

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Aiken County

Honorable Robert E. Hood, Circuit Court Judge

RAPHAEL WOODEN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2017-000001

APPENDIX

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1 State of South Carolina)

In the Court
Of General Sessions

2 County of Aiken)

3
4 Indictment No. 2014-GS-02-00135
2014-GS-02-00136
2014-GS-02-00139

6
7 State of South Carolina,)
Plaintiff.)

8
9 vs.)

Transcript of Record

10
11 Raphael A. Wooden,)
Defendant.)

12
13
14 November 10, 2014
Aiken, South Carolina

15
16 B E F O R E:

17 The Honorable R. Knox McMahon, Judge.

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

20 Strom Thurmond, Jr., Solicitor
Attorney for the State

21 Tonya D. Jeffords, Esquire
Attorney for the Defendant

22
23
24 Brenda J. Sigwald, Circuit Court Reporter
To The Honorable R. Knox McMahon
25 P.O. Box 206, Jackson, South Carolina 29831

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(REPORTER'S NOTE: There were no exhibits
entered during this hearing.)

1 GUILTY PLEA

2 THE COURT: Solicitor.

3 MR. THURMOND: Raphael Wooden.

4 RAPHAEL A. WOODEN,

5 having been duly sworn, testified as follows:

6 THE COURT: All right. Solicitor?

7 MR. THURMOND: Good morning, Your Honor.

8 THE COURT: Good morning.

9 MR. THURMOND: Before the Court is Mr. Raphael
10 Wooden. He is charged via Indictment Numbers
11 2014-GS-02-135 for the offense of armed robbery,
12 2014-GS-02-136 for the offense of murder, 2014-GS-02-137
13 with the offense of possession of a firearm during the
14 commission of a violent crime, 2014-GS-02-138 with the
15 offense of armed robbery, and 2014-GS-02-139 with the
16 offense of armed robbery.

17 Your Honor, this is a negotiated sentence. Mr.
18 Wooden is going to plead guilty to Indictment Numbers
19 ending in 135, that armed robbery; we are reducing the
20 offense of murder to the offense of voluntary manslaughter,
21 regarding Indictment No. 136; and he's pleading guilty to
22 2014-GS-02-139 with the offense of armed robbery, that
23 victim being a Mr. Terry Dunbar. We are dismissing 137,
24 the possession of a weapon during the commission of a
25 violent crime; and 138, that is an armed robbery where Mr.

1 Lavon Catoe is a victim, and this is a negotiated sentence
2 for 25 years concurrent on all charges.

3 Mr. Wooden has no adult prior criminal history.

4 THE COURT: Thank you. Thank you, Solicitor.

5 Ms. Jeffords, you represent Raphael A. Wooden?

6 MS. JEFFORDS: I do, Your Honor.

7 THE COURT: Did you explain to him the charges in
8 the indictments, the elements of those charges, the
9 possible punishment, and his right to a jury trial?

10 MS. JEFFORDS: I have, Your Honor. This case was
11 set for trial this morning, and he accepted a plea on
12 Friday.

13 THE COURT: In your opinion, does the defendant
14 understand that the charge, the punishment, and his
15 constitutional rights including his right to a jury trial?

16 MS. JEFFORDS: Yes, Your Honor.

17 THE COURT: How did he indicate he wishes to plea
18 to voluntary manslaughter and armed robbery, two counts?

19 MS. JEFFORDS: He's indicated that he wants to
20 plead guilty and forego his right to a jury trial.

21 THE COURT: Do you agree with his decision to enter
22 those guilty pleas?

23 MS. JEFFORDS: I do believe it is in his best
24 interest.

25 THE COURT: From your investigation of the facts

1 and circumstances of these cases, do you feel that the
2 State could produce sufficient evidence to convince a jury
3 of the defendant's guilt beyond a reasonable doubt and that
4 if the defendant were to stand trial his conviction would
5 be probable?

6 MS. JEFFORDS: Yes, Your Honor. I do believe they
7 have sufficient evidence to prove him guilty beyond a
8 reasonable doubt.

9 THE COURT: Has the defendant been ordered to
10 submit to a mental examination to determine his competency
11 to stand trial?

12 MS. JEFFORDS: No, Your Honor.

13 THE COURT: Have you questioned his competency in
14 any manner?

15 MS. JEFFORDS: No, Your Honor.

16 THE COURT: And how long did you represent him, Ms.
17 Jeffords?

18 MS. JEFFORDS: Since the beginning of this case,
19 almost two years now.

20 THE COURT: Thank you. Thank you very much.

21 Are you Raphael A. Wooden?

22 THE DEFENDANT: Yes, sir, Your Honor.

23 THE COURT: Before I can accept pleas of guilty,
24 it's necessary for me to determine that your guilty plea
25 has been made freely and voluntarily. Therefore, I need to

1 ask you some questions. If you do not understand my
2 questions, please let me know. I'll try to explain them to
3 you. If at any time you wish to talk to your lawyer,
4 please let me know. I will allow you to do so. Do you
5 understand?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: How old are you, Mr. Wooden?

8 THE DEFENDANT: 20 years old, Your Honor.

9 THE COURT: How much education do you have?

10 THE DEFENDANT: I graduated from high school, Your
11 Honor.

12 THE COURT: What type of work do you do?

13 THE DEFENDANT: I worked at Kimberly Clark, Your
14 Honor.

15 THE COURT: Today are you under the influence of
16 any medication, drugs, or alcohol?

17 THE DEFENDANT: No, Your Honor.

18 THE COURT: Are you today aware of any physical,
19 emotional, or nervous problem that will keep you from
20 understanding what you're doing today?

21 THE DEFENDANT: Not at all, Your Honor.

22 THE COURT: You heard your lawyer tell me that
23 she's explained to you these charges, the elements of the
24 charges, the possible punishment, and your rights and that
25 you understand these things; is that correct?

1 THE DEFENDANT: That's right, Your Honor.

2 THE COURT: I've been handed up three indictments.

3 The first one, 2014-GS-02-00135, it basically reads that
4 you did, along with Demarcus Liquan Booker, in Aiken County
5 on or about May 18, 2013, while armed with a deadly weapon,
6 or while alleging either by action or words that you were
7 armed by using a representation of a deadly weapon or an
8 object which a person present during the commission of the
9 robbery reasonably believed to be a deadly weapon, to wit,
10 a hand gun, feloniously take from the person or presence of
11 Zannie Worrell, Jr. by means of force and intimidation, the
12 monies of said Mr. Worrell, such goods and monies being
13 described as U.S. currency, all in violation of 16-11-330.
14 That is a charge of armed robbery for which you could
15 receive a sentence of not less than 10 nor more than 30
16 years. Do you understand?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: The next Indictment, 2014-GS-02-00136,
19 alleges that on that same date, May 18, 2013, you along
20 with Demarcus Liquan Booker did felonious and willfully and
21 with malice aforethought then and there, killed and
22 murdered Zannie Worrell, Jr. by means of multiple gunshot
23 wounds and that the victim did die in Richmond County,
24 Augusta, Georgia, at Georgia Regents University Medical
25 Center of as a proximate result thereof on May 18, 2013,

1 all in violation of section 16-3-10 of the code of laws of
2 South Carolina. That is an indictment for murder for which
3 you could receive a sentence of up to life without parole.

4 It appears you're pleading guilty to voluntary
5 manslaughter, the sentence being between 2 and 30 years.
6 Did you understand?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: The next Indictment, 2014-GS-02-00139,
9 alleged that you did, in Aiken County on that same date,
10 May 18, 2014, along with Demarcus Liquan Booker, while
11 armed with a deadly weapon or alleging either by action or
12 words that you were armed using a representation of a
13 deadly weapon or an object which a person present during
14 the commission of the robbery reasonably believed to be a
15 deadly weapon, you did feloniously take from the person or
16 presence of Terry Dunbar, by means of force or
17 intimidation, the goods or monies of Terry Dunbar, such
18 goods and monies being U.S. currency in violation of
19 16-11-330. That is an indictment for armed robbery for
20 which you could receive a sentence of not less than 10 nor
21 more than 30 years. Do you understand?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Mr. Wooden, when you plead guilty, you
24 give up very important constitutional rights. First you
25 give up your right to remain silent, that is your right

1 against self-incrimination, your right to say nothing at
2 all. You cannot be compelled to testify or to provide
3 evidence against yourself. Do you understand?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Second, you give up your right to have
6 a jury trial, that is your right to have a jury decide
7 whether or not you are guilty beyond a reasonable doubt,
8 where they would base their decision upon evidence which
9 the State presents among any other evidence you might wish
10 to present. In a trial, you would be presumed to be
11 innocent, and the State would have to produce evidence that
12 would convince all twelve members of the jury that you are
13 guilty beyond a reasonable doubt. Do you understand?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Third, you give up your right to
16 confront and be confronted by the witnesses against you.
17 That is the right to see, hear, and cross-examine any
18 witnesses that may be called against you during the trial,
19 and the right to subpoena and call witnesses on your own
20 behalf. Do you understand?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Do you understand all of these
23 constitutional rights as I have explained them to you?

24 THE DEFENDANT: I do, Your Honor.

25 THE COURT: Do you understand that when you plead

1 guilty, you give up all these constitutional rights?

2 THE DEFENDANT: Yes, sir.

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

4 THE DEFENDANT: That's correct, Your Honor.

5 THE COURT: You understand you will not get a jury
6 trial if you plead guilty.

7 THE DEFENDANT: That's correct, Your Honor.

8 THE COURT: Understanding, then, the nature of the
9 charges against you, voluntary manslaughter, 2 to 30 years,
10 armed robbery, 10 to 30 years, and armed robbery, 10 to 30
11 years, and the consequences of the guilty plea, how do you
12 wish to plead to voluntary manslaughter, armed robbery, and
13 armed robbery?

14 THE DEFENDANT: I plead guilty, sir.

15 THE COURT: Do you understand that when you enter
16 these guilty pleas you admit the truth of the charges that
17 have been made against you?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Mr. Wooden, you may have defenses to
20 these charges against you. I don't know whether you do or
21 not. You understand that if you plead guilty, you waive,
22 or give up, any defenses to these charges?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: You may have given an incriminating
25 statement in this case. I don't know if you did or not.

1 If you plead guilty, do you understand that you waive, or
2 give up, the right to contest or challenge whether such
3 statement was made freely and voluntarily, given in
4 accordance with your constitutional rights?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Did you commit these offenses?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: The plea negotiations, Solicitor?

9 MR. THURMOND: Your Honor, the plea negotiations
10 are for a combined or concurrent sentence of 25 years
11 relating to the voluntary manslaughter, the armed robbery
12 of Zannie Worrell, Jr., and the armed robbery of Terry
13 Dunbar. Two remaining charges of possession of a weapon
14 during the commission of a violent crime and the armed
15 robbery of Mr. Lavon Catoe are being nol prosequi pursuant to
16 this plea.

17 THE COURT: Ms. Jeffords, has the solicitor
18 correctly and completely stated the negotiations into the
19 record?

20 MS. JEFFORDS: Yes, Your Honor.

21 THE COURT: Mr. Wooden, has the solicitor fully and
22 completely stated what you understand the recommendations
23 are?

24 THE DEFENDANT: That's correct, Your Honor.

25 THE COURT: Has anyone promised you anything or

1 held out any hope of reward to get you to plea guilty?

2 THE DEFENDANT: Not at all, Your Honor.

3 THE COURT: Has anyone threatened you or used force
4 to get you to plead guilty?

5 THE DEFENDANT: No, Your Honor.

6 THE COURT: Has anyone used any pressure or
7 intimidation to cause you to plead guilty?

8 THE DEFENDANT: No, Your Honor.

9 THE COURT: Have you had enough time to make up
10 your mind about whether or not you want to plead guilty?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Are you pleading guilty of your own
13 free will and accord?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Are you satisfied -- I want to ask you
16 about your attorney, Ms. Jeffords. Are you satisfied with
17 the manner in which your lawyer has advised you and
18 represented you?

19 THE DEFENDANT: Yes, Your Honor. She did an
20 excellent job.

21 THE COURT: Have you talked with her as often and
22 for as long as you feel necessary for her to properly
23 represent you?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Do you need any more time to talk with

1 your lawyer?

2 THE DEFENDANT: I'm good, Your Honor.

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

5 THE DEFENDANT: Yes I have, Your Honor.

6 THE COURT: Has your lawyer done everything for
7 you, you feel like she could have done or should have done.

8 THE DEFENDANT: I feel like she did more, Your
9 Honor.

10 THE COURT: Has your lawyer done anything in this
11 case that you feel like she should not have done?

12 THE DEFENDANT: No, Your Honor.

13 THE COURT: Are you totally and completely
14 satisfied with your lawyer's services?

15 THE DEFENDANT: Yes, I am, Your Honor.

16 THE COURT: Do you have any complaints that you
17 want to make about your lawyer, the solicitor, or any
18 officers involved in any of your cases?

19 THE DEFENDANT: Not at all, Your Honor.

20 THE COURT: Have you understood my questions, Mr.
21 Wooden?

22 THE DEFENDANT: Every single one of them, Your
23 Honor.

24 THE COURT: Is there anything you would like to ask
25 me about what we've just been over?

1 THE DEFENDANT: No, sir, Your Honor.

2 THE COURT: Do you understand that you have the
3 right to appeal your guilty pleas and the sentences of the
4 Court and that you or your lawyer must do so within 10
5 days?

6 THE DEFENDANT: That's correct, Your Honor.

7 THE COURT: All right. Solicitor, the facts,
8 please.

9 MR. THURMOND: Thank you, Your Honor. May it
10 please the Court?

11 Your Honor, on May the 18th of 2013, a little after
12 1:00, 1:30 in the afternoon, three men traveled from
13 Augusta, Georgia to Beech Island, South Carolina,
14 specifically to the Island Cuts Barber Shop for the
15 purposes of robbing the establishment and its owner. It
16 was kind of on the street that there would be narcotics and
17 money in this business which is why we believe it was
18 targeted. Those three men were Mr. Raphael Wooden, Mr.
19 Demarcus Booker who was charged in the indictments along
20 with Mr. Wooden, and a third man, a Mr. Niim Williams.

21 Your Honor, they got there; they drove to the back.
22 They were in Mr. Booker's white Honda. Mr. Booker did not
23 have a gun. Initially, Mr. Williams was to participate.
24 He decided that he was not going to participate and gave
25 his gun, a silver .380 semiautomatic pistol, to Mr.

1 Demarcus Booker. At that point, Mr. Wooden and Mr. Booker
2 entered the establishment, and this is just a little block
3 house barber shop. There's a little waiting area in it to
4 the left of the front door. Mr. Booker and Mr. Wooden
5 waited there momentarily. Mr. Booker says they cocked
6 their handguns and then came around the corner, advising
7 everyone to put their hands up or get down.

8 Present in the barber shop were Mr. Lavon Catoe,
9 who is present in court today, Mr. Zannie Worrell, Jr., its
10 32-year-old owner, and Mr. Terry Dunbar. Mr. Terry Dunbar
11 was actually getting his hair cut, and Mr. Booker was
12 sitting in a chair speaking with them before he got his
13 hair cut. The men were forced on the ground. Mr.
14 Booker -- Mr. Catoe was robbed of his wallet as well as a
15 First Citizens Bank envelope containing U.S. currency. Mr.
16 Wooden (sic) was robbed of cash, and Mr. Dunbar was robbed
17 of cash.

18 At some point during the course of this robbery,
19 Mr. Booker gets Mr. Worrell's car keys and goes out to his
20 vehicle where he was looking for money and/or drugs and
21 anything he wanted to take from Mr. Worrell. He ended up
22 taking, I think, a gold watch and an iPod. Mr. Booker goes
23 back into the business and, at that point, a physical
24 altercation has ensued between Mr. Worrell and Mr. Wooden.
25 At that time, both Mr. Worrell and Mr. Booker discharged

1 firearms. Mr. Wooden, it's alleged, is carrying a .9
2 millimeter Springfield XDM .9 millimeter pistol, and Mr.
3 Booker is of course carrying Mr. Niim Williams's .380
4 semiautomatic pistol. Numerous rounds are discharged. Mr.
5 Worrell is struck several times.

6 He is ultimately autopsied on Monday morning of May
7 the 20th at Newberry Pathology. The cause of death was
8 exsanguination, and the death was ruled a homicide. He was
9 shot anywhere from six to eight times, depending on how
10 entry and exit wounds are counted. There are bullets that
11 were removed from his body that were consistent with both 9
12 millimeter and .380 caliber projectiles.

13 Immediately following the robbery, Niim Williams is
14 now in the driver's seat of the white Honda behind the
15 Island Cuts Barber Shop. Mr. Booker and Mr. Wooden run
16 out, hang a right around the front door, and get in that
17 vehicle behind the business.

18 Across the street is a little small engine repair
19 shop, and a Mr. Theo Dunbar, a Mr. William Dunbar, and a
20 Mr. Michael Bush hear shots. They see two men come out the
21 front door and ultimately give descriptions of those two
22 men. They follow this white Honda, and the Honda goes the
23 wrong way. It actually goes back behind the barber shop
24 and gets turned around in a dead end and is pursued by Mr.
25 William Dunbar and Mr. Michael Bush into Augusta. They get

1 the license tag number; they are on the phone with
2 sheriff's office dispatch, and within minutes of this
3 occurring, law enforcement has a vehicle description as
4 well as a license tag.

5 About 20 minutes after this robbery, we allege that
6 this white Honda was driven to the residence of Niim
7 Williams on East Hale Street, just after Sand Bar Ferry
8 crosses the river back into South Augusta. They then get
9 back in the car. At this point, the Richmond County
10 Sheriff's Office has received the Aiken County Sheriff's
11 Office BOLO with the vehicle description and the license
12 tag.

13 Richmond County Sheriff's deputies get behind it on
14 Third Street, and as this Honda takes a left onto Green
15 Street and stops in front of Mr. Demarcus Booker's
16 grandmother's house, law enforcement then executes a felony
17 traffic stop. Mr. Demarcus Booker remains in the vehicle.
18 He is arrested. He has Mr. Lavon Catoe's wallet in his
19 pocket along with Mr. Zannie Worrell's truck keys.

20 Mr. Wooden and Mr. Niim bail. Mr. Wooden is in the
21 front seat. Mr. Williams is in the back seat. They head
22 on down Third Street, cut the block on Telfair Street, and
23 Mr. Wooden is ultimately apprehended in that block.
24 Williams ran on across the street, across Telfair Street,
25 and joined the Saturday Mayfest celebration in Augusta.

1 Along the path that Mr. Wooden ran, a black Springfield XDM
2 .9 millimeter pistol was ultimately recovered. It has
3 ballistically matched with both shell casings at the scene
4 as well as, I believe, one of the projectiles from the body
5 of Mr. Worrell. Mr. Wooden is caught in that block between
6 Green Street and Telfair Street hiding in a shed.

7 When he is arrested, his telephone is taken from
8 him as is a white First Citizens Bank envelope - Mr. Lavon
9 Catoe banked at First Citizens, as well as just under \$1000
10 in United States currency. A forensic search of the cell
11 phone revealed some level of planning for this robbery as
12 well as internet searches relating to the Springfield XD .9
13 millimeter pistol.

14 Mr. Booker has given several statements. And every
15 time he gives a statement, he kind of has tippy-toed into
16 the pond a little deeper. Late this last summer, he gave a
17 complete statement where he conceded all of his involvement
18 as well as this Niim Williams. Niim Williams was arrested
19 approximately a month and a half ago. He is charged with
20 several counts of accessory before the fact and after the
21 fact to all of these offenses, and he has also given us a
22 videotaped statement. All of those statements have been
23 provided to Ms. Tonya Jeffords during the course of the
24 investigation.

25 Terry Dunbar, who is one of the victims of these

1 armed robberies, was able to pick Mr. Wooden from a photo
2 lineup. If the Court will recall that we had a part of a
3 Neil v Biggers Hearing last Thursday. No one else was able
4 to identify beyond general descriptions of height,
5 clothing, complexion, who either of these armed robbers
6 were.

7 Your Honor, present in the courtroom is a Ms.
8 Juanita Worrell. She is the mother of Zannie Worrell, Jr.
9 She has come to absolutely every proceeding that we have
10 had in this case; as well as Nakita Worrell, Mr. Worrell's
11 sister; two of his aunts, Ms. Edna Harris and Ms. Dora
12 Crawford; his uncle, Robert Crawford; and his friend and
13 one of the victims of these offenses, Mr. Lavon Catoe.

14 Your Honor, we have explained to them the plea
15 negotiations in this matter. They understand them. It is
16 my understanding that none of them wish to make a
17 statement, but they did want me to inform the Court that
18 they were here, that they have been involved, and that this
19 senseless, outrageous crime has forever altered the course
20 of their lives.

21 THE COURT: Thank you. Thank you very much,
22 Solicitor. I find there is a substantial factual basis for
23 these guilty pleas of voluntary manslaughter, armed
24 robbery, and armed robbery. I find that the defendant's
25 decision to enter these guilty pleas has been freely,

1 voluntarily, knowingly, and intelligently made and that
2 he's had the advice and counsel of a very competent and
3 experienced attorney with whom he says he was well and
4 totally satisfied. The defendant's pleas of guilty are
5 therefore accepted.

6 Ms. Jeffords?

7 MS. JEFFORDS: Yes. Mr. Wooden is also joined
8 today by his mother, Ms. White; his grandmother, Ms. White;
9 his other family members; his church members, Reverend
10 Clark from Greater Young Zion. And he's 20 years old
11 today, and I think that the family, of course, wishes they
12 were sending him off to college or the military and not to
13 prison for 25 years. But he's here taking responsibility
14 for his part in this, what can only be described as a
15 tragedy for three young men, and for Mr. Worrell and his
16 family of course.

17 He graduated from Laney, he was working at Kimberly
18 Clark and at the Civic Center at the same time. And he is
19 here accepting responsibility, and he may have something to
20 say to the family. And his family is here as well.

21 THE COURT: All right. I'll be glad to hear from
22 anyone you'd like me to hear from now, Ms. Jeffords.

23 MS. JEFFORDS: Anyone want to speak.

24 MS. WHITE: I will.

25 THE COURT: Yes, ma'am. Will you come forward for

1 me, please?

2 Good morning. Tell me your name, please.

3 MS. WHITE: My name's Tasha White.

4 THE COURT: All right. I'll be glad to hear from
5 you.

6 MS. WHITE: I mean, I don't have a lot to say. I
7 mean, as far as the family, my deepest sympathy does goes
8 out to each one of them. He's twenty -- well he was 18
9 when it happened, you know. He's 20 years old, and to have
10 to accept -- I guess, you know, my baby being gone for 25
11 years is a lot. It's a lot, and he's not a bad child.

12 MS. JEFFORDS: I think there's been a lot of
13 prayers going out for the hearts of the families; for Mr.
14 Worrell's family and Mr. Catoe, for everybody involved
15 here.

16 THE COURT: Anything else you'd like to say, Ms.
17 White?

18 MS. WHITE: No.

19 THE COURT: Thank you. You may be seated.

20 Anyone else, Ms. Jeffords?

21 MS. JEFFORDS: I don't think so, Your Honor.

22 THE COURT: Thank you.

23 MS. JEFFORDS: Mr. Wooden would like to address.

24 THE COURT: I apologize. Yes, Mr. Wooden. I'll be
25 glad to hear anything you'd like to say.

1 THE DEFENDANT: Your Honor, I first would like to
2 give my apology to the family. I apologize for everything
3 that happened, how it happened. It was just a little
4 slip-up that the solicitor had I would like to correct for
5 you. Do you mind if I do that, Your Honor.

6 THE COURT: No, sir.

7 THE DEFENDANT: All right. They came -- some guy
8 named Teddy into the things about the whole little
9 situation and the drug involvement and Demarcus Booker,
10 Niim Williams, also played an active role in this. Went
11 over there, Demarcus Booker, Niim Williams, everyone played
12 the same positions, the same roles, you know, and we got in
13 there. Things went bad. He rushed me, I got scared, you
14 know, firearm went off. I apologize to the victims, and
15 I'm sorry how everything happened. I was just nervous at
16 the time, scared. It was a stupidity crime, and I'd like
17 you to have mercy on me, Your Honor.

18 THE COURT: And you have no prior record?

19 THE DEFENDANT: Not at all, Your Honor.

20 THE COURT: Finished high school?

21 THE DEFENDANT: Yes, sir, Your Honor.

22 THE COURT: Working two jobs?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: And you're living with your mother?

25 THE DEFENDANT: My mother.

1 THE COURT: Do you have brothers and sisters?

2 THE DEFENDANT: I have a sister, Your Honor.

3 THE COURT: Older? Younger?

4 THE DEFENDANT: She's older. Three kids.

5 THE COURT: Thank you. Anything else, Mr. Wooden?

6 THE DEFENDANT: That'll be all, Your Honor.

7 MS. JEFFORDS: I just want to add, with regard to
8 the facts of the case, that you have the .380 bullets fired
9 from the .380 were conclusively found in the victim's body.
10 My client is alleged to have had a .9 millimeter.

11 THE COURT: And the .9 millimeter in the body also?

12 MS. JEFFORDS: Yeah.

13 THE COURT: Now, you seem to be a very intelligent
14 young man, Mr. Wooden. I don't know how the wheel came off
15 the wagon.

16 Be that as it may, to the Worrell family, I'm sorry
17 for your loss. I know it's of little comfort, but a young
18 man with no record -- and I don't know what record Mr.
19 Booker has either. It's no comfort that he has no record
20 and he starts at this level. And it's of little comfort
21 that all you have is a memorial to visit besides, of
22 course, what's in your heart. Perhaps that's immortality.

23 And of course, to Mr. Wooden, I would say, I hate
24 the sin but love the sinner. You have to hang on to that.

25 2014-GS02-135, 136, and 139, armed robbery,

1 voluntary manslaughter, and armed robbery, the defendant's
2 committed to the State Department of Corrections for the
3 determinate term of 25 five years on each of these
4 indictments. That is to run concurrent. He is to be given
5 credit for all time served.

6 Good luck to you, Mr. Wooden.

7 Good luck to you, family of Mr. Worrell, Mr. Catoe,
8 and Mr. Dunbar.

9 Thank you. Thank you, Solicitor.

10 MR. THURMOND: Thank you, Your Honor.

11 MS. JEFFORDS: Thank you, Your Honor.

12 * * * * * END OF TRANSCRIPT * * * * *

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1 State of South Carolina)
2 County of Aiken) Certificate of Reporter

3
4
5
6 I, THE UNDERSIGNED, Brenda J. Sigwald, Official
7 Court Reporter for the Eleventh Judicial Circuit of the
8 State of South Carolina, do hereby certify that I reported
9 the proceedings in the captioned case in the Court of
10 General Sessions in and for the State of South Carolina on
11 the 10th day of November, 2014.

12 I FURTHER CERTIFY that the foregoing pages
13 constitute a true, accurate and complete transcript of said
14 hearing.

15 I FURTHER CERTIFY that I am neither kin, counsel,
16 nor of interest to any party hereto.

17 IN WITNESS WHEREOF, I have hereunto set my hand and
18 seal at Aiken County, this 10th day of May, 2015.

19
20
21
22 Brenda J. Sigwald
23 Brenda J. Sigwald,
24 Court Reporter and Notary Public
25 For the State of South Carolina
My commission expires
January 4, 2020

STATE OF SOUTH CAROLINA

County of Aiken

Raphael Alexander Norton #362198
Full name and prison number (if any) of Applicant

v.

State of South Carolina

2013A 02102 00525
2013A 02102 00527
FORM 5
2013A 02102 00543
2013A 02102 00544
2013A 02102 00545

IN THE COURT OF COMMON PLEAS, Aiken County

2015 CP-02-00679
2014 GS-02-135136-137-138
Filed 3.9.14
Deputy Clerk: [Signature]
Trial Judge: [Signature]
Trial Atty: [Signature]
Court Reporter: [Signature]
Sec. PCR Petitioner: [Signature]
General Sessions Atty. Gen.
Appointed Atty. [Signature]

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Lee Corrections Institution
2. Name and location of Court which imposed sentence Aiken County Courthouse
3. Name(s) of co-defendant(s) (if any) Demarcus Booker, Alvin Williams
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) _____
 - (b) _____

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) November 10 2014
- (b) Violent sentence of 25 years
- (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?
- _____
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) Plea of Guilty
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistant Counsel
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Counsel was ineffective in telling me what the state would sentence me to if found guilty of murder (the nature of the crime)
- (b) Counsel was ineffective for not revealing to me the definite trial date from the jail that cause me to plea
- (c) Counsel was ineffective for advising me that I could receive parole on the nature of my crime.
- (d) SEE Attachment.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A
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. N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. N/A
- 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?

N/A

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

(a) which grounds have been presented:

- i. N/A
- ii. _____
- iii. _____

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

- i. N/A
- ii. _____
- iii. _____

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

(a) N/A
 (b) _____
 (c) _____

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

(a) your arraignment and plea? Yes
 (b) your trial, if any? N/A
 (c) your sentencing? N/A
 (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?
N/A

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. N/A

 ii. _____

 iii. _____

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

i. N/A

 ii. _____

 iii. _____

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

Vacate the order.

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

N/A

STATE OF SOUTH CAROLINA)

County of Aiken)

VERIFICATION

I, Raphael A. Wooden, 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.

Raphael Wooden

SWORN to and subscribed before me this 9
day of Feb, 2015.

Debra Swann (L.S.)
Notary Public

My Commission Expires: 11-4-2015

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

I, Raphael A. Wooden, 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.

Raphael Wooden
Applicant

SWORN or affirmed to and subscribed before me this
9 day of Feb., 2015.

Dina Sures
Notary Public

My Commission Expires: 11-4-2018

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN	)	FOR THE SECOND JUDICIAL CIRCUIT
	)	
Raphael Alexander Wooden, #362178,	)	2015-CP-02-00579
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

The Respondent, making its Return to the application for post conviction relief (PCR) filed March 9, 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 Aiken County Clerk of Court. The Applicant was true bill indicted at the February 2014 term of the Aiken County Grand Jury for three counts of armed robbery, murder, possession of a weapon during the commission of a violent crime (2014-GS-02-00135; -00136; -00137; -00138; -00139). Tonya Jeffords, Esquire represented Applicant. On November 14, 2014, Applicant pled guilty before the Honorable R. Knox McMahon. Judge McMahon sentenced Applicant to twenty five year term of imprisonment for each count of armed robbery and twenty five year term of imprisonment for the lesser included offense of voluntary manslaughter running concurrent. One count of armed robbery and the possession of a weapon during the commission of a violent crime were *nolle prossed* pursuant to the plea. Applicant did not appeal his guilty plea or sentence.

Attached herewith and incorporated herein are the records of the Aiken County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina

Department of Corrections, and the plea transcript will be sent upon receipt. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. Ineffective Assistance of Counsel
 - a. Counsel was ineffective in telling me what the state would sentence me to if found guilty of murder (the nature of the crime).
 - b. Counsel was ineffective for not revealing to me the detrimental phone calls from the jail that cause me to plea.
 - c. Counsel was ineffective for advising me that I could receive parole on the nature of my crime.
2. See attachment.¹

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.

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

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

¹ Respondent notes that there was no additional "attachment" to his PCR application.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel “rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

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

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

IV.

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

V.

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

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

DANIEL GOURLEY
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

March 27, 2015.

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

RAPHAEL A. WOODEN, #362178,

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

2015-CP-02-00579

AFFIDAVIT OF SERVICE BY MAIL

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

Aimee Jendrzewski Zmroczek, Esquire
 A.J.Z. Law Firm, LLC.
 PO Box 11961
 Columbia, SC 29211

DATED this the 27th day of March, 2015.


 Caroline Collins, Legal Assistant
 For Respondent.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF AIKEN)
)
)
 Raphael Wooden, #362178)
)
 Applicant,)
 -v-)
 State of South Carolina,)
)
 Respondent.)
)

IN THE COURT OF COMMON PLEAS
 IN THE SECOND JUDICIAL CIRCUIT

2015-CP-02- 00579

AMENDED APPLICATION
 FOR
 POST-CONVICTION RELIEF

COMES NOW, Applicant Raphael Wooden, by and through his undersigned attorney,
 pursuant to S.C. Code Ann. § 17-27-70(a), and amends the application originally and timely filed
 May 21, 2014.

1. Place of Detention: Lee Correctional Institution.
2. Name and location of Court which imposed sentence: Aiken County General Sessions
3. Name(s) of co-defendant(s) (if any): Demarcus Booker, Niim Williams
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2014-GS-02-00135-Armed Robbery
 - (b) 2014-GS-02-00136-Voluntary Manslaughter
 - (c) 2014-GS-02-00139-Armed Robbery
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) November 10, 2014, -25 years (all sentences concurrent)
 - (b) November 10, 2014, -25 years (all sentences concurrent)
 - (c) November 10, 2014, -25 years (all sentences concurrent)

C O P Y
 ORIGINAL FILED

MAY 16 2016

AIKEN COUNTY
 CLERK OF COURT

6. Check whether a finding of guilty was made:
 - (a) After a plea
7. Did you appeal from the judgment or the imposition of sentence? no
8. If you answered "yes" to (7) list:
 - (a) The name of each court to which you appealed: N/A
 - (b) Result: N/A
 - (c) N/A
9. If you answered "no" to (7) state your reasons for not so appealing: unaware of process
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: (these are in addition to the previous grounds filed)
 - (a) Prosecutorial Misconduct for failing to reveal the deal;
 - (b) Ineffective assistance of counsel for failing to properly explain the sentencing collateral affects and parole;
 - (c) Ineffective assistance of counsel for failing to mitigate and examine co-defendants sentences;
 - (d) Ineffective assistance of counsel for failing to move for a motion to reconsider;
 - (e) Ineffective assistance of counsel for failing to request a continuance under Langford;
 - (f) Ineffective assistance of counsel for failing to investigate and challenge extradition process and due process violations;

(g) Ineffective assistance of counsel for failing to object to improper solicitor comments at sentencing and identifying issues with discovery.

11. State concisely and in the same order the facts which support each of the grounds set out in (10): **Proof of failure to be properly proved through introduction of trial transcripts, trial evidence, and case law.**
12. Prior to this application have you filed with respect to this conviction:
 - (a) Any petition in a State Court under South Carolina No
 - (b) Any petition in State or Federal Courts for habeas corpus or post-conviction relief
No
 - (c) Any petition in the United States Supreme Court for certiorari other than petitions, in any, already specified in (8) No
13. If you answers "yes" to any part of (12), list with respect to each petition, motion or application N/A
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 N/A
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: N/A
17. Were you represented by an attorney at any time during the course of:
 - (a) Your arraignment and plea? No
 - (b) your trial (if any) N/A
 - (c) your sentencing Yes

(d) your appeal, if any from the judgment of conviction or the imposition of sentence? No

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. Tanya Jeffords

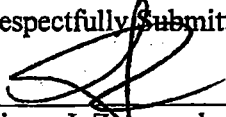
(b) The proceedings at which each such attorney represented you:

i. Tanya Jeffords-Plea/Sentencing

19. State clearly the relief you seek in filing this application: Vacate plea and remand to circuit court or in the alternative vacate sentence and remand for new sentencing

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

Respectfully Submitted,

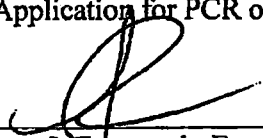


Aimee J. Zmroczek, Esq. #77193
P.O. Box 11961
Columbia, South Carolina 29211
(803) 403.1918 (telephone)
(803) 400.8005 (fax)
Attorney for Applicant

Columbia, South Carolina
May 11, 2016.

CERTIFICATE OF SERVICE

I did hereby serve a filed copy of the Amended Application for PCR on Julie Campbell via E-Mail on May 11, 2016.



Aimee J. Zmroczek, Esq. #77193



ALAN WILSON
ATTORNEY GENERAL

December 16, 2015

The Honorable Liz Godard
Clerk of Court, Aiken County
Post Office Box 583
Aiken SC 29802

Re: Raphael Alexander Wooden, #362178 v. State of South Carolina
2015-CP-02-00579

Dear Ms. Godard:

Enclosed please find a copy of the Transcript, in the above-captioned case, for filing in your office. This document was intended to accompany the Return of the Respondent.

Sincerely,


Caroline Collins
Legal Assistant for
Daniel Gourley
Assistant Attorney General

/cc
Enclosure.

cc: Aimee Zmroczek, Esquire

1 STATE OF SOUTH CAROLINA

2 COUNTY OF AIKEN

CIRCUIT COURT
2015-CP-02-00579

3
4 RAPHAEL ALEXANDER WOODEN,
5 Applicant,

6 -vs-

TRANSCRIPT OF RECORD

7 STATE OF SOUTH CAROLINA,
8 Respondent.

9 Post-Conviction Relief Hearing

10 Heard on Friday, September 23, 2016

11 Aiken, South Carolina

12
13 BEFORE:

14 THE HONORABLE ROBERT E. HOOD

15
16 APPEARANCES:

17 Counsel on Behalf of the Applicant:
18 Aimee J. Zmroczek, Esq.

19 Counsel on Behalf of the Respondent, State of SC:
20 Julie A. Coleman, Esq.

21
22
23 Cheri L. Young, RPR
24 Circuit Court Reporter
25 P O Box 5232
Aiken, SC 29803-5232

EXAMINATION INDEX

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J. STROM THURMOND, JR

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EXHIBIT INDEX

(NO EXHIBITS IDENTIFIED/INTRODUCED.)

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1 ON FRIDAY, SEPTEMBER 23, 2016 AT 10:45 A.M.

2 THE COURT: We're on the record in Raphael
3 Wooden versus the State of South Carolina, 2015-
4 CP-02-579. The State is presently represented by
5 Ms. Coleman. And are you Mr. Wooden?

6 THE APPLICANT: Yes, sir.

7 THE COURT: Where did you come in from?

8 THE APPLICANT: Can you say it again, sir?

9 THE COURT: Where are you housed?

10 THE APPLICANT: Lee County.

11 THE COURT: At Lee County?

12 THE APPLICANT: Yes, Your Honor.

13 THE COURT: All right. Thank you very much for
14 being here. Mr. Wooden is present and represented by
15 Aimee Zmroczek.

16 All right. Ms. Coleman, do you want to get it
17 started?

18 MS. COLEMAN: May it please the Court.

19 Applicant is presently confined in the South
20 Carolina Department of Corrections pursuant to orders
21 of commitment of the Aiken County Clerk of Court.

22 The Applicant was true-bill indicted at the
23 February 2014 Term of the Aiken County Grand Jury for
24 three counts of armed robbery, murder, and possession
25 of a weapon during the commission of a violent

1 crime. Tanya Jeffords, Esquire, represented the
2 Applicant.

3 On November 14th, 2014, Applicant pled guilty
4 before the Honorable R. Knox McMahon. Judge McMahon
5 sentenced Applicant to a 25-year term of imprisonment
6 for each count of armed robbery and a 25-year term of
7 imprisonment for the lesser-included offense of
8 voluntary manslaughter, running concurrently. One
9 count of armed robbery and the possession of a weapon
10 during the commission of a violent crime was nolle
11 prossed pursuant to the plea.

12 Applicant did not appeal his guilty plea or
13 sentence. Applicant filed a timely application for
14 post-conviction relief on March 9th, 2015, alleging
15 that he was being held in custody unlawfully based on
16 a few allegations of ineffective assistance of
17 counsel.

18 The State filed its return March 27th, 2015.
19 Applicant subsequently filed an amended application
20 on May 11th of 2016, alleging several allegations of
21 ineffective assistance of counsel, and one allegation
22 of prosecutorial misconduct for failing to reveal the
23 deal.

24 He's present today and represented in this
25 matter by Ms. Aimee Zmroczek.

RAPHAEL WOODEN - DIRECT BY ZMROCZEK

1 THE COURT: All right. Ms. Zmroczek.

2 MS. ZMROCZEK: Thank you, Your Honor. We'd
3 call Mr. Wooden to the stand.

4 THE COURT: All right. Come on up.

5 RAPHAEL ALEXANDER WOODEN, having been duly
6 sworn, was examined and testified as follows:

7 THE CLERK: Will you please have a seat in the
8 witness box and state your full name for the Court?

9 THE COURT: Got your papers?

10 THE WITNESS: Yes.

11 THE COURT: Okay, good.

12 THE WITNESS: Raphael Wooden.

13 DIRECT EXAMINATION

14 BY MS. ZMROCZEK:

15 Q. Mr. Wooden, how old are you -- tell the Court
16 how old you are.

17 A. 22 years old.

18 Q. You're 22?

19 A. Yes, ma'am.

20 Q. How -- make sure you speak up. This courtroom
21 is vast and that's why I'm standing back here so that
22 I can make sure that you speak up. Okay?

23 A. Yes, ma'am.

24 Q. You're 22 now. How old were you when you were
25 arrested?

RAPHAEL WOODEN - DIRECT BY ZMROCZEK

1 A. I was 18 years old.

2 Q. And had you ever been arrested prior to that?

3 A. Yes, ma'am.

4 Q. Had you ever been charged with general
5 sessions -- have you ever been arrested as an adult
6 prior to that?

7 A. Yes, ma'am.

8 Q. Okay. And, were you appointed a lawyer for
9 your previous charges?

10 A. I really can't remember. It was -- it was --
11 it was, like, a misdemeanor.

12 Q. Right. So let me ask the question again. Have
13 you ever been arrested for general sessions charges,
14 for big-court charges?

15 A. No, ma'am.

16 Q. So this was your first time being arrested --

17 A. Yes, ma'am.

18 Q. -- for general session charges?

19 A. Yes, ma'am.

20 Q. How far did you go in school?

21 A. I completed high school.

22 Q. Okay. Were you working at the time that you
23 were arrested?

24 A. Yes, ma'am.

25 Q. Where were you working?

RAPHAEL WOODEN - DIRECT BY ZMROCZEK

1 A. I was at Kimberly-Clark and also at the Silver
2 Center at Ovation.

3 Q. And when you got arrested, where were you
4 taken? To Aiken County Detention Center?

5 A. No. Richmond County at first.

6 Q. Okay. Richmond County. Where is that?

7 A. That's in Augusta, Georgia.

8 Q. In Georgia?

9 A. You mean, arrested, like, on this incident
10 right here?

11 Q. Right. This situation.

12 A. Yes, ma'am.

13 Q. You were taken to Richmond, Georgia?

14 A. Richmond County. That's Augusta.

15 Q. I mean, Richmond County. In Augusta or North
16 Augusta, right?

17 A. It's in Augusta.

18 Q. How long -- did you spend time there?

19 A. Like, five or six days.

20 Q. Okay. And then they moved you up to Aiken?

21 A. Yes, ma'am.

22 Q. And were you appointed a lawyer?

23 A. No, ma'am. They never really came to the
24 appointing a lawyer part because just, we had got
25 Ms. Jeffords.

RAPHAEL WOODEN - DIRECT BY ZMROCZEK

1 Q. So you had retained Ms. Jeffords?

2 A. Yes, ma'am.

3 Q. And how many times did you meet with her?

4 A. It was several times, a couple times.

5 Q. And y'all talked about -- what did y'all talk
6 about?

7 A. We talked about the case, you know. That's
8 what we suppose to talk about.

9 Q. And you -- had you given her -- had y'all
10 discussed defenses?

11 A. We had a couple of defenses but we didn't never
12 really get down to a defense, like, fully get down to
13 a full defense. I know just the whole time I just
14 kept telling her that I was ready to go to trial and
15 I didn't want to plead.

16 Q. Okay. When were you arrested?

17 A. Why was I arrested?

18 Q. No. When?

19 A. Oh. May 18th, 2013.

20 Q. And then a few days later when you were taken
21 to Aiken did you ever bond out?

22 A. No, ma'am.

23 Q. Okay. So you were in jail from May 18th,
24 2013. And when, when did you come to court on your
25 case? Was it in October?

RAPHAEL WOODEN - DIRECT BY ZMROCZEK

1 A. As in?

2 Q. Right. Well, did you come to court -- actually
3 it was in November. Well, did you come to court for
4 any motions prior to that?

5 A. Yes, ma'am.

6 Q. And did you -- had you asked for a bond?

7 A. Yes, ma'am. She, she took me one time but
8 every time I asked after that she said she didn't
9 think it was best or something like that she was
10 saying.

11 Q. Because it got denied the first time, right?

12 A. Yes.

13 Q. Okay. And then so -- but y'all still continued
14 to converse about the case?

15 A. Yes. I was mostly asking, asking her to send
16 me up for a bond, you know. You know, we was still
17 on the case, too, but I just kept, you know, just
18 seeing what was going to go, how we was going to go
19 from there.

20 Q. At some point in November of 2014, did you come
21 for a trial?

22 A. Yeah, I come for it. I came for a trial but it
23 had got continued before November. I want to say,
24 like, September we was supposed to be going for a
25 trial but then I got a continuance because they were

RAPHAEL WOODEN - DIRECT BY ZMROCZEK

1 going to go get another co-Defendant.

2 Q. Okay. So they were going to arrest another
3 co-defendant?

4 A. Yes, ma'am.

5 Q. And so it got continued. And who -- do you
6 remember who that co-defendant was?

7 A. Niim Williams.

8 Q. Niim Williams. So before you were going to
9 trial -- when you were going to trial Mr. Williams
10 had not been arrested yet, right?

11 A. That's correct.

12 Q. And then once you had requested and were
13 getting ready for trial they arrested Mr. Williams?

14 A. Yes. But at the same time we was still ready
15 to go to trial.

16 Q. Okay. You were still ready to go to trial?

17 A. Yes, ma'am. We were still ready to go to
18 trial.

19 Q. Why didn't you go to trial?

20 A. Because the whole thing about parole and I had
21 my family screaming take the 25 and it will be
22 parole-able. It's eligible for parole-able.

23 Q. Okay. Now the whole thing about parole. The
24 judge needs to understand what you're talking about.
25 So you -- instead of going to trial in November you

RAPHAEL WOODEN - DIRECT BY ZMROCZEK

1 accepted a plea, right?

2 A. Yes, ma'am.

3 Q. And you accepted a plea for certain reasons?

4 A. Yes, ma'am.

5 Q. And those reasons were?

6 A. Parole, parole, parole-able. That was one of
7 reasons.

8 Q. Well, you keep saying parole. Your attorney
9 told you that you were eligible for parole, right?

10 A. Yes, ma'am. She told me that if I pled to
11 manslaughter I'd be eligible for parole.

12 Q. And what does that mean to you?

13 A. That means I can -- not get in any trouble, not
14 get in any trouble. Just have a, you know, nice down
15 the road, good behavior, school, credits and things
16 like that for everything, and then I'll be eligible
17 for parole way before it's time for my, way before
18 the 25 years was up.

19 Q. Okay. And way before, did she ever give you a
20 number?

21 A. No. She -- it was, like, one-third or
22 something like that. It wasn't it -- it was -- I
23 would be eligible for parole but that's still not
24 guaranteed that I'd get parole. You see what I'm
25 saying.

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1 Q. Right. So it was your understanding that you
2 would be eligible after --

3 A. After a short amount of time.

4 Q. A short amount of time?

5 A. Yes, ma'am.

6 Q. So that was one of the reasons you chose to
7 plead guilty?

8 A. Yes, ma'am. That was one of the main reasons.

9 Q. Okay. And what was the other reason?

10 A. It was really -- it was the only reason. Like
11 I say, I was ready to go to trial, you know, even
12 though with one co-defendant or two co-defendants
13 because I understood the situation. And I knew at
14 the end of day once everything came out that it was
15 going to come out in my favor but at the same time my
16 family, they were, like, why risk having life over
17 your head when you can just risk 25 over your head
18 and then have, be eligible for parole within a short
19 window.

20 Q. Okay. And so, and I want to talk about your
21 co-defendants for a minute. You said that they were
22 going to testify and you were told that they were
23 going to testify against you?

24 A. Yes, ma'am.

25 Q. And so Mr. Booker -- who was a co-defendant,

RAPHAEL WOODEN - DIRECT BY ZMROCZEK

1 right?

2 A. Yes, ma'am.

3 Q. And did you know what, what he was going to
4 receive to testify against you, what kind of benefit
5 he was going to receive?

6 A. I mean, it was county jail talk but I don't
7 really pay that any mind, you know. I've never
8 really got a chance to be around him but he -- but
9 then when he came he was switching up. Like, he was
10 going to testify, he wasn't going to testify, then he
11 was going to testify because they were going to give
12 him less time than me, things like that, but that's
13 just hearsay.

14 Q. Okay. So they were going to give him a time
15 reduction?

16 A. Yes, ma'am.

17 Q. Did you ever hear what he was going to
18 receive?

19 A. 22 years.

20 Q. 22 years. That's correct. Mr. Williams, he
21 had a lot of charges when he was arrested, correct?

22 A. Yes, ma'am.

23 Q. And, you also heard that he was arrested after
24 you had already -- or in the process of being
25 arrested when you had already requested a trial,

RAPHAEL WOODEN - DIRECT BY ZMROCZEK

1 right?

2 A. Say that again.

3 Q. It was -- your trial was continued because he
4 wasn't arrested yet?

5 A. That's correct.

6 Q. But then they arrested him, right, and then
7 they agreed -- and then he agreed to testify against
8 you as well?

9 A. He had already made prior statements before
10 then. I want to say -- they had locked up, we got
11 locked up in May. He got locked up a few months
12 after that in Richmond County. Aiken County went and
13 questioned him about this situation. And then for
14 some reason I guess they just let him go. I guess it
15 didn't add up. Somewhere out of the blue they came
16 back and got him again and then his whole story just
17 changed.

18 Q. Okay.

19 A. I was, like, all of this stuff is getting crazy
20 and I just didn't really understand what was going
21 on. It was so much blind siding at the time. I was
22 young. I really don't know. I'm lost.

23 Q. Okay. So you were relying on everything that
24 you were learning from your attorney?

25 A. Yes, ma'am.

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1 Q. Okay. And, do you know what Mr. Niim Williams,
2 what his sentence was?

3 A. He received, I want to say, a Youthful
4 Offenders Act. I'm not sure.

5 Q. To accessory after the fact?

6 A. Yes, I guess. Something like that.

7 Q. Okay. And but your main reason -- the main
8 reason that you took the plea instead of risking
9 going to trial was because you were relying on being
10 eligible for parole. And when you say a short time
11 after you were arrested {sic}, how many years were
12 you thinking?

13 A. I mean, like, seven, eight, you know.

14 Q. Seven or eight years you thought you'd be
15 eligible for parole?

16 A. Yes, ma'am. I mean.

17 Q. Okay. When did you learn that you weren't
18 eligible for parole?

19 A. Actually when I first got to Lee County and
20 they had -- I had went through orientation.

21 Q. When you say "Lee County", you mean Lee
22 Correctional?

23 A. Yes, ma'am. Lee County Correctional
24 Institution. Once I first got there through
25 orientation and I realized that -- that's what they

RAPHAEL WOODEN - DIRECT BY ZMROCZEK

1 told me. They told me -- I asked about my parole
2 date and she said, well I'm not eligible for parole.
3 So when I got back to the cell, I wrote my lawyer and
4 I was asking her about it. And that's when I got the
5 letter right back saying I plead to a no-parole
6 offense. But before I took the plea I had, if I take
7 this plea right here which allow for parole, you
8 know. So that was, like, I was, you know, shocked,
9 like, whoa. How did it come back to this?

10 Q. All right. So your two biggest issues then
11 were the fact that you relied on that you thought you
12 were going to get parole. And that you were
13 concerned that you -- did you know that Mr. Booker
14 was going to get less time than you before you,
15 before you pled?

16 A. I mean, I figured it. I mean, he, he made,
17 like, six or seven different statements but none of
18 them really made sense, you know. I mean, like, I
19 was lost because I was still blind to the fact of
20 what, you know -- I was still blind. I didn't really
21 know what was going on. And I was going off the
22 advice that I was really getting from my lawyer.
23 That's all that I had because, like I say, Aiken
24 County, you don't get no newspapers, you don't see
25 any news or anything. All I had was my attorney.

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1 And I was -- I was -- everything, I mean, that's all
2 I had because, I mean, she always, she spent almost
3 all our money. That's all we had. That's the,
4 that's the only thing that we had going for us.

5 Q. And, do you recall what you paid to retain your
6 attorney?

7 A. I'm not sure the full amount. I know, I think
8 it was -- I'm not sure. I know it was around 20,000,
9 something like that. I'm not sure.

10 Q. Okay. And they -- and they -- I mean, you
11 certainly discussed the evidence. I mean, you may
12 not have seen it all but you certainly discussed what
13 the evidence was against you, right?

14 A. Yes, ma'am.

15 Q. Physical evidence and things like that?

16 A. Yes, ma'am.

17 Q. And had you gotten an opportunity to talk about
18 ways to combat that or did that come up?

19 A. It, it was some of the smaller things that I
20 was mentioning that was, like, getting brushed off.
21 Like, when was in Richmond County for my Richmond
22 County money receipt to my Aiken County money receipt
23 is different. I have less funds. Just like simple
24 chain of custody things and things that we were going
25 over, you know, but we didn't have time, you know,

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1 because I never went to trial to actually see what
2 was actually going on, but at the same time with
3 those little small things if you -- if you see things
4 like that, I submit to you that you should not have
5 suggested me to take a plea.

6 Q. And, other than those small things did you rely
7 on anything else in agreeing to take your plea? And
8 other than things that we already discussed.

9 A. Other than the things that we already
10 discussed, yeah, I mean, because you have to -- once
11 you -- if go back and look at everything and see how
12 it just lays out, you know, really nothing adds up to
13 the paperwork itself that you could if you seen this
14 and she said this just doesn't add up.

15 Q. You mean the evidence?

16 A. Yes, ma'am.

17 Q. And that's one of the reasons that you were
18 pushing for trial?

19 A. Yes, ma'am. That was, that was the main reason
20 why I was pushing for trial. And then, like I say, I
21 wasn't thinking nothing about no numbers or parole or
22 anything. I was thinking about going home because
23 all of the evidence that I'm seeing just was not
24 adding up. It was just not -- clearly it was he
25 said, he say-she say. So hearsay, you know.

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1 Q. Right.

2 A. But then when it came down to it she came to me
3 Friday, she came to me a Friday right before I went
4 to trial that Monday and she asked me about the plea
5 and, like, I really don't want to take it. I
6 mentioned about the Alford plea and then she was
7 saying that, that, that, that those don't get
8 accepted as well, really a lot.

9 So I was, like, so I have to go in here and
10 just say I'm guilty. Like, why would I just go in
11 here and say it. Then she was saying the thing about
12 parole. So I seen parole and it was like a nice
13 green light for me, you know. Had I not known that I
14 would have went to trial.

15 Q. And did they -- so before you -- so when she
16 came to you that Friday before, did she tell you that
17 the judge was going to ask you questions?

18 A. She, she, she told me he was going to ask the
19 questions. I mean, I figured that already came with
20 the plea and the whole process, you know.

21 Q. Uh-huh.

22 A. Kind of, you know.

23 Q. And you remember answering those questions in
24 front of the judge?

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

RAPHAEL WOODEN - CROSS BY COLEMAN

1 Q. And why did you answer the questions
2 affirmatively, like, are you pleading guilty because
3 you're guilty and things like that, why did you
4 answer yes to those?

5 A. Because I was so happy that I was getting
6 parole. She told me if I stick to this right here
7 then most likely the judge would accept my plea and
8 I'd be eligible for parole. That's what I -- how I
9 shot, how I shot at the whole plea.

10 MS. ZMROCZEK: Please answer any questions that
11 the State may have.

12 THE WITNESS: Yes, ma'am.

13 CROSS-EXAMINATION

14 BY MS. COLEMAN:

15 Q. Good morning, Mr. Wooden. How are you?

16 A. How are you doing? I'm fine.

17 Q. You just testified that you met with your
18 attorney several times; is that right?

19 A. What do you mean, like?

20 Q. Before you took the plea, how many times did
21 you meet with Ms. Jeffords?

22 A. From my time of knowing her, the whole time?

23 Q. Yeah.

24 A. Yeah. It was several times. She came down --
25 that's actually the attorney that will come and visit

RAPHAEL WOODEN - CROSS BY COLEMAN

1 you in the county.

2 Q. Okay. And you did review discovery with your
3 attorney; is that right?

4 A. What do you mean when you say discovery?

5 Q. Well, did you discuss the evidence that the
6 State had against you?

7 A. Yes. We discussed some evidence that the State
8 had against me. As far as, like, what evidence would
9 you be saying?

10 Q. Well, did you discuss the fact that your
11 co-defendants were going to testify against you at
12 trial?

13 A. Yeah, but that wasn't really anything that we
14 was worried about during the time.

15 Q. Okay. And you did discuss possible defenses
16 with your attorney?

17 A. Yes, ma'am.

18 Q. Did you give your attorney any leads or
19 witnesses to investigate?

20 A. When you say leads, what do you mean by that?

21 Q. Like, any kind of theory to defend you.

22 A. Yes, ma'am.

23 Q. Okay. At the plea, the day of the guilty plea,
24 do you recall waiving your constitutional rights like
25 your right to a jury trial and your right to remain

RAPHAEL WOODEN - CROSS BY COLEMAN

1 silent?

2 A. It was something like that. Yeah, I don't
3 remember the exact question he asked. I kind of
4 remember some were in that form, but I'm not sure of
5 the exact questions that he asked.

6 Q. If you want I can show you that in the
7 transcript.

8 A. All right.

9 Q. Okay. And that is on page, starting on page 9
10 of the guilty plea transcript.

11 May I approach the witness, Your Honor?

12 THE COURT: Yes, ma'am.

13 BY MS. COLEMAN:

14 Q. Actually it might start on page 8. Yes. The
15 bottom of page 8 at line 23. Would you read that out
16 loud, please?

17 A. The Court. Mr. Wooden, when you plead guilty
18 you give up very important constitutional rights.
19 First you give up your right to remain silent. That
20 is your right against self-incrimination, your right
21 to say nothing at all. You cannot be compelled
22 (sic) to satisfy or -- well, I apologize. You cannot
23 be compelled to testify or to provide evidence
24 against yourself. Do you understand? And I say.
25 Yes, Your Honor.

RAPHAEL WOODEN - CROSS BY COLEMAN

1 Q. Okay. Thank you. Does this refresh your
2 memory? Do you remember waiving those rights?

3 A. If it's right there on that paper, I mean,
4 that's -- I would assume.

5 Q. Okay. Thank you. Do you recall telling the
6 plea judge that you were satisfied with your
7 attorney's services?

8 A. Yes, I do because at that time I just knew I
9 was going to be eligible for parole once he granted
10 my plea. So of course I was happy for just 25 years,
11 you know, just go.

12 Q. And you told Judge Early that your attorney
13 went above and beyond what needed to be done, right?

14 A. I don't remember telling Judge Early anything
15 like that.

16 Q. Okay. And I can point that out again if you'd
17 like to see it. That's on page 12. Judge McMahon.
18 I'm sorry. I said Judge Early.

19 A. Oh, okay. I remember telling Judge McMahon
20 that. I didn't tell Judge Early that.

21 Q. Okay. And that's just for your reference, that
22 was on page 12 at line 19. Just for the Court's
23 reference.

24 Do you recall telling Judge McMahon that no one
25 was promising or threatening you in order for you to

RAPHAEL WOODEN - CROSS BY COLEMAN

1 plead guilty?

2 A. Yes.

3 Q. Do you recall telling the judge that you wished
4 to plead guilty?

5 A. And can you repeat your question?

6 Q. Sure. Do you remember telling the judge that
7 you wished to plead guilty?

8 A. Yes.

9 Q. Do you recall telling the judge that you were
10 indeed guilty of this crime?

11 A. Yes.

12 Q. Do you recall agreeing with the facts presented
13 by the State at the plea?

14 A. Yes.

15 Q. And you corrected some of them, didn't you?

16 A. Yes. I corrected some of the facts that they
17 had in the Rule Five.

18 Q. Okay.

19 A. As in, like, he was saying that the bullets had
20 matched the firearm that they had supposedly but in
21 the Rule Five they didn't.

22 Q. Okay. If you had gone to trial you were facing
23 life without parole, right?

24 A. Yes.

25 Q. Okay. And instead you pled guilty and you got

RAPHAEL WOODEN - RECROSS BY ZMROCZEK

1 25 years in prison; is that right?

2 A. Yes.

3 Q. Would you agree that a 25-year sentence is
4 better than life without parole?

5 A. At the same time, you know, I -- at the same
6 time it's, like, once you sit down and you realize
7 what's going on and how everything is going on
8 it's -- it's the same. It's the same.

9 Q. Okay. So if you win this case and you get a
10 new trial on these charges you'll face life without
11 parole again. Do you want a new trial on these
12 charges?

13 A. That's correct.

14 MS. COLEMAN: Thank you. No further questions

15 MS. ZMROCZEK: Thank you. Just briefly.

16 REDIRECT EXAMINATION

17 BY MS. ZMROCZEK:

18 Q. You had no adult criminal record?

19 A. No, ma'am.

20 Q. Okay. So you understand that if you win this
21 hearing that you're facing the zero to 30 on the
22 kidnapping, or 10 to 30, 10 to 30 on the armed
23 robbery, sorry, and 30 day-for-day up to life for the
24 murder? Do you understand that, right? It's not an
25 automatic life without parole, but you understand

RAPHAEL WOODEN - RECROSS BY ZMROCZEK

1 that you actually -- but you could get life?

2 A. Yes. I was saying one thing about my lawyer
3 when she kept sending me letters and everything. She
4 kept saying the solicitor would be asking for life
5 without parole and things like to that, right. That
6 right there kind of scared me as well, you know, just
7 as life, you know, my mother --

8 Q. You understand that murder carries --

9 A. Oh, yes.

10 Q. -- a mandatory minimum day-for-day, 30 years?

11 A. Yes, ma'am. I understand that.

12 Q. And the possible maximum penalty could be life
13 without parole?

14 A. Yes, ma'am. I understand that.

15 Q. Okay. So that's the maximum penalty. Okay.
16 You understand that?

17 A. Yes, ma'am.

18 Q. And knowing all of that, you still want to go
19 forward?

20 A. Yes, ma'am.

21 Q. And you and I discussed this, right?

22 A. Yes, ma'am.

23 Q. And, the main reason, again, that you were
24 saying yes to all the questions that the State asked
25 you about was because why?

J STROM THURMOND, JR - DIRECT BY COLEMAN

1 A. Was because my lawyer had basically suggested
2 for me to go this route right here so I went ahead
3 and went that route.

4 Q. Because, what was your expectation?

5 A. To have parole. That was the main thing. Had
6 I known that right there I would have went to trial
7 in the first place.

8 MS. ZMROCZEK: Okay. Thank you.

9 MS. COLEMAN: Beg the Court's indulgence, one
10 moment, please. (Pause.)

11 No further questions. Thank you.

12 THE COURT: You can step down.

13 THE WITNESS: Thank you, sir.

14 THE COURT: You're welcome.

15 MS. ZMROCZEK: Your Honor, We have no further
16 witnesses at this time.

17 THE COURT: All right.

18 MS. COLEMAN: The State calls Solicitor Strom
19 Thurmond, Jr.

20 J. STROM THURMOND, JR., having been duly sworn,
21 was examined and testified as follows:

22 THE CLERK: Have a seat, please, and state your
23 full name.

24 THE WITNESS: James Strom Thurmond.

25 DIRECT EXAMINATION

J STROM THURMOND, JR - DIRECT BY COLEMAN

1 BY MS. COLEMAN:

2 Q. Good morning, Solicitor Thurmond. How are you?

3 A. Good morning. Fine, thank you.

4 Q. Were you the solicitor who prosecuted this
5 case?

6 A. I was.

7 Q. Can you tell us about the facts that the
8 Applicant pled guilty to, the facts of the charges
9 that the Applicant pled guilty to?

10 A. Sure. On May 18th of 2013, a barber shop was
11 the subject of an armed robbery. Two men entered,
12 cased the place, came back in, guns drawn, and shot
13 the proprietor, Mr. Zanny Worrell, and held two other
14 individuals at gunpoint. There was a third
15 individual, a Niim Williams, who was the driver of
16 that vehicle. They originated in Augusta, went back
17 to Augusta where they were stopped by the Richmond
18 County Sheriff's Office.

19 Mr. Booker was the front seat passenger driver
20 {sic}. He remained in the vehicle. Two other
21 individuals fled. In the pocket of Mr. Booker was
22 the wallet of one of the victims, Mr. Levon Cato.
23 Officers pursued Mr. Wooden along the path that he
24 traveled, and in a green dumpster a handgun was
25 found. And Mr. Wooden was found shortly thereafter

J STROM THURMOND, JR - DIRECT BY COLEMAN

1 hiding in a shed behind a residence under some stacks
2 of plywood with, I believe, \$900 cash in his pocket.

3 Mr. Booker and Mr. Wooden were taken into
4 custody at that point. Mr. Booker gave an initial
5 statement where he kind of tiptoed in the pond but
6 nonetheless confessed under the hand-of-one-hand-of-
7 all theory to murder and, to felony murder along with
8 armed robbery.

9 Mr. Niim Williams was identified shortly
10 thereafter and was interviewed by the sheriff's
11 office and released.

12 Mr. Booker who was, had then retained Bob Harte
13 gave, I believe, three other formal statements to law
14 enforcement where each statement he would give us a
15 little further information. His last statement we
16 believe was the closest that we were going to get to
17 the truth where Mr. Booker fully implicated himself
18 and confessed to every element of every offense that
19 he was charged with. At that point warrants were
20 drawn for Mr. Niim Williams some 15 months after the
21 crime. He was charged with several counts of
22 accessory before and after the principal offenses.
23 And, Mr. Williams did not go in. In fact he said,
24 I'm not doing this and would have had a potential
25 defense of withdrawing from a conspiracy, I suppose.

J STROM THURMOND, JR - DIRECT BY COLEMAN

1 He was granted bond.

2 Additional evidence that we had, the cell phone
3 records of Mr. Wooden where it certainly appeared
4 that he had a leadership role in this robbery and
5 murder. There were photographs on his phone matching
6 the Springfield XDM nine millimeter pistol that was
7 recovered from that dumpster. And there were text
8 exchanges between Mr. Wooden and Mr. Booker about
9 doing this particular lick on the Island Cuts Barber
10 Shop believing that there would be large sums of US
11 currency and/or drugs.

12 We prepared Mr. Wooden's case for trial and
13 were going to try him as the lead defendant, if you
14 will, first. And on the eve of trial he elected to
15 accept a plea offer that has been previously
16 discussed.

17 At no time prior to the resolution of
18 Mr. Wooden's case was any plea offer whatsoever
19 offered to either Mr. Booker or Mr. Niim Williams.
20 And Mr. Niim Williams, his relevant culpability was
21 substantially less than the two individuals who went
22 inside the Island Cuts Barber Shop, both armed with
23 handguns, both shot Mr. Worrell, and both robbed the
24 occupants.

25 Q. Okay. Thank you. That covered most of my

J STROM THURMOND, JR - DIRECT BY COLEMAN

1 questions.

2 Was the State planning to use the testimony of
3 the co-defendants against Mr. Wooden at trial?

4 A. Absolutely. They were several potential
5 Brewton issues. We were not going to try them
6 together but our plan was to try Mr. Wooden first and
7 evaluate the testimony of his co-defendants at that
8 time.

9 Q. Do you believe that any of the comments that
10 you made at the guilty plea were improper for any
11 reason?

12 A. No.

13 Q. The Applicant has alleged prosecutorial
14 misconduct for failing to reveal the deal. Do you
15 believe that you acted improperly in any step of the
16 negotiation process?

17 A. I do not as there was no deal to reveal.

18 Q. Was this a no-parole offense?

19 A. Had he been convicted of --

20 Q. The charges that he pled to.

21 A. Absolutely, yes.

22 Q. So how much time would he have had to serve
23 before he was parole eligible?

24 A. 85 percent before becoming parole eligible on
25 the voluntary manslaughter and armed robbery

J STROM THURMOND, JR - CROSS BY ZMROCZEK

1 indictments.

2 MS. COLEMAN: Okay. Thank you. No further
3 questions.

4 THE WITNESS: Thank you.

5 THE COURT: Cross-examination?

6 MS. ZMROCZEK: Thank you. Just briefly.

7 CROSS-EXAMINATION

8 BY MS. ZMROCZEK:

9 Q. Good morning, solicitor.

10 A. Good morning.

11 Q. Or it's afternoon. I know it's hard to see.

12 Excuse me.

13 You would agree with me that Williams could
14 have been found guilty of these same charges under
15 hand-of-one-hand-of-all accessory theory, correct?

16 A. I don't know that I completely agree with that
17 because it was both Mr. Williams' statement as well
18 as Mr. Booker's statement that Williams said, you
19 know, "I'm not going in there." And I believe was
20 kind of shamed by both your client and Mr. Booker for
21 kind of chickening out and not agreeing to
22 participate in the murder and armed robbery.

23 Q. But they agreed and planned ahead of time
24 correct? That's his --

25 A. No. Mr. Niim Williams was very late coming to

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1 the party. We did not have any information that he
2 was aware of what was about to transpire prior to him
3 getting in the back seat of Mr. Booker's vehicle as
4 it traveled from Augusta, Georgia to Beech Island,
5 South Carolina.

6 Q. And, Mr. Booker gave how many statements?

7 A. I believe he gave three statements. Three
8 formal statements. And the second statement, I think
9 we had -- there was some problems at the sheriff's
10 office with the audio and/or video. We then sought
11 to re-interview Mr. Booker and for a, many period of
12 months he declined to be re-interviewed and we were
13 preparing his case for trial along with Mr. Wooden's
14 but ultimately made the tactical decision that we
15 were going to try who we believed to be the lead
16 defendant first.

17 Q. And Ms. -- prior to -- so you handed all of
18 these statements to Ms. Jeffords, right?

19 A. Correct.

20 Q. In an effort to -- did she engage in
21 negotiations with you?

22 A. Extensive negotiations. And we had taken a
23 very strong position up until the eve of Mr. Wooden's
24 trial that this was a murder case and was always
25 going to be a murder case.

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1 Q. Okay. And then through the negotiations you
2 got down to voluntary manslaughter?

3 A. Yes. She was a very effective advocate for her
4 client.

5 Q. And did she -- had she asked you -- she filed a
6 motion, correct, to -- excuse me. I spoke at an
7 elementary school yesterday so I swear I picked up
8 something. She -- prior to -- during the
9 negotiations -- and I believe she filed an official
10 motion to reveal the deal; is that correct?

11 A. She did.

12 Q. And it's your testimony that at this time that
13 there were no deals for Mr. Booker nor Mr. Williams
14 prior to testifying?

15 A. That's correct. And I had Mr. Booker
16 transported from the detention center to sit in the
17 box over there during pretrial hearings to make sure
18 Mr. Wooden understood that Mr. Booker would be
19 testifying against him. Mr. Booker's attorney, Bob
20 Harte, was present in the courtroom during those
21 hearings and certainly did not take any contrary
22 position to my assertion that no deal had been
23 offered to anybody.

24 Q. And engaging in negotiations I understand that
25 no deals are ever actually made ahead of time. Did

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1. you tell the client that you couldn't -- did you tell
2 the co-defendants that you couldn't make a deal but
3 that you would take their cooperation into
4 consideration?

5 A. No. I told them no deal, cooperate or not.
6 And that created some angst both between Mr. Niim
7 Williams' attorney as with Mr. Booker's attorney.

8 Q. Okay.

9 A. I've kind of seen it played both times; you're
10 either getting a deal or you either got a deal so
11 your testimony was either bought and paid for or
12 you'll say or do anything to get the result you
13 want. And both courses can be the subject of
14 effective cross-examination if you will but we did
15 not offer either co-defendant anything prior to the
16 resolution of your client's case.

17 Q. And then afterwards, I believe Mr. Wooden
18 testified and I think that the public index reflects
19 that Mr. Booker received a 22-year sentence?

20 A. He did.

21 Q. And was that a negotiated or?

22 A. It was initially a 20-year sentence and
23 Mr. Booker backed out of that. And that cost him two
24 more years for putting the Worrell family through
25 that angst at Christmastime. And so he pled to a

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1 22-year negotiated sentence, I believe, on the 20th
2 of January 2015.

3 Q. So he initially had a 20-year sentence and --
4 in December and then backed out?

5 A. Correct.

6 Q. And then Mr. Williams --

7 A. And that had kind of been Mr. Booker's pattern
8 through the course of the litigation of, kind of a
9 stop-and-go with his, both his cooperation and his
10 level of cooperation.

11 Q. Was that possible that he could have -- and I
12 know you have no way of telling the future. Was this
13 a concern that you had about him testifying at trial
14 as to whether he would --

15 (Cell phone goes off.)

16 MS. ZMROCZEK: Sorry. I lost my train of
17 thought.

18 THE COURT: Was that a concern you had about
19 Mr. Booker is where you were.

20 MS. ZMROCZEK: Thank you.

21 Q. Is that a concern you had about Mr. Booker
22 testifying whether he would stick to his, one of his
23 -- or the final statement that he gave?

24 A. Well, we, you know, we always want witnesses to
25 testify as we believe they are going to. Had

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1 Mr. Booker not testified, his third videotaped
2 statement would have testified for him.

3 Q. Okay. You would have used that to impeach him
4 is what you're saying?

5 A. Absolutely.

6 Q. And then with Mr. Williams -- were all of these
7 defendants around the same age?

8 A. Mr. Williams was the youngest.

9 Q. Okay.

10 A. They're all -- unfortunately, they're all
11 young, at least in my mind, but Mr. Williams was the
12 youngest and I believe had no prior record, maybe had
13 a pending gun and drug charge out of Richmond County,
14 Georgia, but didn't have any convictions.

15 Q. So he was charged with, initially either
16 accessory before or accessory after. He had about
17 six charges, correct?

18 A. We charged him with what we thought we could
19 prove and if you added all the time up some of the
20 warrants were rather unartfully drawn by the
21 sheriff's office but Mr. Williams' exposure was, I
22 believe, even more than his co-defendants as the
23 warrants were drawn.

24 Q. Right.

25 A. But, you know, we took into considerable

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1 account both in the charging consultations with the
2 sheriff's office that Mr. Williams did not go into
3 that.

4 Q. And ultimately he received a suspended YOA.

5 A. No, he received an active Y.

6 Q. An active Y?

7 A. He pled to accessory after the fact of armed
8 robbery and received an active YOA back in October of
9 2015.

10 Q. And so -- and -- oh. Mr. Wooden testified that
11 he was set to go to trial maybe in September or
12 October of 2013 or 2014; is that correct?

13 A. I'm -- what now?

14 Q. He was set to go to trial maybe in September or
15 October of 2014 but then Mr. Williams had not yet
16 been arrested?

17 A. I believe.

18 Q. Is that your recollection?

19 A. That's my recollection, yeah. And it was kind
20 of a game changer for the strength of our case
21 because, you know, when any -- any multi-defendant
22 case can get factually messy, but at that point we
23 had as many pieces of the puzzle as we were ever
24 going to have.

25 Q. And is it true that Mr. Williams had been

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1 interviewed prior to Mr. Wooden going to trial?

2 A. That's correct.

3 Q. But simply had not been arrested?

4 A. That's correct. Williams was not arrested
5 until some 15 months after the crime.

6 Q. And whose decision was that? Was that
7 something that y'all directed, y'all the solicitor's
8 office directed the sheriffs to do or did they kind
9 of just do that on their own?

10 A. We don't direct officers to arrest people.

11 Q. Certainly.

12 A. But I think it was their evaluation that, you
13 know, they interviewed Williams based on Booker's
14 initial statement that was largely self-serving and
15 at the time the only evidence they would have had
16 would have been that statement and then maybe some
17 brief statement made by your client in Richmond
18 County, Georgia. And I think the sheriff's office
19 just believed that they didn't have sufficient
20 information to charge Niim Williams at that point.

21 MS. ZMROCZEK: Beg the Court's indulgence.

22 (Pause.)

23 THE COURT: Okay?

24 MS. ZMROCZEK: Those are all the questions I
25 have. Thank you.

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1 THE WITNESS: Thank you.

2 MS. COLEMAN: Nothing further.

3 THE COURT: Thank you, Mr. Solicitor.

4 THE WITNESS: Thank you, Your Honor.

5 MS. COLEMAN: The State calls Ms. Tanya
6 Jeffords.

7 THE WITNESS: All right.

8 TANYA JEFFORDS, having been duly sworn, was
9 examined and testified as follows:

10 THE CLERK: Please have a seat in the witness
11 box and state your name for the Court.

12 THE WITNESS: Tanya Jeffords, T-A-N-Y-A
13 J-E-F-F-O-R-D-S.

14 DIRECT EXAMINATION

15 BY MS. COLEMAN:

16 Q. Good morning, Ms. Jeffords. How are you?

17 A. Good morning.

18 Q. How long have you been practicing law?

19 A. 15 years.

20 Q. Do you recall whether you were appointed or
21 retained in this case?

22 A. I was retained.

23 Q. How many times did you meet with the Applicant
24 prior to the guilty plea?

25 A. A lot. Numerous times. Whenever I had new

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1 information or anything to talk about. We met
2 frequently.

3 Q. Did you file any Rule Five or Brady motions in
4 this case?

5 A. Yes, I filed several motions in this case.

6 Q. Did you review discovery with the Applicant?

7 A. Yes.

8 Q. Did you discuss the Applicant's version of the
9 facts?

10 A. I did.

11 Q. Did you discuss any possible defenses with the
12 Applicant?

13 A. I did.

14 Q. Did you discuss the elements of the charges?

15 A. I did.

16 Q. Did you explain the differences in parole
17 eligibility and no-parole offenses?

18 A. I did. And if you want me to clarify on that
19 one.

20 Q. We can go into that later in more detail. Can
21 you briefly describe the evidence that the State had
22 against the Applicant?

23 A. Well, this is a case where you have this young
24 19-year-old kid facing a murder charge. The biggest
25 problem in those cases is that's their life. It

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1 could be life, it could be life without parole. In
2 Carolina you have to do every day on a murder
3 sentence and the judge could give you life without
4 parole.

5 So going into those cases, I think that they're
6 just trials in the beginning. They're not cases that
7 you plead it. You prepare for trial because you
8 might as well exercise your constitutional right to
9 confront the evidence against you if you're going to
10 do a life sentence.

11 And there was no -- there was an offer to just
12 plead to life at some point early on in the case to a
13 murder charge. And I said, "No, we're not going to
14 do that. I will talk with my client about it."

15 Then we went through the evidence and, you
16 know, there was only -- in a murder case you only
17 have two options. One, you're going to try the case
18 and you have a defense that your client has a
19 possibility of just going home which is not guilty
20 and that's what I'm going to go for if I try the
21 case.

22 Secondarily, if somebody can place you at the
23 scene of the murder. In my mind then if you're
24 there, there's a dead body, then the only thing you
25 can be tried in that case for is something of a

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1 lesser included, that you don't have to get life,
2 that therefore then gives the judge some discretion.

3 So when I'm getting ready to prepare for a case
4 this is what I talk to my client about. You have to
5 decide which way you're going to go.

6 And in this case we kind of went back and forth
7 over it. I had received a letter from him and I
8 always tell my clients to be honest with me because I
9 want to know more than everybody in the courtroom so
10 that I don't do some things that might would hurt
11 them in a trial or whatnot. And, you know,
12 Mr. Wooden is a very nice young man and, you know, I
13 think we worked well together on this case.

14 And, you know, he was concerned about what his
15 parents thought and family thought. And he had
16 written me a letter in the beginning explaining
17 everything that had happened in that case.

18 So, I said, "okay," I knew I was in a situation
19 of a voluntary manslaughter if I went to trial, that
20 the facts could halfway support it and that there was
21 some mitigating evidence. I knew the guy was a drug
22 dealer. I knew that, you know, there were drugs
23 found on that scene and different things like that.

24 And that he had pulled a firearm out and shot
25 at my client and, you know, my client was scared.

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1 He's 19 years' old. He was scared and he -- and he
2 fired but that the actual bullet that, you know,
3 killed the guy belonged to Booker who was the one who
4 was doing all this testimony like he didn't have
5 anything to do with it and was blaming it on my
6 client.

7 At some point, you know, there was the issue of
8 raising an alibi that, you know, maybe he wasn't
9 there. I ran all of that evidence down because at
10 some point he said he wasn't there to me. So I
11 interviewed witnesses with regard to that. A couple
12 people said they had him at a different time,
13 different place. But you can't in with an alibi, you
14 don't get to switch it in the middle of a trial with
15 a voluntary.

16 In addition, we talked about this, I was also
17 scared I'd go into a trial, I can't even get a
18 voluntary manslaughter as a lesser included because
19 there's admitted facts of going in for an armed
20 robbery. So there was case law clearly on that and I
21 didn't know what the judge would do. So I was really
22 very seriously -- with one co-defendant putting my
23 client at the scene saying that he did it, I was very
24 seriously facing a life, life without parole
25 situation because the judge had made a comment at the

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1 bond hearing, "Well, were these just innocent people
2 in a barber shop who were involved." And, like, no.

3

4 But still the only thing they ever offered us
5 up until that last week was murder. And so we were
6 always prepared for trial. And Mr. Wooden and I were
7 set on that.

8 I was getting the case ready for trial
9 combating some of the evidence. One was, you know,
10 getting ready to subpoena the president of Citizens
11 Bank because they wouldn't tell me whether my client
12 had a bank account there, you know, because he had
13 the Citizens -- that First Citizens thing in his
14 pocket. So these are some things that I just had to
15 get around. If I'm going to go into something, I'm
16 not trying to have my case served without that.

17 So when they finally -- on that week before,
18 they called me and may have been about a Friday or a
19 Saturday, I don't remember what it was but we all sat
20 down and they said that they would offer a
21 voluntary. And I think we started out at 30 or
22 something and then it was 25. I think I was saying,
23 well -- and I hadn't talked to Mr. Wooden at this
24 point. It was our first opportunity. 20 and they
25 actually -- one of the prosecutors put it on a grid,

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1 you know, if he did voluntary manslaughter at least
2 he would be eligible and have to do 85 percent. It
3 came out to about 22 or something like that.

4 That was on a piece of paper. I remember
5 that. I went back. The prosecutor would not go down
6 to 20. I asked for 20 and I think we were fighting
7 about even those five years at that point. And he
8 wouldn't move. And I wasn't going to move. And --
9 but then at the end we were going to do life without
10 parole versus a five years difference.

11 I went back. I spoke with Mr. Wooden about
12 it. I talked to him about my problems with that
13 First Citizens Bank envelope. I talked to the family
14 because I think that, you know, it's very difficult
15 for a 19-year-old to make all of the decisions. And
16 they assured me. And so I talked to the family about
17 the risks.

18 At that same time in that last week, you know,
19 right after we had that, we were getting ready for
20 trial, then they found Niim and he was going to come
21 in and testify. I had presumed he was not going to
22 put my client there. Possibly. I didn't know,
23 because he had talked to me early in the case and
24 never indicated that that had happened. So he had
25 given a taped statement, went with that. So now I

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1 was going to trial with two statements putting my
2 client right there.

3 And so when I got the offer to take it down to
4 voluntary manslaughter which is something I always
5 will tell my client to consider in a murder case. If
6 it gets out of murder to a voluntary, you have to
7 consider it very seriously.

8 And it's their decision. And I'm going to try
9 everything. I love trying cases but I don't let that
10 get into the way of what's best to the client. I
11 felt like this was in his best interests. I told him
12 so because I felt like Niim and Booker were going to
13 be there testifying against my client and placing him
14 there. And that's what happened.

15 And when I went to talk to him about it, I
16 think where the confusion may have come in because I
17 knew it was -- that for South Carolina it's a no
18 parole-able offense. We talked about that. But you
19 have to do 85 percent. And there's another statute
20 that said you have to do 85 percent. To me that is
21 parole-able.

22 And in Georgia, if you say it's no parole that
23 means you have to do day-for-day. So and me saying
24 parole I'm going over 85 percent. I never indicated
25 it would be a one-third or that sort of thing. And

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1 as discussed that you would have to do at least 85
2 percent of that charge because that was my
3 understanding of the law.

4 . And, when he wrote me afterwards I was
5 concerned that I had made a mistake that, you know,
6 absolutely he would have to do every day of 25
7 years. And, you know, just confirmed that, no, still
8 you have to do at least 85 percent. I did explain to
9 him you could do every day or they could let you out
10 earlier.

11 And so I think that's -- maybe that's where the
12 confusion came in with the no parole-able and parole-
13 able sort of situation. And I don't believe that I
14 would have encouraged him to take that plea had both
15 of those, you know, people necessarily been coming to
16 testify against him.

17 Q. Would you have classified the State's evidence
18 against him as overwhelming?

19 A. They had two people who were saying that they
20 were involved in this crime. And that they were
21 going to say that he was there with him. That is a
22 very, very strong case that you're very, very likely
23 to get convicted.

24 I've tried those cases before. Co-defendant
25 cases are the worst simply because jurors who don't

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1. know anything think if somebody is there, there's a
2 dead body and people say you were there and we all
3 did this together, you know, you must be, you know,
4 telling some truth. And if you absolutely can't
5 place yourself somewhere else you're getting ready to
6 do a life sentence or possibly life without parole.

7 Q. Did you review the Applicant's constitutional
8 rights before the guilty plea?

9 A. Yes. I mean, we were always getting ready to
10 go for trial. I mean, we were prepared. They never
11 offered anything until the eve before. Voluntary
12 manslaughter never came up.

13 Q. Did the Applicant ever tell you that he did not
14 understand something?

15 A. No. Mr. Wooden's a very intelligent young man.
16 And we wrote back and forth frequently, you know, any
17 leads, anything that could help with the case, you
18 know. We had it down.

19 Q. Ultimately whose decision was it to plead
20 guilty?

21 A. It was his decision based upon my advice of
22 what I thought he should do.

23 Q. Did the Applicant ever indicate at the guilty
24 plea that he wanted to go to trial instead of plead
25 guilty?

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1 A. During the sentencing -- I mean, we were always
2 preparing his case for trial. It came up right
3 before then that it was a voluntary and he would, you
4 know, consider it. We talked about it, agreed to it.
5 And, we did talk about, you know, do you go in and
6 say, "I didn't do it," or "I did do it". We did talk
7 about that. And I'm, like, well, like I said, I had
8 a letter saying you did do it. Sometimes he would
9 say, you know, "It wasn't me". I really was by the
10 end of it, okay, which one.

11 But the facts were going to come out in trial
12 the way that they were going to come out. And, you
13 know, I do know that down the road when parole is
14 looking at something which again in my mind I'm
15 thinking, you know, you've -- you don't have to do
16 day-for-day on it. They can let you out earlier if
17 they can. And, they're going to look at whether you
18 took acceptance of responsibility or not, you know.
19 And families look at that and judges look at that and
20 people look at that and so, that was our discussion.

21 Q. You testified that this offer was made on the
22 eve of trial. You pled a week before the trial, I
23 think you said.

24 A. No. I think that we pled the day we were
25 supposed to go to trial on that morning if I'm not

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1 mistaken. I don't know. It seems like something
2 came up that Friday Before.

3 MR. THURMOND: The offer was tendered Friday
4 before Mr. Wooden was set to be tried and he entered
5 a plea that Monday.

6 THE COURT: I read the transcript. That's what
7 happened.

8 MS. COLEMAN: Okay. Thank you.

9 THE WITNESS: That's what I thought.

10 BY MS. COLEMAN:

11 Q. Did you see any reason to request a continuance
12 the day of the trial or were you prepared to go to
13 trial?

14 A. No. I was prepared. And, again, when you're
15 asking for a bond, for me at some point if you had my
16 client locked up for this long, the only way I'm
17 going to get a judge to reconsider bond is if I'm
18 ready to go. So I had no intention of asking for any
19 continuances after a certain point. I was getting
20 ready for a trial. They had granted me funds for an
21 expert. I had an expert that I had paid for his
22 flight to come here, you know, actually in that
23 case. So...

24 Q. Did you ever see any legal reason to move to --
25 or to appeal the guilty plea or the sentence after it

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1 was entered?

2 A. No, but if I would have known that the guy had
3 got that sentence afterwards, you know, I'm not --
4 that 20 years or 22 years or whatever they got
5 afterwards, I maybe would have filed something. I
6 don't know what I would have filed but I would have
7 filed something. That didn't happen until January or
8 something.

9 Q. I was going to say, did you have any knowledge
10 before he entered the plea that the co-defendants
11 were given any kind of plea deal?

12 A. No. When we had that hearing which I do in
13 every case I have, you know, several just standard
14 motions I'm going to go through on the record. And,
15 you know, I just -- I was always told that there was
16 no deal.

17 Q. Okay. Did the Applicant ever ask you to appeal
18 his guilty plea?

19 A. I don't know if he wrote me. He may have wrote
20 me after. I don't think so. I mean, it was a guilty
21 plea. I think he would've had to ask me to withdraw
22 it. I thought the proper way was to do a PCR and
23 challenge the whole proceedings? So, no, we never
24 discussed that.

25 Q. Did you see any reason to object to the

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1 solicitor's commentary at the guilty plea?

2 A. No. I think at some point I clarified that the
3 bullet that shot and killed this man belonged to
4 Booker. It was not the gun that was in my client's
5 hand at all. And I think that Mr. Wooden clarified
6 some things on the record, too. So it was a
7 negotiated plea and in those situations you kind of
8 -- you go in knowing what's going to happen.

9 Q. If the solicitor had made some kind of improper
10 comment at the guilty plea would you have objected to
11 it?

12 A. Yes, particularly if it would have been an open
13 plea that the judge could have made some sort of
14 different decision than the 25 years.

15 Q. And if you had objected to any kind of improper
16 comment by the solicitor, do you think this would
17 have changed the Applicant's decision to plead guilty
18 in this case?

19 A. No.

20 Q. Okay.

21 A. The issue was the two people testifying against
22 him.

23 MS. COLEMAN: Thank you. No further questions.

24 THE COURT: Cross?

25 MS. ZMROCZEK: Thank you, brief.

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CROSS-EXAMINATION

BY MS. ZMROCZEK:

Q. Good morning, Ms. Jeffords.

A. Good morning.

Q. You said that the issue was always the two defendants that had come forward to testify against him?

A. Yes.

Q. And you said that you had spoken with -- did you speak with Mr. Williams prior to him being arrested?

A. Yes.

Q. And he had indicated that his statement at that time would have been that Mr. Wooden was not involved?

A. Right.

Q. Okay. So you had a different statement from Mr. Williams than once he got arrested and charged with six crimes, correct?

A. Right. We were getting ready to prepare the trial and then it came up as a continuance that they had arrested him. So we were, like, well, okay. He's going to testify or he's going to say something. And then his tape came out to be completely different than what he had, you know, told

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1 me before. It was consistent with what Booker was
2 saying. Like I said, I had two different statements
3 at this time on my client.

4 Q. And Mr. Booker obviously had given several,
5 several different statements in this case.

6 A. Yes.

7 Q. I think three, at least, official but possibly
8 up to as many as six completely, not completely but
9 varying degrees of statements; is that correct?

10 A. Yes. And they were always against my client.

11 Q. Okay. And a lot of them were self-serving,
12 correct?

13 A. Yes.

14 Q. And you, I think, testified that you corrected
15 the solicitor that the bullet that had killed the
16 victim had come from Mr. Booker's gun and not
17 Mr. Wooden's gun, correct?

18 A. That's right.

19 Q. But certainly being licensed in South Carolina
20 as well as Georgia you're familiar with the
21 accomplice liability. And those were things that you
22 were telling Mr. Wooden about?

23 A. Yeah. And what that -- that makes a difference
24 with a jury sometimes, you know. If you're going to
25 go -- I'm not going to, you know -- you want

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1 something lesser than murder, voluntary manslaughter,
2 those type of facts jurors do take into
3 consideration, I do believe.

4 Q. And you wrote several letters to the client,
5 right?

6 A. Yes.

7 Q. And y'all had talked about with a voluntary
8 manslaughter defense and I think you testified to
9 this, that he had to admit that -- his involvement,
10 correct?

11 A. Yes.

12 Q. So he knew that he was going to go in front of
13 the judge and get asked questions and that he had to
14 admit to them?

15 A. Yes.

16 Q. Or the judge wouldn't take the plea --

17 A. Yes.

18 Q. -- under this because he wasn't allowed to
19 plead -- or he wasn't pleading under Alford, correct?

20 A. Right.

21 Q. So you had kind of -- you all had talked about
22 what answers he needed to give in front of the judge
23 to make sure that this would go forward?

24 A. Yes.

25 Q. And that -- the last letter that you wrote, I

TANYA JEFFORDS - CROSS BY ZMROCZEK

1 think, on October 28th, it said, "please make sure
2 that you're considering the consequences of rejecting
3 an offer of voluntary manslaughter under these
4 circumstances which allow for parole". So parole was
5 a big concern for him, right?

6 A. It was.

7 Q. And so would you agree -- and I can hand up the
8 letter if you --

9 A. Yeah.

10 Q. Okay. Let me just hand it up so I'm not asking
11 you questions about something you haven't seen in a
12 while.

13 (Document handed to witness.)

14 A. It's exactly what happened.

15 Q. So, so Mr. Wooden was from Georgia, right?

16 A. Yes.

17 Q. And so -- and you practice in Georgia?

18 A. Yes.

19 Q. And so in Georgia you have parole-able offenses
20 and then you have no-parole offense and in Georgia no
21 parole equals day-for-day?

22 A. That's right.

23 Q. But in here no parole under these circumstances
24 equals 85 percent?

25 A. Right.

TANYA JEFFORDS - CROSS BY ZMROCZEK

1 Q. But the letter that you wrote to him when you
2 said parole versus no parole, you didn't say 85
3 percent. You just said parole -- it's eligible for
4 parole, but you didn't explain that that meant 85
5 percent, right?

6 A. No, I did not in that letter say anything.

7 Q. So his confusion about the parole and him --
8 and you telling him parole even though you understood
9 it to be 85 percent, it's certainly possible that he
10 didn't understand that it was 85 percent until he
11 wrote you again after he was sentenced?

12 A. I most certainly understand that because that
13 language that I would have been using is that you
14 would not have to do all of that time. And he, you
15 know -- that's what I understood. That's what I told
16 him. Now, that you would have to do a third -- I
17 never said that, but you would never have to do all
18 that time. For me and particularly I know why it
19 came up too is because there was a -- you know, you
20 just would have to do every day in Georgia. And I
21 did not -- to me, he would still be out on a 25-year
22 sentence before he was my age and that was for me
23 very important.

24 Q. We consider that young, correct?

25 A. Yes.

TANYA JEFFORDS - CROSS BY ZMROCZEK

1 Q. And Georgia is -- are they eligible for parole
2 after -- if they have to do seven years of their
3 sentence; is that correct? Or they have to do -- do
4 they have to do a percent? Like, a third of their
5 time before they're considered for parole in Georgia?

6 A. If you have a no-parole offense, like, say,
7 armed robbery, no. You get sentenced to 25, you're
8 going to do every day of 25.

9 Q. Right. If you have a no-parole offense. But
10 if you have a parole offense you do a portion of it
11 and then you're --

12 A. They can consider you. I always tell my
13 clients you can do every day or you can do less than
14 that time and so that's the difference.

15 Q. But is it possible that he may have gotten that
16 one-third mixed up with some Georgia rules and not
17 South Carolina rules?

18 A. Of what parole means that you would be
19 considered after one-third, he may have gotten that
20 mixed up, yeah. That's exactly right.

21 Q. Okay. Because the letter that you had written
22 him just said a parole offense and it didn't say the
23 85 percent. That's probably why -- I mean, is that
24 your -- you never told him, like, 85 percent until
25 afterwards, correct?

TANYA JEFFORDS - REDIRECT BY COLEMAN

1 A. No. I believe we talked about the time and the
2 85 percent because I had sat down and they had showed
3 it to me on a chart that they put in. And that you
4 would have to do, you know, the time that you could
5 be considered for early release under that 85.

6 Q. But -- and that would be in the letter that you
7 wrote, I think you wrote that to him in February of
8 2015?

9 A. Right. When he -- I got a phone call and he
10 had asked about that and I said, well, you would have
11 to do 85 percent. That's kind of what that means.

12 Q. And that was after he was sentenced?

13 A. Yes.

14 Q. I just wanted to clarify that.

15 A. When he asked me about it afterwards.

16 Q. After he received the sentence?

17 A. Uh-huh.

18 Q. Okay. That's what I wanted to clarify. Thank
19 you. No further questions.

20 MS. COLEMAN: Just one follow-up question.

21 REDIRECT EXAMINATION

22 BY MS. COLEMAN:

23 Q. Do you still think that it's in your client's
24 best interests to serve 85 percent of a 25-year
25 sentence rather than life without parole?

TANYA JEFFORDS - REDIRECT BY COLEMAN

1 A. I do. I'm not happy about him getting a
2 sentence that was, you know, the other guys got
3 20-year sentences. I'm not happy about that.

4 MS. COLEMAN: Okay. Thank you. No further
5 questions.

6 THE COURT: Okay. So you told him prior to him
7 pleading guilty that it was 85 percent, right?

8 THE WITNESS: I think that I talked to him
9 about the numbers.

10 THE COURT: Right. If he pled to 25, 22 and
11 some change based upon the chart.

12 THE WITNESS: Yes.

13 THE COURT: And that conversation took place
14 prior to him entering the guilty plea, correct?

15 THE WITNESS: Yes, but I had always talked
16 about it as a parole-able offense.

17 THE COURT: Sure. Okay. Now, next question.
18 Did you file a motion to reveal the deal?

19 THE WITNESS: I did.

20 THE COURT: Was there a hearing on that
21 motion?

22 THE WITNESS: Yes.

23 THE COURT: And was that in front of a judge?

24 THE WITNESS: Yes.

25 THE COURT: And what did the solicitor's office

TANYA JEFFORDS - REDIRECT BY COLEMAN

1 state? Not verbatim, but from your memory about
2 whether or not Mr. Booker or Mr. Williams was given a
3 deal?

4 THE WITNESS: That there was no deal.

5 THE COURT: Since the date of the guilty plea,
6 have you learned that there was a deal given to
7 Mr. Booker or Mr. Williams prior to Mr. Wooden
8 entering a plea?

9 THE WITNESS: My understanding is that they
10 pled to those offenses on January 2015.

11 THE COURT: That's not my question. The
12 question is this: Prior to Mr. Wooden entering a
13 plea, do you have any information to your knowledge
14 as an attorney that the solicitor's office gave
15 Mr. Booker or Mr. Williams any plea offer or any type
16 of deal prior to Mr. Wooden standing in front of
17 Judge McMahon and pleading guilty?

18 THE WITNESS: No. They told me no.

19 THE COURT: All right. And they told you no?

20 THE WITNESS: Right.

21 THE COURT: And to the best of your knowledge
22 that's true?

23 THE WITNESS: Right.

24 THE COURT: Okay. Any further questions for
25 her, Ms. Coleman?

TANYA JEFFORDS - REDIRECT BY COLEMAN

1 MS. COLEMAN: Nothing further.

2 THE COURT: Ms. Zmroczek?

3 MS. ZMROCZEK: Nothing further. I just wanted
4 to clarify.

5 So even though you wrote the letter in February
6 of 2015 explaining the 85 percent, it's your
7 testimony that you talked about the 85 percent prior
8 to his pleading?

9 THE WITNESS: Yes, because I researched it.
10 That's what I looked at.

11 MS. ZMROCZEK: I just wanted to clarify that.
12 Thank you.

13 THE WITNESS: But I did say it was parole-able
14 because I felt like 85 percent was parole-able.

15 THE COURT: That's good. Thank you very much.
16 You may step down. Anything further from the State?

17 MS. COLEMAN: No, Your Honor.

18 THE COURT: Ms. Zmroczek?

19 MS. ZMROCZEK: Nothing further.

20 THE COURT: I want to know the Rule 11 basis
21 for the prosecutorial misconduct claim.

22 MS. ZMROCZEK: Your Honor, at the time of --

23 THE COURT: On May 11th, 2016, when it was
24 filed, I want to know what the basis is on that date
25 for a prosecutorial misconduct claim under Rule 11.

TANYA JEFFORDS - REDIRECT BY COLEMAN

1 Good ground.

2 MS. ZMROCZEK: Okay. Thank you.

3 I believe Ms. Jeffords is still here so she may
4 need to testify to that.

5 On March 11 of 2016, I had a conversation, a
6 telephone conversation with Ms. Jeffords. And she
7 said that she always -- she had a concern about
8 the -- sorry. Here it is.

9 She had a concern about the co-defendants
10 receiving a deal and her not knowing about it. This
11 today is the first time I ever heard there was a
12 hearing that there was on the record that it was said
13 that there was no deal. So that's the first time I
14 heard that, but, and Ms. Jeffords I think did testify
15 that we did have a conversation on May -- excuse me,
16 on March 11th, 2016. And these are my notes from it.

17 Your Honor, she said that there was always a
18 concern that the two co-defendants were -- had
19 received a deal. And then she felt even more
20 concerned when she learned that there was evidence
21 that they had received a deal. So that, that was the
22 basis for that allegation. It was based on the
23 conversation that I had with Ms. Jeffords.

24 THE COURT: Do you want to respond to that,
25 Ms. Jeffords?

TANYA JEFFORDS - REDIRECT BY COLEMAN

1 MS. JEFFORDS: Yes. She called me. We were
2 talking about the case. And I told her she should
3 look into what sentences the other co-defendants
4 had. I was concerned that maybe there was a deal. I
5 never knew that they -- I knew that somewhere I heard
6 that they had gotten lesser sentences. And she just
7 showed me that they had been sentenced in January.
8 It wasn't anything I went and researched and looked
9 at it, but it was something she should inquire about
10 but I'd have to -- you'd have to talk to their
11 attorneys not me to figure that out. I just --

12 THE COURT: So you had no information that
13 anybody had a deal prior to your client pleading
14 guilty?

15 MS. JEFFORDS: No.

16 THE COURT: You just -- completely and total
17 speculation that because Mr. Booker and Mr. Williams
18 got lesser sentences that that means that the State
19 kept something from you. That's just complete and
20 total 100 percent rank speculation.

21 MS. JEFFORDS: It was something that she should
22 look into on a PCR. That's all the conversation --

23 THE COURT: It's speculation.

24 MS. JEFFORDS: Yeah. I wouldn't know. I'd
25 have to research it.

TANYA JEFFORDS - REDIRECT BY COLEMAN

1 THE COURT: Mr. Thurmond, do you want to say
2 anything?

3 MR. THURMOND: Yes. Thank you, Your Honor.

4 Your Honor, as an officer of the Court, I spoke
5 to Mr. Bob Harte who represented Demarcus Booker as
6 well as Mr. Jerry Screen who represented Mr. Niim
7 Williams. And as of yesterday neither of them had
8 been interviewed, subpoenaed to be here to ask if
9 they were the recipients of this so-called deal.
10 And --

11 THE COURT: Because there was no deal.

12 MR. THURMOND: Every lawyer that works for me
13 takes an allegation of misconduct so very seriously.

14 THE COURT: Do you want to respond,
15 Ms. Zmroczek?

16 MS. ZMROCZEK: Your Honor, certainly. I had, I
17 believe, had my paralegal call their offices. We
18 could not get a response from them and so --

19 THE COURT: Are you talking about Mr. Harte and
20 Mr. Screen?

21 MS. ZMROCZEK: Yes. Sorry, Your Honor. So,
22 obviously --

23 THE COURT: I mean, you have the subpoena power
24 of the Court.

25 MS. ZMROCZEK: I do. I do, Your Honor. And --

TANYA JEFFORDS - REDIRECT BY COLEMAN

1 THE COURT: When did your paralegal call their
2 offices?

3 MS. ZMROCZEK: Your Honor, I'd have to check my
4 computer because that's where we put the notes in,
5 but I can sit here and do that.

6 But, my concern, Your Honor, was actually this
7 morning when I spoke with him and --

8 THE COURT: Spoke with who?

9 MS. ZMROCZEK: Sorry. This morning when I
10 spoke with the solicitor. At that time I probably
11 should have withdrawn that because he had at that
12 time told me that there was no misconduct. And I
13 certainly take his word -- I mean -- yeah -- he said
14 there was no deal.

15 THE COURT: You have to have a good ground when
16 you file the document, not on the day of the hearing.
17 A good ground on the day you sign it. On the day you
18 affix your signature as a member of the South
19 Carolina Bar to a claim, you are required under the
20 rule of -- Rule 11 that to the best of your
21 knowledge, to the best of your information and to the
22 best your own belief there is good ground to support
23 a claim.

24 MS. ZMROCZEK: Yes, Your Honor.

25 THE COURT: Not on the day of the hearing.

TANYA JEFFORDS - REDIRECT BY COLEMAN

1 MS. ZMROCZEK: Right. And I understand that
2 that was based on speculation from a conversation
3 that I had with her and certainly I apologize.

4 THE COURT: And prior to May the 11th of 2016,
5 did you speak to Mr. Harte?

6 MS. ZMROCZEK: No, I had not. I know that that
7 was prior to -- I know that -- I know for sure that
8 that was prior to us reaching out to them.

9 THE COURT: My question is: Prior to May the
10 11th --

11 MS. ZMROCZEK: I had not.

12 THE COURT: -- of 2016, did you speak to
13 Mr. Harte?

14 MS. ZMROCZEK: I had not.

15 THE COURT: Did you speak to Mr. Screen about
16 this?

17 MS. ZMROCZEK: I have not.

18 THE COURT: Did you speak to the Defendant
19 whose last name is Booker?

20 MS. ZMROCZEK: No, Your Honor.

21 THE COURT: Did you speak to the Defendant
22 whose last name is Williams?

23 MS. ZMROCZEK: No, Your Honor.

24 THE COURT: Okay. Your motion for post-
25 conviction relief application is denied. The State

TANYA JEFFORDS - REDIRECT BY COLEMAN

1 has 30 days to appeal. Let's take a 10-minute break.

2 END OF CASE: 11:50 A.M.

3 ***

4 CERTIFICATE OF REPORTER

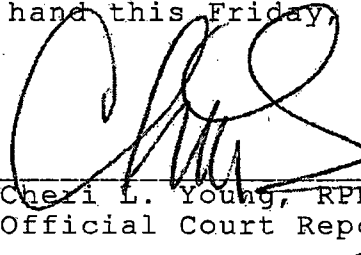
5 STATE OF SOUTH CAROLINA)

6 COUNTY OF AIKEN)

7 I, Cheri L. Young, Registered Professional
8 Reporter and Official Court Reporter for the State
9 of South Carolina, Second Circuit-At Large, do
10 hereby certify that the foregoing proceedings were
11 written stenographically by me using computer-aided
12 translation; further, that the foregoing is a true,
13 accurate and complete record, to the best of my
14 skill and ability, of all the proceedings had and
15 evidence introduced in the hearing of the captioned
16 case, relative to appeal, in the Court of Common
17 Pleas for Aiken County, on the 23rd day of
18 September, 2016.

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

21 I have hereunder set my hand this Friday, the 10th
22 day of March, 2016.

23
24 
25 Cheri L. Young, RPR
Official Court Reporter

TANYA JEFFORDS - REDIRECT BY COLEMAN

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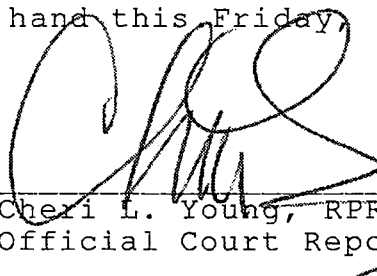
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22 day of March, 2016.

23
24 
25 Cheri L. Young, RPR
Official Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

Raphael Alexander Wooden, #362178,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

2015-CP-02-00579

ORDER OF DISMISSAL

FILED

11-3-16

Shirley Goodard
CLERK
Amalia 100

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on March 9, 2015. Respondent submitted its return on March 27, 2015. An evidentiary hearing into the matter was convened on September 23, 2016, at the Aiken County Courthouse. Applicant was present at the hearing and was represented by Aimee Zmroczek, Esquire. Respondent was represented by Assistant Attorney General Julie A. Coleman of the South Carolina Attorney General's Office.

I. PROCEDURAL HISTORY

next
The records before this Court indicate that Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Aiken County Clerk of Court. Applicant was true bill indicted at the February 2014 term of the Aiken County Grand Jury for three counts of armed robbery, murder, possession of a weapon during the commission of a violent crime (2014-GS-02-00135; -00136; -00137; -00138; -00139). Tanya D. Jeffords, Esquire represented Applicant. On November 14, 2014, Applicant pled guilty before the Honorable R. Knox McMahon. Judge McMahon sentenced Applicant to twenty-five year term of imprisonment for each count of armed robbery and twenty-five year term of imprisonment for the lesser included offense of voluntary manslaughter, to run concurrent. One

count of armed robbery and the possession of a weapon during the commission of a violent crime were *nolle prossed* pursuant to the plea. Applicant did not appeal his guilty plea or sentence.

Applicant filed a timely application for post-conviction relief on March 9, 2015.

Applicant subsequently amended his application on May 11, 2016, to include additional allegations.

II. ALLEGATIONS

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

1. Ineffective Assistance of Counsel
 - a. Failing to properly explain the sentencing collateral affects and parole;
 - b. Failing to mitigate and examine co-defendant sentences;
 - c. Failing to move for a motion to reconsider
 - d. Failing to request a continuance under *Langford*;
 - e. Failing to investigate and challenge extradition process and due process violations;
 - f. Failing to object to improper solicitor comments at sentencing and identifying issues with discovery.
2. Prosecutorial Misconduct
 - a. Failing to reveal the deal.

III. SUMMARY OF RELEVANT TESTIMONY PRESENTED

At the PCR hearing, Applicant testified on his own behalf. Respondent presented testimony from Solicitor Strom Thurmond, Jr. and Trial Counsel Tanya D. Jeffords.

Applicant

Applicant testified that he retained Trial Counsel Tanya D. Jeffords after his arrest and they met several times. He stated that he and Trial Counsel talked about the facts of the case, reviewed discovery, and discussed leads and potential witnesses. He stated that he told her that he did not want to plead guilty.

Applicant testified that he decided to plead guilty because he wanted to be eligible for parole, which his attorney told him would be an option if he accepted the plea deal. He stated that he did not want a sentence of life in prison without parole, so he pled guilty instead of going to trial. Applicant stated that he thought he would get out of prison on parole after seven or eight years before he pled guilty, and he relied on this assumption to plead. He testified that he would have gone to trial rather than plead guilty if he had known he would not get parole after eight years.

Applicant testified that, if he had gone to trial, his co-defendants were going to testify against him and they would be offered a plea deal by the State in exchange for their testimony. Applicant stated that his co-defendant, Demarcus Booker, was sentenced to a twenty-two year term of imprisonment because he had agreed to testify against him at trial. Applicant stated that his other co-defendant, Niim Williams, had agreed to testify against him at trial as well, but his story changed several times, so the State was not going to use him as a witness. Applicant stated that he figured Booker would get a lighter sentence than him did because of his statement.

Applicant opined that the evidence in his case did not add up and his attorney should not have advised him to plead guilty. However, he stated that his co-defendants were going to testify against him if he had gone to trial.

Applicant testified that he recalled telling the plea judge that he was satisfied with his attorney's services. He recalled waiving his constitutional rights and telling the judge that he wished to plead guilty because he was indeed guilty. He stated that he recalled agreeing with the facts presented by the State at the guilty plea, and that he even corrected some of them. He further testified that he had given law enforcement a statement about his involvement in the crime.

Solicitor

Solicitor Strom Thurmond, Jr. testified at the hearing that he was the solicitor who prosecuted this case. He summarized the facts of the case, stating that on May 18, 2013, Aiken County Law Enforcement was called to the scene of the crime, a barber shop. He stated that Applicant robbed the shop, shot the victim, and held others at gunpoint. After a police chase in which Applicant's two co-defendants were arrested, Applicant was found hiding in a shed with \$900 in cash, the victim's wallet, and a handgun. He stated that Applicant subsequently confessed to committing the crime and gave law enforcement a statement.

Solicitor testified that some of the other evidence the State had against Applicant included photographs from Applicant's cell phone and a text message conversation between Applicant and co-defendant Booker about planning the robbery before it took place.

Solicitor testified that Applicant pled guilty on the eve of trial; trial was set to begin on Monday, and he pled the Friday before. He stated that the State did not make a plea offer to Applicant until the eve of trial, so there was no deal to reveal before that date. He explained that this case was always a murder case, but Trial Counsel was a very effective negotiator and was able to successfully negotiate a plea offer for the charge of voluntary manslaughter.

Page 4
Solicitor testified that Applicant was the lead defendant in this crime, and he made the tactical decision to try him first before trying the co-defendants. He testified that the State absolutely planned to use the testimony of the two co-defendants against Applicant had he gone to trial. Solicitor stated that there was no plea offer to either of Applicant's co-defendants before Applicant pled guilty, and that Bob Harte, Booker's attorney, would be able to testify about this, as well, because he and Booker were both present at Applicant's guilty plea.

Solicitor testified that the State had video testimony of Booker's statement that they would have used at Applicant's trial even if Booker decided not to take the stand. He stated that, after Applicant's plea, he originally offered Booker a twenty year sentence in exchange for pleading guilty, but Booker backed out, so when he did decide to plead guilty, the State changed his plea offer to a twenty-two year sentence.

Solicitor testified that Applicant pled to a no-parole offense, which under South Carolina law means that Applicant would have to serve eighty-five percent of his sentence before becoming eligible for parole.

Trial Counsel

Trial Counsel Tanya D. Jeffords testified that she has been practicing law for fifteen years. She stated that she was retained in this case and met with Applicant frequently before the guilty plea. She stated that she filed Rule 5 and Brady motions, she reviewed discovery with Applicant, and they discussed the elements of the charges, possible defenses, and Applicant's version of the facts. Trial Counsel stated that she would characterize the State's evidence against Applicant as overwhelming; the State had statements from Applicant and his two co-defendants in addition to several other pieces of evidence against him. She stated that she would not have encouraged him to plead guilty if his co-defendants were not going to testify against him.

WKS
Trial Counsel testified that Applicant was, at the time, a nineteen year old kid facing a murder charge and a sentence of life without parole, so they were preparing for trial from the very beginning. She stated that Applicant sent her a letter explaining that, when he committed the crime, he was scared and he fired his gun, but the actual bullet that killed the victim was from Booker's gun. She stated that they had also discussed an alibi defense, but it was risky for trial, so they chose not to pursue it.

Trial Counsel testified that she discussed with Applicant the differences in parole eligibility and no-parole offenses, and she explained to him that he would have to serve eighty-five percent of his sentence before he would be eligible for parole because he was pleading to a no-parole offense. She explained that she remembered discussing parole eligibility because she sat down with Applicant and drew out a grid on a piece of paper to show how much of his sentence he would have to serve. Trial Counsel stated that she reviewed Applicant's constitutional rights before the guilty plea and he never told her that he did not understand something. She stated that she spoke to his family about the risks of going to trial as opposed to pleading guilty, and she felt that it was in his best interest to accept the plea deal. Trial Counsel stated that, in the end, it was Applicant's decision to plead guilty.

Trial Counsel testified that Applicant wanted to go to trial until he was offered the plea deal on the eve of trial. She stated that she saw no reason to request a continuance before the trial because she was completely prepared to go to trial that Monday. She stated that she did not see any legal reason to make a motion to reconsider the guilty plea or the sentence. She did not recall Applicant ever asking her to file an appeal of his guilty plea. She further stated that she saw no reason to object to the solicitor's comments at the guilty plea, and even if she had objected to something, it would not have changed Applicant's decision to plead guilty.

pet 6
Trial Counsel stated that she was not aware before Applicant's guilty plea of any plea offers made to Applicant's co-defendants and she did not believe that any deals were offered until after his plea. She testified that, prior to the guilty plea, she did make a motion to reveal the deal, there was a hearing on the issue before a judge, and there was no deal to reveal.

IV. APPLICABLE LAW

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty pleas, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366 (1985).

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

As a matter of general impression, this Court finds Applicant's testimony and assertions to be not credible. In contrast, this Court finds Counsel's testimony to be credible and persuasive. These credibility findings have been applied to the Court's findings and conclusions set forth below.

INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant has asserted several allegations of ineffective assistance of counsel. This Court finds these claims to be meritless and they should be denied and dismissed with prejudice.

Failing to properly explain the sentencing collateral affects and parole

Applicant alleges that Trial Counsel was ineffective for failing to properly explain Applicant's parole eligibility. This allegation is meritless and must be denied.

WKS
Trial Counsel credibly testified at the PCR hearing that she explained no-parole offenses to Applicant. She sat down with Applicant and drew a chart on a piece of paper to show him exactly how much time he would have to serve before he was eligible for parole. This Court finds that Trial Counsel's testimony regarding this issue is more credible than Applicant's testimony that she explained his parole eligibility incorrectly. Applicant has failed to meet his burden of proof, and this allegation is denied and dismissed with prejudice.

Failing to mitigate and examine co-defendant sentences

Applicant's allegation that Trial Counsel was ineffective for failing to mitigate his sentence with the sentences of his co-defendants is meritless and must be denied.

The testimony presented by Trial Counsel and by Solicitor show that there were no offers whatsoever made to either of Applicant's co-defendants before Applicant pled guilty. Solicitor indicated that Applicant was the lead defendant in this case and was going to be tried before his co-defendants. The co-defendants were not sentenced until after Applicant's plea and sentencing, and thus there is no way Trial Counsel could have been ineffective in this regard. Applicant has failed to meet his burden in proving that either prong of the Strickland test is satisfied, and this allegation is denied and dismissed with prejudice.

Failing to make a motion to reconsider

Applicant's allegation that Trial Counsel was ineffective for failing to make a motion to reconsider is meritless. Trial Counsel credibly testified that she saw no legal reason to make such motion or to withdraw Applicant's guilty plea. Applicant has failed to present any basis whatsoever on which this motion should have been made, and has thus failed to meet his burden in proving either prong of the Strickland test. This allegation must be denied and dismissed with prejudice.

Failing to request a continuance under Langford

Applicant's allegation that Trial Counsel is ineffective for failing to request a continuance under Langford is meritless. Trial Counsel credibly testified that she saw no reason to move for a continuance because she was completely prepared to go to trial on the date for which it was set. The only reason they did not go to trial is because Applicant decided to accept the plea deal that was offered to him on the eve of trial, which Trial Counsel agreed was in his best interest.

Applicant has not presented any evidence to support this allegation, and therefore it is denied and dismissed with prejudice.

*Failing to investigate and challenge extradition process
and due process violations*

Applicant has failed to meet his burden in proving that any of Trial Counsel's actions or inactions in regard to this allegation were ineffective and prejudicial, and this allegation must be denied and dismissed with prejudice.

*Failing to object to improper solicitor comments at sentencing and
identifying issues with discovery*

Applicant has failed to present any evidence supporting this allegation, including the alleged improper comments that were made by Solicitor at the sentencing. Trial Counsel credibly testified that she saw no reason to object to Solicitor's comments at the guilty plea, and if she had found something objectionable at the time, she would have objected. Therefore, her choice not to object cannot be said to be ineffective. Furthermore, even if she had objected to a comment at the sentencing, her objection would not have changed the outcome of the proceeding; it would not have changed Applicant's decision to plead guilty nor altered the sentence Applicant received. Thus, this inaction cannot be prejudicial to Applicant in any way. Because neither prong of the Strickland test is met, this allegation must be denied and dismissed with prejudice.

PROSECUTORIAL MISCONDUCT

Failing to reveal the deal

Applicant also alleges prosecutorial misconduct. Prosecutorial misconduct is not an issue for post-conviction relief. Rather, this allegation is a direct appeal issue that is procedurally barred by S.C. Code Ann. § 17-27-20(B) (2003). Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-conviction

relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). Applicant could have raised this issue on appeal. The failure to do so has waived this allegation as grounds for relief.

Regardless, it is Applicant's burden to prove actual prosecutorial misconduct. Alabama v. Smith, 490 U.S. 794, 109 S. Ct. 2201 (1989). Solicitor credibly testified that there were no plea deals offered before the eve of trial, so there was no deal to reveal. Trial Counsel credibly testified that she made a motion to reveal the deal, a hearing on the issue was held, and there was no deal to reveal. This Court finds that Applicant has failed to carry his burden of proving actual prosecutorial misconduct, therefore, this allegation is denied and dismissed with prejudice.

This Court finds the Applicant's claim of prosecutorial misconduct is completely meritless and violates Rule 11 of the South Carolina Rules of Civil Procedure. Rule 11 requires the signature of an attorney on all pleadings and motions submitted to the Court constitute a certificate that there is a good ground to support the claim. In this case, Applicant filing a claim for prosecutorial misconduct or continuing to pursue such a claim by Applicant's PCR Counsel is meritless. Applicant's PCR Counsel could provide no justification in any form of any good ground for filing this cause of action or continuing with the cause of action at the hearing. PCR counsel was questioned on the record at the PCR trial about her "good ground" belief in the prosecutorial misconduct claim and no "good ground" in any way could be stated to the court. Rank speculation was the basis for filing the prosecutorial misconduct cause of action.

ALL OTHER ALLEGATIONS

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to

present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

VI. CONCLUSION

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

This Court notes that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 28 day of Oct, 2016.

12
G. Mark, SC

Re HAD
Circuit Court
Judge

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

INDICTMENT FOR
MURDER

§ 16-03-0010

At a Court of General Sessions, convened on February 3, 2014, the Grand
Jurors of Aiken County present upon their oath:

That ~~Booker~~ ^{Booker} RAPHAEL ALEXANDER WOODEN along with DEMARCUS LIQUAN
WOODEN, did in Aiken County, South Carolina, on or about May 18, 2013, feloniously,
willfully and with malice aforethought, then and there kill and murder [REDACTED]
by means of multiple gunshot wounds, and that the victim did die in Richmond County,
Augusta, Georgia, at Georgia Regents University Medical Center as a proximate result
thereof on May 18, 2013. All in violation of Section 16-3-10 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.


J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken County Sheriff's Office

James Criscillas

Law Enforcement Case #: 13-027736

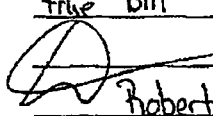
JST

ARREST WARRANT NUMBER

2013A0210200527

ACTION OF GRAND JURY

true bill


 Foreperson of Grand Jury
 Date: January 30, 2014

VERDICT

 Foreperson of Petit Jury
 Date:

DOCKET NO. 2014GS0200136

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2014

THE STATE
vs.

RAPHAEL ALEXANDER WOODEN

CDR #: 0116

Indictment for

MURDER

§ 16-03-0010

J. STROM THURMOND, SOLICITOR

 mm: 30 July 30 2014
 J. Criscillas
 J. St. Thomas
 Deputy Clerk

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

INDICTMENT FOR
ARMED ROBBERY

§ 16-11-0330(A)

At a Court of General Sessions, convened on February 3, 2014, the Grand
Jurors of Aiken County present upon their oath:

That RAPHAEL ALEXANDER WOODEN along with DEMARCUS LIQUAN
BOOKER, did in Aiken County, South Carolina, on or about May 18, 2013, while armed
with a deadly weapon or while alleging either by action or words that he was armed
while using a representation of a deadly weapon or an object which a person present
during the commission of the robbery reasonably believed to be a deadly weapon, to
wit: handgun, feloniously take from the person or presence of [REDACTED] by means of
force or intimidation goods or monies of [REDACTED] such goods or monies being
described as follows: U. S. Currency and other personal property contained in a wallet,
all in violation of §16-11-330, Code of Laws of South Carolina (1976), as amended.

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


J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken County Sheriff's Office

James Criscillas

Law Enforcement Case #: 13-027736

ARREST WARRANT NUMBER

2013A0210200544

ACTION OF GRAND JURY

true bill

*Robert Wade*Foreperson of Grand Jury
Date: January 30, 2014VERDICTForeperson of Petit Jury
Date:DOCKET NO. 2014GS0200138The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONSFEBRUARY TERM 2014THE STATE
vs.

RAPHAEL ALEXANDER WOODEN

*Nolle Prosequi**J. St. J.*
Pled guilty to related charges
*11-10-14*CDR #: 0139Indictment for

ARMED ROBBERY

§ 16-11-0330(A)

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

INDICTMENT FOR
ARMED ROBBERY

§ 16-11-0330(A)

At a Court of General Sessions, convened on February 3, 2014, the Grand
Jurors of Aiken County present upon their oath:

That RAPHAEL ALEXANDER WOODEN along with DEMARCUS LIQUAN
BOOKER, did in Aiken County, South Carolina, on or about May 18, 2013, while armed
with a deadly weapon or while alleging either by action or words that he was armed
while using a representation of a deadly weapon or an object which a person present
during the commission of the robbery reasonably believed to be a deadly weapon, to
wit: handgun, feloniously take from the person or presence of [REDACTED] by
means of force or intimidation goods or monies of [REDACTED], such goods or
monies being described as follows: U. S. Currency, all in violation of §16-11-330, Code
of Laws of South Carolina (1978), as amended.

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


J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken County Sheriff's Office

James Criscillas

Law Enforcement Case #: 13-027736

JST

ARREST WARRANT NUMBER

2013A0210200525

ACTION OF GRAND JURY

true bill

Robert Wade

Foreperson of Grand Jury
Date: January 30, 2014VERDICTForeperson of Petit Jury
Date:DOCKET NO. 2014GS0200135The State of South Carolina
County of AikenCOURT OF GENERAL SESSIONSFEBRUARY TERM 2014THE STATE
vs.

RAPHAEL ALEXANDER WOODEN

CDR #: 0139

Indictment for

ARMED ROBBERY

§ 16-11-0330(A)

J. STROM THURMOND, SOLICITOR