on the Bench for some twenty years.
17 During your time I'm sure you've had the same
18 experience I've had with regard to this
19 matter, that you get to know your client.

20 THE COURT: Absolutely.

21 MR. BROWN: You meet with him
22 innumerable times, as Mr. Skipper has. You
23 get a feel for their character, and you get a
24 feel for the individual. You get a feel for
25 their family.

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1 What disturbs me about this case, Your
2 Honor, more than virtually any other case I
3 ever had is you have individuals who are
4 extremely gifted academically in some cases,
5 athletically, most certainly, for all the men
6 involved, and they all came from extremely
7 good, well-respected families in their
8 community.

9 THE COURT: Absolutely.

10 MR. BROWN: We've got a neonatal
11 nurse. We've got a Major in the military.
12 We've got professionals in Atlanta. Marlon
13 Francois has worked at Delta for over twenty-
14 three years in a corporate job there.
15 Kimberly has been -- for seventeen years she
16 worked for the Fulton County School System.
17 She's relocated to New Orleans at this point.
18 She's with his parents. She's also taken a
19 job at the county school system there. That's
20 where his younger sister, Gabrielle, is today,
21 Your Honor. She's sixteen. She's unable to
22 make it. She's in the middle of exams, and
23 that's more important.

24 But most disturbing, Your Honor, and
25 to try to -- as we've all tried to here today

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1 -- to figure out why and what's going on.
2 What I'd like to do is I'd like to try to
3 explain why young people with such a good
4 background and who have good character got
5 into making decisions so quickly, and then
6 uncharacteristically, poor conduct, being
7 involved in this.

8 I'd like to explain a little bit,
9 because you were not the trial judge for the
10 five-day trial that Sasha Gaskins asked for.
11 And so you didn't hear the whole story as it
12 unfolded. You didn't hear the background of
13 how these young men, their lives have
14 intertwined. I think the background is
15 important to answer some of these questions.
16 This is not going to be an excuse in any way,
17 shape or form.

18 THE COURT: I understand.

19 MR. BROWN: It's just going to be
20 an explanation as to how a young person like
21 Stephan Francois could engage in some conduct
22 that is so far out of character.

23 Your Honor, obviously, they're here
24 to take the responsibility and participation,
25 and they're accepting the punishment. But I'm

1 going to walk through real quick and set this
2 background before the Court.

3 He was raised in Atlanta, went to
4 Muddysville (phonetic) High School. He had
5 about a three-point-six grade point average
6 out of four. He did very well. He played
7 football. He played varsity football for
8 three years, J.V. for one year. Played four
9 years of varsity baseball. He was an
10 excellent athlete. He was on a mock trial
11 team. He participated and they won second in
12 the region in Atlanta. He was voted the best
13 attorney. He had aspirations to go on and be
14 a poly sci major and go on and possibly
15 practice law.

16 Because of his athleticism, because
17 of his intelligence -- and I'm passing up some
18 sizeable document -- he was given
19 opportunities. He did well athletically and
20 academically. He was given opportunities and
21 give offers. He chose Charleston Southern.
22 Charleston Southern offered him a football
23 scholarship and a baseball scholarship. And
24 he had that combination. He was there. He
25 was there for a year and a half, Your Honor,

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1 as a poly sci major and as a pre-law major.
2 He had about a three-point-two grade point
3 average. He was red-shirted the first year,
4 and he was hurt shortly thereafter and did not
5 play football the second year.

6 While he was there, though, he did
7 well with his grades, as I said, and he ended
8 up transferring over to the College of
9 Charleston. His star, quite frankly, Your
10 Honor, was on the rise. He was doing very
11 well.

12 He transferred to the College of
13 Charleston on January 10th. He took a major
14 of middle education and poly sci. He was
15 involved in the Call Me Mister Program, which
16 you might be aware of, which is out there for
17 black males to be encouraged and helped with
18 their education in order to give back to the
19 community and encourage them to go into
20 teaching. He was very interested in that and
21 he wanted to pursue that. He wished to be a
22 teacher, Your Honor.

23 While his star was on the rise and
24 he was there at the College of Charleston he
25 got an apartment. He was sharing an apartment

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1 with three other individuals -- two other
2 individuals. He had a girlfriend who was
3 enlisted in the Air Force. She was doing
4 well. Again, he was moving forward. He was
5 fine. His star was on the rise.

6 Now, what I left out was a little
7 bit of his background in Atlanta. Part of his
8 background in Atlanta involved Miguel Starks.
9 Miguel was very charismatic. They knew each
10 other. They -- these young men were fairly --
11 they were involved in sports against each
12 other for a number of years. They played all
13 standard sports. In about tenth grade Mr.
14 Starks came over and transferred into the high
15 school where Stephen was. Starks was a
16 highly-regarded quarterback, well respected.
17 He brought a coach over. Stephen played
18 football. He was a fullback. Mr. Starks was
19 a quarterback.

20 On the baseball, it's exactly as
21 you've heard today in Court as far as
22 potential. Mr. Starks had all the potential
23 in the world. He was highly recruited. He
24 was drafted out of high school. He was a
25 pitcher. My client was the catcher on the

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1 baseball team for four year, and for three
2 years with Mr. Starks.

3 Your Honor, these two young men got
4 to know each other. Their parents traveled
5 together when they went to tournaments. They
6 spent the night in each other's homes. They
7 double dated. My client helped Mr. Starks
8 with his studies as best he could getting
9 through high school. The personalities worked
10 well together. They were popular. They had
11 seemingly the world by the tail.

12 Mr. Starks took his opportunity,
13 instead of going into baseball, he went to The
14 Citadel to play football. He went there and
15 had a very successful two years at The
16 Citadel. He did remarkably well as a freshman
17 and got a great deal of attention.

18 Mr. Francois did not get to see him
19 that much because of Charleston Southern's
20 proximity. Neither one of them had vehicles.
21 Mr. Starks couldn't have a vehicle as a
22 freshman, and so they just didn't see each
23 other that much, although they kept in
24 contact.

25 Unbeknownst to Stephen was every-

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1 thing that Mr. Skipper has gotten into and the
2 doctor has gotten into about what was kind of
3 spiraling out of control with Mr. Starks.
4 Stephen moved back in January. He's at
5 College of Charleston. Miguel called him and
6 said, 'I'm going to be on the campus. Do you
7 want to get together?' He said 'sure.' This
8 is high school friends, 'Let's try to get
9 together.' He got together with him. He
10 introduced him to Sasha Gaskins, his girl-
11 friend at the time.

12 Didn't see him on Tuesday. On
13 Wednesday -- and this is the sequence. It
14 happened very, very quickly. On Wednesday,
15 Mr. Starks brings Mr. Rice who is a former
16 Citadel football player -- brings him over,)
17 introduces him. There's discussion about a
18 robbery that's going to take place that they'd
19 like to do. It involved a football coach.
20 And this might answer a question in regard to
21 what the Solicitor was saying just a little
22 bit. The football coach was originally going
23 to be the primary target, because that's who
24 Miguel knew and Reggie knew, to some degree.
25 He was going to be the original one. And that

1 plan was hatched on a Wednesday. It was ill-
2 conceived, but it was hatched on a Wednesday.

3 The individuals -- they needed a
4 female, as the Solicitor already said. They
5 couldn't get ahold of the coach because he was
6 out of the town. They just couldn't get ahold
7 of him on a Wednesday. So that opportunity
8 just passed them by.

9 And whether it was going to be a
10 real opportunity or not, Stephen didn't know.
11 This was out of character for Miguel.
12 Certainly it was. 'Is he puffing? Are they
13 really going to do this?'

14 And the coach had -- was rumored to
15 have had assets to marijuana and had
16 quantities of marijuana. And so they figured,
17 certainly, they could rob the coach and he's
18 not going to report the simple robbery of
19 marijuana. He's just not going to call the
20 authorities and say 'someone stole my pot.'

21 And so that was the plan that was
22 given to Sasha Gaskins and was given to
23 Stephen. And Breanna shared in that also.
24 Stupid? Did they think it was going to
25 happen? No. Well, it didn't happen. It

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1 didn't happen that night. They couldn't get
2 ahold of the coach. So Reggie said, 'well, I
3 know somebody else, a guy I used to smoke dope
4 with. I know he's got some dope. We can go
5 take his dope. We can go do that. And it's
6 not a big deal. He's not going to call the
7 police.'

8 This plan actually unfolds and it
9 was very ill-conceived. It happened very
10 quickly. They go to the location. It started
11 out as a process of -- my client's driving the
12 vehicle. He's involved. His girlfriend's
13 involved. There's a female in the apartment
14 no one even expected. No one knew about it
15 until afterwards.

16 The incident took place. There was
17 really no marijuana to take. They ended up
18 getting a broken TV. They took some CDs.
19 They took some video games. It was absolutely
20 worthless. But the benefit or reward was
21 paltry compared to the loss and the tragic
22 loss of life for an hour and a half; and for
23 the victims it's immeasurable.

24 Within forty-eight hours -- and
25 during this timeframe I've got to also

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1 mention, Your Honor, that there was smoking of
2 marijuana. Because when the boys were playing
3 football, when these gentlemen would play
4 football and they were involved in sports,
5 there was drug testing. At the Citadel there
6 was drug testing at 4:00 o'clock in the
7 morning. At Charleston Southern they'd say
8 'Get over to the field house at 6:00. You've
9 got a test today.' There's no chance to
10 cleanse your system or anything like that.

11 Stephen had no problem with that.
12 You know, he was not a part of the marijuana
13 culture. That was not a big part of his life
14 at all. Academics was a part of his life.
15 When he came down to the College of Charleston
16 he really hadn't embraced that marijuana
17 culture that much either. But at that point,
18 when Mr. Starks came into his life, he also
19 came into his life with some marijuana.

20 And as you heard from Mr. Rice's
21 people, marijuana and alcohol was a big part
22 of Mr. Rice's culture also. And he's two
23 years older than these two gentlemen.

24 So, Your Honor, they're using poor
25 decision-making skills, they're smoking

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1 marijuana, they're drinking some alcohol.

2 And there was really no thinking at all.

3 Within forty-eight hours the coach

4 -- they contact the coach. Starks or Rice got

5 ahold of the coach. They knew he was in town.

6 They confirmed that, and they wanted to move

7 forward, and they did move forward with that

8 next situation.

9 It all happened extremely fast.

10 Within a short period of time -- and the

11 coach's apartment was literally about two

12 hundred yards away from Starks' apartment.

13 That's what the deal was and that was going to

14 be very, very easy. [REDACTED] lived just

15 right around the corner from Mr. Starks.

16 It's exactly as they said. Mr. Rice

17 and Mr. Francois, they were arrested shortly

18 after the robbery in the car. Mr. Francois

19 acknowledged his participation in it. He

20 spoke to the City authorities. It was on a

21 video. It was recorded. He obtained counsel,

22 and we immediately went forward and met at the

23 Charleston County Sheriff's Office. We gave a

24 full and complete statement immediately. We

25 were the first one to do so, Your Honor. We

1 understood that that was the way to go.

2 He did that without a proffer. He
3 did that without any promises at all. He knew
4 it was the right thing to do, and he needed to
5 do it. I think that started the other
6 defendants, and they all ended up giving
7 statements as you are aware.

8 Your Honor, my client has been in
9 the Charleston County Detention Center 388 or
10 389 days, has not made bond, had not attempted
11 to make bond. He understands the gravity of
12 this. Anybody understands it that is a pre-
13 law major.

14 He understand that at a bare minimum
15 -- at a bare minimum -- that the sentence that
16 was offered by the Solicitor -- this is what I
17 appreciate about Solicitor Wilson. She has
18 the foresight, by being Solicitor, by seeing
19 so much as a solicitor, by dealing with the
20 serious natures, by dealing with murders, by
21 dealing with all the other matters, the armed
22 robberies that happen in Charleston County, as
23 do you -- y'all are uniquely situated to see
24 and put perspective on matters.

25 Solicitor Wilson is extremely tough.

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1 And she came to us and said, 'Well, here's
2 your offer. Your client are going to have to
3 accept the mandatory minimum of fifteen years
4 in prison on burg first. I am unwavering on
5 that. I'm not moving off of that. I'm not
6 going to give on armed robbery.'

7 The only armed robbery offer that
8 was given was Breanna Bristol was the last
9 female involved. And Sasha Gaskins might have
10 had that offer, but she declined that and went
11 through a whole jury trial.

12 But she said, 'I'm going to keep the
13 mandatory minimum of fifteen and I'm going to
14 give you a range, a sentencing range, of up to
15 thirty years in prison.' And she put that out
16 there for us. She had the foresight -- and
17 she did that only after probably about eleven
18 months, when she came to us in January. After
19 she knew all the facts, good and bad. She
20 knew the strengths and weaknesses. She knew
21 -- and she knew, really, didn't want to put
22 the victims through a trial. And she had a
23 good conversation, I'm sure, because I know
24 how thorough she was with us. She had good
25 conversations with the victims, running those

1 numbers past them to make sure that they were
2 in agreement that the defendants could receive
3 as little as fifteen, or they could receive as
4 much as thirty, if Your Honor so chose and the
5 facts so warrant.

6 And we had to sit down and we had to
7 pray about it. I spoke to my client several
8 times. I had to speak to his family and
9 explain that, 'Your son's going to have to go
10 to prison for fifteen years. He's going to
11 have to serve eighty-five percent of that
12 time. He's going to have to do 4,654 days at
13 the very, very best for his actions. He's
14 going to suffer those ramifications, and
15 that's at the very best, if Your Honor so
16 chooses, and whichever judge so chose to give
17 the minimum, could give twice that much. It
18 could take an even larger portion of his life,
19 because of his poor judgment.' We had those
20 discussions. We went over it. We agreed it
21 was the right thing to do.

22 It was the right thing from the
23 victims' point of view. It was the right
24 thing from the defendant's point of view.
25 It was the right thing.

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1 As far as no one contacting the
2 victims, that is my responsibility as his
3 attorney. I advised my clients not to contact
4 y'all independently. A lot of people don't
5 appreciate that. We decided not to do that,
6 and I express remorse and contrition in that
7 regard. But they certainly didn't violate
8 your privacy. Some people feel like they've
9 been violated a second time, victims'
10 families, and harass them. We didn't want to
11 do that. That was my decision. Please don't
12 hold that against Mr. Francois and his family.
13 It is not a reflection on them. That was my
14 decision.

15 Your Honor, I am requesting -- and I
16 am sure other counsel might do this too --
17 that you sentence these individuals
18 individually for their culpability, planning,
19 participation, possession of weapons and
20 actions that took place or might have not
21 taken place during that. It's clear from the
22 Solicitor's comment earlier that the
23 connection on this case are also the
24 connections. My client had no separate
25 connection, other than his friend, Miguel

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1 Starks.

2 The victims were chosen by the
3 former Citadel cadets. He did not bring any
4 weapons to this. Didn't have -- wasn't
5 involved in the entry of the first house on
6 Johns Island. He did go in there as all
7 parties did go in there. When they made a
8 trip to an ATM and then went in and got some
9 items out of the house. He did that. He
10 understands his culpability, which relates to
11 the burglary.

12 Your Honor, Stephen Francois gets
13 it. He understands what he's going to lose.
14 He understands what he's going to give up. He
15 understands that by making poor decisions and
16 not making the right decisions, he understands
17 that he's given up the rest of his college.
18 He's given up the opportunity to play college
19 sports. He's given up the opportunity to get
20 his degree within the next twelve or thirteen
21 years, even if he does make the best of what
22 he can do in prison. He knows he's going to
23 have to be there. He's going to try to be
24 positive. He knows what he's given up.

25 He's given up the opportunity to be

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1 involved in that Call Me Mister Program. He's
2 given up the opportunity to go to graduate
3 school. He's given up the opportunity to take
4 his first job and second job. All the
5 relationships in college, he's given up that.
6 He's given up an opportunity to start his
7 first family, to get married, to fall in love,
8 to raise children. He's given up the
9 opportunity to watch his little sister date
10 and go to college. He's given up weddings.
11 He's given up funerals. And he understands
12 that. No one understands that price he's
13 paying more than Stephen Francois.

14 We are simply asking, Your Honor,
15 that you consider his participation and
16 consider him separately, although he is
17 equally culpable and he understands that.

18 At this point, Your Honor, I've
19 already tendered all the character letters.
20 I won't belabor you with that.

21 THE COURT: We have those. Thank
22 you very much for those.

23 MR. BROWN: Your Honor, we've tried
24 to keep it down to a minimum, and at a
25 minimum, we have his mom and dad here today.

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1 THE COURT: I'll be delighted to
2 hear from them.

3 MR. BROWN: Mom and Dad, come
4 forward and speak loud enough so we can hear
5 you.

6 KIMBERLY FRANCOIS: My name is
7 Kimberly Francois. I would like to apologize
8 to the families and all of the victims for
9 everything that has occurred. I accept full
10 responsibility for everything that Stephen has
11 done. I sometimes go back and think maybe
12 this would have not happened if his father and
13 I would not have separated in January of last
14 year. But it seems -- I don't know if our
15 communication had a breakdown because his dad
16 was in Atlanta and I had moved to New Orleans.

17 But in saying that, Stephen was an
18 honor student, a great student. His main
19 responsibility and focus was getting an
20 education, for going to law school. But when
21 he saw it was going to be difficult for him to
22 go to law school, he joined the Call Me Mister
23 Program to teach here in South Carolina. And
24 his choice was to do that, go into the Call Me
25 Mister Program, and then go take evening

1 classes at South Carolina State and go to
2 their program.

3 But all of that came to an end
4 February 24th, 2010. I talked to Stephen the
5 early part of that week and told him I had a
6 bad feeling, that I didn't feel something --
7 something just was not right. He was telling
8 me, 'No, mommy, it's fine, we're only going to
9 hang out.' 'Stephen, I have a bad feeling.
10 Something just does not feel right.' And when
11 I received that phone call that Saturday
12 morning, it was like everything was taken away
13 from me.

14 Once again, I apologize to the
15 families, to the victims. That was unlike my
16 son. I don't know what happened. I don't
17 know if our communication breakdown -- we were
18 so far apart -- he was in Carolina, I was in
19 Louisiana.

20 But I just ask for mercy on him. I
21 ask that -- I know he will do time, and as I
22 told him, 'You have to suffer, you have to
23 suffer for what you have done. You chose not
24 to listen.' But in doing so I just ask that
25 he's brought back to our family in enough time

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1 where we can kind of enjoy him.

2 THE COURT: Thank you, ma'am.

3 Thank you, Ms. Francois. Thank you for being
4 here.

5 MARLON FRANCOIS: Good afternoon,
6 Your Honor.

7 THE COURT: Good afternoon, sir.

8 MARLON FRANCOIS: I'm going to say
9 a few words, "Think before you act." He knows
10 that. That's bee a famous term since he was
11 five years old.

12 To the families, you have my deepest
13 sympathies from the Francois family. Yes, his
14 mother is correct. We had some actions in our
15 home that took place in January. But, Your
16 Honor, as everybody has stated, Mr. Brown,
17 anybody who knows him, he was an excellent
18 student -- not the best athlete, I'll be the
19 first to tell you. But he's a coachable
20 athlete.

21 Your Honor, I just ask that the
22 Court look at him, and I'd like you to bring
23 him back to us at some point. I know he can
24 be a productive citizen. There's no doubt in
25 my mind. I know this for a fact.

1 The things that he's done since he's
2 been in the Charleston County jail, as his
3 lawyer said, the contact with other people
4 there has always been, 'How is he doing?
5 They have just always been pleasant to him
6 because it's not his personality. It's not
7 him. Everybody knows -- the reason everybody
8 loves this kid, he's the best breakfast cook.
9 Everybody wanted him at his house because he
10 knew how to cook breakfast.

11 But, Your Honor, he is a great
12 individual. I just ask that the Court look at
13 him in the light of giving back to society,
14 because he has a lot to offer, an awful lot.
15 Thank you.

16 THE COURT: Thank you, Mr.
17 Francois. And, for the record, your full
18 name, please, sir?

19 MARLON FRANCOIS: Marlon Francois.

20 THE COURT: Thank you so much.

21 MR. BROWN: Stephen wants to
22 address you.

23 DEFENDANT FRANCOIS: First, I
24 would like to thank you for letting me talk to
25 the Court.

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1 THE COURT: Certainly.

2 DEFENDANT FRANCOIS: I would like
3 to first and foremost apologize to the Court
4 for being here today, for putting the strain
5 on everybody that is here today.

6 I'd like to apologize to the
7 victims. I didn't know any of the victims,
8 Your Honor.

9 At the time, I should have put a
10 stop to all this. I should have told Miguel
11 and Reggie "No, let's go here -- let's do
12 something else" productive. That was my lack
13 of character and my poor judgment. And I
14 accept full responsibility for all my action
15 and everything I did last February.

16 Over the past 389 days I've been in
17 Charleston County, I have given my life back
18 to Christ. I know that I was wrong. I
19 recognize and am repentant for the wrong I
20 have done.

21 I ask for the forgiveness of every-
22 body in this courtroom right now for my
23 actions. The Bible says a wise man falls
24 seven times. But as long as he gets back up,
25 he can come back to Christ and he is forgiven.

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1 Whatever the devil taketh away from you, he
2 has to give back seven times greater.

3 So this has been a learning point in
4 my life. I made a bad decision that I have to
5 suffer for. I ask for your favor and your
6 mercy today so that one day I can come back to
7 civilization and be the man that I know I can
8 be, to finish my education. Yes, I'll be
9 roughly thirty -- between thirty and forty
10 years old. But I can still finish my
11 education. I can still educate others on the
12 right path to go down and not the wrong.

13 Again, I take full responsibility.
14 It is not because of my parents' separating.
15 It is not because of the drugs. It was a lack
16 of character and judgment, and I apologize
17 today with the deepest remorse. That's it,
18 Your Honor.

19 THE COURT: Thank you, Mr.
20 Francois. And let me ask of you -- and I
21 would remind you that you also are still under
22 oath. The responses that you gave to me to
23 the questions that I asked of you on January
24 the 19th, 2011, do you reaffirm and confirm
25 each of those responses, sir?

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1 DEFENDANT FRANCOIS: Yes, Your

2 Honor, I do.

3 THE COURT: Thank you so much, sir.

4 Mr. Brown, anything else?

5 MR. BROWN: Nothing further, Your

6 Honor.

7 THE COURT: Thank you very much.

8 Solicitor, anything else from the State?

9 SOLICITOR WILSON: No, sir.

10 THE COURT: Each of the defendants

11 please rise. Gentlemen, I thank you for all

12 that you've done. I thank the State for all

13 it did in presenting the case. And the

14 victims, again, as a human being, my heart

15 goes out to each one of you and the family

16 members. I wish there was something I could

17 to help allay everything that you've endured.

18 There's not.

19 I pray that your lives will somehow

20 return to some semblance of normal. I doubt

21 they ever will. My wish is it will, but

22 reality is, as just everyone has said -- one

23 thing that I knew as a lawyer and has been

24 confirmed as a judge -- I used to tell my

25 clients as I'm sure these good lawyers have

1 told theirs, "If you break into somebody's
2 home, you've done something that absolutely is
3 irreparable. You've destroyed the sanctuary.
4 And that's the last bastion. That's it.'
5 That's the -- it's impossible to get back.
6 There's no amount of money. There's no amount
7 of sorrow. There's no amount of -- I wish
8 there was something I could do for you that
9 helps it. But I'm just sorry for each one of
10 you.

11 Gentlemen, you know, you each have
12 talked about, and I'm delighted and certainly
13 praise you and applaud your decisions
14 individually to choose to follow the Bible.
15 You've quoted it. You say it's important in
16 your lives. I urge you -- I can't -- it's not
17 my position to state -- I'm not telling you
18 how you should believe or what you should
19 practice. But I will tell you that that book,
20 if you follow it, you won't find yourself in
21 this position. The author of this rule
22 probably is why it is perfect. The Golden
23 Rule is perfect in every respect. Whether you
24 knew about it, you knew the situation or not,
25 how would you want to be treated? It's a

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1 simple thing. Simple thing.

2 Somebody made a lot of money on very
3 basic things. They said everything we need to
4 know we learned in kindergarten. "If it's not
5 yours, don't take it." It's that simple.
6 It's not complicated. You don't have to be a
7 rocket scientist to understand it.

8 Each one of you come here and, one
9 blessing -- one blessing to each one of you is
10 having people, families, to support you in
11 this court room. It appears the depth and
12 breadth of the courtroom.

13 But the Bible addresses that too.
14 Luke talks about it. He says to whom much is
15 given, much is expected. That's a reasonable
16 proposition. I don't have any problem with
17 that. The older I get and the more I do this,
18 the more profound it is. It's why what I did
19 as a lawyer and what your lawyers have done
20 beautifully here today -- it really is, when I
21 sit here -- I don't know if I thought about it
22 as much as a lawyer -- but it's a double-edged
23 sword to talk about you being bright, to talk
24 about you being from this great family, to
25 talk about all that.

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1 Because in looking at you, I think,
2 'well, you, of all people -- you, of all
3 people, should have said no, no way, marijuana
4 or not.' It violates everything we've all
5 talked about. There's no need to go through
6 all of that. To treat friends like that,
7 that's insane.

8 You know, when I took this plea on
9 the 19th, aside from having the family and,
10 Mr. Francois, you were not a part of this
11 community -- my neighbor and my good friend in
12 my life, my son-in-law is a graduate of the
13 Citadel. And I have a lot of friends who
14 attended that wonderful institution. And I'm
15 going to tell you something. I thought I had
16 a closeness with people I went to school with.
17 There's no comparison, none. I admire them.
18 I respect them for the honor and integrity
19 that they have for themselves and how they
20 treat their fellow colleagues, graduates.
21 Your roommate stands here and he's honorable,
22 deserving of that.

23 You know, I've had more people come
24 up to me who are Citadel graduates or had
25 children attending the Citadel to speak on

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1 your behalf, to say, 'gosh, this is not the
2 people I knew.' You impress people. And
3 they're baffled, because they know that's not
4 what you learned in that institution.

5 So, to be honest with you -- and
6 I've prayed about this, too. I first confess
7 I prayed 'let some other judge have this, not
8 me.' I don't mind admitting it. But when I
9 knew it was going to be me, I said, Lord, help
10 me. Because the human of me is getting in the
11 way. And that's something I have to profess.

12 Why I said what I said when I was
13 taking the pleas about you understand I'm not
14 bound by the recommendation, because I'm going
15 to tell each one of you, I did not intend to
16 be bound by it. I wasn't going to do it. I
17 wasn't going to let you get out at some point
18 in time, probably before you became a
19 geriatric case. But you wouldn't have very
20 much time left -- well, I don't control that.
21 The great judge controls that. I don't know
22 how long, but you'd be -- certainly in the
23 winter of your life.

24 But after what's been said here
25 today and your lawyers' presentations, your

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1 family members. Somebody said when you
2 consider mercy, it's twice blessed. And I am
3 going to do that. I could put you in jail for
4 the rest of your life. I seriously, seriously
5 thought about it. You know why? Not for one,
6 I agree.

7 Mr. Francois, I commend you, and you
8 certainly honor those wonderful parents that
9 you have. And I tell your mother and your
10 father, as I've stated, I'm a father. Don't
11 be beating yourselves up. You didn't do this.
12 We raise them the best we can, and we trust
13 that they won't depart from it. But sometimes
14 they do. But, thank God that he chose to come
15 back. And that's another -- Proverbs, I
16 think, addresses that as well. He will not
17 stray too far from it. And so I commend you.

18 But I also commend you for
19 acknowledging something. You were the man,
20 really and truly, that was focused on
21 something -- I don't fault either one, Mr.
22 Rice or Mr. Starks. I understand Mr. Starks'
23 battle that he was going, and I appreciate Dr.
24 Schwartz-Watts' comments on that. And I
25 commend you for struggling with that. And,

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1 Mr. Rice, I commend you as well, sir.

2 But here's the man that was a
3 student. And he's the man -- he's not
4 involved in all of this stuff. He's the
5 chance. And if you want to know the Lord
6 works, the Lord was saying, 'Okay, you're the
7 man. You have the chance.' You're absolutely
8 right. Yes, sir, you acknowledged that.

9 But why -- and I thought about, Mr.
10 Brown, if you're right, treating them each
11 separately. No question, not part of the
12 plan. But the real key to this case and why I
13 had to fight to get to where I am with this
14 sentence, is the three days in between.

15 You have people that are supposedly
16 thinking about it, folks. You're thinking
17 about it. You've been through it. You saw
18 what you did. Yet you didn't choose to not do
19 it. You choose to do it again and figure out
20 another way to get it done. That's too
21 deliberate.

22 I'm about to talk myself out of it.

23 The sentence of the Court, -- I will
24 accept the recommendation. I might tell you
25 this. That is mercy, as far as I'm concerned.

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1 Your lawyers have done an excellent job for
2 you. I'll tell you, and I've said this before
3 -- some in this room probably have heard it --
4 didn't know how profound it would be. And
5 there's a gentleman that I went several weeks
6 ago, to honor him, and rightly so, Judge
7 Richard Fields, who was my mentor and who I
8 loved dearly, who I respect with every fiber
9 of my body. What a masterful judge he is and
10 was.

11 I was doing a plea in a case very
12 similar. The only difference is it's -- like
13 Reverend Kelly, I was representing someone
14 that was accusing of killing someone, and
15 worked and worked and worked, as your lawyers
16 have done. The Solicitor finally -- this
17 Solicitor considered it all, offered something
18 that I thought was a decent deal. My client
19 did, too. And I was making my presentation.
20 The only thing I didn't do that he did, he
21 just stopped me in midstream. He said, 'Mr.
22 Dennis, if you think you're going to get a
23 better deal than what you've already worked
24 out, you're wasting your breath. You've done
25 your job for your client. And that's the best

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1 I can do.'

2 I appreciated that. He told me
3 something, and he did it. As a lawyer, I
4 thought it was a good deal.

5 I'm not saying that you're accepting
6 the deal of what I'm about to do, gentlemen
7 and lady. You presented it. I just can't do
8 that, in good conscious. I think you.

9 But, according to the math, yes, you
10 will have a chance.

11 Mr. Rice, you will be closer to
12 fifty. Mr. Starks and Mr. Francois, you'll be
13 in your forties. And when I joined the
14 sixties' club three years ago -- I used to
15 think that was old. I don't think it is. I
16 think you're just getting started. And, yes,
17 you have a chance to do a lot of things.

18 But the sentence of the Court for
19 each of you, with the exception of the
20 indictments that are for the possession of a
21 weapon, and on that one it's five years.

22 And they're each concurrent; not
23 consecutive, as I could do.

24 But as to the remaining every
25 indictment, the remaining indictments, it's

State of South Carolina v. Stephen Francois, *et. al.*
Case No. 10-GS-10-4535 et al
Sentencing Hearing Held on March 22, 2011
Before The Honorable R. Markley Dennis, Jr.

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1 thirty years on each of them. You're each
2 given credit for time served, and they're all
3 concurrent.

4 That's the one I really wrestled
5 with, folks, the concurrent one. So I will
6 honor that.

7 Good luck to each one of you, and I
8 hope you'll continue to be productive.

9 MS. WILLIAMS: No, sir.

10 THE COURT: Thank you all for your
11 good representation.

12 (END OF PROCEEDINGS)

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State of South Carolina v. Stephen Francois, et. al.
Case No. 10-GS-10-4535 et al
Sentencing Hearing Held on March 22, 2011
Before The Honorable R. Markley Dennis, Jr.

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CERTIFICATE OF REPORTER

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I, the undersigned, Deborah Garrison,
official court reporter for the 9th Judicial
Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true,
accurate and complete transcript of the
sentencing hearing held before The Honorable
R. Markley Dennis, Jr., on March 22, 2011;

I further certify that I am neither kin
nor counsel to any of the parties and have no
interest in the outcome of this action.



Deborah Garrison

Circuit Court Reporter

9th Judicial Circuit

Charleston, South Carolina

IN THE STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

THE STATE OF SOUTH CAROLINA,

-vs.

STEPHEN FRANCOIS,

Defendant.

FILED IN THE CHARLESTON COUNTY COURT OF
GENERAL SESSIONS

2011 APR -1 AM 11:35

JULIA J. STRONG
CLERK OF COURT
MOTION FOR RECONSIDERATION
OF SENTENCING

BY MLX

BURGLARY 1ST DEGREE - K611539 & K611477

ARMED ROBBERY - K611541 & K611476 2010-6810-4754

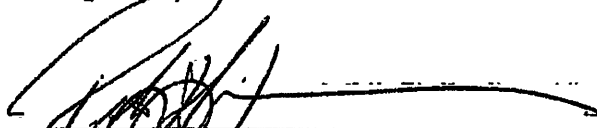
POSSESSION OF FIREARM - K611542 & ~~DA-1093~~

KIDNAPPING - K611543, K611544 & K611478

PLEASE TAKE NOTICE that Stephen Francois, by and through his undersigned attorney, moves before this Honorable Court, for a Reconsideration of the Sentence of thirty (30) years for the offenses listed above. The Defendant pled guilty on January 19, 2011, and was sentenced by the Honorable Markley Dennis on March 22, 2011, with the sentences to run concurrently. This motion is made upon the belief that the sentence imposed is disproportionately severe relative to the particular circumstances surrounding this defendant and the comparative sentences of the male and female co-defendants. The defendant respectfully reserves the right to present further documentation in support of this Motion.

A copy of this filed Order will be hand delivered to the office of Solicitor Scarlett Wilson.

Respectfully Submitted,



Peter David Brown
Attorney for Defendant
749 Johnnie Dodds Blvd., Suite A
Mt. Pleasant, SC 29464
(843) 971-0099

April 1, 2011
Mount Pleasant, South Carolina

FILED

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	2011 APR -4 AM 9: 52
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
	)	JULIE D. ARMSTRONG
	)	CLERK OF COURT
State of South Carolina	)	
	)	BY _____
	)	Indictment Numbers:
	)	2010-GS-10-4545, 4546, 4547, 4535, 4540,
	)	4541, 4543, 4544, 4754
v.	)	
	)	State's Response to Defendant's Motion for
Stephen Francois	)	Reconsideration of Sentence

The State has been served with a copy of the Defendant's Motion for Reconsideration of the sentence imposed by this Court. The State files this Response.

PROCEDURAL HISTORY

The Defendant was charged with two counts of burglary 1st degree, two counts of armed robbery, three counts of kidnapping, and two counts of possession of a firearm during the commission of a violent crime. The Defendant agreed to plead guilty to all of these charges before this Court and he entered his plea on January 19, 2011. Sentencing on those charges was deferred so that a co-defendant, Sasha Gaskins, could be tried on her related charges. After that trial, this Court sentenced the Defendant and two co-defendants, Miguel Starks and Reginald Rice, to 30 years on March 22, 2011. On March 31, 2011 the Honorable Deadra Jefferson sentenced co-defendants Breanna Bruster to 10 years on two counts of armed robbery and Sasha Gaskins to 18 years on two counts of armed robbery and two counts of burglary 1st degree.

FACTS

These charges stem from two home invasions which took place approximately forty-eight hours apart. The idea to commit these two home invasions was hatched by

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two co-defendants, Miguel Starks and Reginald Rice. Starks and Rice had been football teammates at the Citadel and were in need of money, so they came up with the plan to commit home invasions. However, in order for their robberies to be successful they needed to enlist the help of a female who could be their ruse to gain entry into the homes. Therefore, Starks and Rice called upon the help of Starks' childhood friend Stephen Francois and his girlfriend at the time Sasha Gaskins, who were both students at the College of Charleston. The plan was discussed for the first time at length with all parties in the afternoon on February 24, 2010 while in Francois' dorm room at the College of Charleston. The plan was for Gaskins to knock on the front door and ask to use the telephone because her car had broken down. Once Gaskins had gained entry, Rice and Starks would come in behind her wearing masks and armed with guns and effectuate the robbery. Francois was to be the driver and keep the vehicle close by so that they could make trips to the ATM and make their getaway. Later that day before the first robbery Gaskins introduced Starks to Breanna Bruster. The introduction was originally intended to be for social purposes but Bruster ended up involving herself in the upcoming robberies as well.

The first robbery occurred later that same evening at approximately 11:00PM. The five co-defendants went to 510 woodland Shores Rd., Charleston, SC 29412 to hit their first target. This target was a small time marijuana dealer named [REDACTED]. [REDACTED] was an ex-Citadel student who had sold marijuana to Starks and Rice in the past. Upon arriving at [REDACTED]'s residence Gaskins, Rice, and Starks got out of the vehicle and walked up to the residence. Gaskins knocked on the front door while Starks and Rice hid nearby masked and armed with pistols. The door was answered by [REDACTED]'s girlfriend at

the time, [REDACTED]. Gaskins claimed that her car had broken down and asked to use the [REDACTED]'s phone. When [REDACTED] turned around to retrieve her cell phone, Rice and Starks rushed into the residence brandishing firearms and forcing the victims to the floor. They then proceeded to duck tape up the victims while Gaskins returned to the vehicle containing Francois and Bruster. The defendants remained at this residence for approximately three hours. During that time they loaded their vehicle with any valuables they could find in the residence. More specifically they took the victims TVs, stereo, gaming system, and speaker system. They also attempted to remove money from [REDACTED]'s bank account but it was already empty. Additionally, during the ordeal, defendant Starks sexually assaulted Ms. [REDACTED] by inserting his penis into her mouth while she was restrained by duck tape and saying that if she bit him he would kill her. Mr. [REDACTED] was also threatened sexually in that he was stripped naked and had a sword held up to his penis and told that if he didn't come up with more money that they would cut off his penis. All five co-defendants entered the residence and participated in the robbery. [REDACTED] and [REDACTED] reported the incident to the police the following morning. [REDACTED] had recognized Rice's voice during the incident due to their prior dealings with one another at the Citadel. [REDACTED] was also later able to pick Gaskins out of a photo line-up.

Approximately forty-eight hours later this same group of defendants committed a second home invasion. The target this time was one of Starks' football coaches at the Citadel, [REDACTED]. The plan for [REDACTED] would have to be modified slightly because his residence required a magnetic key to reach his front door. Therefore the plan was developed to have Gaskins call [REDACTED] from a payphone and claim that her car had broken

down and that she needed help. She was instructed to act like the girlfriend of one of [REDACTED]'s friends. On Saturday February 27, 2010 at approximately 1:30AM these defendants put that plan into action. Gaskins and Bruster dropped Francois, Starks, and Rice off near [REDACTED]'s apartment. Those three then walked into the parking garage and positioned themselves near [REDACTED]'s car. Gaskins and Bruster then drove to a nearby payphone and called [REDACTED]. [REDACTED] agreed to come and help them with their broken down car. As [REDACTED] exited the stairwell of his building near his car he was confronted by Francois, Starks, and Rice wearing masks and brandishing pistols. He was taken back inside of his apartment; duck taped up, and locked in the guestroom. Starks then took [REDACTED]'s vehicle and his ATM cards and picked up Gaskins and Bruster and went to the ATM to clean out his bank accounts. Similar to [REDACTED], [REDACTED] was threatened with castration if he gave inaccurate PIN numbers to his ATM cards. Gaskins, Starks and Bruster then returned to [REDACTED]'s residence where Francois and Rice were waiting and loaded all of his valuable belongings into their car and returned to Starks apartment nearby. This home invasion lasted in excess of two hours. [REDACTED] was able to identify the voices of Rice and Starks and reported to police once he was able to free himself from the duck tape.

ANALYSIS

This Court's 30 year sentence is appropriate under the egregious facts of this case. This Court had ample opportunity to view the Defendant and his mitigation. The Defendant was provided an unfettered opportunity to present his mitigating circumstances and the Court heard from countless members of the Defendants family who spoke on his behalf. This Court undoubtedly gave consideration to the Defendant's mitigation as it could have sentenced the

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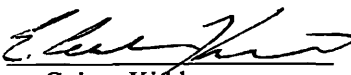
defendant up to life in prison. All things considered, this Court imposed an appropriate, well-reasoned sentence.

CONCLUSION

The Defendant has outlined no sound reason for this Court to change Defendant Francois' sentence. Pursuant to Rule 29, SCRCrimP., the State respectfully requests that this Court summarily deny the Defendant's Motion for Reconsideration without a hearing. If this Court does not summarily deny the Defendant's Motion, the State respectfully requests a hearing on this matter so that the victims can be given notice to appear. If this Court decides that a hearing is necessary, the State requests 10 days notice from the Court.

Respectfully submitted,

Scarlett Wilson
Solicitor, Ninth Judicial Circuit

By: 
Culver Kidd
Assistant Solicitor

FILED
2011 APR -4 AM 9:52
JULIE A. ARMSTRONG
CLERK OF COURT
BY _____

5/5

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

State of South Carolina)
)
 v.) Case No. 10-GS-10-4535 *et. al.*
)
 Stephen Francois,)
)
 Defendant.)

TRANSCRIPT OF HEARING Motion to Reconsider

The within HEARING in the above-captioned matter was held on November 13, 2014, before The Honorable R. Markley Dennis, Jr. in Courtroom 4C of the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina; attended by counsel as follows:

APPEARANCES:

Culver Kidd, Assistant Solicitor
 NINTH CIRCUIT SOLICITOR'S OFFICE
 Appearing for State of South Carolina

Peter D. Brown, Esq.
 Appearing for Defendant

Deborah Garrison
 Circuit Court Reporter – 13th Judicial Circuit
 P O Box 27145
 Greenville, South Carolina 29616
deb@arisonareport.com

State of South Carolina v. Stephan Francois

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Case No. 10-GS-10-4535 et. al.

Hearing of November 11, 2014

Before The Honorable R. Markley Dennis, Jr.

1 (DEFENDANT PRESENT)

2 THE COURT: Good afternoon. Are you
3 Mr. Francois?

4 DEFENDANT: Yes, sir.

5 THE COURT: Good afternoon, sir.

6 MR. BROWN: Good afternoon, Judge.

7 Your Honor, we have a question that is
8 somewhat -- I need to be able to advise my
9 client on this.

10 THE COURT: Okay.

11 (OFF RECORD BENCH CONFERENCE)

12 THE COURT: Let's put this on the
13 record. I'd be much more comfortable.

14 Mr. Francois, we've had a conversation,
15 basically a preliminary conversation
16 concerning where we would be insofar if I
17 granted this Motion, would it be to start
18 over again.

19 I now have the sentencing sheet. I think
20 Mr. Brown was saying that we'd accepted the
21 plea and then deferred sentencing to another
22 date. We had gotten to that point and I'd
23 said, 'I need to look at the sentencing
24 sheet. Y'all step back.'

25 That's the essence of the conversation

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Case No. 10-GS-10-4535 et. al.

Hearing of November 11, 2014

Before The Honorable R. Markley Dennis, Jr.

1 that we just had here at the bench. Okay,
2 sir?

3 DEFENDANT: Yes, sir.

4 THE COURT: I said I'm more comfortable
5 doing this in open court and then we can have
6 a record.

7 Mr. Brown, thank you from accommodating
8 the Court. I interrupted you, but -- I have
9 that.

10 MR. BROWN: Yes, sir.

11 THE COURT: You'd asked me where would
12 we be; frankly, what we would do. If I
13 reconsider my sentencing, I would -- what we
14 would do if I reconsider my sentence, then
15 obviously, uh, -- I had a former colleague,
16 he's now since retired. I will confess --
17 not today, Mr. Francois. This is not a
18 feeling that I have had at all today but, uh,
19 I've had situations where somebody asked me
20 to reconsider and I wanted to reconsider
21 upwards and in this case the judge did that.
22 He had revoked someone and they said, 'I want
23 to reconsider it' and -- it was a probation
24 revocation -- he did. He went from five to
25 seven instead of downward. The Supreme Court

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1 reversed it, said 'you can't do that.'

2 So to answer your question, any change of
3 sentence would be under thirty, it would not
4 -- you'd never go back. My sentence would be
5 within the cap. As I understand looking at
6 it and as I recall, it was a cap of thirty
7 years. That's what is written on the
8 sentencing sheet. Do you agree with that,
9 Mr. Francois?

10 DEFENDANT: Yes, sir.

11 THE COURT: Thank you so much.

12 MR. BROWN: Thank you, Your Honor.

13 THE COURT: Now let me also bring --
14 Mr. Francois, while you were en route, we'd
15 had a discussion because as I understand,
16 you have a Motion to relieve counsel.

17 DEFENDANT: Yes, sir.

18 THE COURT: And you can -- thank you
19 very much. You're welcome to stand but you
20 do not have to. I assume you're not a
21 lawyer. Is that a correct assumption?

22 DEFENDANT: Yes, sir.

23 THE COURT: Your lawyer has to stand
24 because he's an officer of the Court. You
25 don't have to stand, because you're not. If

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1 you are more comfortable sitting, please feel
2 free. But if you want to stand, that's
3 perfectly all right with me too.

4 DEFENDANT: Thank you, sir.

5 THE COURT: You bet. You have a Motion
6 to relieve. I indicated to Mr. Brown that
7 since he filed the Motion to reconsider on
8 your behalf ---

9 DEFENDANT: Yes, sir.

10 THE COURT: I need to hear from him and
11 I -- I understand that you may have some
12 issues with him arguing that. To accommodate
13 you, I am going to allow you to supplement or
14 add anything that you want to add after Mr.
15 Brown has completed his remarks.

16 DEFENDANT: Yes, sir. That's fine.

17 THE COURT: Then once we finish this
18 Motion, I am going to grant your Motion --
19 assuming -- as I understand, Mr. Brown, you
20 don't object to be relieved, do you?

21 MR. BROWN: No, sir, Your Honor.

22 THE COURT: In fact, as I indicated to
23 him, quite frankly, and I think this is
24 probably your case, that would end -- that
25 would indicate a ground for appeal, and Mr.

State of South Carolina v. Stephan Francois

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Hearing of November 11, 2014

Before The Honorable R. Markley Dennis, Jr.

1 Brown has indicated that he is not handling
2 the appeal because of a lot of -- maybe for
3 one, that you don't want him to.

4 So as a practical matter, it really ends
5 it anyway. But I will allow you to be heard
6 further if that is all right with you, sir.

7 DEFENDANT: Yes, sir. Thank you.

8 THE COURT: All right. Mr. Brown, if
9 that is okay with you? I understand that it
10 is kind of a hybrid situation, but just to
11 accommodate both sides I am going to do that.

12 MR. BROWN: And that would be my
13 preference, Your Honor.

14 THE COURT: Thank you so much. And,
15 Mr. Kidd, I will allow you to respond if
16 necessary. To reply to anything that they
17 state.

18 SOLICITOR KIDD: Thank you, Your Honor.

19 THE COURT: Thank you, sir. All right.

20 MR. BROWN: Your Honor, Peter Brown on
21 behalf of Stephen Francois.

22 Your Honor, this is -- I've got to state
23 just very, very briefly for the record that
24 this decision to do the Motion to reconsider
25 is a surprise to some degree in that it was

State of South Carolina v. Stephan Francois

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Hearing of November 11, 2014

Before The Honorable R. Markley Dennis, Jr.

1 going to be done today. I thought that we
2 were going to do a Motion to relieve.

3 THE COURT: I understand.

4 MR. BROWN: I am not adequately
5 prepared to argue the Motion to reconsider.
6 But at this point I understand the Court's
7 reasoning and you have probably remedied that
8 situation by addressing it here today.

9 Your Honor, this matter -- it was three
10 years ago, The Citadel quarterback case with
11 Miguel Starks and Reggie Rice, another
12 Citadel cadet, and Stephen Francois. Stephen
13 is from Atlanta.

14 I will just briefly touch back on it. I
15 know that you've got the Solicitor's written
16 memoranda regards the factual -- and I assume
17 that you've probably read all of this anyway,
18 as you always do.

19 Your Honor, Stephen was at Charleston
20 Southern University playing football/
21 baseball. He transferred over to the College
22 of Charleston, reunited with an old friend
23 from Atlanta, Miguel Starks, who was a
24 quarterback at the school at the time. He
25 renewed that friendship with him.

State of South Carolina v. Stephan Francois

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Case No. 10-GS-10-4535 et. al.

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Before The Honorable R. Markley Dennis, Jr.

1 Unfortunately it was not a good thing to
2 do. Unbeknownst to him, Reggie Rice, who had
3 a little bit of a criminal record previously
4 and Miguel Starks had gotten together and
5 they contrived this plan to rob two
6 individuals whom they'd had some marijuana
7 dealings with before. One was allegedly a
8 volunteer coach who lived in the same
9 apartment complex as Miguel Starks, in order
10 to take some money and some drugs from him.
11 Then they contrived another plan to do the
12 same thing to another individual, who had
13 been kicked out of The Citadel and lived on
14 James Island.

15 They got Stephen involved because they
16 needed his girlfriend, Sasha Gaskins, who
17 subsequently ended up going to a jury trial
18 in this matter, was convicted and got
19 eighteen years in prison. Stephen cooperated
20 in that against his girlfriend in that
21 matter, testified for the State.

22 Your Honor, during that, as you know,
23 Starks committed a sexual assault on a young
24 lady. He invoked his right to counsel, he
25 was the only who perpetrated the sexual

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Before The Honorable R. Markley Dennis, Jr.

1 assault against the young lady in the house
2 on Johns Island -- James Island. Rice tried
3 to get him to stop, and did get him to stop.
4 Francois was not in the house at that time.

5 Then forty-eight hours later there was
6 another event that took place on that he
7 participated in also.

8 Your Honor, this was a highly-publicized
9 matter. Mr. Kidd was lead counsel on that
10 matter.

11 We cooperated. Stephen was arrested that
12 night along with Rice. Rice did not
13 cooperate that first night. He cooperated
14 completely -- I think instrumentally, to a
15 large degree, with Detective Wagner with the
16 Charleston County Sheriff's office.

17 He met at length with Culver Kidd and
18 other prosecutors in regard to this matter
19 in cooperation. He cooperated completely
20 against Sasha Gaskins, as I stated earlier.

21 Unfortunately -- and we have a cap.
22 Quite frankly, I think that it was a very
23 generous cap that the Solicitor's Office
24 agreed upon through Ms. Wilson and Mr. Kidd
25 based on the egregious nature of these

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1 offenses, the participation and everything
2 else that was involved. The cap was thirty
3 years, for everything to run concurrent.

4 We did a plea one day and then came back
5 after their testimony and did the sentencing.

6 Unfortunately we had to do our sentencing
7 with the other two individuals. One female,
8 she asked for a jury trial. The other
9 female, her lawyer couldn't make it to court
10 that day for some reason. She ended up
11 getting ten years on her charge, what she
12 had.

13 During the plea -- and I am sure that you
14 will recall this plea -- an extraordinarily
15 emotionally-charged plea.

16 The -- Rice's people came up. They were
17 not very articulate, they didn't really do
18 anything to help Mr. Rice's situation.
19 Unfortunately they were all tied together to
20 some degree.

21 Miguel Starks' counsel presented
22 testimony that had some repercussions and
23 some defenses in regard to mediation in that
24 regard. It was not very clear.

25 Then unfortunately, to top it off,

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1 Starks' mother chose that time to come up
2 with a story that -- as only a mother's love
3 could do, she indicated to the Court that she
4 was going to reveal for the very first time
5 that she was a victim of sexual assault and
6 that she had forgiven her assailant in that
7 matter. This was the first time that anyone
8 ever heard this. It seemed to be contrived,
9 it seemed to be specifically for sympathy.
10 That point was not lost on Your Honor. She
11 also then went one step farther and presented
12 another story to the court, that she had been
13 involved as a victim of a robbery. Same
14 thing, she forgave her assailants also. It
15 looked like it was disingenuous and it did
16 not have the desired effect. It just
17 backfired horribly and turned the plea sour,
18 quite frankly. Unfortunately I'd not had the
19 opportunity to present with Mr. Francois.

20 I had his mother, who was a school
21 teacher, who did present and address the
22 Court; and his father, who has worked for
23 Delta for a number of years to present.

24 THE COURT: I remember that.

25 MR. BROWN: Very well-spoken and

State of South Carolina v. Stephan Francois

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Hearing of November 11, 2014

Before The Honorable R. Markley Dennis, Jr.

1 articulate people.

2 THE COURT: Extremely.

3 MR. BROWN: As Stephan is, quite
4 frankly.

5 THE COURT: (Affirmative nod).

6 MR. BROWN: Unfortunately I think at
7 that point that the die had been cast. Your
8 Honor had no other choice because all three,
9 they were bound together and they had
10 participated -- they participated in the plea
11 and they had participated in the acts, to a
12 large degree.

13 We were hoping to delineate our
14 participation and lack of culpability in
15 drawing up the plans, to a degree. We are
16 not denying that he participated. He
17 certainly participated. To the degree that
18 others did, no. But at the same time his
19 cooperation was good initially and I think it
20 understood by the Solicitor's Office.

21 Those of us who were close to the case on
22 the defense side, I -- I don't think that
23 we'd ever get the prosecutors to admit this
24 but maybe we expected a little bit of
25 delineation of sentencing because Starks

State of South Carolina v. Stephan Francois**13****Case No. 10-GS-10-4535 et. al.****Hearing of November 11, 2014****Before The Honorable R. Markley Dennis, Jr.**

1 sexually assaulting the young lady during the
2 act, Rice not sexually assaulting her, and
3 then Francoise not being in the house.
4 Nonetheless, we were hoping to present that
5 and that opportunity was just completely lost
6 when the plea "went south", for lack of a
7 better word.

8 So I filed the Motion to reconsider. I
9 had a little bit of conversation with my
10 client in that regard. We've spoken more
11 today than we've spoken in the last couple of
12 years. I didn't think that age was really
13 going to hurt this, quite frankly, because it
14 gives opportunities for victims to move away,
15 it gives opportunities for other people to
16 get in more trouble -- and one of the victims
17 did get in trouble, was arrested in Florida,
18 even before the matter went to court. I just
19 figured that it would not hurt. So we have
20 kinda let this matter just sit.

21 We're here today to ask for some relief,
22 some consideration in regards with where he
23 was with his participation. He is not
24 denying that in any way, shape or form. We'd
25 just like a little bit of consideration for

State of South Carolina v. Stephan Francois

14

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Hearing of November 11, 2014

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1 that.

2 And I think that he would like to address
3 the Court.

4 THE COURT: Certainly.

5 MR. BROWN: Yes, sir.

6 THE COURT: Hold on just one second,
7 Mr. Francois.

8 DEFENDANT: Yes, sir.

9 THE COURT: You have you file? What
10 was the offer? I sentenced them all -- what
11 was the offer for the main -- the main
12 participants?

13 SOLICITOR KIDD: The offer was exactly
14 the same for all three.

15 THE COURT: That's what I thought. I
16 want to be sure of my recollection.
17 Everybody was offered the same deal, a cap of
18 thirty years?

19 SOLICITOR KIDD: They all cooperated
20 with my office, they all proffered and they
21 all ---

22 THE COURT: And the sentence imposed on
23 the others was the same as Mr. Francois?

24 SOLICITOR KIDD: Yes, sir.

25 THE COURT: That was my -- I just

State of South Carolina v. Stephan Francois

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1 wanted to verify that. I wanted to be sure
2 that there wasn't any distinction.

3 SOLICITOR KIDD: The only distinction
4 would be that Miguel Starks pled to an
5 additional charge, which was the sexual
6 assault.

7 THE COURT: But he was still offered
8 the same thing as ---

9 SOLICITOR KIDD: Same thing, (affirma-
10 tive nod). Concurrent sentencing with a cap
11 of thirty.

12 THE COURT: All right. Okay. Mr.
13 Francois, thank you so much, sir. I will be
14 delighted to hear from you, sir.

15 DEFENDANT: Thank you. And thank you
16 so much, Judge, for actually hearing us today
17 too. Peter -- Mr. Brown actually went over
18 all that I wanted to say.

19 THE COURT: Okay.

20 DEFENDANT: The only other thing was
21 that in this time, I've grown. I thank you
22 for being so stern on me because it has
23 actually pushed me hard and to be better.

24 I don't know if anybody is, per se,
25 familiar with what is going on at Lieber

State of South Carolina v. Stephan Francois

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Case No. 10-GS-10-4535 et. al.

Hearing of November 11, 2014

Before The Honorable R. Markley Dennis, Jr.

1 right now but with the faith-based program,
2 and that's something that I am a part of, I
3 am a mentor in that program. I am actually
4 assisting head on GDTA (phonetic). So I am
5 striving to do better and I'd ask that you
6 take that into consideration.

7 I don't have any charges. I would have
8 brought my warden's jacket if I'd known there
9 was going to be a hearing today. I do have a
10 bunch of certificates and everything, and I
11 am actually working on getting my welding
12 certification as well. So I'm attempting to
13 be productive, to stay in the Word and
14 attempt to be productive. Like I said, I
15 have the certificates but I wasn't able to
16 obtain them this morning before I was brought
17 down.

18 Thank you, Judge.

19 THE COURT: Thank you. Mr. Francois,
20 let me assure you of something that hasn't
21 changed. I remember being impressed with
22 you, I remember being impressed with your
23 parents. I remember the thoughts in my head
24 were exactly what Mr. Brown just said. And
25 of thinking as a parent how it had to be

State of South Carolina v. Stephan Francois

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Case No. 10-GS-10-4535 et. al.

Hearing of November 11, 2014

Before The Honorable R. Markley Dennis, Jr.

1 heart breaking for your parents. And I'm not
2 being critical of you or condemning you. You
3 made mistakes for which you've answered.
4 You've been a man and stood up for that. I
5 commend you for that.

6 But as parents we just -- it breaks our
7 hearts to see the mistakes that our children
8 made. A lot of things we made similar
9 mistakes -- not to the degree that this was.
10 But one of things that I -- and I don't know
11 that I shared, so if I did just stop me.

12 It's funny how things that occur in your
13 life that you really don't think are going to
14 have much significance come back, numerous
15 occasions. I think that I had been on the
16 bench four or five months and my son and I --
17 my youngest son. My oldest two children had
18 gone on to school. My youngest son was still
19 in high school, I think he'd started by then.
20 He made a comment. He said, 'Well, if I ever
21 commit a criminal offense, I guess I'll get
22 probation.' I looked at him and I said,
23 "Excuse me?" He said 'I'll get probation.'
24 I said, "To be honest with you, that'd be the
25 last thing I'd give you. You know why?

State of South Carolina v. Stephan Francois

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Case No. 10-GS-10-4535 et al.

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Before The Honorable R. Markley Dennis, Jr.

1 Because I know what you've had, I know what
2 you've received that other people don't have
3 a chance to receive. I'd judge you more
4 harshly. I think that's Biblical, I think it
5 is in Luke: "To whom much is given, much
6 shall be expected." And I think that's -- I
7 don't have any quarrel with that.

8 In this particular case, I think -- and
9 I think the State -- and I agree with Mr.
10 Brown, and I think he has correctly assessed
11 what the Solicitor did. I don't think
12 anybody argues with how horrific this whole
13 incident was for the victims in this case.

14 Quite frankly, the one that committed the
15 sexual assault benefitted from you. He got
16 the break. I mean he is the one that got it
17 down. You helped him with that. I don't
18 know that you wanted that to happen
19 necessarily but that is what happened. He
20 was treated the same. That's not something
21 we as judges -- I know I've tried to do, and
22 that's why I asked that question. When you
23 have multiple defendants and they have
24 basically the same degree of background
25 experiences, I try -- now, I have to factor

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Case No. 10-GS-10-4535 et. al.

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Before The Honorable R. Markley Dennis, Jr.

1 in sometimes that which we've said. I also
2 had an experience when I went to the judicial
3 school in Reno, the Judicial College, a
4 national school, very helpful. But one of
5 the parts -- and I shall never forget this
6 one either. We had a panel discussion on
7 sentencing. On the stage we had about
8 everybody that's in this room, everybody
9 represented -- not these people but people
10 representing Probation & Parole, Solicitors,
11 defense counsel, and then people who'd
12 committed all sorts of crimes.

13 Each person was given about two minutes
14 to make an opening statement. I'll never
15 forget a young man, I think he was from
16 somewhere in Nevada. His statement was,
17 'What'd you want to be when you grow up?' It
18 was a pause and then he said, 'I know.
19 Doctors, lawyers, stockbrokers.' He said,
20 'Do you know what I wanted to be? I wanted
21 to be a drug dealer just like my daddy. He
22 had women, cars and money. That's what I
23 wanted. So you know what I became? A drug
24 dealer when I grew up.'

25 And I thought -- and I am embarrassed to

State of South Carolina v. Stephan Francois

20

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1 say this to you. I was forty-six years old
2 at that time. It was the first time in my
3 life that I suddenly had a conscious thought
4 of, 'Wait a minute, I'm applying a standard
5 to society in the same fashion that I apply
6 it to me.' I didn't have that. He did.
7 'You've got to factor that in, Judge. You
8 can't ignore that. You sure have to factor
9 it in.' I've tried to do that. I can't
10 promise you that I've been perfect about it,
11 but I've sure tried.

12 With all due respect to you, I think that
13 probably everybody in this room would say
14 that it breaks our heart to see somebody with
15 the potential that you have, having been
16 saddled with the mistakes that have occurred,
17 -- the punishment however, and this is where
18 we can talk about -- that seems to be the
19 theme for the week. Yesterday we had a
20 presentation about forgiveness. We weren't
21 talking about sentencing, we were talking
22 about forgiveness. I wanted to say during
23 the whole thing, "Stop, that's not what we
24 are about here." I don't have anything to do
25 with forgiveness. I forgive you right now.

State of South Carolina v. Stephan Francois**21**

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1 As I've told people all the time 'you don't
2 need my forgiveness.' If you have prayed to
3 the person upstairs and you feel that you
4 have been forgiven, that's been wiped away.
5 That doesn't exist any more, for me. But
6 that's not what we deal with. You know that.
7 As I said, to me it reminds me of what Jesus
8 said, "Render to Caesar the things that are
9 Caesar's." And I think that is what this is,
10 this is Caesar's. This is the State. It
11 talks about punishment, it has nothing to do
12 with forgiveness.

13 I think the sentence, with all due
14 respect, sir, given everything that was
15 there, and the fact that everybody was
16 treated basically the same is a fair
17 sentence.

18 Having said that, let me just add this:
19 I'm glad to hear you say that that program --
20 because that's something that I had the
21 occasion to be with a psychiatrist, his wife
22 is a lawyer, I had an occasion to be in a
23 social setting with him -- in fact, it was on
24 the golf course and we had a little time to
25 talk. We talked -- he'd been working in the

State of South Carolina v. Stephan Francois

22

Case No. 10-GS-10-4535 et. al.

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Before The Honorable R. Markley Dennis, Jr.

1 prison system and he was talking about his
2 programs that he wanted to implement to get
3 people to -- and I think some of it was at
4 Lieber. At that time the State told him that
5 he couldn't do that because it wasn't part of
6 the standard curriculum, basically.

7 And I told him, 'I pray that one day we
8 will wake up and understand that we are
9 missing golden opportunities. There are a
10 lot of wonderful people that have made
11 mistakes. We are missing opportunities to
12 provide some nurture and instruction so that
13 they can truly be productive persons.'

14 I commend you and I will tell you -- from
15 what I know about you, you're telling me that
16 you have these. That's all you have to do.
17 I am confident that you do. I commend you
18 for what you've done and for maybe what you
19 can impart to someone else.

20 Kinda of what a bailiff said to me one
21 time when I came off the bench, because I am
22 prone to talk too much, as I am doing right
23 now. He said, 'you sure do preach a lot.'
24 And I said, 'Well, I guess I am guilty of
25 that. But, you know, if it lands on

State of South Carolina v. Stephan Francois

23

Case No. 10-GS-10-4535 et. al.

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Before The Honorable R. Markley Dennis, Jr.

1 somebody's ears and they might change, then I
2 guess everybody else has to just suffer
3 through because it's worth it for that one
4 person.' In my opinion.

5 But I -- I thank you. I will now, Mr.
6 Brown, with Mr. Francois' understanding,
7 dismiss you from any further representation.
8 If you wish to prepare the Order to confirm
9 that, that would be fine.

10 Mr. Francois, I will also issue an Order
11 -- Solicitor, if you would, I would just ask
12 you to prepare an Order denying the Motion
13 for reconsideration of the sentence. We will
14 file that and we'll send that -- could I get
15 your address?

16 DEFENDANT: Yes, sir. 1C 252 Lieber
17 Correctional ---

18 THE COURT: Okay, we have it. We will
19 send that to you, sir.

20 DEFENDANT: Yes, sir.

21 THE COURT: Thank you so much.

22 Pleasure to see you again, sir. Mr. Brown,
23 thank you for doing it on the spur of the
24 moment.

25 MR. BROWN: Yes, sir. I have that

State of South Carolina v. Stephan Francois**24****Case No. 10-GS-10-4535 et. al.****Hearing of November 11, 2014****Before The Honorable R. Markley Dennis, Jr.**

1 Order right now, if I may approach.

2 THE COURT: Yes, sir, (signs Order).

3 (HEARING CONCLUDED)

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State of South Carolina v. Stephan Francois

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Case No. 10-GS-10-4535 et. al.

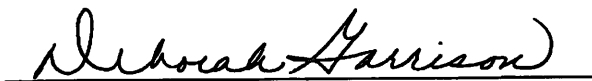
Hearing of November 11, 2014

Before The Honorable R. Markley Dennis, Jr.

STATE OF SOUTH CAROLINA)
) CERTIFICATE
 COUNTY OF GREENVILLE)

I, the undersigned Deborah Garrison,
 Circuit Court Reporter for the 9th Judicial Circuit,
 hereby certify that the foregoing is a complete and
 accurate transcript of the hearing held in the
 within action heard on November 13, 2014 before The
 Honorable R. Markley Dennis, Jr.;

I further certify that I am neither kin
 nor counsel to any of the parties and have no
 interest in the outcome of this action.



Deborah Garrison

Greenville, South Carolina

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2014 NOV 18) AM 8: 48

ESTON
JUL 10 1964
CLERK OF COURT

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Therefore, the Defendant's motion to reconsider is hereby denied.

R. M. Bailey

Presiding Judge

Date:

11/13/14

FORM 5

2015-CP-10-4723

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON)Stephen Francois #345325)

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

v.)

State of South Carolina)

APPLICATION FOR)

POST-CONVICTION RELIEF)

(Evidentiary Hearing Requested))

FILED
2015 AUG 25 AM 11:59
JULIE CLARK, CLERK OF COURT**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 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 Lieber Correction Institution
2. Name and location of Court which imposed sentence Charleston County
3. Name(s) of co-defendant(s) (if any) Miguel D. Starks, Reginald A. Rice
Sasha A. Gaskins, Breanna Y. Bruster
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2012-GS-10-4535; 4540; 4541; 4543; 4545; 4546; 4547;
 - (b) and 4754 (Armed Robbery, Kidnapping, Burglary 1st)
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) March 22, 2011 (30 years)
 - (b) _____

Revised 3/2003

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty **Yes** _____
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No _____
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. **N/A** _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. **N/A** _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. **N/A** _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. **N/A** _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) **no appealable issues** _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) 6th & 14th Amendment violation
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Ineffective Assistance of Counsel; Involuntary
- (b) Guilty Plea; and Due Process violation (Memorandum
- (c) to follow)
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? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. Motion to Reconsider Sentence
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. Charleston County Court of General Sessions
- ii. _____
- iii. _____
- iv. _____
- (c) the disposition thereof:
- i. Denied
- ii. _____
- iii. _____

- iv. _____
- (d) the date of each such disposition:
 - i. **November 11, 2014**
 - ii. _____
 - iii. _____
 - iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
 - i. **N/A**
 - ii. _____
 - iii. _____
 - iv. _____

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

No

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

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

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

- (a) **not the proper forum to address these issues**
- (b) _____
- (c) _____

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

- (a) your arraignment and plea? Yes
- (b) your trial, if any? N/A
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Peter David Brown, Esq., 749 Johnnie Boulevard, Suit
- ii. A, Mt. Pleasant, SC 29464
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Guilty Plea, Sentencing, and Motion to Reconsider
- ii. _____
- iii. _____
19. State clearly the relief you seek in filing this application:
Appointment of Counsel; Evidentiary Hearing; and New Trial
20. Are you now under sentence from any other court that you have not challenged?
No

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

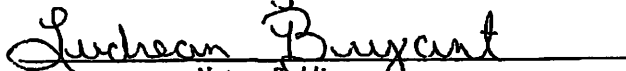
Stephen Francois

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.


Applicant

SWORN or affirmed to and subscribed before me this
13th day of August, 2015.


Notary Public

My Commission Expires: May 26, 2026

STATE OF SOUTH CAROLINA)

VERIFICATION

County of **Dorchester**)

I, **Stephen Francois**, 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.



SWORN to and subscribed before me this 13th
day of August, 2015.

Ludman Bryant (L.S.)
Notary Public

My Commission Expires: May 26, 2020

August 12, 2015

The Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street, Suite 106
Charleston, SC 29401

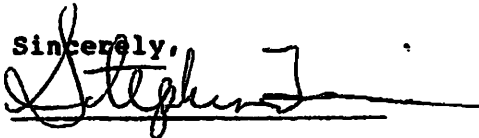
Re: Stephen Francois vs. The State

Dear Clerk:

Enclosed please find for filing an original and one (1) copy of an application for post-conviction relief. I would ask that you file the original, assign it a case number, and return the clock-stamped copy to me for my file.

Thank you in advance for your prompt attention and assistance in this matter. I look forward to hearing from you soon.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stephen Francois", is written over a horizontal line.

Stephen Francois #345325
Lieber Correctional Institution
Post Office Box 205
Ridgeville, SC 29472

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
 NINTH JUDICIAL CIRCUIT

CASE NO.: 2015-CP-10-4723

Stephen Francois, #345325

Plaintiff,

vs.

State of South Carolina

Defendant.)

**MOTION AND ORDER INFORMATION
 FORM AND COVERSHEET**

Plaintiff's Attorney:
 Rodney D. Davis, Esquire, Bar No. _____
 Address:
 4000 Faber Place Dr., Ste 300; Charleston, SC
 29405
 Phone: _____ Fax _____
 E-mail: _____ Other: _____

Defendant's Attorney:
 J. Rutledge Johnson, Bar No. 78871
 Address:
 PO Box 11549 Columbia, SC 29211-1549
 Phone: 803-734-3737 Fax 803-734-4113
 E-mail: _____ Other: _____

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

SECTION I: Hearing Information

Nature of Motion: _____

Estimated Time Needed: _____

Court Reporter Needed: ☐ YES/☐ NO

SECTION II: Motion/Order Type

- ☒ Written motion attached
☐ Form Motion/Order

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

Signature of Attorney for ☐ Plaintiff / ☒ Defendant

June 2, 2016

Date submitted

SECTION III: Motion Fee

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

JUDGE'S SECTION

- ☐ Motion Fee to be paid upon filing of the attached order.
☐ Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

- ☐ MOTION FEE COLLECTED: \$ _____
☐ CONTESTED - AMOUNT DUE: \$ _____

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Stephen Francois, #345325,

2015-CP-10-4723

Applicant,

v.

RETURN

State of South Carolina,

Respondent.

Respondent, making its Return to the application for post-conviction relief (PCR) filed August 25, 2015, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the June 2010 term of the Charleston County Grand Jury for two (2) counts of burglary, 1st degree, three (3) counts of kidnapping, and two (2) counts of armed robbery (2012-GS-10-4535, -4540, -4541, -4543, -4545, -4546, -4547, -4754). The Applicant was represented by Peter David Brown, Esquire. On March 22, 2011, the Applicant pled guilty as indicted. The Honorable R. Markley Dennis, Jr. sentenced Applicant as recommended by the State to incarceration for thirty (30) years for each charge to run concurrently. The Applicant did not appeal his conviction and sentence.

Attached herewith and incorporated herein are the records of the Charleston County Clerk of Court regarding the subject conviction(s), Applicant's records from the South Carolina

Department of Corrections, the application, and the guilty plea transcript. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. "Ineffective Assistance of Counsel"
2. "Involuntary Guilty Plea"
3. "Due Process Violation"

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

III.

For purposes of this Return, Respondent interprets the Applicant's first allegations to be allegations of ineffective assistance of counsel. In a post-conviction relief action, 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.

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 Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The Applicant also alleges his guilty plea was involuntary. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the Applicant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In

determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

The transcript reflects that the guilty plea was knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, [an Applicant's] right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621 (1977). Statements made during a guilty plea should be considered conclusively, unless an [Applicant] presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975) overruled on other grounds by U.S. v. Whitley, 759 F.2d 327 (4th Cir.1985). This Court finds that the Applicant presented no reasons to show that he should be allowed to depart from the truth of the statements he made during his guilty plea hearing.

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

V.

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

V.

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

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held on Applicant's allegations.

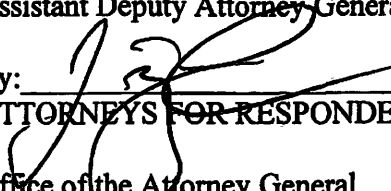
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

JOHANNA C. VALENZUELA
Senior Assistant Deputy Attorney General

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By: 
~~ATTORNEYS FOR RESPONDENT~~

Office of the Attorney General
P.O. Box 11549
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June 2, 2016.

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS

2015-CP-10-4723

STEPHEN FRANCOIS, #345325

Applicant,

vs

AFFIDAVIT OF SERVICE BY MAIL

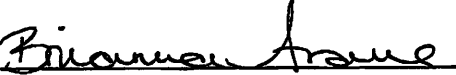
STATE OF SOUTH CAROLINA,

Respondent.

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

Rodney D. Davis, Esquire
Lowcountry Law Office
4000 Faber Place Drive, Suite 300
Charleston, SC 29405

DATED this 2nd day of June, 2016.


Brianna Arnone, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON) 2015-CP-10-04723

STEPHEN FRANCOIS,)

Applicant,)

Transcript of Record

(PCR Hearing)

vs.)

October 5, 2018

STATE OF SOUTH CAROLINA,)

Respondent.)

B E F O R E:

Honorable Michael G. Nettles
Charleston County Courthouse
Charleston, South Carolina

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

Christopher L. Murphy, Esquire
Attorney for Applicant

Megan Harrigan Jameson, Esquire
Attorney for Respondent

Kay H. Richardson
Circuit Court Reporter

I N D E X

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E X H I B I T S

16	<u>No.</u>	<u>ID</u>	<u>EV</u>

17

18 (No exhibits were marked or admitted.)

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1 OCTOBER 5, 2018 - 9:57 A.M.

2 BY THE COURT:

3 MS. JAMESON: May it please the Court?

4 THE COURT: Yes.

5 MS. JAMESON: Your Honor, this is Stephen Francois versus
6 the State of South Carolina, docket number 2015-CP-10-4723.
7 Wherein the June 2010 term, the Charleston County Grand Jury
8 indicted Mr. Francois for two counts of first degree burglary,
9 two counts of armed robbery, three counts of kidnapping, and
10 two counts of possession of a weapon following two separate
11 home invasions and robberies that occurred days apart
12 alongside four codefendants. He was represented by Peter
13 Brown. Solicitor Wilson and Assistant Solicitor Kidd
14 prosecuted these cases.

15 On January 19th, 2011, Mr. Francois and two codefendants
16 appeared before Judge Dennis and pled guilty as indicted
17 pursuant to a recommendation by the state for concurrent
18 sentences not to exceed 30 years. Sentencing was deferred
19 until after the defendants testified at a codefendant's trial.
20 On March 22nd of 2011, Mr. Francois and his two codefendants
21 again appeared before Judge Dennis for sentencing. Following
22 presentation from counsel, Judge Dennis sentenced Mr. Francois
23 to an aggregate 30-year term of imprisonment, the same
24 sentence his two codefendants received.

25 Counsel filed a timely motion to reconsider his sentence

1 on April 1st, 2011. The state filed a written reply to his
2 motion on April 4th. A hearing on this motion was held
3 November 13th, 2014 before Judge Dennis and, following the
4 hearing, Judge Dennis denied the motion and relieved counsel.
5 Mr. Francois, did not file a notice of appeal. He did file
6 this present PCR action on August 25th, 2015, alleging general
7 allegations of ineffective assistance of counsel in an
8 involuntary guilty plea without any specific allegations or
9 facts to support those allegations. Respondent served its
10 return on June 2nd, 2016 requesting an evidentiary hearing.
11 He's represented by Chris Murphy, and Mr. Francois has not
12 amended his application or provided any more specific
13 allegations to the state. So, I'd ask that Mr. Murphy put
14 specific allegations on the record at this time.

15 THE COURT: Mr. Murphy, you're recognized.

16 MR. MURPHY: Thank you, Your Honor.

17 THE COURT: If you could set forth a concise list of the
18 allegations that he's put forth that he wants to proceed
19 forward with here today.

20 MR. MURPHY: That's correct, Your Honor. He's proceeding
21 today -- at this time, I would like to bring it to the Court's
22 attention first, Mr. Francois wants me to ask for a
23 continuance for this case because he does not believe he is
24 prepared. I, on the other hand, am prepared to go forward
25 today. He says that he has talked to me, that not that he

1 feels comfortable or has not been in contact with me enough.
2 He's been like at Lieber. As I understand it, he's been in
3 lockdown. I have sent him, I just counted up, eight letters
4 throughout my representation. I have his guilty plea, his
5 sentencing plea, his motion for reconsideration, transcripts
6 here. I spoke with his counsel, counsel for the codefendants,
7 and I am prepared to go. He does not want to go forward
8 today. So, I don't know if the Court wants to address that
9 issue first.

10 THE COURT: All right. Mr. Francois?

11 MR. FRANCOIS: Yes, sir.

12 THE COURT: Please stand and raise your hand.

13 MR. FRANCOIS: Yes, sir.

14 STEPHEN HORACE FRANCOIS, HAVING
15 BEEN DULY SWORN TESTIFIES AS FOLLOWS:

16 THE COURT: Are you under the influence of any drugs or
17 alcohol in here today?

18 MR. FRANCOIS: No, sir.

19 THE COURT: Are you experiencing any kind of physical or
20 mental problem that could prevent you from understanding
21 what's going on in here today?

22 MR. FRANCOIS: No, sir.

23 THE COURT: Your lawyer indicates that he -- your lawyer
24 is a very fine lawyer, he's done a number of these before. He
25 feels as though he's adequately prepared to move forward on

1 this matter and I'll be glad to hear from you. What do you
2 have to say about that?

3 MR. FRANCOIS: Your Honor, I understand what Mr. Murphy
4 is saying, but we just received the reconsideration transcript
5 less than 20 days ago. I'm at Lieber. I've been attempting
6 to get into the law library. I've been attempting to get in
7 contact with Mr. Murphy. Being at Lieber right now, we've
8 been in lockdown for the past six months. I haven't been able
9 to talk to him. The last conversation I had with Mr. Murphy,
10 the last correspondence I personally had with Mr. Murphy was
11 when we was in court in May. I have not talked to him and we
12 have not spoken about anything that he wants to go through
13 with the PCR. He hasn't heard the things that I want to
14 address at the PCR. It is not a good time because we haven't
15 had any conversation. We haven't had any kind of
16 communication.

17 THE COURT: All right. Given the nature of the
18 proceedings that bring us here today and what your lawyer has
19 done in preparation, I think we're in a position to move
20 forward. I'm gonna ask you to cooperate with your lawyer.
21 And if you could delineate the areas that you want to focus
22 on, Mr. Murphy?

23 MR. MURPHY: Yes, Your Honor. We have alleged general
24 ineffective assistance of counsel. Specifically, there's been
25 an involuntary guilty plea where he feels he was coerced or --

1 or not provided all information before pleading guilty. He
2 has also alleged a violation of due process, which I don't
3 believe I found any violations of due process, but this is his
4 one day in court, so if we may, I would like to ask him
5 questions about specifically what he alleges with regard to
6 that.

7 THE COURT: Okay. So, we're just talking about the
8 voluntariness of the plea and he has raised the issue of due
9 process?

10 MR. MURPHY: That's correct.

11 THE COURT: All right. You may call your first witness.

12 MR. MURPHY: We would call Mr. Stephen Francois.

13 THE COURT: Mr. Francois, I'm going to remind you that
14 you're under oath and ask that you come forward and have a
15 seat in the witness stand.

16 MR. FRANCOIS: Yes, sir.

17 THE COURT: Mr. Francois, I remind you that you're still
18 under oath. Just have a seat in that witness chair.

19 MR. FRANCOIS: Yes, sir.

20 THE COURT: I'd ask you, if you could, pull up real close
21 to that microphone, speak loudly, clearly and slowly in order
22 that we can hear everything that you have to say, and let's
23 start with your full name and spell that last one.

24 MR. FRANCOIS: Yes, sir. Stephen Horace Francois, S-T-E-
25 P-H-E-N, Horace, H-O-R-A-C-E, Francois, F-R-A-N-C-O-I-S.

1 THE COURT: Very good. Thank you.

2 Mr. Murphy?

3 MR. MURPHY: Thank you, Your Honor, may it please the
4 Court?

5 DIRECT EXAMINATION OF STEPHEN FRANCOIS BY MR. MURPHY:

6 Q: Mr. Francois, this is your hearing for your convictions in
7 Charleston County; you understand that?

8 A: Yes, sir, I do.

9 Q: And what you're -- we have to allege is that your attorney
10 committed an error, number one, and that error prejudiced you;
11 you understand that?

12 A: Yes, sir.

13 Q: And you were represented in these charges by Mr. Peter
14 Brown, correct?

15 A: Yes, sir; that's correct.

16 Q: And was Mr. Brown retained or appointed?

17 A: He was retained.

18 Q: Okay. So, do you recall how much you paid him in this
19 case?

20 A: I believe my parents paid Mr. Brown 37, \$35,000.

21 Q: All right. Now, was there any question or any disputes
22 with Mr. Brown about the payments in this case?

23 A: There was a dispute when the reconsideration came about,
24 from what I understand, but he never communicated with me
25 directly.

1 Q: All right.

2 A: Everything -- everything, from my understanding, was taken
3 care of all the way up until when we went to the plea hearing,
4 sentencing hearing, and then of course when he filed for the
5 motion for reconsideration because of the situation of the
6 case.

7 Q: All right. Now, how long and I'm gonna just try and get a
8 little bit of a timeline. When you were arrested for these
9 crimes, you started cooperating with the police; is that
10 correct?

11 A: Correct.

12 Q: Okay. And you were giving statements or telling the
13 police what was going on?

14 A: Correct.

15 Q: And that was before you had an attorney?

16 A: Yes, sir.

17 Q: Okay. And then at that point, was Pete -- did you get
18 appointed a public defender at all or did you ---

19 A: No, sir. We got arrested on a Friday night; Saturday
20 morning, I had Pete.

21 Q: All right. Now, how long was Mr. Brown representing you
22 before you did your actual plea before Judge Dennis?

23 A: He's been with me since day one, since the day after my
24 arrest.

25 Q: How many times did you meet with Mr. Brown during the

1 course of that representation?

2 A: In the beginning, Mr. Brown would come see me every week.
3 Every week he would come at least some, some weeks it was
4 twice a week. He would come, he would let me know what was
5 going on, he would keep me updated, he would keep my father
6 updated, he would keep my mother updated. My parents are
7 divorced. At the time they was just separated. My dad is in
8 Atlanta -- lives in Atlanta; my mom lives New Orleans. So, it
9 was just a back and forth, but Pete used to come, like I said,
10 every week.

11 Q: And do you have any complaints about Mr. Brown not
12 visiting you enough or not communicating with you?

13 A: In the end, right before -- right before pleaing, right
14 before we went to plea, Mr. Brown had started to say, you
15 know, everything was working out with the plea, everything was
16 gonna be fine with the plea. Then he stopped coming to see
17 me. It was a period of about a month and a half, two months
18 where he did not come see me.

19 Q: All right. Let's back up a little bit and we're gonna get
20 to where you are. So, in the beginning, he was seeing you a
21 lot, correct?

22 A: Yes, sir.

23 Q: And what were you discussing when he would come to see
24 you?

25 A: I mean, he would just come check on me, he would discuss

1 the elements of the case, he would discuss how he's attempting
2 to see what Starks and Rice were gonna do, so we can go ahead
3 and just go forward with the plea and get this behind us.

4 Q: All right. Did you talk to him about cooperating with the
5 state at all?

6 A: No, sir, that was already -- everybody had came forward by
7 then.

8 Q: All right. So, you already cooperated?

9 A: Yes, sir.

10 Q: All right. And did you talk about the elements of the
11 crimes that you were charged with?

12 A: Not with -- not with Mr. Brown. Actually, that
13 conversation came up with Ms. Wilson. Ms. Wilson and

14 Q: When you say Ms. Wilson, are you talking about the
15 Solicitor, Scarlet Wilson?

16 A: Yes, sir, I am.

17 Q: All right. So, she was talking -- what circumstances was
18 she talking to you about?

19 A: Ms. Wilson did not want to go to trial. She -- she said
20 it would be a spectacle and everything else, so she did not
21 want to go to trial. She wanted us to plea out.

22 Q: Okay.

23 A: So, because Pete and Ms. Wilson supposedly worked together
24 or whatnot before, Pete said he had a deal worked out with Ms.
25 Wilson, an open plea if I can get all the rest of the

1 codefendants to agree to an open plea. Mr. Sparks, at the
2 time, was still talking about wanting a trial. Ms. Gaskins
3 was going to trial. She was stuck on going to trial. Ms.
4 Bruster and Mr. Rice agreed to plea.

5 Q: Okay.

6 A: So ---

7 Q: And you eventually agreed to cooperate and you cooperated
8 at the beginning, but you also -- was there a trial where you
9 -- where you testified?

10 A: The trial, Sasha Gaskins' trial, they attempted to make
11 Sasha the ring leader. It wasn't like that.

12 Q: Okay.

13 A: In trial it was exposed. All three of us, me, Miguel and
14 Mr. Rice went to trial and we claimed ownership of what
15 actually happened. She was still convicted. Ms. Wilson said
16 it was because of everything that went down and that it was
17 going to be leniency in sentencing. With leniency in
18 sentencing, she said it was worked out, that we didn't -- she
19 met with all of us. She said when it was -- it came about or
20 were you promised anything, your promise was just open plea
21 and Mr. Starks would be getting -- be the reciprocate of the
22 highest of that open plea, 15 to 30, because Mr. Starks had
23 the sexual misconduct.

24 So, in the case, my father and I -- we were both seeing
25 Pete at the same time then. He would come down from Atlanta

1 and we would meet with Pete at that time. From our
2 understanding was we were going to get -- we're going to get
3 you on the lower end or the lower half of the 30, which would
4 be 15 -- open plea to 15 to 30, either between 15 and 22
5 years. That was the agreement. He said that that didn't need
6 to be said in open court because it was already established in
7 chambers.

8 Q: All right. Let me ask this, if I could try to just cut to
9 the chase and we'll get back to the timeline, but basically
10 what you're saying is, at sentencing, you did not think you
11 were going to get 30 years; is that correct?

12 A: No, sir, I wasn't.

13 Q: Your understanding was you would get something less than
14 30 years?

15 A: Yes, sir.

16 Q: And why do you have that understanding?

17 A: Because of Ms. Wilson and because of Mr. Brown.

18 Q: All right. And what did Mr. Brown tell you you were going
19 to receive or what you could expect to receive?

20 A: Mr. Brown, you can expect to receive no more than 22
21 years. He said, expect -- don't expect 15. He said we won't
22 be on the top end of it; we won't be at the 30 range, we want
23 be at the 25 to 30 range because we didn't have the sexual
24 misconduct. Mr. Starks was pleaing to the sexual misconduct
25 and Mr. Starks had took ownership of being the ring leader of

1 the whole situation as it was.

2 Q: All right. So, what you're saying of Mr. Starks is he was
3 more culpable or he did worse things than you?

4 A: Correct. That's -- it was -- if we go back to the
5 sentencing transcript ---

6 Q: Right, and I -- no one is disputing what Mr. Starks was
7 charged with, okay, and it's on the record that you were the
8 least culpable of the three folks. Okay?

9 A: Correct.

10 Q: And you addressed those issues with Judge Dennis or Judge
11 Dennis addressed those issues with you; is that correct?

12 A: I was about to say, Judge Dennis actually addressed those
13 issues with me. Judge Dennis said, in the sentencing
14 transcript, Judge Dennis made a statement saying, he doesn't
15 expect me to understand what's going on with the fraternity of
16 the Citadel, he doesn't expect me to understand the
17 brotherhood that the Citadel had, and how Mr. Starks and Mr.
18 Rice violated that brotherhood, but he does expect me to
19 understand that I knew better because I was supposed to be the
20 smartest.

21 Q: Right.

22 A: Just because my GPA was smarter than Mr. Starks' or Mr.
23 Rice's, doesn't mean necessarily that I'm responsible for
24 their actions. Again, it showed -- it was shown, and Ms.
25 Wilson saw, in the text messages that me and Mr. Starks had a

1 debate about the whole situation and that's one of the reasons
2 she said, you are least culpable and this is one of the
3 reasons why you'll be on the 15 to 22 and because we can't
4 just let you go, and I understood that with studying the law.
5 What I didn't understand is why would you promise me -- make
6 this agreement with my family, make this agreement with me,
7 sell me on this dream, and then when it happens, you say, oh
8 well.

9 Q: All right. Let me ask you this and let's go back. Prior
10 to your plea, did you have any discussions with Mr. Brown
11 about going to trial?

12 A: No, sir.

13 Q: Okay. So, trial was never an option in your case?

14 A: No, sir.

15 Q: All right.

16 A: And my father inquired about trial and Mr. Brown said,
17 well, because Sparks and Rice are cooperating, because Bruster
18 is cooperating, we understand that you're the least culpable,
19 but at the same time, hands of one hands of all, hands of one
20 hands of all, hands of one hands of all. But then, when
21 sentencing and everything came down to play, hands of one
22 hands of all went out the door because Sasha was on the lessor
23 end and she went to trial. Bre was on the lessor end. She
24 plead -- she took a plea as well.

25 Q: All right. Now, we know that your only discussions or

1 really the posture of your plan was to plead guilty from the
2 very beginning of this case?

3 A: Correct.

4 Q: You then went to a sentencing in January of 2011 -- I'm
5 sorry. I'm sorry, a guilty plea in January 19th of 2011
6 before Judge Dennis, correct?

7 A: Correct, yes, sir.

8 Q: At that procedure, you only pled guilty, correct?

9 A: Correct.

10 Q: And there was no sentencing at that time?

11 A: No, sir, there wasn't.

12 Q: And did you understand why there was no sentencing at that
13 time?

14 A: Yes, the reason why we didn't have sentencing at that time
15 was because Sasha was still planning on going to trial, Bre
16 was up in the air on going to trial, and Mr. Sparks still had
17 not pled the no-contest plea to the sexual misconduct and that
18 was a big -- that was a big thing that was out there and Ms.
19 Wilson was extremely disappointed about it. She told us, if
20 we went ahead and took this plea, the plea was gonna be 15 to
21 30, and it would be -- it would be staggered. I would be on
22 the lower end, Ms. Rice would be in the middle, and Mr. Starks
23 would be on the top because of the ---

24 Q: All right. Let me ask you this. Was any of this in
25 writing to you?

1 A: No, sir, it was not. The closest thing I had to writing
2 was, in Mr. Brown's notes, he would write like -- he would
3 always give a charge. This is what we're looking at and he'll
4 have his legal pad and he'll write 15, and then he'll write a
5 line above the 15 and it'd be like 22, this is where we're
6 going to be right in this area. I talked to Judge Dennis,
7 I've talked to Ms. Wilson. The solicitor's office understands
8 what's going on. He was the first, this down to third. This
9 is -- this is the plan, but when we go to plea, we need to
10 make sure we just keep it as short and sweet as possible
11 because -- because Judge Dennis has a short fuse. We don't
12 want nobody to go in the courtroom and upset Judge Dennis and
13 he gives everybody the max. And my father and -- my father
14 and I, we were both like, well why don't we sever the
15 sentencing. I'm studying law, so I asked, why don't we sever
16 the sentencing; why do I have to go ---

17 Q: We're not at the sentencing yet; we're just at the guilty
18 plea?

19 A: Yes, sir.

20 Q: Okay. So, at the guilty plea, was the -- did you have any
21 understanding of what the sentencing would be at that time?

22 A: Fifteen to 30.

23 Q: And that's based on Mr. Brown?

24 A: That was based on Ms. Wilson. Ms. Wilson actually brought
25 us our pleas. She came to us, she discussed it with us, she

1 let it be known, this is what is on the table and if you don't
2 take it, it's gonna be a life sentence.

3 Q: And was Mr. Brown present during that meeting?

4 A: Yes, sir, he was.

5 Q: Now, and were the lawyers present for the other defendants
6 at that point?

7 A: Yes, sir.

8 Q: Okay. Now, when you pled guilty, your testimony is you
9 thought you were going to get in the 15 to 22 range; is that
10 correct?

11 A: Correct.

12 Q: All right. And did you explain or did Mr. Brown explain
13 to you the difference between a recommendation versus a
14 negotiated plea or a negotiated sentence?

15 A: No, sir, he didn't. I, I, I questioned why can't we just
16 get a set number, but he told me the reason why we can't get a
17 set number is because we're going to plea altogether, and then
18 that's when I came up with, okay, why we can't go separate.
19 Why do I have to go with Mr. Starks, why do I have to go with
20 Mr. Rice and they have this other thing going on? Because at
21 the time, they still didn't know if it was Starks or Rice who
22 did the sexual misconduct. They knew it wasn't me, they knew
23 it wasn't Bre, they knew it wasn't Sasha, because we weren't
24 even in the house.

25 Q: Okay.

1 A: We never crossed that threshold.

2 Q: And you went over those facts with Mr. Brown and I assume
3 he had spoke with the solicitor's office about them as well?

4 A: Correct. We actually spoke ---

5 Q: Now, you did, after the guilty plea ---

6 A: Huh-huh, (affirmative response).

7 Q: --- the Judge accepted your guilty plea, Judge Dennis,
8 correct?

9 A: Correct.

10 Q: And did you have any problems with Judge Dennis at that
11 point?

12 A: Yes, sir, I did. Judge Dennis, during that -- during that
13 plea agreement, Judge Dennis made a bunch of statements where
14 he did not want to take our case. In the sentencing
15 transcript, you'll see that Judge Dennis actually spoke and
16 said, I prayed to God that I didn't have to take this case. I
17 prayed that I didn't have to -- have to go forward on this
18 matter. I hoped another Judge would get this ---

19 MS. JAMESON: Objection. Your Honor, mischaracterization
20 of record and I believe the record speaks for itself on this.

21 THE COURT: All right. I'll -- the record is -- I have
22 the record, I can read that, but I'm gonna allow him to
23 testify. This is his day in court. Go ahead.

24 A: Judge Dennis also said that he -- he did not want to take
25 the case, he did not want to -- he prayed that he didn't have

1 to take the case. He felt like this was just gonna be a tough
2 case, a political case and -- for the area. And then he
3 started on this Citadel thing. That was the first time he
4 started on the Citadel thing. But again, I'm not a Citadel
5 graduate. I was never a Citadel Cadet. That had nothing to
6 do with me.

7 Q: Now, after the Judge accepted your plea, did you have
8 additional discussions with Mr. Brown about your case?

9 A: Yes, sir.

10 Q: Okay. And how many times did you meet with him about your
11 case after that?

12 A: After, after the initial plea, I met with Mr. Brown, one,
13 two other times. Two, maybe two, and I'm pushing it with two.

14 Q: All right. And what did you discuss at those meetings?

15 A: At that meeting, that was when Ms. Wilson wanted us to go
16 ahead and get prepared for Sasha's trial because Sasha was
17 going forward with trial. Mr. Starks had took the ownership
18 of the sexual misconduct. So, we didn't have to worry about
19 the sexual misconduct with Mr. Starks anymore, but they would
20 get me, Mr. Starks, and Mr. Rice prepped for Sasha's trial.

21 That was one time, one, maybe two times. They just wanted to
22 know the truth about what was going on with Sasha. They tried
23 that, that Culver Kidd, the solicitor, Culver Kidd, actually
24 attempted to say that Sasha was the ring leader and we
25 rectified that, that she wasn't.

1 Q: So, you cooperated at Sasha's trial?

2 A: Yes, sir.

3 Q: Okay. Now, and those meetings with Mr. Brown were to try
4 to get you ready for that testimony, right?

5 A: Actually, the meetings -- we weren't -- it wasn't me and
6 Mr. Brown really, it was more so Ms. Wilson and Culver Kidd
7 because Mr. Brown ---

8 Q: Okay. I'm sorry, you're meeting with the state ---

9 A: Yes, sir.

10 Q: --- and their investigators to get prepared for trial?

11 A: Yes, sir.

12 Q: Okay. Now, you then eventually went to a sentencing
13 before Judge Dennis?

14 A: Correct.

15 Q: All right. And at that sentencing, there was also other
16 folks that were sentenced with you at the same time, correct?

17 A: Correct.

18 Q: And, and that was Mr. Starks?

19 A: Mr. Starks and Mr. Rice.

20 Q: And Mr. Rice. All right. Now, at the sentencing, the
21 Judge explained to you that there was a 30-year cap, do you --
22 that was the agreement, correct?

23 A: Yes, sir, it was.

24 Q: And was that your agreement?

25 A: Yes, it was. Again, like Mr. Brown explained it to me and

1 my family, he said the only reason that we're going into the
2 open plea with a 30-year cap, 15 to 30, is because they only
3 want to do one sentencing hearing for, for the sake of the
4 families, for the victims' families, they want to one
5 sentencing hearing because of the sake of the victims'
6 families, not having to bring them through this whole
7 situation all over again. And my family's issue was, okay, we
8 understand what's going on, but they still have to go through
9 a trial, they still have to go through another sentencing with
10 Ms. Bruster, but yet, we're gonna do this sentencing with the
11 guy that had raped this lady, that literally lied and raped
12 this lady, and they weren't happy with it, but Mr. Brown said
13 he'd put in for a severance of sentencing, but there's no
14 record of it.

15 Q: All right. Now, you then got a chance, Mr. -- Judge
16 Dennis would've asked you certain things about before the
17 sentencing; do you recall that? He asked you questions about
18 the cap of 30 years and what that actually meant?

19 A: Vaguely, yes, I do.

20 Q: All right. And he explained that he didn't have to follow
21 that cap of 30 years?

22 A: Yes, he did. And when he said that, I did not answer
23 immediately. I leaned over and I asked Pete, I said, Mr.
24 Brown, are you sure we need to go forward with this because
25 I've already expressed these issues. He said, I got you;

1 we've talked in chambers, you've done everything they asked
2 you to do, Ms. Wilson has already talked to him, the
3 recommendation is there.

4 Q: All right. So, you still, at that point, believed you
5 were in the range -- going to receive a 15 to 22-year
6 sentence?

7 A: Correct.

8 Q: Now, did the Judge give you a chance to say anything at
9 sentencing?

10 A: Yes, I did. Yes, I did.

11 Q: All right. And did you tell him at all about the 15 to 20
12 year?

13 A: No, sir, because -- no, sir, I was advised by Ms. Wilson
14 and Mr. Brown not to say anything that it was already
15 understood and worked out. We do not want to push Judge
16 Dennis' feathers or buttons. We just want to make it as
17 smooth as possible, as quick as possible. But, during the
18 sentencing -- I mean -- yes, during the sentencing hearing, it
19 was a bunch of miscellaneous things that occurred. If you
20 check the transcript, Ms. Starks -- Mrs. Starks, Miguel Starks
21 mother, she came out with a lavish story on she was -- she was
22 a victim of rape and she was a victim and she understands
23 where the lady is coming from. And in the midst of all of
24 that, I leaned over and asked Pete, can't we object to this,
25 can't we stop this, because I saw how the atmosphere in the

1 courtroom changed. It did and everybody afterwards was
2 saying, well, is he serious, is this true. And I can't say it
3 was true; I can't say it was not true, but I know it changed
4 the demeanor of the courtroom.

5 Q: And what you're basically saying is, the testimony with
6 regard to Mr. Starks poisoned the waters as to you?

7 A: Correct.

8 Q: All right. Now, you eventually got sentenced to 30 years
9 by Judge Dennis that day?

10 A: Correct.

11 Q: And did you have discussions with Mr. Brown after that
12 sentence?

13 A: Yes, immediately after the sentence, we went into the
14 conference room in the back and he told me he didn't believe
15 that that had just happened but he has -- he has another plan.
16 He said, do not panic. He said, I'm gonna go ahead and file
17 your reconsideration. We're gonna file for reconsideration
18 and then you're gonna get in front of Judge Dennis by
19 yourself. And we're getting you in front of Judge Dennis by
20 yourself, we're gonna get what we were supposed to get in the
21 first place. He said, I'm gonna talk to Scarlet Wilson, I'm
22 gonna be in touch, he said, I got you, I got you. He kept
23 saying he had me. I believed him.

24 Q: All right.

25 A: I'm not gonna tell a bit of lie; I believed him until

1 probably about eight months until me being in SCDC, the
2 letters stopped, he stopped answering the phone, he don't come
3 see me, he never came to see me at SCDC.

4 Q: Do you have any letters or any written statements from Mr.
5 Brown saying that he's obtained a 15 to 22-year sentence for
6 you or that would be what you're going to receive?

7 A: No. Actually, the correspondence that me and Mr. Brown
8 had after was okay, I'm still working on it. I'm still
9 working on Judge Dennis. Judge Dennis is really upset about
10 the whole situation, but this is my trial strategy, this is my
11 new trial strategy. Let's wait until Judge Dennis retires.
12 And I was like, Judge Dennis is not that old, Brown, like
13 Judge's can stay on the seat as long as they live and as long
14 as he's able to function. I said, Mr. Brown, I'm really bad,
15 can you please come see me. Oh, well, I'm busy. I have trial
16 coming up and it started being excuses. So, I ---

17 Q: Go on.

18 A: Two years had went by and I went ahead and reported Mr.
19 Brown. I was advised to report Mr. Brown to lawyers'
20 disciplinary. I did the letter and everything and followed
21 all procedure. I got a letter back from lawyer's disciplinary
22 probably about a month after I sent it that said that there
23 was gonna be sanctions on Mr. Brown. It was disclosed -- it
24 was not gonna be disclosed to me, but there was a
25 recommendation, a reprimand on Mr. Brown's record.

1 Q: Well, let's -- we don't need to get into that particulars,
2 but you did have a motion to reconsider before Judge Dennis,
3 correct?

4 A: Yes, sir, I did.

5 Q: And that would've been on November 13th of 2014?

6 A: Actually, no, that was not the reconsideration hearing.
7 Well, that's not what we were told was gonna be the
8 reconsideration hearing. That was supposed to be a removal of
9 counsel hearing.

10 Q: Okay. And you did address the removal of counsel at that
11 hearing?

12 A: Correct. That was Mr. Brown.

13 Q: And who made the motion to relieve Mr. Brown?

14 A: Actually, the motion actually came from Mr. Brown. Mr.
15 Brown wanted to relieve himself because he said, and I quote,
16 my client has lost faith in me. So, if my client doesn't have
17 any faith in me, I cannot adequately represent him. Judge
18 Dennis said, well, Mr. Brown, this reconsideration hearing, I
19 see we have a pending reconsideration, so we're gonna go
20 forward with this reconsideration hearing today because it's
21 three years -- it's three and a half years in the works. And
22 Mr. Brown said, well, Judge Dennis, I'm not prepared for this
23 today. He said, I'm not prepared for this today, I'm going to
24 tell you my client doesn't have no faith in me. So, how can
25 we go forward with this and I don't have the witnesses, his

1 father is not here, his parents are not here, his family is
2 not here today, his advocates are not here. We have people
3 that wanted to come speak up for him that didn't make it to
4 the sentencing hearing because we thought we were gonna get
5 another hearing. Mr. Brown actually, in that point in time, I
6 saw Mr. Brown actually back to the Mr. Brown that I initially
7 hired, because he knew like I knew that we hadn't had the
8 correspondence, we weren't on one accord, and it wasn't time.
9 We had people that wanted to come and speak for the
10 reconsideration hearing, but Judge Dennis made us go forward
11 with the reconsideration hearing because it was a outstanding
12 motion.

13 Q: Now, he did eventually argue the motion to reconsider
14 before Judge Dennis?

15 A: That same day, yes, sir.

16 Q: All right. And ultimately, he denied the motion to
17 reconsider?

18 A: Yes, sir. Judge Dennis' exact words was that he felt like
19 I should get the least, but it wasn't gonna be in his
20 courtroom. He said that he understands and respects that the
21 good things that I had going on at Lieber at the time,
22 teaching the classes in the faith-based dorm, the being a
23 mentor, teaching educational classes, but the relief wasn't
24 gonna come from his courtroom.

25 Q: All right. Now, he ruled from the bench and I believe he

1 denied the motion from the bench?

2 A: Yes, sir.

3 Q: You knew immediately that ---

4 A: My reconsideration was denied and that Pete was removed as
5 counsel.

6 Q: All right. So, if he was removed from counsel at that
7 point, he was off the case?

8 A: Correct.

9 Q: All right. And at that point, you did not have an
10 attorney, did you?

11 A: No, sir, I didn't.

12 Q: All right. Did you ever get appointed an attorney?

13 A: Yes, sir. I went through a series of attorneys actually.
14 I had -- I can't even remember all of the attorneys' names.
15 We kept running into an issue of actual conflicts of interest,
16 where either the attorney had represented one of my
17 codefendants, the attorney had a personal tie to the Citadel,
18 or the attorney had a tie to my victim.

19 Q: All right. So, you -- but eventually you did get another
20 attorney to represent you?

21 A: Correct, you.

22 Q: But we're talking about Mr. Brown during the, the bulk of
23 this case, which would've been the plea, the sentencing, and
24 the motion for reconsideration?

25 A: Yes, sir.

1 Q: Now, you've alleged an involuntary plea, correct?

2 A: Yes, sir.

3 Q: And could you explain exactly why your plea was
4 involuntary?

5 A: Yes, my plea is involuntary because I was led to believe
6 one thing and led to believe -- myself and my family was led
7 to believe that Mr. Brown had everything handled in chambers
8 as he would like to say. He always said, it was handled in
9 chambers, I talked to Judge Dennis in chambers. Me and Ms.
10 Wilson have already discussed these things, it's taken care
11 of, we don't have to worry about it. I have you; I got you.

12 Q: Let me ask you this, Did you have any understanding that
13 you would receive a 30-year sentence during this whole
14 procedure, this whole timeline?

15 A: No, sir. Because like I explained to Mr. Brown at one
16 point in time, if we're gonna get a 30-year sentence, if we're
17 gonna get 30, we might as well go to trial because clearly in
18 trial it would show that I'm not as culpable as the man who
19 committed the rape, the man who planned the whole robbery, the
20 man who violated his coach and his teammates.

21 Q: All right. And if you're -- and if I've heard what you're
22 saying, you're saying if you -- if Mr. Brown had told you,
23 you're probably going to get a 30-year sentence or you could
24 get a 30-year sentence, you would not have gone forward with
25 the plea; is that right?

1 A: No, sir, I would not have.

2 Q: All right. Now, you've also alleged a violation of due
3 process?

4 A: Correct.

5 Q: And could you tell the Court, what are you talking about
6 in terms of a violation of due process?

7 A: The due process with the reconsideration, the
8 reconsideration, I -- it would've been -- I wanted -- I had
9 people that wanted to testify and to come in as character
10 witnesses. I had, you know, family members that wanted to
11 testify as character witnesses, but didn't get a chance to.
12 They weren't given their chance to speak up like Mr. Starks'
13 family was. My mom and -- my mother and my father did, but we
14 had other family that wanted to speak up, but the courtroom
15 was so packed that they didn't let everybody in. I had
16 mentors and I had frat brothers that actually wanted to come
17 speak but they didn't get a chance to because they couldn't
18 come in the courtroom. And Mr. Brown said, you know, he
19 understood what we're -- where my family and my support cast
20 was coming from because all of my support cast is out of
21 state.

22 Q: Now, you've also made a general claim of ineffective
23 assistance of counsel. We've talked about the involuntary
24 plea and what that really comes down to is a, a breakdown in
25 communication between the two of you, correct?

1 A: Correct.

2 Q: And we talked about this due process claim that you didn't
3 know that you were going to be going forward with the motion
4 to reconsider?

5 A: Correct.

6 Q: And that pretty much falls onto a breakdown in
7 communication as well.

8 A: Okay.

9 Q: Is there any other errors that you claim Mr. Brown did
10 other than failure to properly communicate with you about this
11 case?

12 A: Not just failure to communicate with me, but failure to
13 communicate with my -- with my family, failure to uphold his
14 end. Like I said, Mr. Brown stopped all communication. With
15 stopping communications, how can you have a client, how can
16 you have somebody -- you're working for somebody, but the
17 person that you're working for doesn't have any confidence in
18 you. If I don't have any confidence in you, if I don't trust
19 you to handle my matters and my affairs, how can you
20 adequately handle my affairs?

21 Q: And the -- and the point of which you lost confidence in
22 him would've been after the sentencing plea or before the
23 motion to reconsider?

24 A: Yes. Actually, no, no. I started losing confidence in
25 Mr. Brown when he wouldn't get the sentencing severed. That's

1 when I knew something wasn't right.

2 Q: All right. And you're talking about you wanted to have
3 the sentence, your sentence, done separately from the
4 codefendants?

5 A: Correct.

6 Q: And do you know if Mr. Brown attempted to do that or not?

7 A: He said he did. I don't know for a fact because there's
8 no record of it.

9 Q: Now, we talked in kind of general terms of ineffective
10 assistance, breakdown in communication. Specifically, you
11 were led to believe, you thought you would get a sentence of
12 15 to 22 years?

13 A: Correct.

14 Q: Is there at any point that you had any understanding that
15 the sentence would not be 15 to 22 years?

16 A: Not until we got sentenced.

17 Q: And do you have anything in writing, a letter or anything
18 where Mr. Brown says your sentence is going to be this range?

19 A: No, sir, I do not. Like I said, he had -- when I asked
20 for my whole legal file, I asked for his notes and everything
21 as well because Mr. Brown was very detailed. He kept a bunch
22 of notes. Every time he would come see me, he would have his
23 notes, but when he sent me his legal file, his notes was not
24 there.

25 Q: Okay. Did you ever write him and say thanks for getting

1 me this 15 to 22-year sentence?

2 A: Most of the communication that me and Mr. Brown had was
3 over the phone.

4 Q: All right. So, there wouldn't be anything in writing, no
5 -- everything would be orally to you ---

6 A: Yes, sir.

7 Q: --- phone or in person?

8 A: Yes, sir.

9 Q: And do you allege any other errors against -- that he
10 committed other than what we've talked about right now?

11 A: Outside of the -- like I said before, you know, we -- me
12 and Mr. Brown both had a discussion about Judge Dennis and our
13 disdain for Judge Dennis and the things that was going on at
14 that time. And at the time, I didn't know that a judge should
15 recuse himself. I knew that the things that were being said,
16 it wasn't right, and I discussed it with Mr. Brown and Mr.
17 Brown said, well, we play golf together, well, we've been in
18 chambers, we've -- me and Ms. Wilson have went through this
19 with him already; we have it covered, I got you. We have it
20 covered. I understand your concern, but I have you. But you
21 didn't understand my concern. You didn't understand my
22 concern or my parents' concern because we brought it up and
23 yet you threw it to the side. You threw it to the side, you
24 threw it to the side, you threw it to the side, and it was
25 accurate. The things that we were bringing up was accurate.

1 They just didn't -- if Judge Dennis -- he's honorable, he's a
2 judge, but if he didn't want to take the case, he didn't have
3 to, and I brought that to Brown's attention. If you say you
4 have good friends that went to the Citadel and I wouldn't
5 understand the brotherhood of the Citadel. I had no -- I
6 can't argue that, but I'm a victim of it now. I'm a victim of
7 it now because you said in sentencing that Mr. Starks should
8 thank me, but that's not what the agreement was. That's not
9 what -- Ms. Wilson brought me to her office on Meeting Street
10 and brought Mr. Rice to Meeting Street to say, okay, this is
11 what we're gonna do, this is how we're going to work this so
12 we don't have to go to trial, so we don't have to do all these
13 things, so you won't get the max sentence, we're gonna do it
14 this way. And that's what was told to us. That's what I was
15 led to believe.

16 Q: And let me ask you this, did you have any letters from
17 Scarlet Wilson or her office about this deal?

18 A: No, sir. Ms. Wilson wouldn't put nothing in writing. And
19 I asked about that. I asked Brown, why Ms. Wilson won't ever
20 put this in writing; why Ms. Wilson won't talk to my parents?
21 Oh, because she's the solicitor so, that could be a conflict,
22 that could be a conflict, but we're meeting with her. I
23 worked with her before. We worked in the same office before.
24 I got you. If you keep selling that to a person, if you keep
25 telling the person that you have them, you have their best

1 interest, I paid you, so I'd expect you to have my best
2 interest.

3 Q: Now, and I'm just trying to get -- like I said, this is
4 your day, so I want to make sure we talk about everything that
5 you want to talk about?

6 A: Yes, sir.

7 Q: You talked a little bit about Judge Dennis recusing
8 himself and you went into the reasons why you think he
9 should've recused himself?

10 A: Correct.

11 Q: All right. And that issue was never raised?

12 A: No, it wasn't. And I believe Brown didn't raise the issue
13 because he works in this circuit an awful lot. He, like he
14 said, he plays golf with Judge Dennis, he deals with Judge
15 Dennis on a regular basis, he deals with Ms. Wilson on a
16 regular basis. When I brought up these issues to Mr. Brown
17 before the reconsideration, his -- his response to me was, my
18 new trial strategy is to wait till he retires. But what if he
19 retires 24 years from now, that's when the end of my sentence
20 would be.

21 Q: Okay.

22 A: And that's realistic.

23 Q: Now, is there anything else that you think -- and we've
24 gone over a lot and I'm not trying to trip you up or get you
25 to make up stuff -- is there anything else that your attorney

1 -- that you claim that he did incorrect?

2 A: Outside of that, Mr. Murphy, I mean, it's cut and dry.

3 It's -- everything is right there. The reconsideration, he
4 wasn't prepared for and we still had to go forward with this
5 hearing. He said he wasn't prepared for it. He said he would
6 come back to PCR and admit on the stand under oath that he was
7 not prepared for the reconsideration, that we were bamboozled
8 into the reconsideration. Other than that, I can't say
9 anything else about that element because we weren't prepared
10 and here it is once again, we weren't prepared. We haven't
11 had no conversation, Mr. Murphy.

12 Q: Thank you. Go on, I'm sorry.

13 A: I want to put on the record, you -- we had correspondence.
14 Me and you have had correspondence with your letters.

15 Q: Yes.

16 A: But being in -- being at Lieber Correctional Institution,
17 being locked down since March, we haven't had no conversation,
18 we haven't had an opportunity to adequately prepare, and it's
19 all over -- it's the same thing all over again. Mr. Brown
20 wasn't adequately prepared to handle my reconsideration. He
21 wasn't adequately prepared. We didn't have any conversation
22 about it. If you had had my defense, how can you have my
23 defense and you don't know what I want to bring up in my
24 defense. How do you know what to -- what is on my mind in my
25 defense? It's my life, not anybody else's life; it's my life.

1 I made a bad decision. Yes, I did. I was in college, I had
2 3.2 GPA. I was an awesome student. I made a bad decision.
3 When somebody else is constantly dictating the outcome of my
4 life without even consulting with me, if that's the justice
5 system, then it's flawed because we have to -- it's a
6 partnership. I was studying law. I understood that we were
7 supposed to work with your client. This is working against
8 your client. If I'm your client, you're supposed to know what
9 is on my mind, what am I trying to do, what is going on. How,
10 if we don't have no communication? It's round robin right
11 back into a circle, right, into a loop.

12 Q: All right. And you somewhat touched on -- and I want to
13 be very clear, that you were under oath. We talked about, is
14 there anything else you wanted to raise other than the lack of
15 communication with regard to the sentencing between you and
16 Mr. Brown?

17 A: Not unless you can think of something, Mr. Murphy.

18 Q: Okay. So, I did everything you wanted to do?

19 A: No, you haven't.

20 Q: Then tell me what I have not done for what you would need
21 to make this case complete?

22 A: Mr. Murphy, if we -- a simple phone call to Lieber and we
23 could've started breaking down these things, going through
24 some things, going through the transcripts together. I
25 understand this, I understand that it's hard right now with

1 everything going on at Lieber. I know you can't get out
2 there. But we didn't have any conversation; this was your
3 defense. This was your idea. You didn't had none of my
4 ideas. We haven't had -- we haven't had a chance to discuss
5 anything. You want me to come off the head with stuff, I just
6 got the transcript 20 days ago, if that.

7 Q: Well, now let's be fair. That was the transcript of the
8 reconsideration?

9 A: That was the transcript of the reconsideration. The
10 transcript of the reconsideration that the last time we was in
11 court in March, the Judge said they had 30 days to get it, but
12 it took them 90 something days to get it. So, I was supposed
13 to be prepared off of 20 days of preparation when the Judge
14 ordered something to be delivered in 30.

15 Q: My question would be to you, do you have any other
16 witnesses that could testify about the communication breakdown
17 other than Mr. Brown and yourself?

18 A: Yes, my parents, but we didn't get a chance to get to my
19 parents because we haven't had no communications. I wanted to
20 call my father as a witness. My father wanted to come as a
21 witness. He's out of the country right now because of work.

22 Q: And how long have you known about this case being called
23 today?

24 A: Less than 20 days.

25 Q: Less than 20 days?

1 A: Yes, sir.

2 Q: All right. Do you have anything else you want to say?

3 A: No, sir, that's it.

4 Q: Thank you. If you could answer any questions from Ms.
5 Jameson.

6 THE COURT: Ms. Jameson, you're recognized.

7 MS. JAMESON: Thank you, Your Honor.

8 A: Excuse me, Your Honor, can I get some water, please?

9 THE COURT: Sure.

10 MS. JAMESON: May it please the Court?

11 CROSS EXAMINATION OF STEPHAN HORACE FRANCOIS BY MS. JAMESON:

12 Q: Mr. Francois, you testified a few minutes ago that this
13 was just a bad decision, right, getting involved in these home
14 invasions?

15 A: Yes, ma'am.

16 Q: But you didn't just make one bad decision, you made two
17 bad decisions; this was two bad home invasions days apart,
18 correct?

19 A: Yes, ma'am, it was.

20 Q: You had already cooperated with law enforcement before Mr.
21 Brown was retained, correct?

22 A: Correct. The reason why I cooperated with law enforcement
23 is because like Mr. Brown exposed in the beginning, when we --
24 when everything -- when we got arrested and everything, me and
25 Mr. Starks had a big argument about everything that happened.

1 Mr. Starks -- me and Mr. Starks grew up together. He was --
2 we grew up together, we played football together, we played
3 Pop Warner baseball together, all -- all the way until high
4 school, came to college in the same city. Me and Mr. Starks,
5 after the first -- after the first home invasion, he had a
6 extremely heated argument. Text message would prove, Ms.
7 Wilson had them and everything, that's one of the reasons why
8 she started saying that I was gonna be on the less end of
9 sentencing because I was attempting to stop it. Like Judge
10 Dennis said in the sentencing hearing that, Mr. Francois, you
11 could've stopped it if you would've pressed harder, and I
12 agree. That's why I said it was a bad decision. I agree, if
13 I would've kept pressing Starks harder and just talked to
14 Starks and bucked Starks away from that incident as a whole, I
15 could've stopped it. I didn't.

16 Q: But you didn't after the first home invasion, right?

17 A: After the first ---

18 Q: Where the sexual assault occurred, and then two days later
19 there was another home invasion, right?

20 A: That's when we started having -- that's when we had -- we
21 had that altercation after the first home invasion. I didn't
22 know about the sexual assault at that point in time. I didn't
23 know about the sexual assault until after the second robbery.

24 Q: You still went forward with the second home invasion
25 though, right, where you duct taped the Citadel coach and all

1 of you bum-rushed his house?

2 A: If you will check the facts of the case, I didn't duct
3 tape nobody. I didn't bum-rush ---

4 Q: Your codefendants did though, correct?

5 A: Correct.

6 Q: And you entered the home, correct?

7 A: Correct.

8 Q: You testified at Sasha Gaskins' trial, right?

9 A: Correct.

10 Q: And you walked the jury through step by step in about 140
11 pages, this whole invasion, correct?

12 A: Correct.

13 Q: All right. And you testified at trial, at Sasha Gaskins'
14 trial, that you had no agreement with the solicitor's office,
15 right, and you were just hoping for mercy?

16 A: That is what Ms. Wilson actually told us to say and it
17 came out in sentencing. Mr. Brown said, of course, the
18 solicitor's office won't agree to this, but the agreement was
19 and had been made about this testimony and they were -- Ms.
20 Wilson was actually upset about the testimony with the -- with
21 the Sasha Gaskins' trial because she wanted -- she wanted us
22 to paint a picture of Sasha being the ring leader and
23 everything else because she chose to go to trial. But that
24 wasn't the case, we would've told the truth.

25 Q: Well, that's not really the case. Wasn't Sasha's defense

1 at trial duress, that she was forced to do this with you guys,
2 not that she was the ring leader?

3 A: And if you will check the facts of the case, in the
4 beginning, myself and Mr. Rice both said it was under duress
5 because of Mr. Starks. Ms. Gaskins said the same thing and
6 Ms. Bruster said the same thing. Everybody at the beginning
7 was so mad at Miguel because of the sexual misconduct that
8 everybody had turned against Mr. Starks, but Mr. Starks
9 eventually came forward and told the truth. That's why Ms.
10 Gaskins' defense was duress. She, she and her attorney wanted
11 us to all to say that Mr. Starks held a gun to her head to --
12 to do these acts, but that wasn't the case.

13 Q: And you testified at trial not only that it wasn't duress
14 for you or for Sasha, it was just peer pressure, right? You
15 were specifically asked that at trial and you said it was peer
16 pressure, not any sort of threats of violence against you or
17 Ms. Gaskins?

18 A: And ---

19 Q: Yes or no?

20 A: Ms. Gaskins' attorney actually brought up the text
21 messages from everything going on during that time, which show
22 acts of violence and hostility.

23 Q: And again, you testified on direct and on cross at Sasha's
24 trial that you had no agreement with the state while you were
25 under oath, correct, no plea agreement?

1 A: Of course, yes.

2 Q: And you didn't have a plea agreement in writing, correct,
3 it was just that that time of 30 years?

4 A: Correct.

5 Q: And I think you testified, Mr. Brown explained the
6 potential sentences that you could get, right, with you; did
7 he talk to you about sentences you were facing?

8 A: Mr. Brown said that he had everything worked out, that it
9 would be between 15 and 22.

10 Q: But you were facing two counts of first degree burglary,
11 correct?

12 A: Correct.

13 Q: And not that carries a minimum sentence of 15 years,
14 correct?

15 A: Correct.

16 Q: Up to life in prison without parole?

17 A: Correct. And like Mr. Brown explained to me, because it's
18 a first offense, because I was a outstanding student, because
19 of X, Y, and Z, that's not likely -- that's not likely to
20 happen.

21 Q: Not likely, but the sentence is up to life without parole
22 and you told Judge Dennis you knew that for burglary, correct?

23 A: Correct, that's the statute of burglary.

24 Q: The sentences for kidnapping are 30 years a piece,
25 correct, you told Judge Dennis, you understood that?

1 A: No, what he told us was the 15 to 30, the 15 to 30. He
2 kept implementing the 15 to 30. I can, I don't have to stay
3 with inside my recommendation of the 30, but ---

4 Q: Mr. Brown never told you that each kidnapping carried up
5 to 30 years, and you're denying telling Judge Dennis that?

6 A: Mr. Brown said that because of how we cooperated and what
7 was going on that this is what we will get. This is what we
8 will get. When Judge Dennis brings this up in Court, don't
9 say this, I've already had that worked out; I got you. I have
10 you. I have your best interest. That's what Judge -- I mean,
11 what Mr. Brown told me to say. So, I followed advice of
12 counsel.

13 MS. JAMESON: Your Honor, may I approach?

14 THE COURT: Yes.

15 BY MS. JAMESON:

16 Q: I'm gonna hand you the January 19th, 2011 transcript from
17 your plea, if you will read pages 16 through 21 to yourself; I
18 have some questions for you?

19 A: Yes, ma'am. Yes, ma'am.

20 Q: You finished reading?

21 A: Yes, ma'am.

22 Q: Judge Dennis went over each of your indictments with you
23 one by one, correct?

24 A: Yes, ma'am.

25 Q: And he went over the potential sentences for each of those

1 indictments, correct?

2 A: Yes, ma'am.

3 Q: And you told Judge Dennis you understood that for each
4 burglary you faced up to a life sentence, correct?

5 A: Yes, ma'am.

6 Q: And you told him for each kidnapping, you faced up to 30
7 years, correct?

8 A: Yes, ma'am.

9 Q: And for each armed robbery, you faced a mandatory 10 up to
10 30 years, correct?

11 A: Yes, ma'am.

12 Q: And for each of the weapons charges, you faced up to ---

13 A: Five years.

14 Q: --- five years. So, you were facing two life sentences,
15 plus 130 years, correct?

16 A: Correct. And what was explained to me ---

17 Q: And you told Judge Dennis you understood you could receive
18 any of those sentences with the recommendation of 30, correct?

19 A: Correct. And what was explained was, this -- this is what
20 the statute says. This is your first offense. This is what
21 we agreed upon. This is what I need you to say when we go
22 into this courtroom because we don't want to ruffle Judge
23 Dennis' feathers. We have it worked out. I have you. I got
24 you.

25 Q: So, you said Mr. Brown told you it was worked out for the

1 cap of 30 years, correct, but he was hoping to get you
2 somewhere between 15 to 20 or 22 years?

3 A: No, that's not what I said. I said it was worked out to
4 be less than the 30, between 15 and 22. Mr. Starks would be
5 on the 30 end, between 25 and 30, and Mr. Rice would be in
6 between 25 and 28 or 22 and 25, somewhere in there. And he
7 always -- when he always broke it down, he said you will not
8 all get the same sentence. I would be on the lesser end than
9 Mr. Rice, then Mr. Starks.

10 Q: Who told you that, Mr. Brown?

11 A: Yes.

12 Q: And you never told Judge Dennis that?

13 A: No, I was advised not to.

14 Q: And you told Judge Dennis, you knew you could get up to 30
15 years?

16 A: Correct, because that's what Brown told me to say. He
17 told me to keep it as simple as possible and to make it as
18 smooth of a transition as possible. He didn't want -- he even
19 coached my parents up on saying don't ask for leniency, don't
20 ask for mercy because when -- when Judge Dennis hears mercy,
21 it goes back to one of his original trials when he first
22 became a judge and a person asked for mercy and the mercy was
23 a life sentence or three life sentences. So, don't do these
24 things. We're just gonna keep it as simple as possible to get
25 through the hearing. And my parents -- again, my parents'

1 concern was, well, why don't we have a separate sentencing.

2 My concern was why don't we have a separate sentencing.

3 Q: And you testified that you asked Mr. Brown that and he
4 told you he attempted to get a separate sentencing, correct?

5 A: That's what he told me and my father.

6 Q: You testified that you met with Solicitor Wilson and
7 Assistant Solicitor Kidd and they discussed the elements of
8 the offenses with you, correct?

9 A: Correct.

10 Q: Was Mr. Brown there for that?

11 A: Yes, ma'am, I testified to that already. He was there.
12 He -- he escorted me, like he was there.

13 Q: So, your testimony is that Mr. Brown never reviewed the
14 elements of burglary with you?

15 A: Personally himself, no.

16 Q: He never reviewed the elements of kidnapping with you?

17 A: No.

18 Q: He never reviewed the elements of armed robbery with you?

19 A: No, not hisself.

20 Q: He never reviewed the elements of possession of a weapon
21 with you?

22 A: No, ma'am.

23 Q: Why did you tell Judge Dennis he had when you were under
24 oath?

25 A: Because Judge Dennis -- I mean, Mr. Brown told me to say

1 when Judge Dennis asks you these questions, just go with the
2 flow and say we went through this, I have everything covered,
3 we talked about this in chambers, Mr. Wilson -- Ms. Wilson is
4 already on page with it, Ms. Wilson has already talked to
5 Judge Dennis, this is what it's gonna be. It's gonna be like
6 this because we have to do it this way to take off the strain
7 for the family, to take off the strain for the families.

8 Q: So, you lied to Judge Dennis is what you're testifying to
9 today?

10 A: Yes, ma'am.

11 Q: When were you telling the truth to Judge Dennis because
12 you were in front of him three times; so, were you telling the
13 truth at any point?

14 A: Yes, ma'am, I was.

15 Q: When were you telling the truth?

16 A: I told the truth the majority of the time to Judge Dennis
17 except for the things that counsel advised me not to say and
18 not to do, I was under the advisory of counsel, not my own
19 will. Counsel, who I paid, told me to do these things. So,
20 I'm gonna follow he instruction of the certified attorney, the
21 -- he has a law -- he has a license to practice law in this
22 state.

23 Q: So, what specific things did you lie to Judge Dennis
24 about?

25 A: I lied to Judge Dennis about the agreement that it was

1 told to me about sentencing. That's what I lied to Judge
2 Dennis about. I lied to Judge Dennis when he asked me did --
3 was I promised anything. Yes, Pete promised me this because
4 Pete said that he had this discussion with you in chambers,
5 because he had this discussion with Ms. Wilson and all three
6 were on the same -- on one accord under sentencing.

7 Q: When you said you lied about being promised something, you
8 also appeared before Judge Jefferson for Sasha Gaskins' trial
9 and you told the jury that you hadn't been promised anything,
10 so you like when you were in front of Judge Jefferson, too,
11 right?

12 A: When did I go in front of Judge Jefferson?

13 Q: For Sasha Gaskins' trial?

14 A: Correct.

15 Q: February 28th through March 4th and you told both the
16 solicitor and Ms. Gaskins' counsel that you had no promise
17 from the state; you were lying then, too?

18 A: At that point in time, when we went to Ms. Gaskins' trial,
19 it is understood that we were still thinking on Mr. Brown -- I
20 mean, Mr. Starks was gonna go to trial. And at that point of
21 time, that was all up in the air because we was trying to
22 figure out what was gonna happen with these trials and then it
23 came out that Mr. Starks wasn't going to trial and everybody
24 was testifying in Ms. Gaskins' trial. When everybody
25 testified in Ms. Gaskins' trial, then it was understood that

1 this is what was gonna be happening. We were gonna have the
2 15 to 30. At that point in time, Brown was not saying the 15
3 to 22 years, he just kept saying we were going to be on the
4 lighter end.

5 Q: Wait, so you just testified that when you appeared in
6 Sasha Gaskins' trial you didn't know if Mr. Starks was gonna
7 go to trial or not, right?

8 A: No, I said at the time, when we -- we knew Sasha was going
9 to trial. When we took the plea, Mr. Starks still hadn't
10 taken a no-contest plea to the sexual misconduct.

11 Q: But he pled guilty the same day as you to all counts,
12 including Alford for the criminal sexual conduct, correct?

13 A: At that point in time, Mr. Starks was not admitting to the
14 criminal sexual misconduct. He kept saying still that he had
15 not done it and they were saying that he was gonna -- they
16 were trying to get him to go into a plea of no-contest.

17 Q: Did you ever want a trial?

18 A: If I had known, I was gonna -- it was gonna be 30 years or
19 nothing, I mean, yes, I talked with Mr. Brown about a trial,
20 but he told me no, that was not an option because this -- this
21 is -- we cooperated, we are here, we -- I have you, I got you.
22 This is what we're gonna do because Ms. Wilson doesn't want to
23 go to trial. Your codefendants don't want to go to trial.
24 Nobody wants to go to trial. This would be a long messy
25 trial. I was pursuing it not to go to trial. It was not even

1 -- it was not even an option according to Mr. Brown.

2 Q: You testified that following your plea but before
3 sentencing, you met with Mr. Brown one or two times and then
4 you said, pushing it, you had a meeting with him two times.
5 So, how many times did you actually meet with him?

6 A: Ma'am, that was eight years ago. I don't know for a fact.

7 Q: So, you don't know how many times you met with him?

8 A: I know it was not no more than two, not during that time.
9 During that time, that's when I would call Mr. Brown daily. I
10 was in Charleston County and I would call Mr. Brown daily.
11 His assistant, Denise, is who I normally talked to. Ms.
12 Denise, would always say she would get Brown to come see me or
13 just call back tomorrow and we would talk on the phone and he
14 would assure me, I got you, everything is handled, don't
15 panic, don't -- don't get worked up, everything is going to
16 work out. Everything is going to work out. We're gonna do it
17 this way, this is the best way to do it. We're gonna take the
18 strain off the victims, we're gonna get in front of Judge
19 Dennis just this one time and everything is gonna work smooth;
20 I have you, don't worry about it. And at that point in time,
21 again, my family is out of state. So, I talked to my dad
22 daily on the phone. I talked to my mom daily on the phone.
23 They don't know what's going on because Mr. Brown is rarely
24 communicating. A email here or a call here, but we don't know
25 what's going on. We don't really have a full understanding

1 because he's not giving us a full understanding at that point
2 in time.

3 Q: Both of your parents appeared on your behalf at the
4 sentencing hearing and pled for mercy before Judge Dennis,
5 correct?

6 A: Correct. Actually, my mom pled for mercy; my dad did not
7 mention anything about mercy because that's what Judge -- I
8 mean, not Judge --, Mr. Brown asked us not to do. He said do
9 not bring up the mercy factor. Do not bring up mercy. Do not
10 -- this is something that is a trigger for Judge Dennis. I've
11 been working with Judge Dennis for years, we play golf
12 together and all of these things, mercy is one of those things
13 you just don't want to bring up with Judge Dennis and after my
14 mom said it, Mr. Brown looked over his shoulder and she eased
15 off of it. And then that's when Judge Dennis actually went
16 into the Mr. Francois, you know, I understand you come from a
17 good home, I can tell you come from a good family. I can tell
18 these things. I can tell your parents love you. I can tell
19 that you make the decisions being made and you -- like I said,
20 you saw the, the atmosphere of the courtroom change after all
21 of those elements came about. My parents talked last. Ms.
22 Sparks ---

23 Q: You actually talked last, right? And you apologized?

24 A: I'm talking about family-wise, family-wise.

25 Q: But you were the last one before Judge Dennis and you

1 apologized, correct?

2 A: Correct, I did.

3 Q: And admitted responsibility, correct?

4 A: Correct.

5 Q: Okay. I have no further questions.

6 A: Your Honor, is it okay if I ---

7 THE COURT: You may answer yes or no and explain.

8 A: Yes, I did. I did admit to my wrongs and I admitted to my
9 wrongs because as man, manhood, scholarship, perseverance, and
10 uplift, that I'm supposed to stand up and be a man for my
11 actions. I stood up and was a man for my actions, but I'm not
12 responsible for the next man's actions. But Judge Dennis told
13 me that I could've stopped it and a part of me felt like yes,
14 if I would have pushed Starks, I could've stopped it. But I'm
15 not responsible for another man's actions.

16 BY MS. JAMESON:

17 Q: So, you pled guilty to be a man and to admit
18 responsibility; that's what you're telling this Court,
19 correct?

20 A: I pled guilty for the things that I done wrong.

21 Q: But you had lied to Judge Dennis at your plea proceeding;
22 you've already admitted, correct?

23 A: Correct.

24 Q: And you lied at the sentencing proceeding, correct?

25 A: Yes.

1 Q: Did you lie at the motion to reconsider to Judge Dennis?

2 A: No, ma'am. I actually was straightforward to Judge Dennis
3 and I explained everything that was going wrong. I explained
4 where I was now, what was I -- what was my monetary gain and
5 how we were inadequately prepared for the reconsideration
6 hearing because we weren't -- we didn't know we were gonna
7 have a reconsideration hearing with me and Mr. Brown. I lied
8 to Judge Dennis under the advice of counsel, Peter David
9 Brown. Peter Brown told me not to say these things because he
10 already had it worked out with Judge Dennis and Solicitor
11 Wilson, that's why I said what I said.

12 Q: And that's how you lied to the jury when you testified at
13 Sasha Gaskins trial, too?

14 A: Yes, ma'am, because \$35,000 that came out of my parents
15 pocket was the advice that came -- what he tells you to say,
16 that's what you're gonna say. It's \$35,000 everybody doesn't
17 have that laying around.

18 MS. JAMESON: No further questions, Your Honor.

19 MR. MURPHY: Nothing further, Your Honor.

20 THE COURT: Any redirect?

21 MR. MURPHY: No, Your Honor.

22 THE COURT: You may step down. Thank you, sir.

23 A: Thank you, Your Honor.

24 THE COURT: You may call your next witness.

25 MR. MURPHY: Thank you. We'd call Mr. Peter Brown.

1 THE COURT: Mr. Brown, please come forward. I'm gonna
2 ask you, if you could to -- you can put your paperwork down,
3 place your left hand on the Bible and raise your right hand as
4 the Clerk administers the oath.

5 PETER BROWN, HAVING BEEN DULY
6 SWORN TESTIFIES AS FOLLOWS:

7 CLERK: Okay. You can have a seat and for the record,
8 state your name and spell your last name.

9 MR. BROWN: Pete Brown, B-R-O-W-N.

10 THE COURT: Very good, Mr. Brown.

11 Mr. Murphy, you're recognized.

12 MR. MURPHY: Thank you, Your Honor. May it please the
13 Court?

14 DIRECT EXAMINATION OF PETER BROWN BY MR. MURPHY:

15 Q: Mr. Brown, you heard Stephen Francois testify, correct?

16 A: Yes, I did.

17 Q: And I want to kind of just start off that he cooperated
18 before you ever got involved, correct?

19 A: That is correct.

20 Q: And in listening to him, trial was never an option in this
21 case, was it?

22 A: Realistically, no. No, it was not, because the die had
23 already been cast because of his cooperation and because he
24 had been caught right outside the residence.

25 Q: The evidence was stacked against him and what would be

1 your opinion if he went to trial?

2 A: That he would be convicted.

3 Q: And I completely agree with that and I'm not trying to
4 trick you here. So, at that point -- at this point, really a
5 plea was the only option that you had or Mr. Francois had?

6 A: That's correct.

7 Q: Now, there has been some testimony about Mr. Francois'
8 culpability compared to Mr. Starks and Mr. Rice, you heard
9 that testimony?

10 A: Yes, I have.

11 Q: And I don't think there's any disagreement that, looking
12 back at the facts, that Mr. Francois was the less culpable of
13 the three; would you agree with that?

14 A: I would agree with that.

15 Q: And I believe you argued that -- would've argued that to
16 the solicitor during plea negotiations?

17 A: Absolutely.

18 Q: And I believe you did argue that in court to Judge Dennis;
19 is that correct?

20 A: That is correct.

21 Q: Now, based on his cooperation and the facts that he was
22 under which he was arrested, did he have any defense at all to
23 these charges against him?

24 A: The defense to avoid convictions?

25 Q: Say a not guilty verdict; was there any defense that he

1 had?

2 A: No.

3 Q: Now, really the money question in this case is the 15 to
4 20-year sentence that he talked about. Did -- at any time did
5 you tell him he would receive a 15 to 22-year sentence?

6 A: No, I didn't. I told him there was a range. The range --
7 of course, once the cap was in place. Now, when the cap was
8 not in place, he was facing two life sentences potentially for
9 the -- for the burglaries. Once the cap was in place, and he
10 understood what the cap was because -- he used the term
11 recommendation and it wasn't a recommendation, it was a cap.
12 And so that was the ceiling of 30 years, the max that you get
13 because of the nature of the charges he was gonna plead to,
14 the burg first, the mandatory minimum on a burg first, as you
15 know, is a minimum 15 years in prison and that's an 85 percent
16 also. So, the range, once he accepted the cap and once he was
17 comfortable with the cap, and we saved him the potential of a
18 life sentence, essentially dying in prison -- once we saved
19 him from that, then he had a range and the top end of that
20 range was 30 and the bottom end of that range was 15 years.
21 So, he understood that.

22 Q: All right. So, under the plea negotiations you had with
23 Ms. Wilson and the statutory limitations, there's a 15 to 30-
24 year range?

25 A: Exactly.

1 Q: Now, did you agree or did you work out that agreement
2 prior to his guilty plea hearing or was it prior to
3 sentencing?

4 A: Honestly, I don't know the answer to that.

5 Q: Is there any way -- would you have that in your file,
6 would you have documented that at all?

7 A: I probably would. I did not bring my whole file because
8 of the PCR nature.

9 Q: Let me ask you this. I imagine that you would've had some
10 idea about a range prior to him pleading; would that be your
11 practice or ---

12 A: Well, we knew the range. The offer would've been
13 extended. The incentive to testify would be the cap of 30 and
14 you would presume that he's speaking of when he says he spoke
15 with Ms. Wilson. And for the record, he never spoke with Ms.
16 Wilson without me present, and I don't remember Scarlet being
17 present during the preparation per se. It was always Culver
18 Kidd and the assistant solicitor there and I was always there
19 when he was prepped, and we spent a great deal of day, several
20 days, at the solicitor's office, preparing for this. So, I
21 mean, I do apologize. I can't give you a hundred percent
22 answer in regard to when it was worked out, the plea.

23 Q: Well, let me ask you this. I don't think it really
24 matters, but -- when that offer or that understanding came
25 about, Mr. Francois testified that you said you would -- he

1 would receive a 15 to 22-year sentence, something in that
2 range; did you ever tell him that?

3 A: No, I never told him that.

4 Q: Do you have any letters that you would've said this is
5 going to be the sentence that you're gonna receive?

6 A: No.

7 Q: Now, Judge -- I'm sorry -- Mr. Francois indicated that you
8 had a chambers meeting with Judge Dennis about this case; do
9 you recall that?

10 A: I never had a chambers meeting with Judge Dennis. The way
11 he describes it as some sort of ex parte proceeding. Judge
12 Dennis certainly would never do that. And just for the
13 record, let me just say, I have never played golf with Judge
14 Dennis.

15 Q: That was gonna be my next question.

16 A: Okay.

17 Q: And I'm not accusing, there's nothing wrong with meeting
18 with the Judge in chambers prior to a plea to work out any
19 kinks. Did you ever have a meeting with the Judge to, with
20 Scarlet as well or Kidd Culver, to discuss what was gonna
21 happen?

22 A: I'm sure we had meetings with him prior to it because it
23 was -- quite frankly, it was a media circus. So, yes, I'm
24 sure we did the standard things we always do. The solicitor's
25 office was represented, the defendants, Bentley Price was

1 there, Ms. Williams was there; everybody was there. All
2 counsel for defendants would've been with the Judge and all
3 properly ---

4 Q: No question. Now, let me ask you this. Did, in your
5 meetings with the Judge and all the parties, did you ever get
6 an indication from the Court that Mr. Francois would receive a
7 15 to 22-year sentence?

8 A: No.

9 Q: Did you ever talk to Mr. Francois' father or mother that
10 he would receive a 15 to 22-year sentence?

11 A: No.

12 Q: Okay.

13 A: After we did the plea, the mother specifically said to me,
14 you told me to prepare for the worst and I did, and the father
15 said to me that you did the best you could with what you had.
16 That was specifically said to me. We had always hoped -- and
17 quite frankly, Stephen, was -- he's -- honestly, he's a
18 wonderful individual. He really did well, he was raised well,
19 he's -- he is articulate, he is intelligent, and he was quite
20 frankly, a good client to have, and I enjoyed having him as a
21 client. Horrible situation, horrible circumstances, and he
22 made bad decisions, what every parent would hope would never
23 happen when our kids go off to college. He got together with
24 an old friend and made bad decisions. But realistically, I
25 had good lines of communication with his parents despite the

1 fact that they went through a divorce. I don't know if it was
2 as a result of this or if that was going on prior to or
3 whatever, but they separated. But I did have good lines of
4 communication with his parents and met with them on several
5 occasions as he testified.

6 Q: Now, and I'm gonna ask you, did you get any understanding
7 from talking with the state, either Kidd Culver or Scarlet
8 Wilson, about a 15 to 22-range sentence for Mr. Francois?

9 A: No. They knew that I was gonna make the, the attempt to
10 try to get a downward departure for him to some degree. It
11 was -- it was understood that he was less culpable because he
12 didn't pick the victims. He didn't pick [REDACTED] he didn't pick
13 the guy -- because both those were -- both victims had Citadel
14 connections, and Reggie Rice was a former Citadel football
15 player and Starks was a Citadel football player. So, he
16 didn't pick the victims. They knew he just didn't participate
17 as much and he wouldn't -- and in my belief, quite frankly,
18 Stephen never would've done this without Starks. He wouldn't
19 have had the thought to do this because that's not how he was
20 brought up.

21 Q: And what we're talking about, did anybody, the state or
22 the Court, was there any disagreement with regard to Francois'
23 actual involvement in the case in terms of we know he was
24 there, we know he participated, but he might not've been the
25 worst one of the group.

1 A: There was no disagreement with that with the solicitor's
2 office; it was understood. It's unfortunate but the facts are
3 what they were.

4 Q: Now, we did a -- you did a plea before Judge Dennis?

5 A: Yes.

6 Q: And then you went to sentencing two months later or so?

7 A: Correct.

8 Q: At the sentencing, there's been some talk about a motion
9 to sever. Did you make a motion to sever or attempt to try to
10 get Francois pled at a different time or sentenced at a
11 different time?

12 A: I, I verbally did. There was no written motion filed to
13 sever. The solicitor's office wouldn't do that. The one
14 girl, Sasha Gaskins, went to trial, so the victims had to go
15 through that and it was very painful for them and it was very
16 clear that it was difficult. When we did the sentencing, I
17 did try to sever out him from the others. The -- Sasha was
18 done. Bruster had an attorney, she was supposed to go with
19 us, too, but quite frankly, that attorney called in sick that
20 day, which I found extremely distasteful because he did not
21 have his client present for the sentencing of everybody. And
22 I think if she was present, she would've received a larger
23 sentence because of the sentencing that took place that day
24 and her participation, but we could not get him severed.

25 Q: And I agree with you, this is -- I think Mr. Francois

1 might've been confusing severing as the first trial versus
2 actual sentencing. I don't believe there's an actual motion
3 to sever that he'd be entitled to. But let me ask you this.
4 There was some question or some testimony about the waters
5 being poisoned by one of the witnesses or one of the people at
6 sentencing.

7 A: Yes.

8 Q: Now, and do you agree with that?

9 A: I would agree that the sentencing itself went south very
10 fast because of the order of the witnesses that were put up.
11 I was initially gonna go up first with Stephen because he had
12 a dad who worked at Delta, a mom who was a school teacher.
13 Quite frankly, they're intelligent, upper middle class people,
14 and it was going to be short, sweet, and we were gonna present
15 just them, and Stephen was gonna speak also, and it was going
16 to be a very good lead in. The -- Chris Skipper and the other
17 counsel, they decided that they wanted to lead with the female
18 attorney first, which I didn't particularly agree with. That
19 was Reggie Rice's attorney.

20 Q: And that would've been Lauren Williams?

21 A: Lauren Williams.

22 Q: Okay.

23 A: And they wanted to lead with her first because of the
24 female softer edge. Unfortunately, it didn't work out well.
25 The two people that were brought up for Reggie Rice, quite

1 frankly were thugs. They were not articulate at all. They
2 did not impress Markley Dennis. They did not help Reggie Rice
3 in the least bit, and it was quite frankly the antithesis of
4 what we wanted to portray. Not college kids, it turned out
5 that now we're talking more of a thug type like nature. And
6 then what Stephen said in regard to Starks' mother was just
7 extremely disingenuous to the Court and it appeared that way.
8 That for the first time in her life, she remarkably came out
9 and said to the Judge and said to the victim, I'm gonna let
10 everybody know that I was a victim of sexual assault years ago
11 and I forgave my accuser and -- the who assaulted me, and I
12 would ask that essentially this young lady forgive my son.
13 And then she doubled down on that and said and I also want to
14 let the Court know that I was a victim of robbery, and she
15 said I also gave the accuser in that one and that was -- I
16 believe that was directed right at [REDACTED], who was the coach.
17 Extremely disingenuous. It had -- it was -- it was not good
18 at all.

19 Q: And did you have any control over ---

20 A: Absolutely none at all.

21 Q: Now, after the 30-year sentence -- well let me start --
22 there is a way to attempt to correct any -- some of this
23 information through a motion to reconsider or correct the
24 sentence and you filed that?

25 A: Absolutely. I was the only attorney that filed a motion

1 to reconsider on behalf of my client.

2 Q: And let me ask you this before we get back to the
3 reconsider motion. After the sentencing, did you talk to Mr.
4 Francois about what happened?

5 A: Yes.

6 Q: Okay. And tell us about that conversation.

7 A: He was disappointed; I was disappointed. Markley Dennis
8 made it very clear that he, he admonished everybody and I
9 think it's clear on the record that they were lucky that they
10 had counsel that obtained caps of 30 years because of the
11 egregious nature of the event, the series of events. And that
12 he would've given them more, and I think he even eluded to the
13 fact, he'd let them out, I think he used the term, in the
14 winter of their lives, meaning that they would get a great
15 deal of time if there wasn't a cap in place. We discussed
16 that, we discussed what transpired during the plea, and -- but
17 we did discuss that in detail. And I advised him at that
18 point that I think a motion to reconsider would be a good
19 thing to do and we filed -- I filed the motion to reconsider
20 timely.

21 Q: Now, at that point, did you have any discussion about a 15
22 to 22-year range sentence with Mr. Francois?

23 A: No, there was never an agreement with the solicitor's
24 office and I never said to his parents that he was going to
25 get it. I never said -- I never said that I deal worked out

1 with Markley Dennis, because I didn't. I couldn't. This was
2 such an egregious matter, it was such a high profile matter,
3 and we were lucky to get the 30-year cap. We had always hoped
4 because of his lesser culpability, but he was completely
5 culpable and was unfortunately very -- it would've been
6 appropriate to get the 30 with the facts of this. We were
7 hoping to get him a little bit less. We were hoping Starks
8 would be penalized for his sexual assault, the sexual assault
9 of a young lady. Markley Dennis' comments to him at the
10 motion to reconsider was that Starks got the benefit of Rice
11 and -- and Stephen because Starks didn't get additional -- any
12 additional time. So, that's what Markley was referencing when
13 he said that. We were hoping there would be a step down. We
14 were hoping that because Reggie Rice had a criminal record, a
15 little bit of criminal past, that he would've been given a
16 sentence that would've been a little bit less than Starks.
17 Starks would have gotten the top end.

18 Q: And what you're saying is you would have the facts and
19 arguments to make that argument for a lesser sentence?

20 A: Correct.

21 Q: But at any time, did you tell Mr. Francois that the Court
22 was bound by a sentence or that he would receive a certain
23 sentence other than less than 30 years or a cap of 30 years?

24 A: No, I didn't. I did not. He knew he was in that range
25 the entire time. What he might've heard or what he might've

1 hoped for, or what we all might've hoped for was less than 30.

2 Q: Now, there's been some discussion about his father. Did
3 you ever conversations outside of the presence of Mr. Francois
4 with his father about what he could receive or anything like
5 that?

6 A: I'm sure I did.

7 Q: And is there anything in writing from either you to --
8 back and forth at all in this case about a 15 to 22-year
9 sentence that he would receive?

10 A: Not at all.

11 Q: If that were the case, if somebody, Scarlet or Skipper or
12 -- I'm sorry -- or Kidd Culver, made that offer, would that
13 typically be in writing?

14 A: It would be.

15 Q: If you -- if they made it orally to you, would you put
16 that in writing to them?

17 A: I would put it in writing in a heartbeat to lock them into
18 it, quite frankly.

19 Q: There's been some talk about the -- well, let's get to the
20 motion to reconsider. There was a breakdown or it sounds like
21 there was a breakdown in communication or with the
22 lawyer/client relationship after the sentencing, before the
23 motion to reconsider; would that be fair to say?

24 A: It was more strained because of his distance. I did reach
25 out to his parents on a regular basis. I did have a little

1 bit of communication with them and then they just fell off the
2 map and it was radio silence with his parents.

3 Q: And at that point, you went before -- somebody, whether it
4 was you or him, made a motion to relieve as counsel?

5 A: That would have been Stephen. I made the motion to
6 reconsider the sentence.

7 Q: Okay.

8 A: And I did give him advice and saying we need to sit on
9 this, because I wanted to the media to die down. I was hoping
10 that when you do the motion to reconsider, there's also the
11 possibility the solicitor's office will call the victims and
12 bring the victims back in and then they're gonna be there.
13 The longer the motion to reconsider sat out there, the more
14 likely the chance that the victims would've got in trouble.
15 There's one individual who was robbed that had the girlfriend,
16 he had issues with drugs allegedly and did indeed get in some
17 more trouble. They could always move. The young lady who was
18 assaulted, she didn't have a particular bone to pick with
19 Stephen. So, she might not even come there to relive the
20 experience. So, that's what we had hoped for.

21 Now, again -- I didn't answer your question precisely, but
22 Stephen filed the motion to relieve me. I think the way he
23 testified was, he filed a bar complaint against me.

24 Q: Yes.

25 A: And then ultimately, after the bar complaint, he filed the

1 motion to relieve me. Once he did that, he got on the radar
2 of the Clerk of Court and then they pushed the matter forward.
3 Q: That's correct. And then Judge Dennis heard the motion.
4 You talked about the motion to be relieved and the motion to
5 reconsider, correct?
6 A: Yes.
7 Q: And you went forward with the motion to reconsider?
8 A: Yes, we did.
9 Q: Okay. And I believe you indicated to the Court that you
10 were prepared to go forward with that?
11 A: I indicated that I was not prepared.
12 Q: Oh, you were not prepared?
13 A: I was not prepared.
14 Q: All right.
15 A: And that was merely because, well, we thought we were
16 going to be hearing because of what Stephen had filed was the
17 motion to relieve counsel, not the motion to reconsider.
18 Markley Dennis wanted to hear the motion to reconsider first
19 and then the motion to relieve counsel afterwards. And, if I
20 could explain one more bit of the tactic. What we had hoped
21 to do, quite frankly, was that it had been rumored that
22 Markley Dennis was going to retire for years and that's always
23 been a rumor out there. It's my understanding if the Judge
24 that heard or did a sentencing, when there's a motion to
25 reconsider is still out there, if that Judge leaves the bench

1 for whatever reason, then the Chief Administrative Judge can
2 then pick the matter up and either handle it himself or hand
3 it off to another judge. I would've loved to had this matter
4 come back after Markley retires and be assigned to an
5 administrative judge, who maybe sends it to a judge from a
6 different area, who is not that familiar with anything and we
7 hear the matter at that point, fresh, another set of ears.
8 And again, like I said, with the victims possibly leaving the
9 area, it's much more low profile. That would have been our
10 best chance with where we were in the sequence of this case,
11 to get him a better, lower sentence, if that was at all
12 possible. It still would've been within the range 15 to 30.
13 But even we could have saved two years of his life, I would've
14 loved to save two years of his life.

15 Q: And let me ask you this. If you were prepared, and I'm
16 not sure exactly what you mean by what else you could've done
17 at the motion to reconsider, what possible witnesses or what
18 could you've done in addition to what was argued at the motion
19 to reconsider to try and get the sentence reduced?

20 A: The one thing that would've been nice, if he would've had
21 his jacket, prison jacket, because that showed his
22 accomplishments, because he had done very well. He was doing
23 some ministry work. He'd gotten certificates, he was working
24 towards welding. Stephen had done -- he'd done pretty well.
25 He didn't have a whole lot of disciplinary matters at all

1 compared to, I don't know if it was -- I think it was Starks
2 that had gotten in trouble a great deal. So, again, that
3 would've been one of the further emotional arguments to
4 delineate him from the other individuals, who were destined
5 for that path versus the course he's taking. And it really
6 would've shown, if Markley was gonna be the Judge, and Stephen
7 did a good job on his own saying that I've listened to your
8 words, you were stern with me at the sentencing, and I've done
9 better by that, and he told the Judge about that. It might
10 would've been a little better if he had the jacket, but he
11 still testified orally to that.

12 Q: So, what -- all you're saying is if he had the paperwork,
13 you might've preferred to have the actual paperwork versus him
14 saying he'd accomplished these things.

15 A: It would've been nice to have that, yeah.

16 Q: Well, let me ask you this. Was there any indication, and
17 I didn't see it, that the Judge didn't believe that he had
18 accomplished those things?

19 A: No, there was -- no, the Judge understood and believed
20 him.

21 Q: So, other than bringing some paperwork to support what he
22 was saying, is there anything else different that you would've
23 done or you believe should've been done at the
24 reconsideration?

25 A: The only thing we could've possibly done was brought

1 family, brought family in and talk about the impact on the
2 family. Quite frankly, it would've been an emotional
3 argument. There was no factual argument to get a downward
4 departure, other than what we already did before with his
5 cooperation.

6 Q: And after that hearing, I believe you were relieved as
7 counsel, correct?

8 A: Immediately thereafter, I had the order. I had initially
9 asked the Judge to give him 90 days to hire other counsel or
10 at least prepare for the motion to reconsider and the Judge
11 did not want to do that. I think that was in my written
12 motion, I'm not positive, but that was not an option. So, I
13 had -- I tendered the order to the Judge and I was relieved at
14 that point. And the Judge said and explained that from this
15 point forward, I was no longer to be involved in the case.

16 Q: And I'd assume, since you were no longer -- you were
17 relieved at the request of Mr. Francois and the Judge granted
18 that order that you would not have filed an appeal in the
19 matter?

20 A: That is correct. I was -- I understood that it was like a
21 guillotine dropping. The client had already filed the bar
22 complaint against me, was not confident in my abilities or so
23 it seemed. Now, we did speak, Stephen and I did speak when he
24 was brought and he wanted me to go ahead and go forward when
25 we were downstairs right before we did the motion to

1 reconsider because that really was the only option because it
2 was gonna be thrust upon us.

3 Q: And let me ask you this, because this really is the whole
4 key. Do you know of any basis as to why Mr. Francois believed
5 he would've received a 15 to 22-year sentence?

6 A: He hoped and, quite frankly, his parents were hopeful that
7 we would get a lower sentence than the 30; that's all.
8 There's never -- we never -- I mean, it could have been as low
9 as 15. I've been doing this for 31 years now; back then it
10 was probably 23. I would not have told him to expect 15. I
11 would have told him to expect 22. It's too -- it's like
12 cotton candy, getting the sentencing out of a Judge. You
13 can't -- you can't do that unless it was negotiated. And if
14 it was negotiated, I would have locked that in and that
15 would've been on the plea sheet itself.

16 Q: And let me ask you -- and we also touched on this on the
17 record about there was some testimony about Judge Dennis, Mr.
18 Francois believed he should've recused himself. Did you see
19 any reason to ask the Judge to recuse himself in this matter?

20 A: No, I think what Stephen was talking about is the Judge
21 was -- was aware of the case in the community and when he
22 heard about the incident, I think I understood that to be that
23 Markley was thinking to himself and speaking out loud to the
24 court that he really didn't want this case because it was an
25 ugly type case. I think that's what he meant.

1 Q: And I don't disagree, but was there any relationship
2 between Mr. Dennis and any of the defendants in this case?

3 A: I don't believe so. I don't think there was any conflict.
4 There was nothing that would -- would require the Judge to
5 recuse himself and, quite frankly, Markley Dennis was the
6 right judge to have for this particular matter. I would have
7 chose Markley Dennis if I had a choice of four separate
8 judges, I would have chosen him because he is the judge who
9 would potentially and could differentiate sentences and he's
10 capable of doing that.

11 Q: Thank you. That's all I have.

12 MS. JAMESON: No questions.

13 THE COURT: Just one second. I think your client was
14 wanting to speak with you. I'll give you an opportunity.

15 MR. MURPHY: Oh, I'm sorry. I beg the Court's
16 indulgence.

17 That's all I have for Mr. Brown.

18 MS. JAMESON: No questions.

19 MR. FRANCOIS: Your Honor ---

20 MR. MURPHY: And -- Your Honor, I'm sorry.

21 (REPORTER'S NOTE: Mr. Murphy confers with Applicant.)

22 MR. MURPHY: That's all, Your Honor.

23 THE COURT: You may step down.

24 MR. BROWN: Thank you.

25 THE COURT: Any further witnesses?

1 MR. MURPHY: Yes, we would recall Mr. Francois.

2 THE COURT: Mr. Francois, please come forward. I'll
3 remind you that you are still under oath.

4 MR. FRANCOIS: Yes, sir.

5 REPLY DIRECT EXAMINATION OF STEPHAN HORACE FRANCOIS BY MR.

6 MURPHY:

7 Q: And I just have very few questions for you, Mr. Francois.
8 But the first thing I want to ask you is, in this hearing, you
9 understand that the Court cannot change your sentence at all?

10 A: Correct.

11 Q: And the only thing that they can do is give you a new
12 trial, correct?

13 A: Yes, sir; that's correct.

14 Q: And you understand that if you got a new trial, you would
15 face the original charges and everything that was dismissed

16 ---

17 A: Yes.

18 Q: --- as a result of your plea?

19 A: Yes, sir; I do understand that.

20 Q: And knowing that, you face, I believe it was two life
21 sentences plus a 100-plus years, correct?

22 A: Correct, sir; yes, I do understand that.

23 Q: And you also heard Mr. Brown testify that you did not have
24 any defense that would lead to a not guilty?

25 A: Yes, sir, I understand.

1 Q: And do you agree with that?

2 A: Yes, sir.

3 Q: Okay. So, knowing that, that you had no defense to these
4 charges and you face two life sentences plus, do you still
5 want to go forward with this PCR application?

6 A: Mr. Murphy, like I explained to you before, if I would've
7 known I was gonna be receiving 30 years, we should've went to
8 trial, because at least I would've had a better appeal option.
9 I cooperated. I did what the state asked me to do. I did
10 what Pete asked me to do. I was -- I did everything my
11 attorney advised me to do throughout the whole process. Mr.
12 Brown said he never promised that, he never promised that. He
13 kept saying that, but every time we would meet, he would draw
14 a diagram on his legal pad, like I said before, he would draw
15 a diagram, 15 at the bottom, 20 in the middle, 25, 30, like a
16 triangle and he would put me between them, 15 and 20 range.
17 Mr. Rice would be in the mid-twenties range, and Mr. Starks
18 would be in the 30 at the top of the pyramid. And countless
19 of times, he drew that diagram, not only with me, but with my
20 father. We both had that kind of understanding.

21 Now, promise, promise, can I say that Mr. Brown said I
22 promise you you're gonna get 22 years, no, that's not --
23 that's now how Mr. Brown operates. You just heard how he
24 talks. But that's what he sold us on. That's what he was --
25 this is the range we're gonna be in. This is where we're

1 gonna be. This is where everything -- if everything goes how
2 as planned, I got you. This is where we're gonna be. And
3 then afterwards, like Mr. Brown said, he was disappointed. He
4 was disappointed about everything that happened in the
5 hearing. But, that wouldn't have happened in the hearing if
6 we would've had our own separate hearing. Ms. Bruster had her
7 own separate hearing. It wasn't, like Mr. Brown said, it
8 wasn't fair. It wasn't right.

9 Q: Now, let me ask you this. You also heard Mr. Brown
10 testify as to why he waited so long to try and get that motion
11 to reconsider up, good reasons, and he gave a lot of
12 strategic reasons.

13 A: Correct. And if the communication was there, if Mr. Brown
14 would've remotely advised me of that, I would've been
15 satisfied and I would've understood where he was coming from,
16 but I had no communication. My father missed -- like Mr.
17 Brown said, my father works with Delta, so my father travels a
18 lot. He's always out of the country. I go months at a time
19 without seeing him. Sometimes, I don't talk to him for months
20 at a time, especially now, with the things going on at Lieber.
21 So, of course, he wasn't able to get in contact with my
22 father. But at the same time, I'm his client. He could've --
23 he could have wrote me, he could've came to see me.

24 Q: Now, you heard Mr. Brown said he was not ready for the
25 motion to reconsider?

1 A: Correct.

2 Q: And he testified that the only thing he could've done
3 different was bring the actual paperwork of all the good
4 things you did while in prison.

5 A: Correct, but Mr. Brown also said during that time that --
6 during that hearing, he would've liked to bring some of my
7 professors up or coaches or other family. He would've liked
8 to bring these people, you know, people -- character witnesses
9 up. Of course, the warden's jacket, we would've liked to have
10 had that. We'd have liked to be prepared. We weren't
11 prepared.

12 Q: But other -- and my question to you is, these witnesses
13 would've said that you came from a good family and a good
14 background, but ---

15 A: They would've been character witnesses.

16 Q: But that was never in dispute, was it? I mean no one was
17 ever talking about your character?

18 A: Mr. Murphy, I totally agree. Nobody ever questioned my
19 character, but my character was questioned. My character was
20 questioned when Judge Dennis said I could've changed that
21 element or he expected more of me or he held me to a higher
22 standard. Those things are the things that change. I've
23 changed, and I was man enough to admit to my mistakes. When
24 everybody else was running from it, like Mr. Brown said, I
25 cooperated and I manned up. But at the end of the day, I

1 would've liked to have had a plan and order, things that were
2 done with decency and in order, decency and in order. There
3 was no order in this chaos. We was -- we were scrambling. We
4 scrambled at that point in time. Mr. Brown -- when I got to
5 the courthouse, Mr. Brown met me downstairs and said we need
6 to talk. When we started talking, he said, we're going
7 forward with the reconsideration. I said, how; we're not
8 prepared. We haven't even talked about this. I don't have no
9 faith in you because I don't know what's your plan. The same
10 way I felt today coming in this courtroom. I don't know your
11 plan. I don't have any faith in you because I don't know what
12 you want to do with my future. Yes, like you said, I can be
13 facing two life sentences but I'm fighting because at the end
14 of the day, what was sold to me, what was sold to my family,
15 was something totally different than what was received, and I
16 have to fight. If not, you see what's going on at SCDC.
17 Thirty years is just like a life sentence. People are not
18 going home. They just had seven killings at Lee County and
19 they moved all those guys straight to Lieber.
20 Q: All right, sir. That's all I have. Thank you.

21 THE COURT: Any questions?

22 MS. JAMESON: No, Your Honor.

23 THE COURT: You may step down. Thank you, Mr. Francois.

24 MR. FRANCOIS: Thank you, Your Honor.

25 THE COURT: Any further witnesses?

1 MR. MURPHY: We'd rest, Your Honor.

2 THE COURT: Any witnesses from the state?

3 MS. JAMESON: One moment's indulgence, Your Honor.

4 No witnesses, Your Honor.

5 THE COURT: Anything further from anybody?

6 MR. MURPHY: Nothing, Your Honor.

7 MS. JAMESON: Just argument, if Your Honor would indulge
8 it.

9 BY THE COURT:

10 THE COURT: This is a very important case and I want an
11 opportunity to review all of the transcripts and I want to ask
12 each of you to prepare a proposed order, and I want the
13 opportunity to review this and think about this matter.

14 MR. MURPHY: Thank you, Your Honor.

15 MS. JAMESON: Thank you, Your Honor.

16 THE COURT: Good luck to you. And let's have those
17 orders in within 30 days.

18 MS. JAMESON: Thank you, Your Honor.

19 ADJOURNED - 11:38 A.M.

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Francois v. State - 2015-CP-10-04723
CERTIFICATE OF COURT REPORTER

81

C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of Stephen Francois v. State of South Carolina, held in the Court of Common Pleas for Charleston County, Charleston County Courthouse, Charleston, South Carolina, on October 5, 2018.

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



Kay H. Richardson

Official Court Reporter

February 1, 2019.

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Stephen Francois, SCDC No. 345325,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2015-CP-10-4723

ORDER OF DISMISSAL

2018 OCT 24 AM 11:05
SOUTH CAROLINA COUNTY CLERK

This matter comes before this Court by way of an application for post-conviction relief filed on August 25, 2015, by Stephen Francois (Applicant), alleging he was entitled to post-conviction relief based on constitutionally ineffective counsel and an involuntary guilty plea. Respondent served its return on June 2, 2016, requesting an evidentiary hearing be convened on the application.

An evidentiary hearing was held on October 5, 2018, before this Court at the Charleston County Courthouse. Applicant was present and was represented by counsel Christopher L. Murphy. Respondent was represented by Senior Assistant Deputy Attorney General Megan Harrigan Jameson of the South Carolina Attorney General's Office. At the hearing, testimony was taken from plea counsel Peter D. Brown and Applicant.

Following a thorough review of the record in its entirety, and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant has failed to establish any constitutional violations and denies this application with prejudice.

PROCEDURAL HISTORY

The records before this court establish Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. During the June 2010 term, the Charleston County Grand Jury indicted Applicant

for two counts of first-degree burglary, two counts of armed robbery, three counts of kidnapping, and two counts of possession of a weapon (2010-GS-10-4545, -4546, -4547, -4535, -4540, -4541, -4543, -4544, -4754) following two separate home invasions and robberies that occurred days apart committed by Applicant and four co-defendants. Applicant retained Peter D. Brown, Esquire, to represent him on all charges. Ninth Circuit Solicitor Scarlett Wilson and Assistant Solicitor E. Culver Kidd, IV, prosecuted the case.

On January 19, 2011, Applicant and two co-defendants (Miguel Starks and Reginald Rice) appeared in the Charleston County Court of General Sessions before the Honorable R. Markley Dennis, Jr., circuit court judge, and pled guilty as indicted pursuant to a recommendation by the State for concurrent sentences not to exceed thirty years. Sentencing was deferred until after the defendants testified at the trial of co-defendant Sasha Gaskins.

On March 22, 2011, Applicant and co-defendants Starks and Rice appeared before Judge Dennis for sentencing. Following presentations from counsels, Judge Dennis sentenced Applicant to an aggregate thirty years imprisonment.¹

Applicant, through counsel, filed a timely motion to reconsider his sentence on April 1, 2011. The State filed a written reply to this motion on April 4, 2011. A hearing on this motion was held on November 13, 2014, before Judge Dennis.² Following the hearing, Judge Dennis denied the motion. Applicant did not file a notice of appeal.

¹ Co-defendants Starks and Rice also received sentences of thirty years imprisonment.

² While the motion to reconsider the sentence was pending, Applicant filed a pro se motion to relieve counsel. The motion to relive counsel was also heard on this date, and to accommodate Applicant's desire to relieve counsel, Judge Dennis allowed Applicant and counsel to both argue the motion to reconsider his sentence. Judge Dennis ultimately relieved counsel at the conclusion of the hearing.

SUMMARY OF FACTS GIVING RISE TO THE CONVICTIONS

At the guilty plea, Solicitor Wilson, on behalf of the State, presented the following summary of facts:

[T]his case involves two separate home invasions, two sets of victims on separate days. The same five codefendants were involved in each event.

The first one was on February 24th, 2010. The victim was Herbert Butler and his girlfriend. Mr. Butler had known Reginald Rice from his days at The Citadel. His girlfriend had no connection to Mr. Rice or any one of the other defendants.

Two days later, the second home invasion occurred with Mr. Josh Harpe, who knew both Reginald Rice and Miguel Starks from The Citadel. Mr. Harper worked as an assistant coach in football at The Citadel, where Mr. Rice had played and Mr. Starks was currently on the football team.

As I mentioned, Mr. Starks was enrolled at The Citadel at the time of these events. Mr. Rice had been a cadet in the past but was no longer there.

The other three defendants, Mr. Francois and the two women who were involved, were students at the College of Charleston when all of this unraveled.

These cases, although they happened with Mr. Butler first and then with Mr. Harpe, they were solved in reverse.

Starting from the beginning, on February 24th of last year, Mr. Rice and Mr. Starks began planning the home invasion of Herbert Butler.

I should right now, Judge, that with the media and others involved that there has been some inference or allegation that these two events were drug deals gone bad. They weren't, at all. These men were targeted. They were targeted by people who knew them and knew that they could be taken advantage of.

Mr. Starks and Mr. Rice began to plan. Mr. Starks enlisted the help of his friend, Mr. Francois, and Mr. Francois' girlfriend, whose name is Sasha Gaskins. The plan was for them to use a ruse to gain entry to Mr. Butler's home and steal anything that they could find, whether it was marijuana, drugs, electronics, whatever.

On that evening of the 24th, all of the defendants were together, including Miss Gaskins and Miss Bruster. They had dinner together, then they hung out at Mr. Starks' apartment where they talked further about doing this robbery.

The three men were all dressed in black, they had two guns that they used in the robbery and also a sword that they used in the robbery.

They rode to Mr. Butler's home and what they did was to have Miss Gaskins go to the door, knock on the door, claim that she needed help, wanted to use the phone. As she did that, Mr. Butler's girlfriend went to get the phone, allowed her to use it, Mr. Starks goes rushing in and Mr. Rice come in after him.

Your Honor, at that point the robbery and brutalization of the people lasted somewhere between two and three hours. They went in, they duct-taped them, blind — , — duct-taped their eyes closed.

At one point during the robbery, Mr. Butler's pants were pulled down and the sword was rubbed up against his genitals as he was threatened that if he didn't "give it up", "give up a stash, give up money, give up whatever he had" that they would basically castrate him.

Also during the robbery Mr. Butler's girlfriend at the time was hit in the head with a pistol, she was forced to perform oral sex on who we believe was Mr. Starks. There are circumstantial evidence to that effect, although there is no DNA indicating that. Based on the testimony, we believe that it was Mr. Starks and that we can prove that.

During that time they recovered Mr. Butler's credit cards, ATM card. Mr. Starks actually left with Mr. Francois and the women to go to an ATM machine to try to get cash, leaving Mr. Rice there with the two victims.

As I mentioned earlier, this went on for several hours. Mr. Starks and the others returned from the ATM machine. I do not believe that they were successful in that attempt. They became unloading various electronics from the home into the car.

That was all on Wednesday night. Evidently they were not satisfied with what they recovered in that robbery and began to discuss doing another one. The chosen victim this time was Joshua Harpe. There was discussion that the reason that they thought that it would work with Mr. Harpe was because he was a nice guy, he would fall for their ruse.

So two nights later, on Friday night into Saturday morning, their plan began to unfold. In that event, Mr. Harpe lived in an apartment complex that you had to take an elevator to get to his residence. What they did was have Miss Gaskins call and claim to be a girlfriend of an acquaintance and claim that she was broken down, that she needed help, and could he come get her and she explained where she was.

This was the middle of the night, obviously, but Mr. Harpe got up — I think that he was a little suspicious, because he began trying to contact the acquaintance to see what was going on with his girlfriend as he was getting ready to go and rescue her.

He gets ready. He comes down, comes out of the bottom of his apartment, where he is immediately confronted by Mr. Rice with a gun. He drops to his knees, he drops his cell phone. The other two join in and they take him back upstairs, they duct-tape him, duct-tape his eyes closed and began ransacking his apartment. They put him in the bedroom. They eventually got his dog and put his dog in a bedroom. His dog was going crazy, as you might imagine. Continued to look for anything that they could find of value.

Again, Mr. Starks found his card. Left the apartment, in Mr. Harpe's car, met back up with the girls and they went to get money from an ATM machine. I believe that time they were successful, that he had gotten the PIN number from Mr. Harpe — as he had with Mr. Butler the previous time. They were able to get some cash.

They went back and began to unload Mr. Harpe's belongings into the car where the women were. They drove away and left.

In both situations—in the situation with Mr. Butler, he thought that he recognized Reginald Rice's voice. Then in Mr. Harpe's situation, he thought that he recognized both Mr. Starks' and Mr. Rice's voice; although neither of them could see their face.

Mr. Harpe immediately got untied from his duct-tape and went next door to the nursing home, because he didn't have a phone, to call police. The police came immediately and met up with Mr. Francois and Mr. Rice, who were nearby, and stopped them. Mr. Harpe was called out to identify them. Obviously he had not seen their faces but they fit the description of clothing and otherwise.

Mr. Rice did not give a statement immediately but Mr. Francois, under questioning, broke and began to tell pieces of what happened; which obviously led to Mr. Starks. Again, because of the voice recognition, Mr. Starks was already a suspect very early on in this.

At this point the County and the City, they're realizing that they have very similar MO's in these cases and began to piece it together. Mr. Starks eventually was arrested, as were the two girls, all of whom — except for Mr. Rice gave statements which while somewhat minimized their own culpability as to who exactly planned it or who exactly did what first, but the general picture that everyone gave fit as to what happened these two nights. Again, there was some

minimization that went on in those statements but clearly there was cooperation against each other, which we believe they would be convicted on all these charges.

Since the time of their arrest, more recently, Mr. Rice has begun to cooperate. He has had one session where he told his version of what happened. It fits generally with what we had heard from the other defendants.

Search warrants were executed and much of the loot or the items that were stolen from Mr. Butler's home and from Mr. Harpe's home were recovered in Mr. Starks' apartment, and also from a friend of the two women involved. They had deposited some of the items with a friend, who we don't think had any involvement. Those items were recovered as well.

(Plea Tr. p. 33-41). After Solicitor Wilson's recitation of the facts, Applicant and his two-co-defendants agreed with the summary of facts as presented by the State. (Plea Tr. p. 41-44).

CURRENT PROCEEDING

On August 25, 2015, Applicant filed an application for post-conviction relief, alleging ineffective assistance of counsel and involuntary guilty plea without any specific allegations or facts to support these general allegations. The Charleston County Clerk of Court appointed Christopher L. Murphy, Esquire, to represent Applicant.³ The State of South Carolina (Respondent) made its return on June 2, 2016, requesting an evidentiary hearing be held.

An evidentiary hearing was held before this Court on October 5, 2018. At the evidentiary hearing, Applicant proceeded forward on the following grounds for relief:

1. Counsel was ineffective for advising him he would receive a sentence of fifteen to twenty years; and
2. Involuntary Guilty Plea.

SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

At the start of evidentiary hearing, Applicant moved for a continuance of this matter. Applicant's counsel informed this Court that he was prepared to go forward with the hearing but

³ Other attorneys had previously been appointed to represent Applicant and were relieved due to conflicts.

Applicant requested he move for a continuance to give him additional time to prepare his case. This Court placed Applicant under oath and questioned him about his desire for a continuance. Applicant informed the Court he received the transcript of his motion to reconsider hearing twenty days ago and felt that was not a sufficient amount of time to properly review it. Additionally, Applicant stated his SCDC institution has been under lockdown, which has prohibited him from properly preparing his case and discussing the matter with PCR counsel. When questioned by this Court, counsel Murphy again informed the Court he felt prepared to proceed forward with the hearing. This Court denied Applicant's motion to continue his hearing, finding PCR counsel was sufficiently prepared to go forward. This Court notes PCR counsel informed the court he was ready to proceed forward with the evidentiary hearing and the transcript that Applicant alleged he needed additional time to review is only twenty-four pages long. This Court finds Applicant's failed to show any prejudice he would suffer by going forward on his application, which is more than three years old.

Applicant testified first on his own behalf. Applicant testified his parents retained plea counsel Peter D. Brown the day after he was arrested. He testified he had already begun cooperating with law enforcement before counsel was retained and he continued to cooperate after counsel was retained. He testified he met with counsel once to twice a week for most of his case, but counsel visited him less frequently in the months leading up to his sentencing. He testified counsel discussed the elements of the case with him, including what his co-defendants were planning on doing. He testified he met with Solicitor Wilson and Assistant Solicitor Kidd, with counsel present, and they discussed the elements of the offenses. He testified he wanted his parents to meet with Solicitor Wilson but she refused. He testified the State did not want him to go to trial and only one of his four co-defendants (his ex-girlfriend Sasha Gaskins) went to trial. He testified he and the other three co-defendants testified against Gaskins. He testified the State

wanted him to testify that Gaskins was the mastermind of the home invasions and he refused to do so because she was not. However, he acknowledged on cross-examination that Gaskins' defense at trial was duress and he testified regarding her level of involvement. He testified he thought he would get a more lenient sentence based on his cooperation and testimony at Gaskins' trial but instead received the maximum sentence of thirty years.

Applicant testified counsel advised him going to trial was not a viable option because he had cooperated extensively with law enforcement. He testified he did not want to proceed to trial and was always interested in securing a favorable plea offer, but if he had known he would receive a thirty year sentence, which he described as the maximum sentence he could receive, he would have gone to trial. He acknowledged he was facing two consecutive life sentences plus 130 years for all his offenses and that Judge Dennis had advised him of this on the record.

Applicant testified his plea agreement was for a recommended sentence of up to thirty years and he had not been promised any specific sentence by the State. However, he testified he did not think he would receive a thirty year sentence because counsel and Solicitor Wilson told him they thought he would get less time. He testified counsel told him he could get a sentence between fifteen years (the mandatory minimum sentence for first-degree burglary) up to thirty years (the sentencing cap per the recommendation of the State), but he believed he would get a sentence between fifteen to twenty years based on his level of cooperation and culpability. He testified he was less culpable than Starks and Rice because he did not plan the home invasions, know the victims, and was not present when the sexual assault occurred. He testified everyone agreed he was less culpable and thought he would get a lesser sentence than Starks and Rice based on that. He testified he was "sold a dream that didn't happen" when he received the same thirty year sentence Starks and Rice. He testified counsel did not sufficiently advise him as to what a recommendation meant. However, he acknowledged Judge Dennis explained he could

receive a sentence of up to thirty years based on the State's recommendation and he knew he could receive a sentence of up to thirty years when he entered his guilty plea.

Applicant testified he wanted to be sentenced independently from Starks and Rice because he was less culpable. He testified he discussed this with counsel and counsel attempted to get him an independent sentencing hearing, but the State refused. He testified the families of Stark and Rice "poisoned the waters," at the sentencing hearings with their comments to the court and victims. He testified this resulted in his thirty year sentence. He testified counsel was also surprised by his sentence and filed a motion to reconsider his sentence.

He testified after counsel filed the motion to reconsider his sentence, counsel stopped communicating with him. He testified the motion was not heard for a few years and counsel kept giving him excuses for the delay, including wanting to wait for Judge Dennis to retire before the motion was heard. He testified he ultimately filed an action with the Office of Disciplinary Counsel (ODC) against counsel based on the delay in having his motion heard, and after that was resolved, he filed a motion to relieve counsel. He testified he thought the hearing in November 2014 would only be on his motion to relieve counsel, not to reconsider his sentence. He testified counsel was similarly surprised the court wanted to proceed forward with the motion to relieve counsel and asked for a continuance, which was denied. He testified neither he nor counsel were not prepared to go forward with his motion to reconsider his sentence because he did not have any witnesses there to testify on his behalf or paperwork to show the accomplishments from his time in SCDC. He testified Judge Dennis violated his due process rights by denying his motion to continue his reconsideration hearing.

Applicant also testified Judge Dennis made comments about not wanting to hear this case and he thinks Judge Dennis should have been recused. He testified Judge Dennis also made comments about expecting more from Applicant because he was from a good home and had

good grade that he believes were inappropriate and resulted in an unduly harsh sentence based on his level of culpability.

On cross-examination, Applicant testified he lied under oath when he was before Judge Dennis for his plea and sentencing proceedings. Specifically, he said he lied when he told Judge Dennis there was no promise as to his sentence and he knew what sentences he could get for each charge. He testified he also lied when he testified at Sasha Gaskins' trial when he testified numerous times that he did not have a promise for a particular sentence from the State. He acknowledged he was under oath at all of these proceedings and lied because counsel had advised him to lie. He acknowledged he did not have anything in writing from either counsel or the State promising him a sentence of less than thirty years.

After he testified, Applicant called counsel to the stand. Counsel testified he was retained by Applicant shortly after Applicant's arrest. He testified Applicant had already given a statement and begun cooperating with law enforcement by the time he was retained and Applicant continued to cooperate after he was retained. He testified a trial was not realistic for Applicant because he had already cooperated and the evidence was stacked against him. Counsel testified Applicant would have been convicted at trial based on the overwhelming evidence of his guilt. He testified Applicant had no viable defense to either home invasion. He testified he met with Applicant regularly and also had regular communication with Applicant's parents.

Counsel testified Applicant was the least culpable of the three male defendants because he did not know either of set of victims (Starks and Rice knew them from The Citadel), he did not plan the home invasions, and he was not present when the sexual assault occurred.

Counsel testified he argued heavily to the State and Judge Dennis the facts to show Applicant was less culpable to get the most lenient sentence possible for Applicant. He testified he was eventually able to secure a plea negotiation from the State for a recommended cap of

thirty years imprisonment, which essentially meant Applicant was facing a sentence between fifteen years (the mandatory minimum for first-degree burglary) up to thirty years. He testified this would allow him to argue to the plea court that Applicant should receive a lesser sentence than his co-defendants because he was less culpable. He testified he explained the plea offer to Applicant and that he would argue to the court that Applicant should get a sentence of less than thirty years. He testified he never told Applicant he would receive a sentence of less than thirty years and never made a promise as to the particular sentence Applicant would receive. He testified he also never implied he had a personal relationship with Judge Dennis that would ensure Applicant a more lenient sentence. He stressed that he has been practicing law for thirty-one years and would not have told Applicant or his parents to expect a sentence of any less than thirty years.

Counsel testified he verbally moved to sever Applicant's sentencing proceeding from his co-defendants because he wanted to independently present evidence to show Applicant was less culpable, came from a good home, had potential, and had gotten mixed up with more culpable bad influences (particularly Starks, whom he knew from home in Georgia) that led Applicant to participate in these crimes. He testified the State refused to allow Applicant to have a separate sentencing hearing, citing concern for making the victims go through numerous sentencing proceedings after already going through the trial of co-defendant Gaskins. He testified the sentencing proceeding itself went very fast. He testified he initially wanted to be the first of the three co-defendants to present his case, but ultimately the counsels for Starks and Rice vetoed him and decided to have the female attorney present first because she would have a "softer touch." He testified the sentencing proceeding did not go as planned, as the presentations from Starks and Rice were distasteful and disingenuous, which likely gave Judge Dennis a negative

impression of the defendants. He testified once he finally presented Applicant and his parents, the impression of the defendants was already negatively set.

Counsel testified he presented mitigation at the sentencing hearing in support of his argument that Applicant was the least culpable and should get less time, including both of Applicant's parents. He testified that following the plea, Applicant's mother and father both expressed gratitude towards counsel for preparing them for Applicant to receive a sentence of up to thirty years and for securing Applicant a thirty year sentence when he faced life imprisonment.

Counsel testified he was disappointed Applicant received the same sentence as Starks and Rice and he filed a motion to reconsider Applicant's sentence so that he would be able to present Applicant's case independently to again argue that Applicant was the least culpable. He testified he timely filed his motion, the State responded, and then he talked to the State and asked for the motion to sit unheard for a while to allow the victims and media attention surrounding the case to die down. He had also heard rumors that Judge Dennis may be retiring soon and was hopeful that the motion could then be heard by a visiting judge who was not predisposed to the case. He testified he explained this strategy to Applicant and his family. He testified he reached out to Applicant and Applicant's parents regularly, but then they became unresponsive.

Counsel testified Applicant filed a grievance against him with ODC. Once that was resolved, Applicant then filed a motion to relieve him. He testified once the motion to relieve counsel was filed, it got the attention of the clerk of court, who realized the motion to reconsider was also still outstanding and brought the motions to the court's attention. He testified Judge Dennis scheduled a hearing on the motion to relieve counsel and then wanted to resolve both motions at once. He testified he argued he was unprepared to go forward with the motion to reconsider and asked for a continuance, which was denied. He testified he again argued Applicant was the least culpable and should receive a more lenient sentence. He testified he

wished he could have had Applicant's family and friends present to show the emotional impact of Applicant's imprisonment, but acknowledged he had already presented Applicant's parents previously at the sentencing proceeding. He testified the only other thing he would have wanted to present was documentation of Applicant's accomplishments while in SCDC, but acknowledged that Applicant told Judge Dennis about these accomplishments.

Counsel testified he did not see any reason to ask for Judge Dennis to be recused from hearing Applicant's case. He elaborated that he actually would have selected Judge Dennis to hear this case if he had any input because he believed Judge Dennis had the ability to listen to the facts of the case and potentially give Applicant a lesser sentence based on his decreased culpability.

Applicant testified again following Counsel's testimony. He testified he understands this Court cannot change his sentence. He testified he agrees with Counsel that he has no defense to these crimes. However, he testified he would have proceeded to trial if he had known he would receive a thirty year sentence. He testified Counsel drew a diagram with fifteen years on one side and thirty years on the other side and explained that he thought Starks would likely receive around thirty years because he was the most culpable, Rice would likely receive between twenty to thirty years since he was the second most culpable, and he thought Applicant would likely receive between fifteen to twenty years. He testified Counsel was disappointed after sentencing and told Applicant he should have had his own sentencing hearing. He testified Counsel never told him the strategic reasons for delaying the sentencing hearing and if he had, then Applicant would not have filed the motion to relieve counsel. He testified he felt unprepared to go forward at the motion to reconsider hearing, which he described as chaotic.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has thoroughly reviewed the record in its entirety. Additionally, this Court heard the testimony presented at the evidentiary hearing and was able to observe the witnesses presented at the evidentiary hearing, which allowed the Court to scrutinize the credibility of all witnesses presented. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

Applicant has alleged plea counsel, Peter D. Brown, was constitutionally ineffective for promising him he would receive a sentence between fifteen to twenty years imprisonment. He also argues his plea was involuntary. Both allegations are addressed below.

Ineffective Assistance of Counsel

The Sixth Amendment to the United States Constitution guarantees a defendant the right to effective assistance of counsel. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008).

In a post-conviction relief action, an applicant bears the burden of proving the allegations in his or her 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 [it] cannot be relied upon as having produced a just result." Strickland, 466 U.S. 668. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

Strickland does not guarantee perfect representation, only a " 'reasonably competent attorney.' " 466 U. S. at 687 (quoting McMann v. Richardson, 397 U. S. 759, 770 (1970)). Representation is constitutionally ineffective only if it "so undermined the proper functioning of the adversarial process" that the defendant was denied a fair trial. Strickland, 466 U.S. at 686. Just as there is no expectation that competent counsel will be a flawless strategist or tactician, an

attorney may not be faulted for a reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be remote possibilities. Id.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, an applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Although courts may not indulge "post hoc rationalization" for counsel's decision making that contradicts the available evidence of counsel's actions, Wiggins, 539 U. S., at 526-527, neither may they insist counsel confirm every aspect of the strategic basis for his or her actions. There is a "strong presumption" that counsel's attention to certain issues to the exclusion of others reflects trial tactics rather than "sheer neglect." Yarborough v. Gentry, 540 U. S. 1, 8 (2003) (per curiam). After an adverse verdict at trial even the most experienced counsel may find it difficult to resist asking whether a different strategy might have been better, and, in the course of that reflection, to magnify their own responsibility for an unfavorable outcome. Strickland,

however, calls for an inquiry into the objective reasonableness of counsel's performance, not counsel's subjective state of mind. Id. at 688; Harrington v. Richter, 562 U.S. 86 (2011).

With respect to prejudice, an applicant must demonstrate "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome." Id. at 694. It is not enough "to show that the errors had some conceivable effect on the outcome of the proceeding." Id. at 693. Counsel's errors must be "so serious as to deprive the defendant of a fair trial, a trial whose result is reliable." Id. at 687. See Harrington, 562 U.S. 86.

"Surmounting Strickland's high bar is never an easy task." Padilla v. Kentucky, 559 U.S. 356, 371 (2010), and the strong societal interest in finality has "special force with respect to convictions based on guilty pleas." United States v. Timmreck, 441 U.S. 780, 784 (1979). An ineffective assistance of counsel claim can function as a way to escape rules of waiver and forfeiture and raise issues not presented at trial, and so the Strickland standard must be applied with scrupulous care, lest "intrusive post-trial inquiry" threaten the integrity of the very adversary process the right to counsel is meant to serve. Strickland, 466 U.S. at 689-690. Even under de novo review, the standard for judging counsel's representation is a most deferential one. Unlike a later reviewing court, the attorney observed the relevant proceedings knew of materials outside the record and interacted with the client, with opposing counsel, and with the judge. It is "all too tempting" to "second-guess counsel's assistance after conviction or adverse sentence." Id. at 689; see also Bell v. Cone, 535 U. S. 685, 702 (2002); Lockhart v. Fretwell, 506 U. S. 364, 372 (1993). The question is whether an attorney's representation amounted to incompetence under "prevailing professional norms," not whether it deviated from best practices or most common custom. Strickland, 466 U.S. at 690.

In assessing prejudice under Strickland, the question is not whether a court can be certain counsel's performance had no effect on the outcome or whether it is possible a reasonable doubt might have been established if counsel acted differently. Wong v. Belmontes, 558 U. S. 15 (2009); Strickland, 466 U.S. at 693. Instead, Strickland asks whether it is "reasonably likely" the result would have been different. Id. at 696. This does not require a showing that counsel's actions "more likely than not altered the outcome," but the difference between Strickland's prejudice standard and a more-probable-than-not standard is slight and matters "only in the rarest case." Id. at 693, 697. The likelihood of a different result must be substantial, not just conceivable. Id. at 693. Harrington, 562 U.S. 86.

Based on this standard set forth above, this Court finds Applicant has failed to meet his requisite burden of establishing any constitutional ineffectiveness of counsel. Applicant has alleged counsel promised him a sentence of fifteen to twenty years imprisonment. Specifically, this Court finds Applicant has failed to establish deficiency of counsel or any resulting prejudice. Addressing deficiency first, this Court finds Counsel's performance was effective and in accordance with his constitutionally proscribed duties to his client. Counsel testified he never promised to Applicant or his family a particular sentence and consistently advised both Applicant and his family that Applicant should expect to receive the full thirty year sentence pursuant to the recommendation, but that he would argue Applicant should receive less based on his decreased culpability. This Court finds counsel's testimony as to this issue credible and affords it great weight. This Court similarly finds Applicant's testimony as to this issue to lack credibility and notes Applicant testified that he has previously lied under oath to multiple courts when he believes it will benefit him. This Court finds counsel appropriately advised Applicant of the potential sentences he was facing and properly explained the plea offer from the State to Applicant, including that he could receive a sentence of up to thirty years.

Additionally, this Court finds Applicant cannot establish any requisite prejudice, as he was properly sentenced within the recommended sentencing range as agreed upon with the State during plea negotiations. While it is clear Applicant and counsel hoped Applicant would receive a sentence of less than thirty years, counsel never promised Applicant a particular sentence and therefore, Applicant cannot show that he would not have pled guilty but for this non-existent promise of a lesser sentence. See Holden v. State, 393 S.C. 565, 575–76, 713 S.E.2d 611, 617 (2011) (internal citations omitted), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018) (“However, wishful thinking regarding sentencing does not equal a misapprehension concerning the possible range of sentences, especially where one acknowledges on the record that one knows the range of sentences and that no promises have been made.”)

Based on the foregoing, this Court finds Applicant has failed to meet his requisite burden of establishing Counsel was constitutionally ineffective. This allegation of ineffective assistance of counsel is denied and dismissed with prejudice.

Involuntary Guilty Plea

Applicant further alleges his guilty plea was not voluntarily entered. This Court finds Applicant’s guilty plea was freely and voluntarily made. In evaluating issues concerning guilty pleas, this Court will consider the entire record, including the transcript of the guilty plea proceeding and the evidence presented at the post-conviction relief hearing. Roddy v. State, 339 S.C. 29, 528 S.E.2d 418 (2000). Voluntariness of a guilty plea is not merely determined by an examination of a specific inquiry by the plea court alone but rather is determined by the record of both the guilty plea proceeding and the post-conviction relief hearing. Id. In order to find a guilty plea was knowingly and voluntarily entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238 (1969). Further, “[a] guilty plea is a solemn, judicial admission of the

truth of the charges" against the applicant; thus, an applicant's right to contest the validity of such a plea is usually foreclosed. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, admissions "made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements." Id. (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975)); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

This Court finds this allegation is without merit, and Applicant has failed to carry his burden of proving his guilty plea was involuntarily made. This Court further finds Applicant's plea was entered into freely and voluntarily. This Court finds Applicant knew the charges he was facing and understood the plea offer from the State was for a recommended sentence of up to thirty years, which he accepted in exchange for his cooperation. This Court also finds Applicant was properly and fully advised of his constitutional rights and knowingly and voluntarily waived those rights to accept a favorable negotiated plea based on the advice of competent counsel.

Therefore, this Court finds Applicant had a full understanding of the consequences of his plea and the charges against him, and the plea court correctly found Applicant's plea was freely, voluntarily, and intelligently made. This allegation is denied and dismissed with prejudice.

CONCLUSION

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

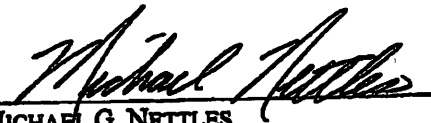
This Court notes Applicant must file and serve a notice of appeal within thirty days from the receipt of this Order by counsel of record to secure the appropriate appellate review. See Rule 203 and 243, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an applicant has a

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

IT IS THEREFORE ORDERED:

1. This application for post-conviction relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the State within the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 18 day of October, 2018.


 MICHAEL G. NETTLES
 Presiding Judge
 Ninth Judicial Circuit

Dorrence, South Carolina

SAW20100301178

WITNESSES

NICHOLAS WAGNER
Charleston County Sheriff's Office

AGENCY CASE NUMBER

2010003169B

ARREST WARRANT NUMBER

K611539

DATE OF ARREST

March 9, 2010

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

JUN 07 2010

VERDICT

Foreperson of Petit Jury

Date:

INDICT.DOT

DOCKET NO. 2010GS1004535

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

June 2010 Term

THE STATE

10 1277(01)

VS.

STEPHEN HORACE FRANCOIS

DOB: [REDACTED]
B/M

Indictment for

BURGLARY - FIRST DEGREE

FILED

7/1/2010 3:33:06 PM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA)

INDICTMENT

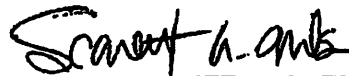
COUNTY OF CHARLESTON)

At a Court of General Sessions, convened on June 7, 2010, the Grand Jurors of Charleston County present upon their oath:

BURGLARY - FIRST DEGREE

That in Charleston County, South Carolina, on or about February 24, 2010, in concert with others, the Defendant STEPHEN HORACE FRANCOIS, did enter the dwelling located at [REDACTED], Charleston, during the nighttime, without consent and with the intent to commit a crime therein. This in violation of Section 16-11-311 of the South Carolina Code of Laws (1976) as amended.

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



SCARLETT A. WILSON
SOLICITOR

SAW20100301178

WITNESSES

NICHOLAS WAGNER
Charleston County Sheriff

AGENCY CASE NUMBER

2010003169B

ARREST WARRANT NUMBER

K611544

DATE OF ARREST

March 9, 2010

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

JUN 07 2010

VERDICT

Foreperson of Petit Jury

Date:

INDICT.DOT

DOCKET NO. 2010GS1004544

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

June 2010 Term

ID 1277(06)
THE STATE

vs.

STEPHEN HORACE FRANCOIS

DOB: [REDACTED]
B/M

Indictment for

KIDNAPPING

FILED

7/1/2010 3:33:06 PM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA)

INDICTMENT

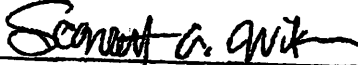
COUNTY OF CHARLESTON)

At a Court of General Sessions, convened on June 7, 2010, the Grand Jurors of Charleston County present upon their oath:

KIDNAPPING

That in Charleston County, South Carolina, on or about February 24, 2010, in concert with others, the Defendant, **STEPHEN HORACE FRANCOIS**, unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, [REDACTED], without authority of law; all in violation of Section 16-3-910 of the South Carolina Code of Laws (1976) as amended.

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


SCARLETT A. WILSON
SOLICITOR

SAW20100301178

DOCKET NO. 2010GS1004543

WITNESSES

NICHOLAS WAGNER
Charleston County Sheriff

The State of South Carolina
County of Charleston

AGENCY CASE NUMBER

2010003169B

COURT OF GENERAL SESSIONS

June 2010 Term

ARREST WARRANT NUMBER

K611543

DATE OF ARREST

March 9, 2010

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

JUN 07 2010

VERDICT

Foreperson of Petit Jury

Date:

INDICT.DOT

THE STATE

vs.

STEPHEN HORACE FRANCOIS

DOB: [REDACTED]

B/M

Indictment for

KIDNAPPING

FILED

7/1/2010 3:33:06 PM
JULIE J. ARMSTRONG
CLERK OF COURT

10 1277105)

STATE OF SOUTH CAROLINA)

INDICTMENT

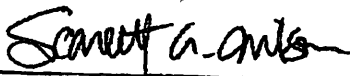
COUNTY OF CHARLESTON)

At a Court of General Sessions, convened on June 7, 2010, the Grand Jurors of Charleston County present upon their oath:

KIDNAPPING

That in Charleston County, South Carolina, on or about February 24, 2010, in concert with others, the Defendant, **STEPHEN HORACE FRANCOIS**, unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, [REDACTED], without authority of law; all in violation of Section 16-3-910 of the South Carolina Code of Laws (1976) as amended.

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



SCARLETT A. WILSON
SOLICITOR

SAW20100301178

WITNESSES

NICHOLAS WAGNER
Charleston County Sheriff's Office

AGENCY CASE NUMBER

2010003169B

ARREST WARRANT NUMBER

K611542

DATE OF ARREST

March 9, 2010

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

JUN 07 2010

VERDICT

Foreperson of Petit Jury

Date:

INDICT.DOT

DOCKET NO. 2010GS1004541

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

June 2010 Term

10 1277(04)
THE STATE

vs.

STEPHEN HORACE FRANCOIS

DOB: [REDACTED]

B/M

Indictment for

POSSESSION OF A FIREARM DURING
THE COMMISSION OF A
VIOLENT CRIME

FILED

7/1/2010 3:33:06 PM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF CHARLESTON)

At a Court of General Sessions, convened on June 7, 2010, the Grand Jurors of Charleston County present upon their oath:

POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME

That in Charleston County, South Carolina, on or about February 24, 2010, in concert with others, the Defendant, **STEPHEN HORACE FRANCOIS**, did possess a firearm or visibly display what appeared to be a firearm during the commission, or attempted commission, of armed robbery, a violent crime. This is in violation of Section 16-23-490 of the South Carolina Code of Laws, (1976) as amended.

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



SCARLETT A. WILSON
SOLICITOR

SAW20100301178**WITNESSES****NICHOLAS WAGNER**
Charleston County Sheriff's Office**AGENCY CASE NUMBER**

2010003169B

ARREST WARRANT NUMBER

K611541

DATE OF ARREST

March 9, 2010

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

JUN 07 2010

VERDICTForeperson of Petit Jury
INDICT.DOT

Date:

DOCKET NO. 2010GS1004540**The State of South Carolina****County of Charleston****COURT OF GENERAL SESSIONS****June 2010 Term****THE STATE**

vs.

STEPHEN HORACE FRANCOIS

DOB: [REDACTED]

B/M

**Indictment for
ARMED ROBBERY****FILED**7/1/2010 3:33:06 PM
JULIE J. ARMSTRONG
CLERK OF COURT

10 1277(03)

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF CHARLESTON)

At a Court of General Sessions, convened on June 7, 2010, the Grand Jurors of Charleston County present upon their oath:

ARMED ROBBERY

That on or about February 24, 2010, in Charleston County, South Carolina, at [REDACTED]
[REDACTED], in concert with others, by use of force, threats or intimidation and while armed with a deadly weapon, to wit: a handgun, the Defendant, **STEPHEN HORACE FRANCOIS**, did take and carry away goods and/or monies from the person or immediate presence of [REDACTED]
[REDACTED] III with the intent to permanently deprive him of possession thereof, in violation of Section 16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

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

Scarlett A. Wilson

SCARLETT A. WILSON
SOLICITOR

SAW20100301122

DOCKET NO. 2010GS1004547

WITNESSES

Richard Holmes
Charleston City Police Department

AGENCY CASE NUMBER

1003307

ARREST WARRANT NUMBER

K611478

DATE OF ARREST

February 27, 2010

ACTION OF GRAND JURY

TRUE BILL

Da Silva
Foreperson of Grand Jury
Date: 9

JUN 07 2010

VERDICT

Foreperson of Petit Jury

Date:

INDICT.DOT

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

June 2010 Term

THE STATE

vs.

STEPHEN FRANCOIS

DOB: [REDACTED]

B/M

Indictment for

KIDNAPPING

FILED

7/1/2010 3:33:06 PM
JULIE J. ARMSTRONG
CLERK OF COURT

10 1076 (03)

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF CHARLESTON)

At a Court of General Sessions, convened on June 7, 2010, the Grand Jurors of Charleston County present upon their oath:

KIDNAPPING

That in Charleston County, South Carolina, on or about February 27, 2010, in concert with others, the Defendant, **STEPHEN FRANCOIS**, did unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, [REDACTED], without authority of law; all in violation of Section 16-3-910 of the South Carolina Code of Laws (1976) as amended.

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



SCARLETT A. WILSON
SOLICITOR

SAW20100301122

WITNESSES

Richard Holmes
Charleston City Police Department

AGENCY CASE NUMBER

1003307

ARREST WARRANT NUMBER

K611477

DATE OF ARREST

February 27, 2010

ACTION OF GRAND JURY

Da Silva
Foreperson of Grand Jury
Date:

JUN 07 2010

VERDICT

Foreperson of Petit Jury

Date:

INDICT.DOT

DOCKET NO. 2010GS1004546

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

June 2010 Term

10 1076(b2)
THE STATE

vs.

STEPHEN FRANCOIS

DOB: [REDACTED]

B/M

Indictment for

BURGLARY - FIRST DEGREE

FILED

7/1/2010 3:33:06 PM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF CHARLESTON)

At a Court of General Sessions, convened on June 7, 2010, the Grand Jurors of Charleston County present upon their oath:

BURGLARY - FIRST DEGREE

That in Charleston County, South Carolina, on or about February 27, 2010, in concert with others, the Defendant, STEPHEN FRANCOIS, did enter the dwelling of [REDACTED], located at [REDACTED], at nighttime, without consent and with the intent to commit a crime therein. This in violation of Section 16-11-311 of the South Carolina Code of Laws (1976) as amended.

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



SCARLETT A. WILSON
SOLICITOR

SAW20100301122

WITNESSES

Richard Holmes
Charleston City Police Department

AGENCY CASE NUMBER

1003307

ARREST WARRANT NUMBER

K611476

DATE OF ARREST

February 27, 2010

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

JUN 07 2010

VERDICT

Foreperson of Petit Jury

Date:

INDICT.DOT

DOCKET NO. 2010GS1004545

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

June 2010 Term

THE STATE

vs.

STEPHEN FRANCOIS

DOB: [REDACTED]
B/M

**Indictment for
ARMED ROBBERY**

FILED

7/1/2010 3:33:06 PM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA)

INDICTMENT

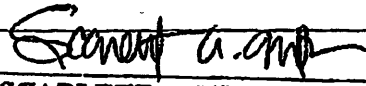
COUNTY OF CHARLESTON)

At a Court of General Sessions, convened on June 7, 2010, the Grand Jurors of Charleston County present upon their oath:

ARMED ROBBERY

That on or about February 27, 2010, in Charleston County, South Carolina, at Unit 212, 2244 Ashley Crossing Drive, in concert with others, by use of force, threats or intimidation and while armed with a deadly weapon, to wit: a handgun, the Defendant, STEPHEN FRANCOIS, did take and carry away goods and/or monies from the person or immediate presence of [REDACTED] with the intent to permanently deprive him of possession thereof, in violation of Section 16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

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


SCARLETT A. WILSON
SOLICITOR

SAW20100301122

DOCKET NO. 2010GS1004754

WITNESSES

Richard Holmes
Charleston City Police Department

The State of South Carolina

County of Charleston

AGENCY CASE NUMBER

1003307

COURT OF GENERAL SESSIONS

June 2010 Term

ARREST WARRANT NUMBER

DIRIND1093

DATE OF ARREST

June 7, 2010

THE STATE

vs.

STEPHEN HORACE FRANCOIS

DOB: [REDACTED]

B/M

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

JUN 07 2010

VERDICT

Indictment for

POSSESSION OF A FIREARM DURING
COMMISSION OF A VIOLENT CRIME

Foreperson of Petit Jury

Date:

INDICT.DOT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on June 7, 2010, the Grand Jurors of Charleston County present upon their oath:

POSSESSION OF A FIREARM DURING COMMISSION OF A VIOLENT CRIME

That in Charleston County, South Carolina, on or about February 27, 2010, the Defendant, **STEPHEN HORACE FRANCOIS**, did possess a firearm or visibly display what appeared to be a firearm during the commission, or attempted commission, of armed robbery, a violent crime. This is in violation of Section 16-23-490 of the South Carolina Code of Laws, (1976) as amended.

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



SCARLETT A. WILSON
SOLICITOR