

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Richland County

Honorable Clifton Newman, Circuit Court Judge

MAURICE A. MCCREARY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-000999

APPENDIX

VICTOR R SEEGER
Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

LINDSEY MCCALLISTER
Assistant Attorney General
Rembert Dennis Bldg, Room 519
1000 Assembly Street
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

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County of Richland	)	2012-GS-40-05997
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		2012-GS-40-06004
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
MAURICE ANTWON MCCREARY,	)	
	)	
DEFENDANT,	)	

January 6, 2014
Columbia, South Carolina

BEFORE:

THE HONORABLE ROBERT E. HOOD, JUDGE.

APPEARANCES:

DANIEL GOLDBERG, ESQ.
Attorney for the State

JENNIFER DAVIS, ASSISTANT PUBLIC DEFENDER
MARK SAWYER, ASSISTANT PUBLIC DEFENDER
Attorneys for the Defendant

KAREN AMBROZIAK
Official Court Reporter

C O N T E N T S

INDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

1 MAURICE MCCREARY, after being duly sworn,
2 testified as follows:

3 THE COURT: Yes, sir, Mr. Goldberg.

4 MR. GOLDBERG: May it please the Court, Your Honor.
5 Dan Goldberg for the State. Before you is Maurice
6 McCreary with his attorneys, Jennifer Davis and Mark
7 Sawyer with the Public Defender's Office.

8 Mr. McCreary is before you today to enter a guilty
9 plea to five counts of attempted murder and one count of
10 unlawful killing of a police dog. This is a straight up
11 plea.

12 THE COURT: All right. What do the attempted murders
13 carry?

14 MR. GOLDBERG: Yes, sir, Your Honor. The attempted
15 murders each carry up to 30 years, and the unlawful
16 killing carries a minimum of one and a maximum of five.

17 THE COURT: Is that right, Ms. Davis?

18 MS. DAVIS: Yes, Your Honor.

19 THE COURT: Okay.

20 Are you Maurice McCreary?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. Ms. Davis, have you explained
23 to him the nature of these charges, the possible
24 penalties, and his Constitutional Rights?

25 MS. DAVIS: Yes, Your Honor.

1 THE COURT: Mr. McCreary, how far did you go in
2 school?

3 THE DEFENDANT: I graduated, sir.

4 THE COURT: And how long have you been in custody?

5 THE DEFENDANT: Two years.

6 THE COURT: And before that, what did you do as far
7 as job?

8 THE DEFENDANT: I had part-time jobs, and I was also
9 in the SC National Guard.

10 THE COURT: Okay. Are you under the influence of any
11 alcohol or drugs today?

12 THE DEFENDANT: No, sir.

13 THE COURT: Have you ever received any mental health
14 treatment?

15 THE DEFENDANT: No, sir.

16 THE COURT: They tell me you want to plead guilty to
17 five --

18 MR. GOLDBERG: Yes, sir.

19 THE COURT: -- five counts of attempted murder and
20 one count of unlawful killing of a police dog. Did I say
21 that right?

22 MR. GOLDBERG: Yes, sir.

23 THE COURT: Do you understand that the attempted
24 murders each carry up to 30 years in prison?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And do you understand that the unlawful
2 killing of a police dog carries a mandatory one, up to
3 five years in prison?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you further understand that the
6 attempt murders are all violent offenses?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: That's a classification given by the
9 Legislature, and they're also most serious offenses.
10 That's also a classification given by the Legislature. Do
11 you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you understand that because of that,
14 this would fall under what we call the Two Strikes Law,
15 meaning that if you were to receive another most serious
16 offense any time for the rest of your life, you would be
17 facing mandatory life without parole. Do you understand
18 that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you further understand that these
21 classifications given by the Legislature will change your
22 custody status inside the Department of Corrections?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And do you further understand that any
25 sentence that I give you today on the attempted murder

1 charges, you will be required to serve at least 85 percent
2 of before you will be released. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And that's typically what we call a no
5 parole or 85 percent offense. Have you talked about that
6 with your attorneys?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And do you believe that you understand
9 these classifications --

10 THE DEFENDANT: Yes, sir.

11 THE COURT: -- and how they could potentially affect
12 you?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Okay. When you plead guilty -- are you
15 -- one more question: Are you on probation or parole?

16 THE DEFENDANT: I'm on probation, sir.

17 THE COURT: You're on probation.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And what are we doing about that?

20 MS. DAVIS: Your Honor, they had the paperwork sent
21 up here. I'm not sure. I told them the plea was
22 happening at approximately 11 o'clock.

23 THE COURT: Okay. Can you find probation for me,
24 Ms. Pat?

25 THE CLERK: Yes, sir.

1 THE COURT: Okay. I'm going to come back to that.
2 Okay.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Will this plea be a violation?

5 MS. DAVIS: He was violated, yes, sir, Your Honor,
6 when he was arrested, and he is facing up to five years on
7 the probation violation.

8 THE COURT: Okay. Do you understand on your
9 probation case, you're looking at a potential five-year
10 revocation on that probation case?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And do you want to go forward with that
13 hearing today also?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Okay. We'll get the probation people in
16 here.

17 (Pause).

18 All right. When you plead guilty, Mr. McCreary, you
19 give up certain important Constitutional Rights, the first
20 is your right to remain silent. Do you understand that
21 right?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you want to give up that right?

24 THE DEFENDANT: No, sir.

25 THE COURT: Okay. You need to talk to your attorney

1 about that, please.

2 (Pause).

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Okay. Do you understand what --

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Nothing that I say is meant to trick you
7 or deceive you. If you don't understand something that I
8 ask, just let me know. I'll give you any time that you
9 need to talk to Mr. Sawyer or Ms. Davis.

10 THE DEFENDANT: Yes, sir.

11 THE COURT: That's not going to bother me at all. I
12 want to make sure that you understand completely and fully
13 what you're doing and what you're giving up before
14 entering your plea. Do you understand that?

15 THE DEFENDANT: Yes, sir. Thank you.

16 THE COURT: You're very welcome. The second
17 important Constitutional Right that you give up is your
18 right to a jury trial. Because you have been charged with
19 these offenses, you are entitled to a jury trial here in
20 Richland County.

21 The jury would consist of citizens from the community
22 which you and your attorneys would get to select along
23 with the State. During the trial, you would be presumed
24 innocent. You would not have to prove anything. You
25 would have the Constitutional Right to a lawyer during

1 that trial, and you would have the Constitutional Right to
2 confront and cross-examine any witnesses that the State
3 may call against you.

4 You also would have the subpoena power of the court
5 to compel witnesses to come in here and testify on your
6 behalf, and you would also have the right to present any
7 defense you may have, if any.

8 I know next to nothing about your case, but any of
9 that that would normally happen during a trial will not
10 normally happen if you go forward with this plea. Do you
11 understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Now, I'm going to go through your
14 indictments with you to make sure you understand exactly
15 what you're charged with, okay.

16 The first indictment which ends in 6004 is for
17 attempted murder. It does state that you did in Richland
18 County on or about December 16th, 2011 with the intent to
19 kill attempt to kill one Eric Walker with malice
20 aforethought either expressed or implied. How do you
21 plead to that charge?

22 THE DEFENDANT: Guilty.

23 THE COURT: The second indictment ending in 6003
24 states that on or about December 16th, 2011 in Richland
25 County, you did attempt to -- with the intent to kill

1 attempt to kill one Adam Oxendine, O-X-E-N-D-I-N-E, with
2 malice aforethought either expressed or implied. How do
3 you plead to that?

4 THE DEFENDANT: Guilty.

5 THE COURT: All right. Your next indictment ending
6 in 6000 states that on or about December 16th, 2011 with
7 the intent to kill you did attempt to kill Warren
8 Cavanaugh with malice aforethought. How do you plead to
9 that charge?

10 THE DEFENDANT: Guilty.

11 THE COURT: The next indictment says that on or about
12 December 16th, 2011 with the intent to kill, you did
13 attempt to kill one T-R-O-B-A-T-H-A-I-A-N Johnson -- I
14 apologize for whoever that is. I mean no disrespect in
15 not being able to say your name -- with malice
16 aforethought either expressed or implied. How do you
17 plead to that charge?

18 THE DEFENDANT: Guilty.

19 THE COURT: The next indictment which ends in 5997
20 states that on or about December 16th, 2011 with the
21 intent to kill, you did attempt to kill one Marvin Willis
22 with malice aforethought either expressed or implied. How
23 do you plead to that charge?

24 THE DEFENDANT: Guilty.

25 THE COURT: The last indictment says that on or about

1 December 16th, 2011 in Richland County, you did willfully
2 or maliciously injure, disable or kill a dog used by a law
3 enforcement department or agency in the performance of its
4 functions or duties. How do you plead to that charge?

5 THE DEFENDANT: Guilty.

6 THE COURT: Now, has anybody promised you anything to
7 get you to plead guilty?

8 THE DEFENDANT: No, sir.

9 THE COURT: Are there any negotiations at all in this
10 case?

11 MR. GOLDBERG: Your Honor, there is a related armed
12 robbery and attempted murder charges that are being nolle
13 prossed in connection with this plea. However, there is
14 no negotiations or agreements as far as sentencing.

15 THE COURT: So he has another armed robbery and
16 attempted murder, I'm going to say out of the same case --

17 MR. GOLDBERG: Yes, sir.

18 THE COURT: -- in general that are being dismissed
19 pursuant to any plea negotiations?

20 MR. GOLDBERG: Correct.

21 THE COURT: Is that your understanding, Mr. McCreary?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Is that correct, Ms. Davis?

24 MS. DAVIS: Yes, Your Honor.

25 THE COURT: Okay. Anything else about any plea

1 negotiations that I need to know about, Mr. McCreary?

2 THE DEFENDANT: No, sir.

3 THE COURT: Other than the dismissal of these two
4 charges, has anybody promised you anything to get you to
5 plead guilty?

6 THE DEFENDANT: No, sir.

7 THE COURT: Has anybody forced you or threatened you
8 to get you to plead guilty?

9 THE DEFENDANT: No, sir.

10 THE COURT: Are you pleading guilty freely and
11 voluntarily?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Are you satisfied with the services of
14 your attorney?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And who have you met with the most over
17 the past two years?

18 THE DEFENDANT: Ms. Davis.

19 THE COURT: Okay. And have you met with her for as
20 long as and as much as you feel is necessary to be
21 prepared for your case here today?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Have you had an opportunity to go over
24 the discovery materials, look at the evidence against you
25 and have an open and candid conversation with her about

1 your case and how you would like to proceed in your case?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you need any more time to meet with
4 her, talk with her, discuss anything with her at all about
5 your case before going forward here today?

6 THE DEFENDANT: No, sir.

7 THE COURT: Are you pleading guilty because you are
8 guilty, five counts of attempted murder, and one count of
9 the unlawful killing of a police dog here in Richland
10 County on or about December 16th, 2011?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. You have ten days from
13 today's date to appeal this plea. If you choose to do so,
14 you must do so in writing to this court. Do you
15 understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Okay. Thank you.

18 Mr. Goldberg?

19 MR. GOLDBERG: Thank you, Your Honor. If it pleases
20 the Court. If the Court will allow, I'm going to use some
21 visual aids.

22 THE COURT: Okay.

23 MR. GOLDBERG: I apologize if my back is turned to
24 Your Honor at some point during this presentation.

25 THE COURT: Hold on. Let me do one more thing since

1 Probation is here.

2 MR. GOLDBERG: Yes, sir.

3 THE COURT: He's on probation?

4 PROBATION AGENT: Yes, sir.

5 THE COURT: He's on what?

6 PROBATION AGENT: Community supervision, Your Honor.

7 THE COURT: He is on what?

8 PROBATION AGENT: Community supervision.

9 THE COURT: Okay. So he is on community supervision?

10 PROBATION AGENT: Yes.

11 THE COURT: And what will this do to that?

12 PROBATION AGENT: Violate it. He's going to receive
13 up to a year --

14 THE COURT: Okay.

15 PROBATION AGENT: -- for the violation.

16 THE COURT: And do I do that or is that something
17 that --

18 PROBATION AGENT: It can be done today.

19 THE COURT: Okay. I can do that today?

20 PROBATION AGENT: Yes.

21 THE COURT: Okay. So we don't -- that doesn't need
22 to be handled through --

23 PROBATION AGENT: No, sir.

24 THE COURT: -- any outside agency?

25 THE DEFENDANT: No, sir.

1 THE COURT: Okay. Do you understand that they tell
2 me you're on community supervision?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Does that sound right?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Okay. And sometimes these terms get used
7 interchangeable, but you understand you're on some level
8 of supervision?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And according to the probation agent here
11 today, you can face up to a year on that. Do you
12 understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And do you admit or do you deny that you
15 have violated the terms of your community supervision?

16 THE DEFENDANT: I admit it.

17 THE COURT: Okay. Very well. Thank you.

18 PROBATION AGENT: Thank you, Your Honor.

19 THE COURT: Okay. Sorry about that, Mr. Goldberg.

20 MR. GOLDBERG: Yes, sir.

21 THE COURT: Go ahead.

22 MR. GOLDBERG: Your Honor, just to give you a little
23 bit of background, this incident took place December 16th,
24 2011 approximately 1:55 a.m.

25 If you'll refer to the map that I've got here, this

1 shows you generally that this occurred between North Main
2 Street and I-20 on Monticello Road kind of near Eau Claire
3 High School.

4 THE COURT: So I'm going to go up North Main, hang a
5 left right there past the new little shopping center on
6 the right --

7 MR. GOLDBERG: Yes, sir.

8 THE COURT: -- and pass Eau Claire on the right but
9 before I get to Crane Forest and all of that on the other
10 side of 20?

11 MR. GOLDBERG: That's correct, Your Honor.

12 THE COURT: Okay.

13 MR. GOLDBERG: And the area -- note, there is Eau
14 Claire High School down on the bottom right-hand corner.
15 Over here by Ridgewood Park is where the incident began
16 where the A denotes on the map.

17 At that particular time -- I'll try to keep my voice
18 up. I apologize. Officers responded to that location --
19 that is Johnson's Store -- in reference to an alleged
20 armed robbery that had taken place.

21 The alleged victim in that case, Thomas Harp, and
22 that is the armed robbery that I referenced earlier that
23 is being dismissed as a part of this plea stated that he
24 was with his cousin, Pierre Goodson, when he was
25 approached by an unknown individual pointing a handgun

1 saying, "What You got? What you got?"

2 He was then robbed of US currency and told to walk
3 away. As he was walking away, Mr. Harp was walking away,
4 the subject later identified as the defendant,
5 Mr. McCreary, fired off a shot at Mr. Harp.

6 Mr. Harp called 911 to report the incident. Units
7 responded within a few minutes. Mr. Harp also reported
8 that a shot was fired at him down near the intersection of
9 Club and Monticello; that Mr. McCreary fired a shot back
10 towards him.

11 The State would allege that this was corroborated by
12 a shell casing that was found at that location that
13 matches to the firearm that Mr. McCreary was later located
14 with.

15 Mr. McCreary then fled from that scene up Club Road.
16 As I indicated, Mr. Harp indicated he had been robbed. He
17 would later indicate that he had found an old 22 rifle,
18 and the purpose of the engagement was that he was trying
19 to sell the rifle to Mr. Goodson.

20 As he was selling the rifle to Mr. Goodson,
21 Mr. McCreary arrived, and that's when the robbery took
22 place with Mr. Harp having his money taken from him and
23 Mr. Goodson leaving with the firearm.

24 It was later uncovered through phone records, and the
25 State believes that had the case gone to trial, we would

1 have been able to demonstrate that Mr. McCreary and
2 Mr. Goodson actually orchestrated the robbery together and
3 set up together where, in fact, originally Mr. Goodson was
4 thought to be an innocent victim.

5 That being said, once the robbery was reported, units
6 responded, Officer -- Investigator Warren Cavanaugh is
7 actually standing here assisting me with the Sheriff's
8 Department. The Richland County Sheriff's Department K-9
9 Unit responded.

10 He and his K-9 unit Fargo began to track the scent of
11 where the defendant may have gone. I believe they started
12 out in this general area where the shell casing was and
13 tracked up along Club Road.

14 Ultimately, Fargo struck on the trail. There were
15 several -- a couple of dollar bills, a \$10 bill, and \$1
16 dollar bill located in this general area that Fargo
17 alerted to, and the track proceeded up to this house,
18 abandoned house, near the intersection of Club and
19 Ridgewood.

20 As I zoom in on that, at this point, Officer Ox---
21 excuse me, Cavanaugh, his K-9 Fargo, and Investigator
22 Oxendine who was backing him up were conducting their
23 track, and when they got to this point where you can see
24 there's a little fence with some particle board like
25 material at the ground, they -- the dog alerted on

1 Mr. McCreary.

2 That picture, obviously, is not accurate. However,
3 I'll hand up to the court -- and I've shown this to
4 Ms. Davis -- this is a photo from the crime scene unit
5 that was taken early the next morning that indicates there
6 is a wooden board in addition to the one you see on the
7 computer screen that was laying up against that fence.

8 Investigator Cavanaugh reports that Mr. McCreary was
9 laying behind the fence, behind these boards laying in
10 wait, if you will, for them to approach.

11 When the dog struck on Mr. McCreary, he jumped up and
12 took off running towards the back of the property away
13 from the road and the fence line. It should be noted that
14 when crime scene units came back to search this area in
15 that location, they discovered a mask and a knife. I
16 believe it was a long -- about five-inch handle --
17 five-inch blade knife located jammed into the ground at
18 that location where he had been laying.

19 The mask that was located also was later tested, and
20 DNA results did come back matching to Mr. McCreary as
21 being the one with the mask. As I indicated, he took off
22 towards the back of the property, and you'll see as we
23 zoom out a little bit, back in this area, there is about a
24 six-foot-high fence and some pretty thick brush back
25 there.

1 Cavanaugh, Oxendine, and Fargo pursued towards that
2 location. As they got close, Mr. McCreary actually
3 climbed the fence and jumped over to the other side.

4 Once Investigator Cavanaugh reached the fence, he
5 actually heard two shots and saw two muzzle flashes about
6 15 meters away from him coming towards him.

7 Oxendine was just a few steps behind as this
8 happened. They were actually stunned by the shots at that
9 time. Cavanaugh made his way over the fence. Oxendine
10 assisted Fargo the dog in getting over the fence due to
11 its height.

12 Once they got down, Oxendine screamed out. At that
13 point, Cavanaugh went to check on him to see if he had
14 been shot. As it turns out, he was not. However, in
15 jumping the fence and landing, he sustained a significant
16 knee injury and was disabled and had to be taken out by
17 EMS to receive medical treatment.

18 This incident, this shooting at the fence line, gives
19 rise to the initial attempted murder charges relating to
20 Investigator Cavanaugh as the victim and Investigator
21 Oxendine as the victim at this point in the fence line.

22 Once they were able to get over the fence, McCreary
23 was nowhere to be found at that point. Especially when
24 Cavanaugh went to attend to Oxendine briefly, waited for
25 help to arrive.

1 Shortly thereafter, CPD unit Marvin Willis arrived in
2 the location being referenced on the map, as well as
3 Deputy Trobathaian Johnson with the Sheriffs Department.
4 They were responding to the area to provide assistance.

5 They then joined in the track with Investigator
6 Cavanaugh to continue to search for Mr. McCreary as his
7 backup, as Cavanaugh's backup. Oxendine was disabled.

8 The track led through here, through the wood line
9 behind around the house next to the one where this had
10 taken place and back how onto Club Road.

11 I believe in the front of this house here is where
12 they came out. It's being denoted, and the track
13 continued. All the while, Mr. McCreary has not been seen.
14 At this point, the track continued down Club Road until
15 you get to this corner here into this opening of a field
16 at Club and Rigby.

17 As we zoom in, you'll see that in the opening of that
18 field, there are several mounds or berms, if you will, of
19 sand on the edge of the road. If I may approach, I have
20 got a couple of still photos that are a little better
21 angle than that that are described at that location.

22 Now, as -- as Fargo tracked over to this area, there
23 was actually in this grassy area right here in front of
24 the mounds, there was a CPD unit parked right there as a
25 perimeter unit. It was facing this way, towards --

1 towards the courtroom wall.

2 Fargo tracked around to the front of the car, came
3 around the front and then back down the driver's side of
4 the car. The driver's side door was opened. It was at
5 this point that he alerted in this area, in this brushy
6 mound area. He alerted again on what turned out to be
7 Mr. McCreary.

8 Mr. McCreary, this time when Fargo alerted on him, he
9 actually went at Far--- went at Mr. McCreary and latched
10 onto him. At this point, Mr. McCreary attempted to flee
11 from the scene with the dog attached latched onto him away
12 from the berms or the mounds.

13 He got to about that general area right there just a
14 few steps away when witnesses say that he actually fired a
15 shot at the dog, and then in a separate action fired shots
16 at the officers who were back by the mound.

17 It was at -- by this point, as I indicated, Willis
18 and Johnson were backing up Investigator Cavanaugh.
19 Additionally, other CPD units arrived, specifically
20 Officer Eric Walker who is another named individual for
21 the indictment who also responded to that area.

22 As I said, you got in this little area in the dirt
23 area where a shot was fired at the dog and then at the
24 officers by the car. At that point, Mr. McCreary was able
25 to shake the dog and retreated even further back in this

1 field into the area being denoted on the map.

2 Shots were fired again at this point. There was a
3 significant break in time. I say significant. It wasn't
4 bang, bang, bang the whole way through. The shots were
5 fired at the initial point. There was the break as he
6 fled. Keep in mind, it's two a.m. It's dark out. This
7 is a field. There's not a lot of light that he had.

8 Fargo actually returned to Cavanaugh, and he began
9 checking Fargo for injuries at this time. It was at this
10 point as he is checking him for injuries that Mr. McCreary
11 had fired multiple shots at officers again.

12 By this point, Cavanaugh, Willis, Walker, they were
13 all in this -- Johnson, they were all in this area moving
14 in on McCreary's position as he fired at them.

15 He eventually fled further into the brush that I'll
16 note that you can kind of see as you back out. This area
17 gets real brushy down there at the back end of the field.

18 He escaped into the brush and was unable to be
19 located. At this time, Cavanaugh observed that Fargo was
20 had actually -- was pouring blood from his belly. He
21 needed immediate attention. He called for assistance.

22 All told, though, Mr. McCreary fired at least four
23 times in that field based upon the witness's testimony; as
24 many as seven confirmed total shots throughout the night
25 as he had given a statement later on that indicated that

1 the handgun he had had a fully loaded ten-round magazine
2 as well as one in the chamber. When that weapon was
3 recovered, it had four unfired cartridges left in the
4 magazine.

5 Fargo was rushed to the emergency room at that time.
6 He had sustained two through and through gunshot wounds to
7 his chest.

8 Investigator Cavanaugh accompanied him to the
9 emergency veterinarian group. Despite their best efforts,
10 he was pronounced dead sometime after six a.m. that
11 morning.

12 The manhunt continued as it were at that time as
13 Mr. McCreary still had not been located. After the
14 shootout in the field -- and we can step away from this at
15 this point. Thank you, Your Honor.

16 After the shoot out in the field, Sheriff Lott
17 approved the use of the Special Response Team to come out
18 and pursue Mr. McCreary at this time.

19 This was -- over the course of the next six hours,
20 there were some 150, 200 officers out there looking for
21 Mr. McCreary from various agencies: Richland County
22 Sheriff's Department, Columbia Police Department, State
23 Law Enforcement Division, the Lexington County Sheriff's
24 Department, South Carolina Highway Patrol, all assisting
25 in efforts to locate him.

1 The Special Response Team from the Sheriff's
2 Department had about 40 units, 40 officers that were
3 deployed to look for him at a minimum. There were
4 multiple K-9 units. There were two helicopters unleashed
5 to try and find Mr. McCreary, one from the sheriff's
6 department, one from Lexington County.

7 It was not until about 10:30 a.m., almost nine hours
8 after this whole ordeal began that the command center that
9 had been set up actually got a call from dispatch that
10 there was an individual at 4801 Barony Drive which is
11 going to be in pretty close proximity, as you can see to
12 that brush area, indicated that there was a black male
13 asleep in the laundry room at that house.

14 I've shown these to counsel. I'll approach. It's
15 not really even a laundry room. It's a shed of sorts
16 attached to the back of this home. That was reported.
17 Officers responded and found Mr. McCreary asleep inside.
18 He was taken into custody.

19 As I indicated, there was actually a firearm located
20 in the shed where he had been -- where he had been.
21 Testing later confirmed that shell casings found at
22 various points at the scene that I just described did
23 match to that firearm that was located on his person.

24 Mr. McCreary was dressed in blue jeans and a
25 camouflage jacket. The description that had been put out

1 by the victim earlier of the assailant was one wearing
2 blue jeans and a camouflage jacket, so he did match the
3 description.

4 He was advised of his rights at that time, placed in
5 the back of a patrol car. When he was asked initially why
6 he was in that laundry room, he said he was on the way to
7 Pierre Goodson's house, actually.

8 A few moments later, Mr. Harp, the robbery victim
9 came over and actually identified to a 90 percent degree
10 of certainty that Mr. McCreary in a show up ID was, in
11 fact, the one that had participated in the robbery against
12 him.

13 Once Mr. McCreary was taken back to headquarters, he
14 was Mirandized again, this time in writing by Deputy Chief
15 David Wilson and Sergeant Lindler.

16 He gave a written statement again indicating that he
17 had been walking down Monticello Road about seven a.m.;
18 that he was headed to Pierre Goodson's house because he
19 needed a ride.

20 As he was walking, he was approached by a strange
21 black male who had a pistol who forced him to walk down a
22 path until they went in this shed in a house, and then the
23 subject made him change clothes.

24 As I said, he indicated that was about seven a.m.
25 Officers knew that couldn't be possible due to the intense

1 law enforcement presence that was in that area; that he
2 would have been seen on Monticello Road.

3 So he continued to be questioned. The camouflage
4 jacket that he had on had tears consistent with a K-9
5 having attached onto him. He was covered in briar cuts,
6 grass stains. He had an open wound on his back.

7 He was then turned over to Sergeant Godfreid for a
8 polygraph examination. At the conclusion of the
9 polygraph, he gave another statement to law enforcement
10 admitting to meeting Mr. Goodson to buy a gun from this
11 old man on Monticello Road.

12 He says that -- he said at that time that units
13 pulled up and that he ran. A dog came and tried to bite
14 him. He fired a shot trying to strike the ground, but
15 that he struck the dog instead. He then ran and another
16 dog came and bit him in the same spot on his arm, but he
17 did not remember shooting the dog.

18 At that point he denied shooting at the police but
19 says that they had shot at him. A written statement was
20 taken to that effect. He was placed under arrest, charged
21 as I indicated with the attempted murders, unlawful
22 killing of the dog, and the armed robbery and attempted
23 murder related to Mr. Harp.

24 That is all in terms of the factual basis for the
25 plea. Obviously, Your Honor, at the appropriate time,

1 there are numerous victims, named victims, that are
2 actually present and would like to address the Court at
3 the appropriate time.

4 THE COURT: What's his criminal history?

5 MR. GOLDBERG: Yes, sir. He has a miscellaneous
6 criminal offense is what it's written as in 2009; an
7 attempted armed robbery conviction out of Lexington County
8 in June of 2010. He got five years suspended on ten
9 months time served and three years probation; unlawful
10 carrying of a weapon in 2011. I believe a probation
11 violation as a result of that, and a violation of
12 community supervision in 2011, as well.

13 THE COURT: Okay. Mr. McCreary, is all of that
14 materially true?

15 THE DEFENDANT: Some of it, sir.

16 THE COURT: Okay. Do you admit to shooting at the
17 police?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And do you admit shooting the dog?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Okay. I'm not asking you every single
22 factual thing. A lot of that, they -- some of it -- I
23 don't want to say a lot, but some of that they put
24 together through their own investigation. Of course, you
25 were there. I mean, you have your own memory of what

1 happened.

2 The essential elements are that you admit to shooting
3 at officers, and you admit to shooting at the dog. You do
4 admit to those two things; is that correct?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Okay. Very well.

7 I find there is a substantial factual basis for this
8 plea. I further find that his decision to plead guilty is
9 freely, voluntarily, knowingly and intelligently made;
10 that he's had the advice of two very competent attorneys
11 with whom he tells me he is satisfied, and I will take his
12 plea.

13 Do you want to go first or last?

14 MS. DAVIS: Last, Your Honor.

15 THE COURT: Okay. All right. Whoever wants to go
16 first over here.

17 MR. GOLDBERG: All right. Beg the Court's indulgence
18 for one moment.

19 (Pause.)

20 DEPUTY OXENDINE: Your Honor, I'm Deputy Oxendine.

21 THE COURT: Have you been able to return to work?

22 DEPUTY OXENDINE: Yes, sir.

23 THE COURT: Okay.

24 DEPUTY OXENDINE: I was -- I had to have knee
25 surgery, torn ACL. I was told by my doctors it would be

1 six months. I turned it into three because of strength
2 and willpower.

3 As far as the charges toward me, you know, whatever
4 you see fit. If you notice with me here is my extended
5 family, and on behalf of the K-9 Unit, Deputy Cavanaugh
6 lost a friend, more of a friend than a colleague that
7 night, but each one of us on this unit had a piece that
8 died that night.

9 We train hours and hours and hours on end so our dogs
10 can perform when we ask them to without fear, and Fargo
11 did that that night. I would ask that you please take
12 that into consideration.

13 Thank you.

14 THE COURT: Thank you, Deputy Oxendine. Thank you
15 for being here today.

16 OFFICER WALKER: Good morning, Your Honor. I'm
17 officer Eric Walker with the Columbia Police Department
18 K-9 Unit.

19 THE COURT: Yes, sir.

20 OFFICER WALKER: I'm the same line as Deputy
21 Oxendine. I didn't do a lot of training with Fargo, but I
22 went on many tracks with Deputy Cavanaugh and Fargo. I
23 seen that dog do some amazing things. Take that into
24 account, please.

25 THE COURT: Thank you, Officer Walker. Thank you for

1 being here.

2 DEPUTY JOHNSON: I'm Deputy Trobathaian Johnson.

3 THE COURT: I apologize for not become able to say
4 your name, sir.

5 DEPUTY JOHNSON: Absolutely. I'm not a K-9 officer,
6 but I -- I will say that I do feel the K-9 officer's pain
7 of losing a partner. I have never lost a partner, but I
8 think that K-9 Fargo was a hero that night because without
9 him, one of those bullets could have hit one of us. It
10 could have been a different situation. So I would ask
11 that you sentence as you see fit to the fullest extent of
12 the law.

13 THE COURT: Thank you, Deputy Johnson.

14 INVESTIGATOR CAVANAUGH: It's okay. I wrote it down.

15 MR. GOLDBERG: Your Honor, this is Deputy --
16 Investigator Cavanaugh's wife who is also employed at the
17 Sheriff's Department.

18 INVESTIGATOR CAVANAUGH: I'm too --

19 THE COURT: Just don't read -- don't read too fast,
20 okay.

21 INVESTIGATOR CAVANAUGH: Okay.

22 THE COURT: We can only -- I say we. She. She can
23 only type so fast.

24 INVESTIGATOR CAVANAUGH: Okay. I'm speaking today
25 not only as a law enforcement officer but also as a wife

1 and family member. Warren Cavanaugh is my husband, and
2 Fargo was a part of our family.

3 In the early morning hours of December 16th, this man
4 made decisions that have impacted the lives of officers
5 involved and those that love them.

6 He showed complete disregard for the lives of others
7 as he fired his weapon and then with a cold heart and
8 cowardness turned his gun on Fargo. After being shot,
9 Fargo fought hard for his life for over an hour with his
10 partner Warren right by his side.

11 They poked and prodded him, stapled tubes to him and
12 stuck numerous IVs in him as Warren and I assisted in
13 manually supplying him with blood that he was losing.

14 During all of this, this coward just hid. As we all
15 know, Fargo died from his injuries. I cannot speak for
16 the officers, for the other officers involved or for their
17 families, but the actions of this man without a doubt have
18 impacted our family.

19 I'm a little more anxious when Warren and his new K-9
20 partner, Chico, go to work. Since this incident, Warren's
21 daughter has voiced on more than one occasion her fear
22 that something bad might happen to her daddy that another
23 bad man might try to hurt him.

24 As for Warren, he will continue to do his job. He
25 loves it, but I know now there's a slight hesitation as

1 the memory of this incident lives in him.

2 Fargo did what he was trained to do, and he was one
3 of the best. He made the ultimate sacrifice so all of
4 these officers can go home safely with their families.

5 While nothing can be done here today to bring back
6 our little Fargo or take away the impact of that morning
7 on those involved, a statement can be made. I ask that
8 you please let that statement be loud and clear for all
9 law enforcement officers and for Fargo.

10 THE COURT: Thank you, Investigator Cavanaugh.

11 DEPUTY CAVANAUGH: Your Honor, I'm Warren Cavanaugh.
12 Fargo was my partner. You know, I just want to try to
13 make something clear. You know, in nine years of handling
14 police K-9s, two of those were only a single-purpose dog
15 meaning we didn't track. We didn't track them. Seven of
16 those years and three dogs later have all been
17 full-service police dogs.

18 Hundreds of tracks just like this one have been run
19 by myself and at least one of those K-9 partners, as well
20 as hundreds with a lot of these faces that you see here as
21 a backup officer, as well.

22 We have responded to calls for service identical to
23 this one, shots fired, and without hesitation, we hook
24 that leash up and we go. Since this incident, I can tell
25 you speaking for myself and I know for everybody else, you

1 know, that -- just hook up and go takes a little bit
2 longer than normal now.

3 There are quite the mental preparations that we have
4 to go through now. The questions of what if something
5 like this were to happen again, and it's going to put a
6 slight hesitation in all of our steps where honestly, we
7 should be able to just hook up and go.

8 In those hundreds of tracks that I mentioned that
9 I've run over the course of those seven years, a little
10 over 100 captures have taken place by just myself and one
11 of my partners, hundreds of captures by the people you see
12 sitting here, as well.

13 We've seen some really bad people, okay. We've
14 tracked and we've caught some really, really bad people,
15 but one thing that I want to make completely clear is that
16 there is a fine line between running from the police
17 trying to get away when you have the opportunity, than on
18 two separate occasions lying in wait.

19 The first occasion, just mere meters from the actual
20 incident location, subject was encountered, had every
21 opportunity at that point after verbal commands to give
22 up. Instead, he decided to flee into the backyard. The
23 dog pursued. I pursued. Oxendine pursued. He then
24 proceeded to fire shots, okay.

25 Shots that were so close that the auditory response

1 was far behind what we saw, okay. Initially it looked
2 like two flashes from a flashlight. The auditory caught
3 up afterwards, and I said, "Man, we just got shot at,"
4 okay.

5 We go over that fence, and the only way that I could
6 describe the scream that came out of Oxendine's mouth is
7 that of -- of what you see on the movies of a banshee, a
8 high-pitched screech. In my heart of hearts, I knew he
9 had been hit. That's what I had feared.

10 When I turned around, I asked him, I said, "Ox, are
11 you okay? Are you hit?"

12 He said, "No. It's just my knee. Go ahead."

13 At that moment, that was one of the hardest things I
14 had to do. Ox was my road partner, and to leave a partner
15 behind is something that you just do not do. You do not
16 leave a man down.

17 In order to, you know, protect the lives of those
18 citizens that were in close proximity in that residence,
19 in that area, I knew that I had to leave him. He was in
20 good hands. There was another officer there. EMS was on
21 the way. Again, another opportunity right there to say,
22 hey, you know what, I'm caught.

23 Instead we flee again, but we don't flee and keep
24 going, okay. If I'm trying to get away, I'm going to keep
25 going until I can't go any further, but no, we lay again

1 this time in between two vans. It had to have been prior
2 to that CPD officer getting there.

3 When I arrived and Fargo tracked to it, the car door
4 was opened. The CPD officer was sitting inside. His
5 interior light was on. Less than 8 feet away, blame
6 Mr. McCreary again, gun in hand, lucky officer because he
7 had no clue.

8 Again, the dog makes contact at that point. Another
9 opportunity. I'm caught. I'm caught.

10 No. Not again.

11 This time he fired shots into the dog and then fired
12 more shots at officers.

13 I called the dog off. He comes back to me. As I'm
14 tending to the dog, two more shots ring out, two more
15 shots. If I'm trying to get away, I'm not doing all of
16 that. You're not going to see anything but the back of my
17 jersey when I'm trying to get away.

18 I want to make clear and cut that this, this
19 individual, was not trying to get away that night. I've
20 seen trying to get away. All of these officers have seen
21 trying to get away. He laid in wait on two separate
22 occasions knowing, obviously, that he was going to
23 encounter law enforcement.

24 I don't think he realized he was going to encounter a
25 dog. So who did he have that gun drawn for? Why was that

1 knife stabbed down in that ground as to stake his claim,
2 this is mine.

3 Take all that into consideration. Yes, it was a dog
4 that was killed, but he was killed doing his job. His job
5 was protecting these individuals that you see back here,
6 these individuals that were shot at that night, these
7 individuals that I know personally, know their families,
8 know their children, these individuals who hold that
9 family together as a man or a woman of the house.

10 Those families are the ones that are torn up right
11 now. Those are the families that question whether or not
12 they want their spouse to do this job again and again and
13 again when this call for service comes.

14 They are the ones that when you go to school for a
15 parent/teacher conference, the teacher tells you, "Hey,
16 listen. I just want to bring to your attention your
17 daughter expresses her concern when you go to work and she
18 is here at school; that she is afraid something is going
19 to happen to you."

20 Those are lifelong thoughts that these families are
21 going to have to take with them from here on out when
22 somebody could have just been caught.

23 Thank you.

24 THE COURT: Thank you, Investigator Cavanaugh.

25 Sheriff?

1 SHERIFF LOTT: Your Honor, had it not been for the
2 heroic actions and courage that Fargo showed that night
3 and the sacrifice he made, Cavanaugh, Oxendine, the --
4 officers, stand up -- we would be talking about one of
5 them being shot. He tried to kill them. There's no doubt
6 that he tried to kill them.

7 Fargo saved each one of them. They are here today
8 because of the actions of Fargo. Fargo wasn't just a
9 police dog. He was one of us. He carried a badge. He
10 carried a badge just like all of us.

11 I'm asking that you send a message not only to him
12 but to everybody in law enforcement to let them know that
13 we care. We care about them. We care about these
14 officers who wear that badge who actually put their life
15 on the line.

16 We care about that police dog who carries that badge
17 also. Send a message to him and anybody else in this
18 community that if you shoot at one of these law
19 enforcement officers, you're going to have to pay a price.
20 I'm asking that you give him the most severe sentence that
21 you can give him.

22 THE COURT: Thank you, Sheriff.

23 Anything further, Mr. Goldberg?

24 MR. GOLDBERG: Just briefly, Your Honor, I did have a
25 few photos of the dog just to show the court, just of

1 Fargo and some of the things he was capable of doing with
2 Investigator Cavanaugh at the range, water activities,
3 running, just wanted to make the court aware as far as he
4 is not here today, obviously.

5 Also, if I could put on the record that you did not
6 hear from Marvin Willis. He couldn't be here today. He
7 had a -- unfortunately, he had another doctor's
8 appointment that he could not change; however, he echos
9 the sentiments of those who have already spoken. If I may
10 just briefly say to the Court, this case was set for trial
11 next Monday.

12 The defendant was facing life without parole had we
13 gone to trial on this case due to his prior attempted
14 armed robbery. We worked out this agreement whereby he
15 would be allowed to plead guilty straight up before Your
16 Honor today without facing a mandatory life without
17 parole.

18 Based on everything that you have heard, I'm asking
19 you to sentence this defendant to a consecutive sentence.
20 This was not one isolated event. It was a series of
21 actions, choices by this defendant.

22 They may be one thing when they are isolated, but
23 when you compound them all together, it was a volatile,
24 dangerous, and deadly situation.

25 There were up to seven different incidents if you

1 really think about it. I understand the armed robbery and
2 the shots fired, Mr. Harp, are not being considered here.
3 If you take those out of the equation, there were still
4 five more. There were shots fired at the fence line, two
5 shots fired at the fence line at close range, the shots
6 fired at the dog, the shots fired at officers, the second
7 round of shots fired from the brush line, and then the
8 manhunt which I might add was one of the largest manhunts
9 in the history of the Richland County Sheriff's
10 Department, some 200 officers, all told, participated.

11 The volume of the people affected by this is
12 immeasurable. Obviously, those that you've heard from
13 today, I can't -- I can't say it more eloquently than they
14 have, but in addition to them, you have the community in
15 which this took place, eau Claire High School nearby,
16 Ridgewood Park nearby, churches nearby, the people that
17 lived in the neighborhood where Mr. McCreary was found,
18 the woman who lives in the house in which he was located.

19 Investigator Oxendine -- or Cavanaugh, excuse me,
20 touched on the impact this would have on the families of
21 these officers. I don't think I could have put it any
22 better myself.

23 He has a history of poor choices as you've heard, and
24 that's -- he chose to put himself in this position today.
25 He chose to arm himself. He chose to fire at the dog. He

1 chose to run from the police. He chose to fire again and
2 again and again seven times that we know of.

3 It's his choices that brought him here, and as a
4 result of that, there have to be consequences, and the
5 they have to be severe. On behalf of the Sheriff, I would
6 respectfully ask that you sentence him to consecutive time
7 on these charges.

8 Thank you.

9 THE COURT: Troy, did he -- did Probation leave? Do
10 you have his rap sheet?

11 MR. GOLDBERG: Yes, sir.

12 THE COURT: Can I see it?

13 MR. GOLDBERG: Yes, sir.

14 (Pause).

15 THE COURT: So did you get a YOA on your first
16 attempted armed robbery, or did you get an adult sentence?

17 THE DEFENDANT: No, sir. It wasn't a YOA. It was
18 five years suspended to three years' probation.

19 THE COURT: So you got an adult sentence?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Okay. And then that got revoked in 2011?

22 THE DEFENDANT: Yes, sir, for unlawful carrying of a
23 pistol.

24 THE COURT: Okay. So you have a pistol charge, and
25 then they ended up doing a probation revocation on the

1 attempted armed robbery. How much probation got revoked
2 then?

3 THE DEFENDANT: Nine months if I'm correct, sir.

4 THE COURT: Okay. And then you came back out after
5 that and what happened then?

6 THE DEFENDANT: After --

7 THE COURT: You got put on community supervision?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Okay. And that's what you're on?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Now?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Did I say all that right?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Okay. I just wanted to make sure I
16 understood your record.

17 Okay. All right, Ms. Davis. I'll be happy to hear
18 from you.

19 MS. DAVIS: Thank you, Your Honor. May it please the
20 Court. At some point, Maurice is going to address the
21 Court, and law enforcement will probably do a better job
22 than I can except I do want to make clear that this is
23 not -- there is nothing else Maurice can do to make this
24 right other than what he's trying to do today.

25 Obviously, if he had made better choices in December

1 of 2011, either we wouldn't be here at all or it would be
2 a much different circumstance than we would be here in.

3 After the fact, Your Honor, he made those poor
4 choices. Doing what he's doing today, that's all he can
5 do to try to make it better, to try to take responsibility
6 for what did occur.

7 I know there was comments made that he was a coward.
8 I think by doing what he's doing today speaks to his true
9 character, and he is trying to do the right thing at this
10 point.

11 Yes, he was seeking -- or facing a life sentence if
12 he had been served with life without parole, and that was
13 a consideration, of course, for him. However, there is
14 nothing else he can do to try to make it better other than
15 what is happening now which is standing in front of the
16 courtroom knowing full well -- we discussed it for a long
17 time -- knowing full well that, you know, Sheriff Lott was
18 going to be here; that the room was likely going to be
19 full of law enforcement here; that the solicitor was going
20 to explain in great detail what happened.

21 He knew all of that, and he is here before you taking
22 responsibility and trying to apologize and show that he
23 knows what he did was wrong.

24 He is also aware, as am I, that this situation could
25 have been much, much worse. Any number of officers could

1 have been hit, injured. Either -- someone could have been
2 killed including Mr. McCreary.

3 I think one of the most shocking things to him as
4 reading through the police statements of what they said
5 occurred, at least one of them described in detail that
6 they were aiming shots at Maurice's head. I think that's
7 something very difficult to read when you're trying to go
8 back into what occurred that day, hearing. You know, what
9 I was doing was causing someone to actually aim a gun and
10 shoot at me in the head, another officer talked about they
11 were shooting at center mass at him.

12 We went through all of those things in detail. Not
13 that he didn't get the gravity of the situation already,
14 but I think that just made it all the more clear.
15 Likewise, he is very aware that what he -- the decisions
16 he made that night could have severely injured and killed
17 someone else.

18 I do ask the Court -- and I'm sure that Your Honor
19 would do this anyway -- but Mr. McCreary is here before
20 you for what actually did occur not what might have
21 occurred.

22 A lot of things could have occurred, but what he's
23 here for today is shooting, obviously, at police officers.
24 Thankfully no one was injured. No one was hurt in terms
25 of the gunfire.

1 I know Deputy Cavanaugh was injured with his knee,
2 and that took him out of work. I can't imagine, you know,
3 the pain that that caused in other ways and, obviously,
4 for killing the dog, Fargo.

5 I think that seems to be a lot of the focus today
6 from the officers, as well, is that this friend, someone
7 they consider their equal partner, was killed in this
8 incident. That charge, Your Honor, carries up to five
9 years.

10 I fully expect that Mr. McCreary is going to be
11 receiving the most he can receive on that charge which is
12 five years which is what the Legislature felt was
13 appropriate in terms of that situation. Again, he'll
14 address that situation, and I think he will talk regarding
15 that.

16 You know, I'm a dog owner. I have two dogs, and I
17 understand what that could feel like if something
18 happened. I think it makes it a little different,
19 obviously, when it's a police dog, and they're out there
20 trying to help protect the public. But I know
21 Mr. McCreary understands that devastation, as well, of
22 losing the dog in this situation.

23 Also, Your Honor, I want to address some of the
24 factual situations not because -- I don't mean it as an
25 explanation or a justification of why we're here today,

1 but I do think that there is another -- other
2 possibilities of what occurred that night.

3 I don't believe in talking with Maurice that he was
4 lying in wait. I understand that that's what the
5 perception is and that's what they feel he was doing.

6 I believe he was trying to get away. Obviously, he
7 was going to more extreme levels than some would do in
8 terms of firing a weapon at all once he realized the
9 police were around.

10 The perimeter was set. At that point, I think, you
11 know, he panicked. He knew there was -- at that point, he
12 knew, you know, something was going down. He knew he was
13 on probation. He had been violated. He knew he had a
14 gun.

15 He, obviously, made one bad decision, and it
16 snowballed into -- he probably couldn't have made any
17 worse decisions that night, but I do not believe the
18 situation was he was lying in wait trying to shoot and/or
19 kill an officer waiting for them to get right up on him.
20 "I'm going to kill an officer." Like I said, he knows
21 that that could have happened.

22 The officers, I think the closest when shots were
23 fired, they were between 25 and 35 yards away from him.
24 He didn't know if the end result was going to be someone
25 getting struck or not. Obviously, that's why he's before

1 you today on very serious charges and is taking
2 responsibility for that.

3 In terms of the shots fired, as well, I in no way
4 want this to come across as if I'm minimizing anything in
5 this situation because that is not my intention, but I
6 think there is a mis -- it's a -- I don't believe saying
7 seven shots were fired at police is a fair representation
8 of what occurred.

9 I know multiple people could have been hit had one
10 bullet hit more than one person, but essentially, there's
11 three unaccounted for bullets in terms of firing at police
12 officers if you take what Mr. McCreary says in his
13 statement and how many rounds were in the gun and how many
14 times Fargo was shot.

15 I don't think the fact that there's only three makes
16 this any better. The shots were still fired, and there's
17 still police officers there. I just want to make sure all
18 the facts are appropriately before Your Honor in making a
19 decision.

20 His family is here today, Your Honor, a large number
21 of his family.

22 If y'all can just stand to show your support for
23 Maurice.

24 (Complies).

25 THE COURT: Thank you for being here.

1 MS. DAVIS: And that includes his aunts, uncles,
2 cousins, his mother, of course. His pastor at his church
3 is here, as well, the mother of his children. He has two
4 sons, one of which is three years old and one is one year
5 old which he has never met that son as that child was born
6 when he had been incarcerated already.

7 I can never tell you that Maurice can 100 percent
8 know exactly what these officers went through that night
9 or understand what they went through in terms of losing
10 Fargo, but I know he tries to do that.

11 I think that's just like me any time I'm talking to a
12 client trying to say, "I understand you're in a tight
13 spot. I understand", but to a point, I can never
14 understand because I'm not the person that's actually
15 sitting there. Likewise, I think he understands that he
16 can't say for certain that he knows how these people feel
17 when this occurred when they were doing their jobs.

18 I know a member or a few members of his family do
19 want to address Your Honor. I know Maurice wants to
20 address you, as well. If you'll hear from the family
21 members.

22 THE COURT: That's fine. Whoever wants to come down
23 to this microphone right here on the right-hand side, sir,
24 the other side, sir.

25 Please just state your full name for the record.

1 Right there. Thank you very much.

2 MR. JOHNSON: My full name is Toska (phonetic)
3 Johnson.

4 THE COURT: Okay. Mr. Johnson.

5 MR. JOHNSON: Thank you, Your Honor, for allowing me
6 to address the Court.

7 THE COURT: You're very welcome.

8 MR. JOHNSON: First of all, I would like to say I
9 apologize for the loss of your fellow officer. I'm a
10 combat veteran. I understand that you guys have a tough
11 job to do.

12 Secondly, Your Honor, I would like to explain to
13 Sheriff Leon Lott that Maurice -- Sheriff Leon Lott, that
14 Maurice, I was hoping that he would take the military
15 route that I took to learn responsibility, to learn to
16 respect the rule of law.

17 He was coming around to that opinion, but sometimes
18 with young men -- and I mean no color to the court when I
19 say young black men -- sometimes we have a harder time to
20 understand that the system is not rigged against us.

21 I would like him to understand today that these guys
22 simply have a job to do, to protect citizens. The judge
23 has the most difficult job to do in this situation, but I
24 think I can explain from the one being the closest to his
25 heart to understand.

1 I understand you lost your dad at an early age. I
2 understood that hurt you for a lot of years. I just lost
3 my dad a few months ago, the best friend I have, and I
4 understood what kind of loss that was.

5 But I would like the Court to address the fact that
6 he is a human being, and if it's possible to give him a
7 second chance on not -- with no disrespect to what
8 occurred as an offense, but we must understand just like
9 his lawyer said to the events that actually happened.

10 Whatever Your Honor sees fit, I have no argument, but
11 I would like to -- I would like him to just request the
12 mercy of the Court. His family is asking Your Honor for
13 his mercy.

14 From my brief encounter today of hearing me, I
15 understand that you put great thought into this, so we
16 have no fear, but we understand that this is a troublesome
17 situation.

18 Once again, I would like to say I love you Maurice.
19 Trust in God and everything will turn out. Just
20 understand that no one is here is against you. Everybody,
21 even the police, you think they're against you, but they
22 want to help you. They have a job to do, and it's a tough
23 one.

24 So, Your Honor, we just throw ourselves on the mercy
25 of the Court, and I would like to apologize again for the

1 loss. But like I said, Your Honor, I'm a combat veteran.
2 I understand and I just help -- hope that you can rely on
3 God to help you come to a just judgment on this.

4 Once again, I'm sorry for you guys' loss, and we
5 appreciate the job you do as citizens.

6 Thank you. That's all.

7 THE COURT: Thank you, Mr. Johnson.

8 Yes, sir.

9 MR. YOUNG: Good morning, Your Honor.

10 THE COURT: What is your name, sir?

11 MR. YOUNG: My name is Gilbert Young.

12 THE COURT: Mr. Young?

13 MR. YOUNG: Yes, sir.

14 THE COURT: Okay.

15 MR. YOUNG: I'm Maurice's uncle. Like my nephew
16 here, I'd like to apologize for the loss as far as I'm
17 sorry that Fargo was hurt, perhaps even killed.

18 I'm sorry that you guys have to waste as much
19 manpower as you did to look for Maurice, and I'm truly
20 sorry that this has happened.

21 You know, Maurice -- as my nephew said, at that young
22 age, maybe around two years old, my wife and I raised
23 Maurice for years.

24 You guys, you just don't know how bad we feel about
25 what has happened here. I am just as sorry as any one of

1 you guys here. To you, Officer, to the officer that stood
2 up with his wife, you dear, for your loss of Fargo. We
3 are truly, truly sorry that this has happened.

4 I am truly sorry that Maurice found himself where he
5 has allowed himself to go where he put himself in a
6 position like this, but to you, Your Honor, my prayer is
7 that -- I know that everyone here is asking for the most
8 that you could give Maurice, what they feel like a fair
9 punishment is.

10 I ask that you make the decision on your own; that
11 you -- I don't know if you could look at him and see if
12 there's any good, but I hope that you believe that there
13 is some good left in him.

14 If you give him another chance, then I know he will
15 do the right thing. Sometimes I think that you have to
16 travel some roads to sometimes realize that you have made
17 the wrong choice.

18 In this case, I don't condone anything Maurice has
19 done. I think what he has done is the wrong thing. It's
20 the wrong thing. He made bad choices, but I do believe
21 that he deserves a chance.

22 The Solicitor asked for consecutive sentences. I
23 know consecutive means one after the other. I know that
24 each case can carry up to, what I've heard, 30 years. I
25 pray in my heart that you don't give him consecutive

1 sentences, Your Honor.

2 Let him get his -- I don't know what the right
3 decision is. I just trust you'll make the right decision.

4 Maurice, we're praying for you. We pray that God
5 will bless you and continue to watch over you and to keep
6 you.

7 To Sheriff Leon Lott and your staff, we are truly
8 sorry for what happened. We're a family that respects the
9 law. We obey the law. We are sorry that this happened.
10 I can't say I'm sorry enough. Again, I apologize to all
11 of you gentlemen.

12 Your Honor, I ask that you make the decision on your
13 own.

14 Thank you guys very much.

15 THE COURT: Thank you, Mr. Young. Thank you for
16 being here.

17 PASTOR MCCALLUM: Good morning, Your Honor. May it
18 please the Court. My name is Anthony McCallum. I am this
19 young man's pastor of Bethlehem Baptist Church here at
20 College Place.

21 I want to say on behalf of this entire family, on
22 behalf of Mr. Maurice and for Court, Your Honor, to Leon
23 Lott, to Sheriff Lott, and to every deputy to the tragic
24 loss of your partner, certainly I concur with the family
25 that it is -- it is heavy upon this situation that

1 occurred some years ago.

2 Let me say on behalf of the family, as a pastor, that
3 Mr. Maurice, I've known him for numerous years through the
4 church. The family is a God-fearing family, a very
5 obedient family, easy going, passive-type family.

6 Maurice was the same way all through church, knowing
7 him and watching him going to the church like that,
8 always, always somewhat quiet and shy, easy going, was
9 never loud, was never aggressive, never saw any of those
10 personalities even as he was growing up in the church
11 family, was always very active, always supportive when he
12 was at church.

13 He was a very bright kid, a young man. He went to
14 school academically. He was bright. We all know that
15 sometimes life takes a different route. Obviously, it
16 took a route that was not pleasing to the family, church
17 family, or society, but more than anything to you, Your
18 Honor, we do understand -- even the Bible speaks about
19 that we all must obey the law of the land. That's a fact
20 in the Bible.

21 It's your position of others who sit in authority.
22 You have a gift. You have a power and a gift of authority
23 that is given to certain individuals that -- who sit in
24 the seat of authority that even if you're using the legal
25 side of addressing the law that you have to, you know, but

1 also on humanities side of it, God has given you that
2 gift. You got that chanted wisdom. I'm quiet sure you
3 do; that all those who sit in authority are to pray and
4 seek guidance; sought God when you prepare to make a
5 decision that you in some kind of way will see in your
6 heart, find the wisdom of God, that if you can pray or
7 hope that there's a glimmer of hope for Mr. Maurice to
8 give him a chance to be redeemed.

9 It's a tragic thing that has happened. I pray about
10 that for the outcome. I understand that all these
11 officers get up every morning. It is a job that really
12 deals with life and death, life and death. I see it all
13 the time as a chaplain and others. I see that.

14 That family is put under stress. That family is put
15 under strain. Here you have two families, two extremes:
16 The law, their family, their loss, and his family. You
17 have to juggle them both. It's never easy. It's always
18 difficult.

19 And so you're put in authority, not only by our
20 society but also by God to make that ultimate decision,
21 and that ultimate decision is going to be placed in your
22 hands.

23 I often say all the time it's always different when
24 you see someone else perhaps if it's yours. It's always a
25 little different. So in my position, I do the same thing

1 with my own children. It's easy to judge when you sit
2 with someone else when you got your life.

3 I'm not trying to justify what he did because it was
4 wrong. The Bible speaks to that. It was wrong, but also
5 the Bible speaks to grace and mercy.

6 So I speak on his behalf. If there's any chance of
7 any limit of grace or mercy tugged upon your heart or even
8 upon you officers, I'm asking you on my behalf if you
9 would at least try to look and ask forgiveness for this
10 young man, as well. It's wrong. I know it's not easy but
11 it's possible. It's a fine line.

12 One of the theologians says it like this, Your Honor:
13 One minute, I didn't choose. I didn't see. Nor did I
14 look for it, but it's up to me to use it. If I abuse it,
15 I will be held accountable for it. If I mishandle it, I
16 will be judged upon it. Only one time a minute but
17 eternity lies within it.

18 I hope that you will take the time and think about
19 judgment will go upon this young man.

20 Maurice, we love you. We pray much for you, for you
21 and your family. As your pastor, I pray that somewhere in
22 your heart that you will seek God for forgiveness; that
23 you seek these officers and ask for forgiveness, as well.
24 The Grace of God is to ask for forgiveness. It's
25 available.

1 Thank you, Your Honor.

2 THE COURT: Thank you, Pastor.

3 Yes, sir.

4 THE DEFENDANT: Your Honor, I come here today to ask
5 for first and foremost, Your Honor, what -- what I did was
6 wrong. I accept responsibility for my actions, Your
7 Honor.

8 It was never my intentions to shoot at the police
9 that night, Your Honor, but in the time that all this
10 occurred, I -- I panicked. I was scared, Your Honor, and
11 being bitten by the dog, I freaked out and I did shoot at
12 the dog, Your Honor.

13 I was -- I was -- I accept full responsibility for
14 that, Your Honor, not just to ask for forgiveness from you
15 but from all the police officers, as well, and I just ask
16 that you can truly accept my apologies and know that it
17 was never my intention to go out that night and shoot at
18 the police officers, have a shoot out as it was stated
19 that it happened, Your Honor.

20 But I panicked and in the midst of it, I couldn't
21 think of other options. I could have stopped and gave up
22 and -- and been arrested, Your Honor, but in spite of it,
23 I ran. I didn't know where I was going. I was lost, and
24 I was just in the lost, Your Honor.

25 I ask that you can -- you can see within me, Your

1 Honor, that I made a mistake, and I accept responsibility.
2 I ask that you give me another chance to correct my
3 wrongs, Your Honor, and I ask not that just that you would
4 see something reasonable and give me another chance to
5 correct my wrongs so that I could one day, one day be an
6 example for those who follow me and for my children, Your
7 Honor, to -- so that they won't grow up and be like me and
8 follow on the same path as me, Your Honor.

9 I know that this situation is extreme, and it was
10 never my intention to make this situation this extreme,
11 Your Honor, and I know what I did was wrong. I just --
12 there's no way around it.

13 Like I said, Your Honor, it was never my intention to
14 shoot at the police, Your Honor, but they were in the
15 vicinity where I was shooting at the dog. So I understand
16 where they're coming from, Your Honor, but -- I understand
17 where they're coming from, but it was never my intention
18 to -- to take another life, Your Honor.

19 I was just panicking in fear for mine, Your Honor. I
20 was just running around in circles basically that night
21 trying to get away. I was scared, and the police shot at
22 me, Your Honor.

23 I just wanted to get away, and even though I knew I
24 was wrong from the beginning, I wanted to minimize that.
25 In the end, I basically turned it into something more than

1 what it was.

2 Your Honor, I just ask that you have mercy on me,
3 Your Honor, and give me another opportunity to correct my
4 rights [sic], Your Honor, just have mercy on me.

5 THE COURT: Thank you, Mr. McCreary.

6 Anything else, Ms. Davis?

7 MS. DAVIS: Your Honor, I don't think there's a whole
8 lot that I can add. I think his family and Maurice
9 explained everything, like I said they would, in a better
10 fashion than I.

11 Obviously, Your Honor, as a judge has to make these
12 decisions at a time. The Solicitor and I as the defense
13 attorney, we're in the courtroom all the time in different
14 types of cases. This is a particularly difficult
15 situation.

16 Maurice was 22 when this happened. People make bad
17 decisions at a young age. This was clearly beyond a bad
18 decision. I don't think that's a way to even phrase it.
19 It was a tragedy all around. I do think his age is a
20 factor.

21 Obviously, in the penal system, there are recognized
22 goals of, you know, when a sentence is handed down,
23 there's supposed to be a purpose to them, usually
24 retribution, deterrence, rehabilitation, incapacitation,
25 you know, the public safety aspect.

1 I just ask Your Honor to not rely completely on the
2 retribution side of it. I do have no doubt there is hope
3 for Maurice. I know there is good in Maurice. He is 24
4 years old. I don't think we can call him a lost cause at
5 that age.

6 He knows he's going to prison. He knows he's going
7 to be there based on his actions that night on the
8 decisions he made that night. I think the goals, Your
9 Honor, of the criminal system can be met with less time
10 than what I believe the State is asking for that would
11 meet the punishment aspect, the public safety aspect, and
12 the rehabilitation aspect.

13 I would ask Your Honor to consider, obviously,
14 there's no mandatory minimum. I understand that. I would
15 ask Your Honor to consider a range of ten to 15 years. I
16 know that he understands that that's 85 percent minimum,
17 possibly day for day if he was not paroled.

18 I'd ask Your Honor to consider all, everything that
19 you've heard today from his family, as well as from
20 Maurice.

21 THE COURT: Okay. Anything further?

22 MR. GOLDBERG: Very briefly, Your Honor, just to sum
23 up, the community was placed at risk that night. The life
24 of one officer was taken. The lives of countless officers
25 were put in danger that night, but equally important, you

1 heard about it earlier, this has affected how some
2 officers perform their duties going forward, and that puts
3 the public at risk every day. That can't be tolerated,
4 and that's why we're asking you to consider the sentence
5 that we're asking you, for consecutive time.

6 Thank you.

7 THE COURT: Investigator McDonald, Sergeant McDonald?

8 LIEUTENANT MCDONALD: Lieutenant McDonald.

9 THE COURT: I'm sorry.

10 LIEUTENANT MCDONALD: Yes, sir.

11 THE COURT: I meant no disrespect. Anything you need
12 to tell me?

13 LIEUTENANT MCDONALD: Just, you know, we had one
14 tragedy that night. We could have had several tragedies
15 that night, and I think what you heard here today speaks
16 volumes.

17 This job is getting more and more dangerous every
18 day. We're being shot at more and more. I think we need
19 to send a message, enough is enough.

20 THE COURT: You know, your pastor talked about grace
21 and mercy which I believe in, and I think the grace and
22 mercy that God extended to you was that none of those
23 officers were hit that night because you could be facing
24 the death penalty.

25 One thing I am taking into consideration in your

1 sentence is the fact that you are pleading guilty. I
2 believe that we live inside of a criminal justice system
3 where people that enter guilty pleas, there should be some
4 level of recognition of that acceptance of responsibility.
5 I take that very seriously because being a former
6 prosecutor and a former defense attorney, it's very
7 difficult to have a conversation with your client and
8 basically say that you throw yourself at the mercy of
9 somebody who you've never seen before, never dealt with
10 before and probably know little to nothing about the
11 individual.

12 So I don't take that fact that you are pleading
13 guilty lightly at all. The fact that you are accepting
14 responsibility taking accountability for your actions, I
15 take into serious consideration.

16 A trial of this magnitude would have taken days. It
17 would have been on appeal for years had you been
18 convicted, and beyond the appeal, we all know that work
19 and live in a courtroom, there are PCRs and there are
20 appeals after that.

21 It's something that can continue to haunt victims of
22 crimes over and over again by constant reminders of the
23 case and of the matter due to the way, through no fault of
24 our system, just due to the way that the system is set up.

25 I balance all of that with the fact that had you not

1 been given this deal and had the armed robbery not been
2 taken off the table and had they not -- chosen to not seek
3 life without parole, you would have been facing life
4 without parole at trial. So there is some significant
5 benefit to you in the acceptance of this plea deal. I'm
6 taken all of those factors into consideration when I give
7 you this sentence.

8 Your family needs to know and they need to
9 understand, number one, that I appreciate your being here,
10 and I appreciate your love and support of this young man
11 in our community and that grace and mercy by God was not
12 only extended that night when no officer was hit, thank
13 God, but it was also extended when -- through the
14 negotiations of life without parole was taken off the
15 table. I'm taking that into consideration in this.

16 For all of the officers that are out there,
17 Lieutenant McDonald is right. Your job is getting harder
18 and harder every day due to what you're facing in our
19 community.

20 It's a sad day when a -- I don't want to minimize
21 what happened to Mr. Harp, but with what happened with
22 Mr. Harp in the armed robbery, all of this could have been
23 completely and totally avoided and these officers' lives
24 and the life of the K-9, Fargo, could have been spared due
25 to just better decisions after the incident took place.

1 So I want you all to know that, to the officers,
2 thank you for being here. I know that I guarantee you,
3 there's at least a handful of you that worked the night
4 shift last night and got off at seven or eight o'clock
5 this morning and drove up here to be here. You haven't
6 slept or anything else, and that you'll go home and try to
7 sleep for a few hours before you turn around and do the
8 same thing tonight.

9 I actually had dog case earlier in the year or last
10 year, in the county, and I heard through the testimony of
11 the extensive training that the dogs do and the amount of
12 time that they spend with their handlers in training and
13 have a great deal of respect for that.

14 I also say to Mr. and Mrs. Cavanaugh that to say
15 animal is not part of your family is kind of crazy,
16 whether you like the animal or not, that animal becomes a
17 part of your family. It affects you and it affects each
18 other, and it affects your children. The loss is not
19 only -- is frightening for everybody involved.

20 All right. The sentence on all of the attempted
21 murders is exactly the same, and it is to be run
22 concurrent. The sentence on the attempted murders is 30
23 years. The sentence on the killing of a police dog is
24 five years. That is to be run consecutive. He is to be
25 given credit for time served. On the community

1 supervision, revoke in full. Thank you very much.

2 MR. GOLDBERG: Thank you, Your Honor.

3 (Whereupon, the proceedings were concluded.)

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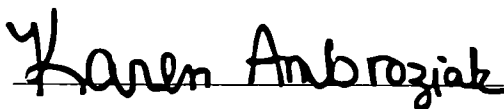
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CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Karen Ambroziak, Official Court Reporter for the
5th Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of General Sessions for
Richland County, South Carolina, on the 6th day of
January, 2014.

August 29, 2016



Karen Ambroziak, RPR
Circuit Court Reporter

The South Carolina Court of Appeals

The State, Respondent,

v.

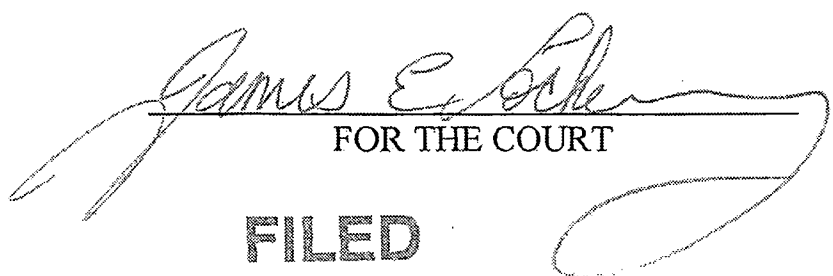
Maurice Antwon McCreary, Appellant.

Appellate Case No. 2016-001846

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OFFICE

ORDER

Appellant pled guilty and was sentenced on January 6, 2014, and his motion to reconsider was denied on March 6, 2015. Appellant filed a motion to clarify, and the circuit court issued an order on July 27, 2016. Appellant then filed a motion to withdraw his guilty plea on August 5, 2016, and he withdrew the motion to withdraw his guilty plea on September 1, 2016. On September 8, 2016, Appellant served and filed his notice of appeal. Because Appellant has failed to timely serve and file the notice of appeal, this appeal is dismissed. *See* Rule 203(b)(2), SCACR ("After a plea or trial resulting in conviction or a proceeding resulting in revocation of probation, a notice of appeal shall be served on all respondents within ten (10) days after the sentence is imposed. In all other cases, a notice of appeal shall be served on all respondents within ten (10) days after receipt of written notice of entry of the order or judgment. When a timely post-trial motion is made under Rule 29(a), SCRCrimP, the time to appeal shall be stayed and shall begin to run from receipt of written notice of entry of an order granting or denying such motion."); Rule 263(b) ("The time prescribed by these Rules for performing any act *except the time for serving the notice of appeal under Rules 203 and 243* may be extended or shortened by the appellate court, or by any judge or justice thereof." (emphasis added)). The remittitur will be sent as required by Rule 221, SCACR.


FOR THE COURT

FILED

December 2, 2016

Columbia, South Carolina

cc:

Maurice Antwon McCreary, 345340

Alan McCrory Wilson, Esquire

John Benjamin Aplin, Esquire

Daniel Ryan Goldberg, Esquire

Robert Michael Dudek, Esquire

Jennifer C. Davis, Esquire



69
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The South Carolina Court of Appeals

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TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

December 20, 2016

The Honorable Jeanette W. McBride
PO Box 2766
Columbia SC 29202-2766

REMITTITUR

Re: The State v. Maurice A. McCreary
Lower Court Case No. 2012GS4005997, 2012GS4005998,
2012GS4006000, 2012GS4006001, 2012GS4006003, 2012GS4006004
Appellate Case No. 2016-001846

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Maurice Antwon McCreary, 345340
Alan McCrory Wilson, Esquire
John Benjamin Aplin, Esquire
Daniel Ryan Goldberg, Esquire
Robert Michael Dudek, Esquire
Jennifer C. Davis, Esquire

FORM 5

STATE OF SOUTH CAROLINA)

County of Richland County)McCreary, Maurice A.)

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2017CP400 0869

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 Broad River Correction
Columbia, S.C.
2. Name and location of Court which imposed sentence Richland County
Judicial Center Columbia, S.C. 29203
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2012-GS-40-06004 (30yrs), 2012-GS-40-5998
 - (b) 2012-GS-40-05997 (30yrs), 2012-GS-40-6000

2017 FEB 13 PM 5:00
 JEANNETTE W. M...
 C.C.P. & G.S.
 RICHLAND COUNTY
 FILED

(c) 2012-GS-40-6001

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

(a) 1-6-2014 30 yrs

(b) 1-6-2014 30 yrs

(c) 1-6-2014 5 yrs

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?

Yes

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

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

i. The South Carolina Court of Appeals

ii. _____

iii. _____

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

i. Deined by order

ii. _____

iii. _____

(c) the date of each such result:

i. Dec 2, 2016

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) _____

(b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Involuntary Guilty Plea
- (b) Ineffective Assistance of Counsel
- (c) Due Process Violation
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Involuntary Guilty Plea
- (b) Ineffective Assistance of Counsel
- (c) Due Process Violation
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? Yes
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? Yes
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. Motion to Reconsider Sentence
- ii. Motion to Clarify
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. Richland County General Sessions Col, S.C
- ii. Richland County General Sessions Col, S.C
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. Denied by Order
- ii. Denied by Order
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. March 2015
- ii. July 25, 2016
- iii. _____
- iv. _____

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

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

No

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

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

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

- i. _____
- ii. _____
- iii. _____

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

- (a) This is the first opportunity to present this issue
 (b) This is the first opportunity to present this issue
 (c) This is the first opportunity to present this issue

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

- (a) your arraignment and plea? Yes
 (b) your trial, if any? N/A
 (c) your sentencing? Yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
Yes

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 i. Jennifer Davis - Richland County Public Defender
1701 Main St. Columbia, S.C. 29201
 ii. _____
 iii. _____
 (b) the proceedings at which each such attorney represented you:
 i. Guilty Plea, Sentencing, Post Trial
Motion, Appeal
 ii. _____
 iii. _____

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

I, McCreary, Maurice, 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.

M. McCreary
Applicant

SWORN or affirmed to and subscribed before me this

1 day of February, 2017.

[Signature]
Notary Public

My Commission Expires: 9/16/2020

RICHLAND COUNTY
 FILED
 2017 FEB 13 PM 2:00
 JEANETTE W. MCBRIDE
 C.C.P. & G.S.

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

Vacate, and dismiss sentencing conviction

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

No

STATE OF SOUTH CAROLINA)

County of Richland)

VERIFICATION

I, McCreary, Maurice A, 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.

M. McCreary Feb 1st, 2017

SWORN to and subscribed before me this 1
day of February, 2017

[Signature] (L.S.)
Notary Public

My Commission Expires: 9/16/2026

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	
Maurice Antwon McCreary, #345340,	)	Case No.: 2017-CP-40-0865
Applicant,	)	
	)	RETURN AND PARTIAL
v.	)	MOTION TO DISMISS AND A
	)	MOTION FOR A MORE
State of South Carolina,	)	DEFINITE STATEMENT
Respondent.	)	

Respondent, making its Return to the Application for Post-Conviction Relief ("PCR") filed on February 13, 2017, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. In November 2012, the Richland County Grand Jury indicted Applicant for five counts of attempted murder (2012-GS-40-5997, -5998, -6000, -6003, -6004)¹, and one count of unlawful killing of a police dog (2012-GS-40-6001). Jennifer C. Davis, Esquire and Mark Sawyer, Esquire represented Applicant. Solicitor Daniel R. Goldberg, Esquire prosecuted the case. On January 6, 2014, Applicant pleaded guilty as indicted to all charges before the Honorable Robert E. Hood. Judge Hood sentenced Applicant to imprisonment for concurrent terms of thirty years for each attempted murder charges. Applicant was also sentenced to a consecutive term of five years for the unlawful killing of a police dog.

Applicant filed multiple post-trial motions² that culminated in the Applicant filing an appeal on September 9, 2016. The South Carolina Court of Appeals dismissed Applicant's appeal on

¹ On his application for PCR, he did not list the -6003 attempted murder charge.

² Per the Richland County Public Index, Applicant filed a motion to reconsider sentence on January 14, 2014, which was denied on March 6, 2015. He also filed a motion to clarify on July 5, 2016, which was denied on July 26, 2016, as well as a motion to withdraw guilty plea on August 5, 2016. Though the public index does not show an order disposing of this motion, Respondent believes that it would have been untimely filed.

December 2, 2016, on the grounds that the notice was not timely. State v. McCreary, Appellate Case No. 2016-001846 (S.C. Ct. App. filed December 2, 2016). The remittitur was returned to the circuit court on December 20, 2016.

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

II.

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

1. Ineffective Assistance of Counsel;
2. Involuntary Guilty Plea; and
3. Due Process Violation.

III.

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

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624,

625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985).

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

IV.

Applicant also asserts his plea was involuntary. In PCR cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citations omitted). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant

would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56 (1985). Further, "[t]hat a guilty plea must be intelligently made is not a requirement that all advice offered by the defendant's lawyer withstand retrospective examination in a post-conviction hearing." McMann v. Richardson, 397 U.S. 759, 770 (1970). Rather, "whether a plea of guilty is unintelligent . . . depends as an initial matter, not on whether a court would retrospectively consider counsel's advice to be right or wrong, but on whether that advice was within the range of competence demanded of attorneys in criminal cases." Id. at 771.

The record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Dalton v. State, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Boykin v. Alabama, 395 U.S. 238, 242 (1969)). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). Further, "[a] guilty plea is a solemn, judicial admission of the truth of the charges" against the applicant; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton, at 137–38, 654 S.E.2d at 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, admissions "made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements." Id. (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)). "In considering an allegation

on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing.” Id. at 138–39, 654 S.E.2d at 874 (citing Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997)).

Respondent submits the record fully supports the knowing and voluntary nature of Applicant’s plea. However, allegations regarding the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

The Applicant alleges a denial of due process of law. The Applicant’s allegation claims infringement of his rights under certain amendments to the United States Constitution. However, the Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must “... specifically set forth the grounds upon which the application is based.” S.C. Code § 17-27-50 (2003). In an application for post-conviction relief, it is incumbent upon the Applicant to make at least a *prima facie* showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Since the Applicant has failed to make even a *prima facie* showing that his due process and other constitutional rights were violated, the Respondent would submit that this allegation should be summarily dismissed for failing to specifically set forth the grounds upon which the application is based.

VI.

Without waiving any of the aforementioned defenses, Respondent also hereby moves for a more definite statement for the claims of ineffective assistance of counsel and involuntary guilty plea. Applicant has failed to set forth any facts to "support each ground" or to explain with any specificity whatsoever the facts upon which his claims are based. The Uniform Post-Conviction Procedure Act requires the Applicant to "*specifically set forth the grounds upon which the application is based.*" S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Respondent respectfully submits that it is incumbent upon Applicant, through counsel, to amend his application to set forth specific facts upon which his allegations are based so that Respondent may adequately prepare for an evidentiary hearing. Therefore, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

VII.

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

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted

leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

VIII.

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

IX.

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

Signature follows.

X.

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of plea counsel and involuntary guilty plea.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

JESSICA E. KINARD
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

14 Sept., 2017

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Maurice Antwon McCreary, #345340,

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent,

IN THE COURT OF COMMON PLEAS

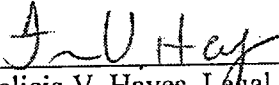
2017-CP-40-0865

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:

Leah B. Moody Esquire
Law Office Of Leah B. Moody, LLC
Post Office Box 1015
Rock Hill, South Carolina 29731

DATED this the 14th day of September, 2017.


 Felicia V. Hayes, Legal Assistant
 For Respondent

1 STATE OF SOUTH CAROLINA) IN THE COURT OF
2) COMMON PLEAS
3 COUNTY OF RICHLAND) OF THE FIFTH
4) JUDICIAL CIRCUIT
5)
6 MAURICE ANTOINE McCREARY,) TRANSCRIPT OF RECORD
7) 2017-CP-40-00865
8)
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25)

December 12, 2017
Columbia, South Carolina

B E F O R E:

HONORABLE CLIFTON NEWMAN, Judge.

A P P E A R A N C E S

LEAH B. MOODY, ESQUIRE
For The Applicant

JESSICA E. KINARD, ESQUIRE
For Respondent

Julie A. Ashbrook,
Circuit Court Reporter
Seventh Judicial Circuit

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EXHIBITS

MARKED

ENTERED

NO EXHIBITS PROFFERED

1 THE STATE VERSUS MAURICE A. McCREARY

2 THE COURT: All right. You may proceed.

3 MS. KINARD: Thank you, Your Honor. May it
4 please the Court. This is the matter of Maurice Antoine
5 McCreary versus The State of South Carolina. It's Case
6 Number 2017-CP-40-0865.

7 We're before the Court on an application for
8 postconviction relief that was filed February 13th,
9 2017. Mr. McCreary is presently confined in the South
10 Carolina Department of Corrections pursuant to orders of
11 commitment of the Richland County Clerk of Court.

12 In November 2012, the grand jury indicted him for
13 five counts of attempted murder and one count of
14 unlawful killing of a police dog. Jennifer Davis and
15 Mark Sawyer represented him. Solicitor Daniel Wofford
16 prosecuted the case.

17 On January 6th of 2014 he pled guilty as indicted
18 to all charges before the Honorable Robert E. Cliff.
19 Judge Cliff sentenced Mr. McCreary to imprisonment for
20 concurrent terms of 30 years for each of the attempted
21 murder charges. And a consecutive five years for the
22 unlawful killing of a police dog.

23 He filed multiple posttrial motions. Excuse me.
24 It is reflected on the public index that there is a
25 Motion to Reconsider his sentence filed January 14th of

1 2014, denied March 6th, 2015. He also filed a Motion to
2 Clarify on July 5th of 2016, which was denied July 26th
3 of 2016. And a Motion to Withdraw his guilty plea on
4 August 5th, 2016. While we do not have record of a
5 disposal of that motion, that motion would have been
6 quite untimely filed because it was filed some
7 two-and-a-half years after the entry of the guilty plea.

8 A Notice of Appeal was filed on September 9th,
9 2016. The Court of Appeals dismissed his appeal on
10 December 2nd, 2016, on the grounds that the notice was
11 untimely. Remitter was turned into Circuit Court on
12 December 20th, 2016.

13 As part of the State's return, I also filed a
14 Partial Motion to Dismiss and Motion for a More Definite
15 Statement. I have not received a return to either of
16 those motions; so, therefore, the allegations that we're
17 proceeding on are rather vague, being simply ineffective
18 assistance of counsel, involuntary guilty plea and due
19 process violation.

20 My Motion to Dismiss, I believe it was filed in
21 error. I apologize. But the Motion for More Definite
22 Statement does stand. And I've received no, no issue on
23 that. Or, excuse me, no response on that.

24 At this time I would defer to Ms. Moody in the
25 recitation of her case.

1 THE COURT: All right. Ms. Moody.

2 MS. MOODY: Thank you, Your Honor. Your Honor,
3 may it please the Court. As to the indefinite segment,
4 I believe Ms. McCreary will testify as to his
5 ineffective assistance of counsel and involuntary guilty
6 plea. And it's all centered around the statements made
7 in the transcript and what occurred at the guilty plea
8 that he felt was -- his lawyer did not object to.

9 There was some confusion on my part in terms of
10 that issue. Again, he will testify as to that because
11 the sentencing sheets, which I believe Your Honor has,
12 it states on the sentencing sheet that the defendant
13 pled without negotiation or recommendation. And what he
14 is alleging in that instance, Your Honor, is that there
15 was a violation -- there was a violation of the no
16 recommendation, no negotiation portion of the plea in
17 that the State made a recommendation, as he reviews it
18 in the transcript, that they made a recommendation as to
19 his sentence.

20 THE COURT: All right.

21 MS. MOODY: At this time, Your Honor, I call Mr.
22 McCreary to the stand.

23 THE COURT: All right. Mr. McCreary, if you'll
24 come up.

25 (Whereupon, witness comes forward.)

1 THE CLERK: State your full name, please.

2 THE WITNESS: Maurice Antoine McCreary.

3 THE CLERK: Do you solemnly swear that the
4 testimony you're about to give in this case will be the
5 truth, the whole truth and nothing but the truth so help
6 you God?

7 THE WITNESS: Yes, ma'am.

8 THE CLERK: Thank you. You can be seated.

9 MAURICE ANTOINE MCCREARY,
10 having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. MOODY:

13 Q. Mr. McCreary, could you please state your name
14 for the record.

15 A. Maurice Antoine McCreary.

16 Q. And where are you currently incarcerated?

17 A. Broad River Correctional Institution.

18 Q. And how long have you been at Broad River?

19 A. I've been at Broad River for three years now.

20 Q. And the charges that you're -- the convictions
21 that you're at Broad River for are what?

22 A. Five counts of attempted murder and one count of
23 unlawful killing of a police K-9.

24 Q. And at the beginning when you were arrested, were
25 you charged with any other charges?

1 A. Yes, ma'am. It was two more counts of attempted
2 murder and one count of armed robbery.

3 Q. And those charges were dismissed?

4 A. Yes, ma'am.

5 Q. Okay. When you were arrested on all of these
6 charges, who was your attorney?

7 A. It was Ms. Jennifer Davis.

8 Q. Did you have another attorney at any other point
9 in time?

10 A. No, ma'am. I didn't have another. No, ma'am.

11 Q. Did you have another counsel that you spoke with,
12 with Ms., Ms. Davis?

13 A. Towards the end going towards trial there was
14 another counselor, but I don't remember his name.

15 Q. Mr. -- beg the Court's indulgence.

16 I don't remember his name, but he was a part of
17 your trial team.

18 A. Yes, ma'am.

19 Q. Okay. And, again, you pled to some charges?

20 A. Yes, ma'am.

21 Q. Okay. And you did not receive a trial?

22 A. No, ma'am.

23 Q. Okay. Did you ever have an opportunity to meet
24 with Ms. Davis on this case?

25 A. Yes, ma'am.

1 Q. Okay. How often did you meet with Ms. Davis?

2 A. Out of the two years that I was in the county, I
3 would say I met with her maybe six or seven times
4 possibly.

5 Q. Okay. And did you have an opportunity to go over
6 any discovery that the State provided to her?

7 A. Yes, ma'am.

8 Q. Okay. And did you have enough time to talk to
9 her about your case and make a decision as to whether
10 you wanted to plead or not?

11 A. Yes, ma'am, we had a chance to talk.

12 Q. Okay. Now, you filed in your PCR application on
13 the grounds of ineffective assistance of counsel,
14 involuntary guilty plea and due process violation,
15 correct?

16 A. Yes, ma'am.

17 Q. As to the ineffective assistance of counsel, can
18 you please tell the Court what your lawyer did not do
19 that you felt that she should have done.

20 A. One of the things was, from my understanding,
21 that day that I went to go plead, we talked different
22 numbers with the solicitor, but to us the plea it was
23 supposed to be no negotiation or recommendation. And
24 then it would be left strictly to the judge. So my
25 understanding was that neither side would have any

1 remarks. But after she made her remarks to the
2 solicitor, he made a comment that he recommend that I
3 get more time than, than what it was supposed to be left
4 up to the judge. I felt like that went against what we
5 agreed upon, from my understanding.

6 Q. Okay. Well, let's back up. So you mitigated a
7 few seconds ago that you talked with Ms. Davis about the
8 different offers.

9 A. Yes, ma'am.

10 Q. Okay. Is that what you meant by numbers?

11 A. Yes, ma'am.

12 Q. Okay. So what was the -- do you recall what the
13 original offer in the case was?

14 A. The first offer, I think, it was 40 years. And I
15 said no to that. And I think she went back to them and
16 the number that everybody was looking towards was
17 between 25 and 30, between that range.

18 Q. 25 and 30 years?

19 A. Yes, ma'am.

20 Q. Okay. And so when she went back to the
21 solicitor's office, that was the counter offer that you
22 all came up with?

23 A. Yes, ma'am.

24 Q. Okay. And what happened with that count?

25 A. If I'm not mistaken, I think he was okay with

1 that and we would leave it up to the judge to make a
2 final decision on it.

3 Q. When you say "he" you're speaking of Mr.
4 Goldberg?

5 A. Yes, ma'am.

6 Q. The assistant solicitor?

7 A. Yes, ma'am.

8 Q. So he was -- Mr. Goldberg was fine with the 25 to
9 30 years?

10 A. Yes, ma'am.

11 Q. Okay. And what, if anything, did you all decide
12 in terms of going forward with a plea at that time?

13 A. With the plea they would drop the armed robbery,
14 two of the attempted murders.

15 Q. Okay.

16 A. And like I said, it would be left up to the judge
17 to make the final decision.

18 Q. Okay. But the final decision would be with the
19 25 to 30 years?

20 A. It would be within that range yes, ma'am.

21 Q. Okay. And so did you all do any other
22 negotiations?

23 A. No, ma'am.

24 Q. And kind of, can you explain to the Court why you
25 decided to accept the plea offer for 25 to 30 years?

1 A. I accepted, I chose to accept that plea because
2 it was -- I also had the chance of getting life without
3 parole papers, so that's what made me go towards the
4 plea. So with that, it dropped two of the attempted
5 murders and the armed robbery. So that's why I thought
6 it was, with the judge having the actual last say so,
7 that it might benefit me in a way with him having a say
8 so and not the solicitor who may be asking for more or
9 the maximum on all charges.

10 Q. All right. So what, if any, discussions did you
11 have with Ms. Davis about the life without parole?

12 A. We was actually, that day that we came to court,
13 that was the day I was supposed to come in front of the
14 judge and get the papers that day, but we ended up
15 talking different pleas.

16 Q. You and Ms. Davis?

17 A. Yes, ma'am.

18 Q. Okay. And so you understood what life without
19 parole was before that day?

20 A. She explained it to me and I understood what it
21 was.

22 Q. So prior to coming to court, you all had a
23 discussion?

24 A. Yes, ma'am.

25 Q. Okay. And so instead of going forward with the

1 life without parole, you decided on that day to plead?

2 A. Yes, ma'am.

3 Q. Okay. And on that day when you went before the
4 Court, according to your sentencing sheets, it says that
5 you plead as indicted without negotiations or a
6 recommendation.

7 A. Yes, ma'am.

8 Q. So the 25 to 30 years, that was no more?

9 A. From my understanding it would be -- we knew we
10 wouldn't get, like, small numbers. We knew we wouldn't
11 get 150 years, like, maximum each of the charges, but we
12 knew it would be somewhere in the middle. That was my
13 understanding.

14 Q. Okay. So I guess what I'm trying to get to is
15 you don't -- at this point you don't have any
16 recommendations and you don't have any negotiations,
17 correct?

18 A. Yes, ma'am.

19 Q. And so that just means you're pleading straight
20 up?

21 A. Yes, ma'am.

22 Q. Okay. So at what point did the 20 -- when did
23 you all say you didn't want to do the 25 to 30 years?

24 A. That was -- when you say straight up, my
25 understanding was that it would be left to the judge in

1 between the zero to 30 for each of the attempted
2 murders.

3 Q. But my question is why did you decide to do that,
4 as opposed to accepting the 25 to 30 years?

5 A. Because I felt like with the zero to 30, the 30
6 would have been the most that I got. It wouldn't have
7 been consecutive time behind each other. I wouldn't
8 have got 30 on each charge. They was gonna try and ran
9 consecutive.

10 Q. So as to when you all were talking about the 20
11 to 30 years, what was the understanding, that the
12 charges would be consecutive or concurrent?

13 A. That would be altogether concurrent, no more than
14 30.

15 Q. Okay. All right. So on that day you talked to
16 Ms. Davis, you all made a decision to go forward without
17 recommendation and negotiations. And you had an
18 understanding or you felt like you would get concurrent
19 time.

20 A. Yes, ma'am.

21 Q. Okay. And on that day you pled before Judge
22 Hood, correct?

23 A. Yes, ma'am, Judge Hood.

24 Q. And your sentence that you received was, as far
25 as the attempted murders? Can you tell us what you

1 received?

2 A. Thirty years. For each, each one of them it was
3 five and they ran it concurrent.

4 Q. So all of the attempted murders ran concurrent?

5 A. Yes, ma'am.

6 Q. Okay. And what happened with the five years?

7 A. The five years was consecutive for the killing of
8 the police K-9.

9 Q. And so did you have a problem with having the
10 consecutive five years?

11 A. Yes, ma'am.

12 Q. Okay. And what was that problem?

13 A. It could have went even worse as it could have
14 been consecutive each of the attempted murders and it
15 would have opened up a whole new area of 30 on top of 30
16 on top of 30.

17 Q. Okay. And so you -- what did your lawyer do at
18 this point? It could -- you said it could have been
19 worse. What did she not do at this point in the plea
20 that you felt she should have?

21 A. Like I said, from my understanding that it would
22 be between zero to thirty and that it would be up to the
23 judge and that neither side would say any recommendation
24 or negotiation. It would be left solely to him. But
25 when it was time to plea, the solicitor said he

1 recommend more than what the zero to 30 was. And I
2 understand that both sides were supposed to be silent
3 and let him have the final say so, so I felt like that
4 go against what we agreed upon.

5 Q. But you do understand that you said without
6 negotiation or recommendations, right?

7 A. Yes, ma'am.

8 Q. So I guess what I'm trying to understand is, did
9 you discuss with your attorney what negotiation --
10 without negotiation and recommendation meant?

11 A. We discussed it, but not to the terms of when I
12 finally knew what it was, what it meant. Like, I
13 finally figured out that he could say something, he
14 could make a recommendation. He couldn't stop him from
15 saying what he choose to, but at that time I didn't know
16 that.

17 Q. Okay. And so is that the only thing she did not
18 do in the plea before the Court?

19 A. Yes, ma'am.

20 Q. Okay. Now, you have also your second allegation
21 is involuntary guilty plea. And you're stating that you
22 entered into a plea and it was involuntarily entered
23 into without knowledge, knowingly and intelligently
24 entering into the plea?

25 A. Yes, ma'am.

1 Q. Okay. Can you explain to the Court what you mean
2 by that?

3 A. Basically if, if I knew the parameters of the
4 known negotiations, I would have took my chance at might
5 as well go ahead and go to trial because it would be the
6 same consequences as the plea and the trial. It would
7 be the same, because pleading I could have got the same
8 thing I did if I went to trial.

9 Q. Well, what do you mean pleading you could have
10 gotten the same? Tell the Court what you mean by that.

11 A. By pleading, that means that with it being he
12 recommend the max I could have gotten. The max on each
13 five of the attempted murders and everything. But by
14 going to trial I could also get life without parole and
15 I would still have my rights for that.

16 Q. Okay. So you're saying that if they ran all of
17 the attempted murders consecutively --

18 A. Yes, ma'am.

19 Q. -- it would amount to pretty much a life
20 sentence?

21 A. Yes, ma'am.

22 Q. Okay. And so explain to the Court how you're
23 asking the Court to grant your relief in this because
24 based on your not understanding, correct?

25 A. (Witness nods head up and down.)

1 Q. It renders your plea involuntary?

2 A. Yes, ma'am.

3 Q. Okay. And the understanding of the actual
4 sentencing or how the plea process works, is that what
5 you're saying?

6 A. Yes, ma'am, both of them.

7 Q. Is there anything else as to the involuntary
8 guilty plea?

9 A. No, ma'am.

10 Q. Your third allegation is that your due process
11 rights were violated.

12 A. Yes, ma'am.

13 Q. Can you explain what you mean by your due process
14 rights being violated to the Court.

15 A. Because as far as not being able to get all of my
16 access to my motions and just the part of understanding
17 the plea and the negotiations and all that together.

18 Q. So when you say motion, explain to the Court what
19 you mean. Do you mean the evidence?

20 A. It was evidence in the case that I felt was
21 missing, and I was pushing to get it. But I didn't feel
22 like she was focused on that as much as other aspects of
23 the case.

24 Q. All right. Let's break that down. When did you
25 ask Ms. Davis to give you -- well, first of all, what is

1 the evidence that you feel like was missing?

2 A. The evidence that I feel like was missed was the
3 chain of command with the gun that was involved in the
4 case and the documentation of processing the gun.

5 Q. All right. So the gun that the law enforcement
6 took into evidence and they bagged it and took it when
7 they made your arrest?

8 A. Yes, ma'am.

9 Q. Okay. And what did you have that led you to
10 believe, or what did you see that led you to believe
11 that you didn't have all of the evidence?

12 A. Well, some way throughout any process they should
13 tag the gun, inspect it, write down what was found in
14 the gun or anything of that aspect. That's nowhere in
15 my motion. Only thing that's in there was four bullets
16 that they found that they tested at one of their labs in
17 the supplemental report. But as far as the chain of
18 command, finding the gun and tagging it, clearing it or
19 anything of that, none of that's in there.

20 Q. So did you have a copy or did you go over the
21 discovery with your attorney?

22 A. Yes, we went over it.

23 Q. Okay. And at the time that you went over it, did
24 you tell her that these things were missing?

25 A. Yes, ma'am. I think one time she did a motion to

1 make sure that everything was in the motion except that
2 nothing was missing. She got a few extra things, but
3 that still didn't come out, that didn't show up.

4 Q. All right. Let's clarify something. When you
5 say the motion within the things that are in the motion,
6 you mean she filed a motion in the clerk's office for
7 the Court to hear regarding any discovery. And when you
8 say motions, it's discovery of evidence in your case?

9 A. Yes, ma'am. Make sure that anything else that
10 wasn't in the actual motion for her to get it.

11 Q. Okay. And so you discussed with her the chain of
12 custody on the gun. What other missing items did she
13 not get?

14 A. That was the main thing. That was it.

15 Q. Nothing else?

16 A. No, ma'am.

17 Q. Okay. And so up until the point you got ready to
18 plead, you pled on January the 6th, did you discuss that
19 with her as to that's gonna make a difference as to how
20 you accept the plea or whether you want to go to trial
21 or not?

22 A. Yes, ma'am. I expressed that, like, throughout
23 the pleading time. I expressed it on and off about
24 being adamant about that specific thing, about the gun
25 itself.

1 Q. But ultimately you ended up pleading?

2 A. Yes, ma'am.

3 Q. Okay. Now, why did you end up pleading?

4 A. I ended up pleading for the fact of I didn't know
5 what I know now and I figured that at that time the plea
6 would have been better than going to trial.

7 Q. All right. So after you entered your plea, there
8 was a Motion to Reconsider by you?

9 A. Yes, ma'am.

10 Q. Okay. And did any of your issues that you've
11 stated as far as ineffective assistance of counsel,
12 involuntary guilty plea, or due process violation, did
13 you have -- do you have any issue with that Motion to
14 Reconsider?

15 A. Yes, ma'am. The judge denied the Motion for
16 Reconsider, I would say 2015. And we didn't know about
17 that or he didn't let me know about the Motion to
18 Reconsider. We found about -- found out about it in
19 2016, if I'm not mistaken.

20 Q. So the motion was filed January 14, 2014?

21 A. Yes.

22 Q. Okay. And then the judge entered his order as to
23 -- or denial as to that Motion to Reconsider on March
24 6th, 2015?

25 A. Yes, ma'am.

1 Q. And then -- but you didn't find out about that
2 motion -- his denial of your motion in March of 2015,
3 did you?

4 A. No, ma'am.

5 Q. But then there was another motion filed for
6 clarity.

7 A. Yes, ma'am. Ms. Davis came to visit me at the
8 jail around 2016, and I forgot exactly what it was but
9 some kind of way she eventually found out about the
10 denial on the Motion to Reconsider and that's when she
11 filed a Motion to Clarify to find out what exactly was
12 going on with the judge's decision.

13 Q. Okay. And then the judge ultimately denied that?

14 A. Yes, ma'am.

15 Q. Okay. And then from there what, if anything, did
16 you discuss with your attorney?

17 A. Next after the Motion to Clarify and all that, I
18 was gonna go forth with a motion to withdraw my plea and
19 basically start over from the beginning. She helped me
20 with that, but I didn't go through with it, so I removed
21 the motion to withdraw my plea.

22 Q. And why were you gonna go through a motion to
23 withdraw your plea?

24 A. Because I felt like basically if I was pleading,
25 I might as well take my chances and go to trial instead.

1 Q. And what, if anything, did you all discuss about
2 a motion to withdraw?

3 A. She told me that basically everything would be
4 like you got arrested the first time. All the charges
5 will be brought back up, so I'd start over from square
6 one.

7 Q. And so, again, you looked through that?

8 A. Yes, ma'am.

9 Q. And then ultimately you filed or someone filed a
10 Notice of an Appeal.

11 A. Yes, ma'am.

12 Q. Who filed the Notice of Appeal?

13 A. I'm thinking I filed the Notice of Appeal, yes,
14 ma'am.

15 Q. So you filed your own Notice of Appeal, your
16 attorney didn't help you with it?

17 A. I think. I'm not really sure, but I think in
18 some kind of way she did help me or let me know about
19 it.

20 Q. And what happened with your notice to -- well,
21 what happened to your appeal?

22 A. I think the appeal was, it wasn't, they're
23 saying, it wasn't in a timely manner, if I'm not
24 mistaken, because of the lapsed time. But we didn't
25 know about the Motion to Reconsider, the substance of

1 that. I think that was the issue.

2 Q. Okay. So when -- do you recall when you withdrew
3 your Motion to Withdraw your guilty plea?

4 A. It was probably about two months, two or
5 three months from after I actually initially did it. So
6 I'm saying if it was in July, I'd say August, September,
7 somewhere around that time, if I'm not mistaken.

8 Q. Well, if I told you your motion, you filed a
9 motion -- well, it looks like you filed a motion in
10 August.

11 A. Yes, ma'am.

12 Q. Or is that incorrect?

13 A. That sounds right, yes, ma'am.

14 Q. Okay. All right. So what, if anything, are you
15 alleging in your application that your attorney didn't
16 do something as it relates to that whole process?

17 A. The fact that just basically -- she did let me
18 know what would happen in the motion to withdraw a plea.
19 How it would clean out everything. She did let me know
20 about that.

21 Q. Okay. And I get you're saying she let you know
22 about that, but is there something she did not do as it
23 relates to your Motion to Reconsider and as to your
24 Motion to Clarify that you felt she should have done?

25 A. No, ma'am.

1 Q. As it relates to your Notice of Appeal, is there
2 anything you felt that she did not do that she should
3 have done?

4 A. No, ma'am.

5 Q. And so with all that you testified thus far, how
6 has your lawyers alleged ineffective assistance of
7 counsel in this involuntary guilty plea and due process
8 violation prejudice you?

9 A. I feel like I would have had a different outcome
10 if I, if I understood or knew the difference of what the
11 actual plea of no recommendations, no negotiations
12 meant. I felt that I could have went about it a
13 different route if I actually did have the actual
14 evidence that I was looking for out of my motion.

15 Q. And that actual evidence being the chain of
16 custody?

17 A. Yes, ma'am.

18 Q. Is there anything else?

19 A. No, ma'am.

20 MS. MOODY: Thank you. No more questions for
21 this witness, Your Honor.

22 THE COURT: Uh-huh. By the State.

23 MS. KINARD: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MS. KINARD:

1 Q. Good afternoon, Mr. McCreary.

2 A. Good afternoon.

3 Q. Thank you for your patience today. You testified
4 that you met Ms. Davis about six to seven times while
5 you were at Richland?

6 A. Yes, ma'am.

7 Q. Okay. And during that time I believe you
8 testified you reviewed all the discovery that she had.

9 A. Yes, ma'am.

10 Q. Okay. And within that discovery, you thought
11 that information regarding a chain of custody regarding
12 a gun was missing?

13 A. Yes, ma'am.

14 Q. Okay. And did you ask her to try to get that
15 from the solicitor?

16 A. Yes, ma'am. I've asked her about it three times,
17 yes, ma'am.

18 Q. Okay. And you still haven't received that?

19 A. No, ma'am.

20 Q. Okay. Now, it's my understanding, and please
21 tell me if I'm wrong, that you're stating you did not
22 understand how your plea was going to go forward.

23 A. At that time the way she explained it and what I
24 thought it was, was something different than, than what
25 it actually was.

1 Q. So you thought nobody was gonna go in there and
2 say a number of years at all?

3 A. No, ma'am. The way she made it seem was that it
4 was solely up to the judge for him to choose and decide
5 what he wanted to decide, that neither side -- she
6 wouldn't -- she wouldn't ask for the lowest number or
7 the solicitor wouldn't ask for the highest number, but
8 it would be solely in the judge's hand to make the final
9 decision.

10 Q. What led you to believe that it wasn't in the
11 judge's hands?

12 A. Because, like I said, I thought both sides would
13 be silent and let him choose, but a factor that I said
14 that played a difference was the solicitor asked him for
15 consecutive, the max that would make the judge's
16 decision different than whatever he had chose from the
17 beginning.

18 Q. Okay. So did anybody go in there and say, hey,
19 Your Honor, we agreed that he would get 30 years?

20 A. No, ma'am.

21 Q. Okay. Were you on any kind of supervised release
22 at the time of this crime?

23 A. Yes, ma'am.

24 Q. What was that?

25 A. I had three years of probation left.

1 Q. Left?

2 A. Yes, ma'am.

3 Q. Okay. And was that dealt with through the course
4 of this plea?

5 A. Yes, ma'am.

6 Q. Okay. And where -- the convictions that you had
7 earlier, that's what led to you being served with LWOP
8 papers if you hadn't pled?

9 A. Yes, ma'am.

10 Q. Okay. And did you understand the minimum and
11 maximum penalties for these crimes?

12 A. Yes, ma'am.

13 Q. So you understood attempted murder carries zero
14 to 30?

15 A. Yes, ma'am.

16 Q. And you were faced with five charges of that?

17 A. Yes, ma'am.

18 Q. And you knew the judge could run them
19 consecutively if he wanted to?

20 A. My understanding that the number 30, it wouldn't
21 have went past that. So my understanding was between
22 zero and 30.

23 Q. So you thought walking out of there with 30 was
24 the most you could get if you pled?

25 A. Yes, ma'am.

1 Q. Okay. And as part of your plea, several other
2 charges were dismissed; is that correct?

3 A. Yes, ma'am.

4 Q. Okay. And that was really the only negotiation
5 you had with the solicitor's office, that if you pled
6 they'd drop those charges, but you didn't agree to the
7 number?

8 A. Yes, ma'am.

9 Q. Okay. Now, regarding specifically your attorney,
10 did you have a chance to tell her your version of
11 events?

12 Q. As in based on the case itself?

13 A. Yeah. Tell me what happened that night.

14 Q. Yes, ma'am. We had time to talk and I gave her
15 my version of the story of what happened.

16 A. Did you, because it's not in here, do you
17 maintain your innocence? Do you think you did this? Do
18 you admit you did it?

19 A. I maintain my innocence. And during that time I
20 did admit to shooting a dog, but that was only it.

21 Q. Okay. So you admitted to shooting the dog, but
22 not attempting to shoot the officers?

23 A. Yes, ma'am.

24 Q. Okay. So if you went to trial or if you win this
25 PCR and go to trial, what kind of evidence do you think

1 would be presented on your behalf?

2 A. Like I said, basically with that one piece of
3 evidence that will prove the difference in the case of
4 the police officer saying that I did try to shoot at
5 them. That would make the difference in the case.

6 Q. The chain of custody regarding the gun?

7 A. Yes, ma'am.

8 Q. Does that involve -- do you use fingerprints or
9 DNA?

10 A. Not just fingerprints. A lot of statements from
11 the police officer saying that I fired numerous amount
12 of times. But the evidence from what they will show,
13 will show that that's not accurate and it would side
14 with me and my version of what actually happened.

15 Q. Do you feel like you could prove that without the
16 piece of evidence you were missing?

17 A. No, ma'am. I need that piece of evidence.

18 Q. So had you gone to trial or if you were to go to
19 trial, do you only feel that you would be successful if
20 that piece of evidence comes to light?

21 A. I feel it's a chance that I could be successful,
22 but that would just -- that would make it more profound.

23 Q. And you realize that if you win this case and go
24 to trial, it's as if none of those charges were dropped
25 and you never pled?

1 A. Yes, ma'am, I start over.

2 Q. So you could still be facing LWOP?

3 A. Yes, ma'am.

4 Q. Okay. Just wanted to make sure. I have no
5 further questions. Thank you, Mr. McCreary.

6 THE COURT: Any redirect?

7 MS. MOODY: Beg the Court's indulgence. No, sir,
8 Your Honor.

9 THE COURT: You may step down.

10 (Whereupon, witness leaves witness stand.)

11 THE COURT: Next witness.

12 MS. MOODY: Your Honor, at this time I would call
13 Ms. Davis to the stand.

14 (Whereupon, witness comes forward.)

15 THE CLERK: State your full name, please.

16 THE WITNESS: Jennifer Davis.

17 THE CLERK: Do you solemnly swear that the
18 testimony you're about to give in this case will be the
19 truth, the whole truth and nothing but the truth so help
20 you God?

21 THE WITNESS: I do.

22 THE CLERK: Thank you.

23 JENNIFER DAVIS,
24 having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MS. MOODY:

2 Q. Good afternoon, Ms. Davis.

3 A. Afternoon.

4 Q. Do you recall representing Mr. McCreary?

5 A. Yes.

6 Q. Okay. And were you his original attorney?

7 A. Yes.

8 Q. Okay. You've heard his testimony here and you
9 remember all the charges that were involved.

10 A. Yes.

11 Q. And do you recall the -- what, I guess what the
12 negotiations were in terms of trying to get a plea out
13 of this case?

14 A. Yes. Like just throughout the case, where it
15 went?

16 Q. Yes.

17 A. Yes.

18 Q. Can you tell us what was -- how many times did
19 you go back for the negotiation of this plea?

20 A. Um, I mean, I can go through and probably count
21 specifically how many times, but it was ongoing
22 throughout the entire representation up until the week
23 before he pled. Even the day of the plea we were still
24 trying to get the solicitor to dismiss some charges.

25 Formal offers that were made, I think the initial

1 offer was a cap of 40, which was rejected. And then I
2 think the next offer was 25 to 35 agreed, like
3 negotiated. We did not take that. And then the final
4 offer was essentially straight up.

5 And I think the confusion there, I think, in
6 terms of what Maurice was testifying about, is it was
7 straight up because we never wanted to agree to the
8 minimum of 25 years or to, you know, a minimum of 30
9 years under those circumstances.

10 What the solicitor had told me, though, was that
11 he would still only be asking for, you know, around 25
12 to 35 years. And then I think what he said about law
13 enforcement is that no one would be coming in asking for
14 like a hundred years. And so I did tell Maurice that
15 those were part of the conversations I had with the
16 solicitor, but there was no formal recommendation in
17 terms of the plea offer.

18 Q. Okay. So when -- okay. The 40, that was
19 rejected, but when you got to the 25 to 35, really just
20 stated that it was agreed to be negotiated. Are you
21 saying negotiated in the technical sense, or are you
22 saying just negotiated and you all can talk about it?

23 A. That offer was officially made 25 to 35 as a
24 range that would be negotiated as a plea, meaning
25 Maurice would be agreeing to a minimum of 25, up to 35

1 years.

2 Q. Okay. Negotiated?

3 A. Um, as a formal negotiated plea, yes.

4 Q. Okay.

5 A. That was rejected because that required a
6 minimum, you know, agreeing to a minimum of 25 years.
7 And then that's when we came to -- back and forth came
8 to essentially straight up with some charges being
9 dismissed. And then the conversation I told you about
10 in terms of what the solicitor's stance would be, law
11 enforcement's stance. And then we would be asking -- I
12 think we ended up asking for 10 to 15, I think,
13 ethically.

14 Q. So -- okay. So when you said there was an
15 agreement and the agreement only goes to dismissal of
16 charges?

17 A. In terms of the -- yes.

18 Q. Certain charges would be dismissed. That's the
19 two attempted murders and the armed robbery?

20 A. I think there was --

21 Q. Two armed robberies?

22 A. Right. I think it was two armed robberies were
23 dismissed and -- yeah. And then attempted -- one
24 attempted murder.

25 Q. Okay.

1 A. I believe.

2 Q. All right. But as far as the amount of time that
3 Maurice would be facing, would be left up to the judge,
4 correct?

5 A. The final decision, yes. There was no, no
6 meeting of the minds or agreeing on --

7 Q. Right.

8 A. -- what the number would be, correct.

9 Q. So when you had opportunity to explain this to
10 Mr. McCreary, did you explain -- well, I know you
11 probably didn't say meeting of the minds, but did you
12 explain to him that the only thing that will occur is
13 the dismissal of those other charges that we talked
14 about being dismissed, that will stay. And then you'll
15 just go before the judge and the judge will determine
16 the amount of time?

17 A. Um, I mean, certainly that was part of the
18 conversation. I did tell him, as I kept going to the
19 solicitor, I was basically trying to get as much
20 possible information as I could about the plea because,
21 you know, I knew and Maurice knew that it was high
22 profile. I knew law enforcement was gonna be present.
23 So I was trying to get as much information as I could.

24 So there was no formal recommendation at that
25 point of the State recommending, you know, checking the

1 box 25 to 35. But he had indicated that that was still
2 their stance.

3 Q. Okay.

4 A. And so I did relay to Maurice, you know, my
5 understanding the State's still gonna ask for somewhere
6 around 25 to 35. Law enforcement's not gonna be asking
7 for a hundred years. You know, but in the end it's up
8 to the judge and this, you know, we would be asking for
9 10 to 15.

10 Q. So when the solicitor asked for the consecutive
11 amount of time, did you have -- had he informed you of
12 that information that he was gonna ask for, I guess, the
13 as far as the shooting of the dog outside of the
14 attempted murder, had he talked about that being
15 consecutive or...

16 A. Well, I knew inherently it had to be consecutive.
17 If he was asking for 25 to 35, you only get to 35 if
18 you're -- somehow something has to be consecutive to get
19 to that because it's zero to 30 and zero to five.

20 So in relaying an offer, I knew that meant some
21 level of, you know, something had to be consecutive to
22 the other to get to the range of 35. But there was
23 never -- I guess that's the -- I think that's where the
24 confusion is, is there was never -- the offer wasn't the
25 solicitor was gonna come in and say I just want

1 consecutive time.

2 My understanding, as the plea was finishing, I
3 realized, you know, he had never said 25 to 35 and had
4 only said we're asking for consecutive time. And law
5 enforcement, I can't -- I'd have to look through the
6 plea to see how many spoke, but include -- you know,
7 several officers spoke, including our investigator
8 spoke, including, I think, Sheriff Lott. And a couple
9 of them, at least one of them I know said they wanted
10 the max allowed.

11 Q. Okay. So the max allowed in terms of -- and I
12 guess this is another level to it as far as the
13 confusion is concerned. When you started talking about
14 the attempted murders, had -- were there always
15 understood (sic) that those would be consecutive --

16 A. The -- it was ---

17 Q. Or, excuse me, I'm sorry, concurrent?

18 A. No.

19 Q. They would all run together?

20 A. No.

21 Q. Okay. So at no point did he assure you that it
22 could come back as being just concurrent, running all of
23 the attempted murders together?

24 A. Right. Yeah. The offer was never plead as
25 charged, but we'll say concurrent on everything.

1 Q. Okay.

2 A. Right.

3 Q. So going into the plea on the straight up plea,
4 it was a chance that the judge could have exceeded the
5 35 years?

6 A. Right. Had the solicitor said what I anticipated
7 him saying, which was we're asking for 25 to 35, yes,
8 technically, yeah, a judge could still have decided they
9 were gonna go over that.

10 Q. Okay. Did you have an opportunity to discuss
11 that with Mr. McCreary?

12 A. We did. We talked about all of the options that
13 we had on the table.

14 Q. Okay. And so now this particular plea took place
15 on the day that he was supposed to get the notice for --
16 or be present for a notice of LWOP?

17 A. I think that's right. I know he was set for
18 trial the following Monday. The solicitor and I know
19 had gone back and forth about the LWOP notice, you know,
20 back and forth. I think, I mean that sounds -- I can
21 look through my notes to find out for sure if he was
22 going to be served that day. I think we had agreed that
23 the plea was happening because I went and saw him the
24 Sunday before. So I think we kind of knew the LWOP
25 wasn't going to happen because the plea seemed to be

1 going forward.

2 Q. Okay. And so as to the chain of, the chain of
3 custody related to the gun, what, if anything, do you
4 recall trying to get from the State or discussing or had
5 you stopped working on any of that?

6 A. No. We had not, definitely did not stop working
7 on it because, like I said, the trial was the 13th and
8 the case had always been tough of whether to go to a
9 plea or a trial. I think, again, I think there's a
10 little confusion just in the way he was wording it. It
11 wasn't the chain of custody we were missing. We
12 certainly had, you know, they had the gun, who touched
13 it, took it, you know, back and forth.

14 I think the issue was the ballistics report that
15 we got, they -- our argument would have been -- we
16 actually had an expert to talk about this, I think --
17 was that they didn't document all the information they
18 should have about the gun. Primarily how many bullets
19 were in the gun when they actually retrieved it.
20 Someone had emptied it all out, and so that's the only
21 information we had.

22 And so, you know, as the defense we were trying
23 to figure out well how many were in there to start to
24 try and account how many shots he actually shot because
25 there is a dispute about was it just at the dog, was it

1 the police. So I think that's the information that I
2 recall being an issue in terms of ballistics.

3 Q. Okay. So you're saying you all discussed all
4 this as you were preparing for the trial?

5 A. Right. And we, I think we had done, I think my
6 notes are correct, we had done three different motions
7 to compel. I think the last one had been sometime in
8 December. And I looked through my notes and kind of
9 followed the e-mail from Mr. Goldberg taking off the
10 other, I think, six that were outstanding. But I think
11 that's the issue I remember about the ballistics.

12 Q. And so was there any question -- well, you had
13 the opportunity to talk to Mr. McCreary about his
14 version of the events, and I think he alluded to that
15 earlier.

16 A. Uh-huh.

17 Q. So was there a question or was it you all were
18 working on how you would present his version of events
19 in terms of he was not shooting at the police or were
20 you using it for purposes of just impeaching the fact
21 that all of these people would not have been shot at
22 based on the number of bullets?

23 A. It was both. If we were proceeding to trial, we
24 certainly would have, you know, attempted to elicit that
25 information during the State's case and/or, you know, if

1 we got to the point when Maurice was gonna testify he,
2 you know -- he had given a statement to police about
3 what he said happened. And so if he had wanted to
4 proceed and actually testify, we would have done both of
5 those things.

6 Q. And so he ultimately ended up pleading. And
7 outside of the discussions about the, what the solicitor
8 -- where you all were in terms of the plea, that it was
9 gonna be a straight up plea, did you have any other
10 conversations before going into the plea or did ---

11 A. Uh, conversations about what? I mean, that day I
12 talked to him. The plea was on the 6th. I met with him
13 that Sunday as well and went through and said what the
14 solicitor was, you know, what I thought the solicitor
15 was gonna ask for at the plea, even though it was
16 straight up. I had met with him, I think, I met with
17 him January 3rd and the 5th. And then he was over on
18 the 6th. So I'm not sure what exactly you're asking
19 what we talked about. I mean, at that point we were
20 talking about what the plea would be like and what a
21 trial would look like still.

22 Q. So you testified earlier that there was an LWOP
23 notice coming.

24 A. Right.

25 Q. But on that particular day you just testified

1 that you were pretty certain that he was going to plead
2 on that day. And so it wasn't -- I guess I'm kind of
3 confused as to whether it was confusion as to whether he
4 was going forward to receive the notice of an LWOP or
5 whether he was just, he was there just for the plea.

6 A. Right. Well, I think what would have happened if
7 he had not pled that day, the solicitor would have
8 served life without parole notice. So because the plea
9 went forward they did not serve notice. But I talked to
10 him, I think, the Friday before and he was still not
11 sure, I mean, what he wanted to do. So I mean I don't
12 -- I assume that had he not pled that day, the
13 solicitor, the plan would have been he would have served
14 LWOP before trial.

15 Q. Okay. Hold on one second. I'm confused on this.

16 A. Okay.

17 Q. When he came on that day to do the plea and you
18 all did the plea on June 6th --

19 A. Right.

20 Q. - did you have to have another discussion with
21 him about pleading or not?

22 A. He ---

23 Q. Did you all discuss whether he was going to plea
24 or not on the 6th?

25 A. Of course. Because we went through -- we

1 actually went through his paperwork, I believe, on
2 January 3rd. He still wasn't sure, so I went back on
3 Sunday, January 5th. We talked about everything again.
4 He came over January 6th and we went over what trial
5 would look like, what a plea would look like. I
6 continued to negotiate with Mr. Goldberg about he wanted
7 three charges dismissed. The solicitor agreed to end up
8 dismissing two of the three. Went back to holding,
9 talked to him some more. And then eventually the plea
10 happened.

11 Q. Okay. Now, you filed the Motion to Reconsider,
12 and what was the basis of your Motion to Reconsider?

13 A. Once the plea was over and the sentence was
14 given, I did, personally I felt like what the solicitor
15 had asked for was not what I anticipated him asking for.
16 And that he -- I thought he would be asking for the
17 numbers 25 to 35. And instead he said consecutive. So
18 I went and I think -- I'm not sure what day, but I went
19 and talked with Mr. McCreary on January 13th about, you
20 know, that being a little bit different, what did he
21 think about that. Options of trying to file either a
22 Motion to Reconsider to explain to the judge what I felt
23 the issue was and/or a Motion to Withdraw the plea. You
24 know, either of those options. And at that time we
25 decided to file the Motion to Reconsider and see what

1 happened and then go from there.

2 Q. Okay. Let me get this right. So because he said
3 the word consecutive, you felt like he was outside of
4 the 25 to 35?

5 A. Debatable, but yes. I mean, certainly one, one
6 interpretation would be consecutive would mean 30 plus
7 five, if you mean the attempted murders to be
8 concurrent. I thought there was at least the perception
9 that the judge could be thinking that they were asking
10 for 155 years. I mean, I didn't know because it was
11 just a little different. So I wanted to talk with
12 Maurice about what he thought about it.

13 Q. Okay. But he did get the 35.

14 A. Right.

15 Q. I guess I'm trying to understand when you were
16 asking the judge to reconsider, you were not asking him
17 to go lower than 35, because he already had given 35.

18 A. At a Motion to Reconsider I would have been
19 asking for less, yes.

20 Q. Okay. And would you have gone back to the range
21 of 10 to 15?

22 A. I'm sure. I mean, I don't know because it didn't
23 happen.

24 Q. Okay.

25 A. But I imagine.

1 Q. And then what happened that you did not get
2 notice of the denial of the Motion to Reconsider?

3 A. Um, so we filed that -- the Motion to Reconsider
4 was, I think I saw it, January 13th, maybe.

5 Q. Right.

6 A. And then we did not find out that it had been
7 denied until June 30th, 2016. The judge actually had
8 denied it and filed it in the court 14 months after the
9 motion, but neither I nor the State was given -- like we
10 didn't know that it had been sent to the Clerk of Court
11 and issued. So I didn't know about it until we were
12 following up again because we didn't think it had been
13 ruled on and then realized that it was in the Clerk of
14 Court.

15 Q. Okay. And what was the purpose of the motion,
16 for clarity?

17 A. Uh.

18 Q. As to that, when he rendered the denial?

19 A. Right. So I filed a motion to clarify in terms
20 of the denial of the Motion to Reconsider because when I
21 filed the motion to reconsider it was -- it did not
22 include all of my reasons in it. I had a conversation
23 with the solicitor explaining to him why I thought it
24 was valid in terms of the, you know, differing requests
25 to the judge about sentence.

1 At that point I filed the motion and then
2 actually sent an e-mail to the judge and to the
3 solicitor outlining in detail what my grounds were in
4 the Motion to Reconsider and stated that I was happy to
5 file a motion including all of those things. But at
6 this point, the State and I thought that doing it this
7 way may be best. And then I, you know, there was no
8 response for me to file anything additional at that
9 time, so we were waiting.

10 Q. And so the Motion to Withdraw ---

11 A. Uh-huh.

12 Q. So did you just ask what -- obviously you
13 discussed it with Mr. McCreary.

14 A. Uh-huh.

15 Q. Did you discuss it with the State as to the
16 Motion to Withdraw?

17 A. Um, I may have. I'm not a hundred percent sure.
18 I would assume I may have e-mailed the solicitor and
19 said just so you know we might be filing this motion,
20 but I don't know that we would have discussed it beyond
21 that.

22 Q. And what was your basis for filing the motion to
23 withdraw?

24 A. The same basis as my Motion to Reconsider
25 Sentence because I thought there was at least an

1 argument that there is a detrimental reliance from
2 Maurice's part of saying if someone's asking for the
3 most of 35 years at a pleading, what a judge might
4 consider versus if someone's asking for 155 years and
5 what a judge might consider at sentencing. And so I
6 just, I wanted him to have the opportunity, if he wanted
7 to, to make that distinction.

8 Q. And then as to the Notice of Appeal, do you
9 recall whether you filed that or did ---

10 A. I filed it.

11 Q. Okay. And I guess it was denied December 2nd,
12 2016.

13 A. Right. I got in touch with appellate defense
14 about the general timeliness issue and that we felt
15 actual notice. It wasn't until, whatever the date was,
16 June 30th, 2017, and that because we didn't actually
17 have notice and we went ahead and filed the motion or
18 the appeal.

19 Q. And I think you said 2017, you mean 2016?

20 A. Oh, sorry. Sorry, yes.

21 Q. Okay. So based on your calculations, you had a
22 timeframe of when you felt that the notice would have
23 been triggered, it needed to be filed?

24 A. (Indicating.)

25 Q. So in order for you to file his appeal, you have

1 to file within a certain period of time --

2 A. Right.

3 Q. -- for a conviction or the reconsideration?

4 A. Right. As soon as all matters were concluded,
5 yeah, you have ten days to file the Motion to Appeal.

6 Or the -- yeah, to file the appeal. And I -- our
7 argument was that because no actual notice was given
8 about the denial, that we felt these things were still
9 timely.

10 Q. And so what date were you using, July 26th, 2016?

11 A. I would have been using the date that the Motion
12 to Clarify was pending until July 26th. Then to Motion
13 to withdraw was filed. So the date that the Motion to
14 Withdraw the guilty plea was withdrawn would have been
15 when all matters were concluded in the court, which was
16 September 1st, 2016. And so we filed the appeal
17 September 8th, 2016.

18 Q. And so -- but the Court took the position that it
19 was untimely?

20 A. Right.

21 MS. MOODY: Okay. No further questions from this
22 witness. Thank you.

23 MS. KINARD: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MS. KINARD:

1 Q. Ms. Davis, most of my questions are about what
2 you talked to Mr. McCreary about in terms of the plea
3 agreement.

4 A. Okay.

5 Q. Do you believe he understood the terms of our
6 negotiated or recommended?

7 A. Yes. I mean we had -- yeah.

8 Q. But it wasn't just that, you know, just because
9 you or Mr. Goldberg went in there and just said a
10 number, that wasn't a recommendation in terms of how we
11 use it, for example, on a sentencing sheet.

12 A. Right. And, I mean, that was the whole point is
13 that we -- the recommendations or negotiations that the
14 State would have made, we didn't want because of the
15 high minimum that required.

16 Q. And that's why the previous plea offers had been
17 rejected because they included agreements of minimums?

18 A. Right. Or, I think, the initial one, I think,
19 was a cap of 40, which --

20 Q. Was too high?

21 A. -- was just rejected early on, yeah.

22 Q. And the decisions was made after discussions
23 between you and Mr. McCreary?

24 A. The decisions about the plea offers?

25 Q. Yes.

1 A. Yes. I would have relayed them to him and gotten
2 his feedback on what he wanted to do with them.

3 Q. And you thought approaching the plea you did was
4 a straight up plea and those dropped charges was a safe
5 way for him to go ahead and accept the definitive plea?

6 A. Um, I mean we went back and forth on that and
7 that was his decision. We met in holding. I certainly
8 understood the hesitation considering the nature of the
9 charges. And we knew a lot of law enforcement was gonna
10 be here. And in the end, I think that the fact that the
11 solicitor had planned to go forward with life without
12 parole was probably the defining moment. We did try to
13 get them to do a trial without serving life without
14 parole, but that wasn't an option.

15 Q. And you stated that some of the law enforcement
16 officers that did testify did ask for maximum sentence.

17 A. I know I think it was one maybe said like for the
18 max allowed or something. I'd have to look back.

19 Q. And I wasn't quite sure of your testimony. Were
20 you surprised when Mr. Goldberg asked for consecutive
21 sentences?

22 A. Um, well, I was only in the fact that I was
23 expecting that he was gonna say a number. I asked him,
24 you know, he's the 25 to 35, I just assume that would be
25 the number he was gonna say. He just said they wouldn't

1 be asking for more than that, so consecutive was just
2 different than what we had talked about prior.

3 Q. And as you testified earlier, I believe, just
4 tell me if I'm wrong, the consecutive, you weren't sure
5 if that had been, for example, 30 plus five or 155
6 years.

7 A. Well, yeah, right. I mean, I think he literally
8 just said we're asking for consecutive time. I don't
9 remember if he asked for it once or twice, but he --
10 yeah, he didn't say we're asking for the max consecutive
11 or consecutive on the dog charges and the murder. He
12 just said we're asking for consecutive. So I thought
13 the interpretation was there for either.

14 MS. KINARD: And for the Court's reference, one
15 example of that is on Page 61, Lines 3 through 5.

16 MS. MOODY: What page?

17 MS. KINARD: 61, Lines 3 through 5.

18 BY MS. KINARD:

19 Q. And you testified that you went through all the
20 paperwork, all the expectations, how a plea would run,
21 things like that, with three of the five days leading up
22 to the plea.

23 A. Right.

24 Q. From the third through the sixth?

25 A. At least. I mean, we met multiple times before

1 that. I think I went through and looked at my notes and
2 we met 26 times. So we were always having conversations
3 about pleas and trials, going back and forth.

4 Q. Do you believe he understood the rights that he
5 gave up when he decided to plea, such as to a jury trial
6 to confront his accusers and to remain silent?

7 A. Right. Yes.

8 Q. He understood that?

9 A. (Witness nods head up and down.)

10 Q. And did you ever have any issues talking to
11 Mr. McCreary? And do you think he understood your
12 conversations?

13 A. No. I never had any concern that he didn't
14 understand what was happening, no.

15 Q. Now, you were present during his testimony; is
16 that correct?

17 A. Yeah. Yes.

18 Q. He testified that he thought that his plea was
19 involuntary because if he had known the parameters he
20 would have gone to trial so he could still fight, but he
21 didn't understand how sentencing and the plea process
22 worked. Do you believe that's a fair statement based on
23 -- I understand that's his perception, but do you
24 believe from your perception of it, that he understood
25 how the plea worked?

1 A. At the time of the plea I would hope yes. I did
2 not have any reason to think he didn't know what, what
3 the plea was going to entail. I think this all got
4 convoluted just over the different phrase and use of the
5 plea. And then my conversations with him after that.

6 Q. Okay. I have no further questions, thank you.

7 THE COURT: Any redirect?

8 MS. MOODY: Nothing further.

9 THE COURT: All right, thank you.

10 (Whereupon, witness leaves the witness stand.)

11 THE COURT: Any other witnesses by the applicant,
12 Counsel?

13 MS. MOODY: No, sir, Your Honor.

14 THE COURT: From the State?

15 MS. KINARD: No, Your Honor, nothing from the
16 State.

17 THE COURT: Any argument?

18 MS. MOODY: No, Your Honor. Other than based on
19 the testimony, again, there was confusion as to my
20 client's understanding as to what he was giving up and
21 his rights and the amount of time that he was exposed
22 to, in terms of whether there was a recommendation,
23 whether it was straight up. He did not understand that
24 he was -- his exposure was upwards of 150 years based
25 off of the number of charges that he was facing.

1 I think that in that he was trying to get the
2 30 years with all charges wrapped into that 30 years, it
3 appears that that was not the case; that throughout the
4 negotiations when they talked about the 25 to 35 years,
5 that that would have wrapped up all the charges,
6 including the dog case, the dog killing. So that would
7 have covered that.

8 And for some odd reason that he proceeded with
9 that thinking on to the plea. But the testimony that
10 came from his counsel was that he still was unsure as to
11 whether he should go forward and accept the plea offer
12 or not. And by his own testimony he states that he was
13 facing the amount of time, the same amount of time in
14 terms of whether he went to trial or whether he went to
15 plea.

16 He did articulate that he had issues with the
17 statements made by law enforcement as to whether he was
18 shooting at them or whether he was shooting -- the
19 record would state what exactly he said, but I believe
20 he said at the dog. And based on that, Your Honor, he
21 went forward thinking that he had wrapped up his -- the
22 amount of time that he would get to 30 years.

23 Also, his misunderstanding as to what
24 negotiations or recommendations meant, Your Honor. He
25 was not clear on what the State did say. And he feels

1 the State influenced the Court to go beyond, I guess,
2 the nine times he and his counselor had talked about
3 asking for in the plea versus what they discussed the
4 entire time, 25 to 35 years for his plea.

5 Based on that, Your Honor, I would ask the Court
6 to grant him his relief. He does realize that he would
7 start all the way over, but he would ask the Court to
8 grant his relief based on his misunderstanding of how
9 the plea process works and his understanding of what he
10 was agreeing to do. With that, I'm done.

11 THE COURT: All right. Ms. Kinard.

12 MS. KINARD: Thank you, Your Honor. I think it's
13 evident through testimony that though Mr. McCreary may
14 have had a little bit of misunderstanding regarding his
15 exposure, it is not through any fault of counsel. Ms.
16 Davis testified they met 26 times. And throughout that
17 time they discussed a trial, they discussed pleas, they
18 discussed the rights he'd be giving up, the information
19 they had against him.

20 They discussed the ranges. They entertained an
21 offer of 40 years and rejected that. They entertained
22 25 to 35, but rejected that because they didn't want a
23 minimum sentence stuck there.

24 I think Ms. Davis' testimony was very competent
25 and very credible and very clear that she, in her

1 discussions with Mr. Goldberg and Mr. McCreary, decided
2 that the best option was for them to go in there with
3 the negotiation that they had. In turn, some charges
4 were dismissed. And the solicitor would ask for 25 to
5 35, or that's the understanding of the time that would
6 be given.

7 That's exactly what he ended up with is 35 years.
8 Regardless of whether that came from, you know, the 30
9 on each attempted murder and the five on the police dog,
10 that is what he ended up with and that is within the
11 range of possibility as contemplated by him, as well as
12 the State.

13 THE COURT: Anything further, Ms. Moody?

14 MS. MOODY: As was stated a while ago, there was
15 no understanding, clearly, as to what the solicitor -- I
16 mean, I guess maybe between the lawyers there might have
17 been, but there seems to be some confusion because on
18 the sentencing sheet it says without negotiation or
19 recommendation. That means that there is no
20 understanding as to the amount of time that the
21 defendant would be facing.

22 So if he -- I guess it's kind of interesting that
23 he was still confused up until the very day that he went
24 to the plea, whether or not he was gonna plead to it.
25 And it seems that he was unclear as to how much time he

1 was being exposed to. And his issue was the fact that
2 the solicitor may have come in as to the recommendation,
3 when, if you say you're pleading straight up, it's just
4 straight up.

5 Now, I've explained to him that the solicitor
6 didn't say exactly, you know, or ask the Court what they
7 want when they're pleading straight up, but at that time
8 when he was entering the plea, he understood it to be
9 that no one would say anything and it would be solely up
10 to the judge to determine whether or not it was
11 concurrent. I believe concurrent and he'd have to say
12 consecutive, as well as it could have been up to 150
13 years versus it could be within that range of 25 to 35,
14 or it could be in the range of 10 to 15.

15 And I think that there was some confusion, so
16 much so that trying to understand why the Motion to
17 Reconsider was filed, and I guess the reason why there
18 was a Motion to Clarify, I guess that's the way to get
19 it back in before the Court, as well as when you miss
20 your timeframe to file your Notice of Appeal, you can't
21 garnish that time, you can't ask for an extension to
22 file again. And so I think that just based off of what
23 my client explained to me and what he testified here to
24 you today, and what his counsel testified, there was
25 some uncertainty as to what he was pleading to.

ORDER OF THE COURT

THE COURT: All right. Well, I've had the benefit of the transcript and reviewed the transcript. Everything was explained clearly by the judge, in addition to being explained by counsel. I don't see any basis for Mr. McCreary to now claim that he was confused about the time he was facing or his exposure.

The very first thing out of the solicitor's mouth in his presentation to the judge that this was a straight up plea, which means without negotiations. That was reiterated during the course of the plea colloquy by the judge and the solicitor and Mr. McCreary and Ms. Davis. A clear understanding he was pleading and whatever sentence he got would be up to the judge and the judge who has authority to decide the sentenced, decided the sentence.

He pled guilty to shooting at police officers and killing of a police dog. A dog that they cherished quite a bit. And it's just something that the officers were terribly hurt about, including not just for the dog, but their own injuries and it had a significant impact on law enforcement.

The crime itself, based on the transcript, is one in which, you know, indicates that they had over 40 people searching the woods and all over the place trying

1 to capture Mr. McCreary, who was on the run, eluded the
2 police. And the process of all this and after, after he
3 shot at the police and shot the dog, then he escapes.
4 And then a man hunt. They finally caught him in a
5 laundry room or a shed.

6 So it's a major crime.. And all of which occurred
7 while he was on probation. So for him to have any
8 expectation other than a lengthy prison sentence would
9 be fool hardy on his part, especially since he was
10 facing possible life without the possibility of parole
11 based on his prior criminal history and all the other
12 things.

13 So there's no basis for a PCR case here and I
14 deny the application. If the State would prepare a
15 prosed order.

16 MS. KINARD: Yes, Your Honor. Thank you.

17 MS. MOODY: Thank you, Your Honor.

18 THE COURT: All right. That's it for this day.

19 (Whereupon, court concluded at 2:08 p.m.)
20

21 --- THIS ENDS REQUESTED TRANSCRIPT ---
22
23
24
25

1 COURT REPORTER CERTIFICATE

2
3 I, the undersigned Julie A. Ashbrook, Court
4 Reporter for the Seventh Judicial Circuit Court of the
5 State of South Carolina, do hereby certify that to the
6 best of my ability the foregoing is a true, accurate,
7 and complete transcript of record of all the proceedings
8 and evidence introduced in the hearing and/or trial of
9 the captioned case, relative to appeal, in the Court of
10 Common Pleas for Richland County, South Carolina, on the
11 12th day of December, 2017.

12 I do further certify that I am neither of kin,
13 counsel, nor interest to any party hereto.
14
15
16
17

18 s/Julie A. Ashbrook.
19 Julie A. Ashbrook
20 Circuit Court Reporter
21 Seventh Judicial Circuit
22
23
24
25

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

Maurice A. McCreary, #345340)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

2017-CP-40-0865

ORDER OF DISMISSAL

This matter comes before the Court by way of an action for post-conviction relief (PCR) commenced February 13, 2017, by Maurice A. McCreary (Applicant). The State made its return September 14, 2017, requesting an evidentiary hearing. In its return, the State also moved for a more definite statement. An evidentiary hearing into the matter was held December 12, 2017.

At the PCR hearing, Applicant was present and represented by Leah B. Moody. Assistant Attorney General Jessica E. Kinard represented the State. Applicant and his plea counsel, Jennifer C. Davis, testified at the hearing. After a review of the record and the evidence presented, the Court finds Applicant has failed to meet his requisite burden of proof and denies relief and dismisses the action with prejudice.

FACTS & PROCEDURAL HISTORY

During the early morning hours of December 16, 2011, Applicant approached Thomas Harp, brandished a pistol, and asked Harp, "What you got? What you got?" (Plea Tr. 15-17). Applicant took Harp's money and demanded that Harp walk away. Applicant fired at Harp as Harp walked away. Applicant then fled. (Plea Tr. 17). Thereafter, Harp called 911 and reported the incident. (Plea Tr. 17). Law enforcement responded.

Investigator Warren Cavanaugh with the sheriff's department's K-9 unit responded along with his police dog, Fargo. (Plea Tr. 18). Investigator Oxendine was also present and provided

back up for Cavanaugh and Fargo as they searched. (Plea Tr. 19). Cavanaugh and Fargo began to search for Applicant. (Plea Tr. 18). Fargo eventually picked up Applicant's scent-trail and began tracking Applicant. Cavanaugh found disbursed dollar bills, varying in value, along the scent-trail. The scent-trail led towards an abandoned house. (Plea Tr. 18).

Cavanaugh and Fargo approached the abandoned house when Fargo alerted towards Applicant. (Plea Tr. 18–19). Applicant was hiding behind a fence outside the house. When Fargo alerted towards his location, Applicant fled. (Plea Tr. 19). Cavanaugh, Oxendine, and Fargo pursued Applicant. (Plea Tr. 20). Applicant approached a six-foot fence, scaled the fence, and continued to flee; however, Applicant fired two shots towards his pursuers as they approached the fence. (Plea Tr. 20). These gun shots were the basis of Applicant's first two attempted murder charges.

Oxendine injured his knee scaling the fence, and could no longer pursue Applicant. Cavanaugh and Fargo waited for other law enforcement to arrive at their location before recommencing their pursuit. (Plea Tr. 20–21). Shortly thereafter, Marvin Willis of the city police department and Deputy Trobathian Johnson responded to provide back up for Cavanaugh and Fargo. (Plea Tr. 21).

Fargo located Applicant's scent-trail, which led through the woods back to the road in front of the abandoned house. Fargo tracked Applicant's scent to an intersection where a city police cruiser was parked as a perimeter unit. On the other side of the intersection was a field. Fargo tracked the scent through the intersection, past the cruiser, towards the field. (Plea Tr. 21–22). Shortly after passing the cruiser, Fargo alerted towards Applicant—who was hiding in a “brushy mound area” of the field—and then latched onto Applicant. Simultaneously, Cavanaugh, Willis,

Johnson, and Officer Eric Walker used the police cruiser for cover. Applicant attempted to flee, but Fargo remained latched onto him. (Plea Tr. 22). Applicant shot Fargo.

Thereafter, Applicant fired on Cavanaugh, Willis, Johnson, and Walker who were by the cruiser. (Plea Tr. 22). After firing several shots, Applicant fled further into the field. (Plea Tr. 22–23). After being shot, Fargo returned to Cavanaugh who checked Fargo for injuries. Shortly thereafter, Applicant fired another flurry of shots towards the officers. Applicant escaped into the brush at the back of the field. (Plea Tr. 23). Fargo died from his injuries. (Plea Tr. 24).

As a result of Applicant's escape, the county's special response team was deployed to find Applicant. In addition to the special response team, between 150–200 officers from various local and State agencies searched in a joint effort to locate Applicant. (Plea Tr. 24). Law enforcement eventually found Applicant asleep in a shed near the incident location. Law enforcement also found a gun in the shed. The gun matched shell casings discovered at different areas of the pursuit. (Plea Tr. 25).

Applicant was arrested and subsequently indicted by the Richland County Grand Jury in November 2012 for five counts of attempted murder (2012-GS-40-5997, -5998, -6000, -6003, and 6004) and one count of unlawful killing of a police dog (2012-GS-40-6001). Jennifer C. Davis and Mark Sawyer of the Fifth Circuit Public Defenders' Office represented Applicant. Deputy Solicitor Daniel R. Goldberg prosecuted the case.

On January 6, 2014, Applicant pled guilty as indicted to all charges before the Honorable Robert E. Hood. At the outset of the plea hearing, the State noted Applicant was pleading guilty "straight up." (Plea Tr. 3). Plea counsel affirmed she had explained to Applicant the nature of the charges, the possible penalties, and the Constitutional rights Applicant was giving up in pleading guilty. (Plea Tr. 3). Thereafter, the plea court conducted a thorough colloquy with Applicant.

(Plea Tr. 4–11). During its colloquy with Applicant, the plea court asked if there were negotiations in the case. The State responded it was dropping related armed robbery and attempted murder charges in exchange for the plea; however, “there [are] no negotiations or agreements as far as sentencing.” (Plea Tr. 11). Thereafter, Applicant affirmed he was knowingly and voluntarily pleading guilty. (Plea Tr. 11–13). The State then recited the factual basis for Applicant’s plea. (Plea Tr. 15–28). Applicant admitted to shooting at the police officers, and to shooting the police dog, Fargo. (Plea Tr. 28–29). The plea court accepted Applicant’s plea and transitioned the hearing to the sentencing phase. (Plea Tr. 29).

In mitigation, plea counsel asked the plea court to consider a range of ten to fifteen years imprisonment. (Plea Tr. 60). The State requested the Court sentence Applicant to consecutive sentences. (Plea Tr. 61). The plea court sentenced Applicant to an aggregate term of imprisonment of thirty-five years on all charges—thirty years concurrent on the five attempted murders, and five years consecutive for the unlawful killing of a police dog. Applicant filed multiple post-trial motions culminating in filing an appeal September 9, 2016. The court of appeals dismissed Applicant’s appeal December 2, 2016 for being untimely. *See State v. McCreary*, Appellate Case No. 2016-001846 (S.C. Ct. App. filed December 2, 2016). The case was remitted to the circuit court December 20, 2016. Applicant timely filed this PCR action February 13, 2017.

ALLEGATIONS

Applicant alleges he is unlawfully in custody due to ineffective assistance of counsel. Specifically, Applicant attacks the knowing and voluntary nature of his guilty plea alleging plea counsel was ineffective for failure to object to the State making a sentencing recommendation when Applicant pled guilty without recommendations or negotiations.

DISCUSSION

The issue before the Court is whether Applicant's guilty plea was the result of ineffective assistance of counsel. To establish ineffective assistance of counsel, the PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Strickland v. Washington*, 466 U.S. 668, 687–88 (1984); *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). "The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases." *Watson v. State*, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). In the context of a guilty plea, a defendant who entered a plea with the advice of counsel may only attack the voluntary and intelligent nature of the plea. *Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

Applicant and plea counsel agreed at the PCR hearing that Applicant pled guilty with the advice of plea counsel. The Court finds Applicant pled guilty pursuant to the advice of plea counsel; therefore, the issue before the Court is whether Applicant's plea was knowing and voluntary. *See Roscoe, supra*.

Applicant alleges his plea was unknowing and involuntary because he thought he was pleading without negotiations or recommendations—straight-up. Specifically, Applicant alleges the plea agreement was violated when the State made a recommendation of concurrent time during the sentencing phase of his plea. The Court finds this allegation to be without merit.

"[A] defendant entering a guilty plea must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." *Pittman v. State*, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999). To prove prejudice, the applicant must show a reasonable probability he would not have

pled guilty and would have insisted on going to trial absent plea counsel's alleged deficiency. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). As discussed below, the Court finds plea counsel's representation was not deficient, and Applicant failed to establish prejudice from plea counsel's alleged deficiency. The Court finds Applicant knowingly and voluntarily entered his guilty plea; therefore, Applicant's guilty plea was not the result of ineffective assistance of counsel.

Applicant alleges plea counsel was ineffective in two aspects: (1) plea counsel failed to advise him the meaning of pleading without negotiations or recommendations; and (2) plea counsel should have received all discovery, specifically discovery involving the gun, before allowing Applicant to plead guilty. The Court finds these allegations are without merit and deals with them in turn.

1. Failure to Advise

Applicant alleges plea counsel was deficient for failing to advise the State could comment during sentencing even though Applicant was pleading without negotiations or recommendations. Applicant alleges he would not have pled guilty and would have proceeded to trial had he understood the State could comment during sentencing. The Court disagrees.

The Court finds plea counsel was not deficient in advising Applicant about the meaning of pleading without negotiations or recommendations. Applicant stated, "The way [plea counsel] made it seem was that [the decision] was solely up to the [plea court] to choose and decide what he wanted to decide." (PCR Tr. 27). Plea counsel's advice, and Applicant's understanding, was correct—the plea court did have the final decision in sentencing Applicant. Further, nothing in the record indicates the State ever offered to remain silent during sentencing. In fact, plea counsel testified to the contrary. Plea counsel credibly testified she explained to Applicant the State would comment during sentencing. (PCR Tr. 36). Plea counsel stated, "I did relay to [Applicant] . . . my

understanding the State's still gonna ask for somewhere around 25 to 35. . . . [I]n the end it's up to the [plea court] and this, you know, we would be asking for 10 to 15." (PCR Tr. 36). Based upon this credible testimony, the Court finds Applicant was aware the State would still comment during sentencing. Therefore, the Court finds plea counsel was not deficient for failing to advise Applicant the meaning of pleading without negotiations or recommendations.

The Court finds Applicant failed to prove he was prejudiced by plea counsel's alleged deficiency of failing to advise the State could comment during sentencing for two reasons: (1) Applicant stated he pled guilty to avoid life without parole (LWOP), and (2) the plea court sentenced Applicant to an aggregate thirty-five years imprisonment.

Applicant stated he pled guilty to avoid being exposed to LWOP. It is apparent from both Applicant and plea counsel's testimony, had Applicant not pled guilty, the State would serve Applicant LWOP notice. As mentioned above, Applicant stated, "I chose to accept [the straight-up plea offer] because . . . I also had the chance of getting [LWOP] papers, so that's what made me go towards the plea." (PCR Tr. 12) The Court finds this statement by Applicant, that he pled guilty to avoid LWOP, credible. Because Applicant pled guilty to avoid LWOP, he cannot establish prejudice.

Applicant further failed to prove prejudice because he the plea court did have the final decision on sentencing. As previously mentioned, plea counsel requested ten to fifteen years imprisonment (PCR Tr. 36) (Plea Tr. 60), and the State requested the sentences be run concurrent (Plea Tr. 61). However, the plea court followed neither request. The plea court sentenced Applicant to an aggregate thirty-five years imprisonment. Plea counsel's advice and Applicant's understanding were both correct—the plea court had the final decision of sentencing Applicant. As such, Applicant was not prejudiced by plea counsel's alleged deficiency because Applicant's

understanding was correct.

Based on the foregoing, the Court finds plea counsel was not ineffective for failure to advise Applicant the meaning of pleading without negotiations or recommendations. Applicant knowingly and voluntarily pled guilty. Therefore, the Court denies relief and dismisses this allegation with prejudice.

2. Discovery

Applicant's second allegation originated as a claim that his right to Due Process was violated because he did not receive all discovery in his case. However, at the PCR hearing, PCR counsel clarified Applicant was only going forward on his claim of ineffective assistance of counsel which rendered his guilty plea unknowing and involuntary. During the hearing, some testimony touched on the issue of Applicant not receiving all discovery before he pled guilty. The Court addresses this allegation as an attack on the knowing and voluntary nature of Applicant's plea.

The Court begins discussion of this issue by addressing prejudice. Applicant stated, "I ended up pleading for the fact of I didn't know what I know now and I figured that at that time the plea would have been better than going to trial." (PCR Tr. 21). As previously mentioned, Applicant stated he pled guilty to avoid LWOP. (PCR Tr. 12). The Court finds Applicant pled guilty to avoid LWOP. As such, Applicant fails to prove he was prejudiced because his decision to plead guilty was based on his potential LWOP exposure.

The Court also finds plea counsel was not ineffective in relation to Applicant's discovery allegation. Plea counsel credibly testified that as she and Applicant were preparing for trial, she filed three motions to compel discovery. (PCR Tr. 40). She testified the issue regarding discovery in Applicant's case was centered on the State's expert's ballistics report. (PCR Tr. 40). Plea

counsel further testified she had her own expert to discuss this issue. (PCR Tr. 39). The Court finds Applicant's confusion regarding discovery arose from plea counsel's discussions of their strategy had the case gone to trial. The discovery plea counsel planned on attacking at trial had nothing to do with Applicant's guilty plea.

Applicant pled guilty to avoid LWOP. Plea counsel was certainly not deficient for discussing her defense strategy with Applicant had the case gone to trial. Therefore, the Court finds plea counsel was not ineffective and Applicant knowingly and voluntarily pled guilty. Therefore, the Court denies relief and dismisses this allegation with prejudice.

CONCLUSION

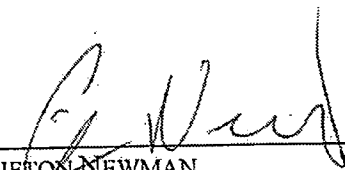
Based on the foregoing, this Court finds Applicant has failed to establish any constitutional violations or deprivations that would require the Court to grant relief. Therefore, the allegations are denied and dismissed with prejudice.

Applicant must file and serve a notice of appeal within thirty days from the receipt of this order by counsel of record to secure the appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, an applicant has a right to assistance of counsel in seeking review of the denial of PCR. 305 S.C. 453, 409 S.E.2d 395 (1991). Further, Rule 71.1(g), SCRCP, provides if the applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on the applicant's behalf. Applicant is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. This application for post-conviction relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the State.

AND IT IS SO ORDERED this 6th day of May, 2019.


CLIFTON NEWMAN
Presiding Judge
Fifth Judicial Circuit

Columbia, South Carolina

WITNESSES

(S) Christopher Lindler – Richland County
Sheriff

ARREST WARRANT NUMBER:

M985586

ACTION OF GRAND JURY

TRUE BILL

Gill R. Koenig
Foreperson of Grand Jury
Date: **NOV 07 2012**

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS40-05997

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2012

74

**THE STATE
vs.**

Maurice Antwon McCreary

**Indictment for
ATTEMPTED MURDER**

**SC Code: 16-03-0029
CDR Code: 3410**

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

**CERTIFIED TRUE COPY
OF ORIGINAL FILED,
J. R. Koenig, Clerk
C.C.C. PLS.
RICHLAND COUNTY
SOUTH CAROLINA**

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on NOVEMBER 7, 2012,
the Grand Jurors of Richland County present upon their oath:

ATTEMPTED MURDER

That Maurice Antwon McCreary did in Richland County on or about
December 16, 2011, with the intent to kill, attempt to kill one Marvin Willis
with malice aforethought, either expressed or implied, all in violation of
South Carolina Code of Laws § 16-3-29 (1976, as amended).

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



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Richland

VS.

Maurice Antwon McCreary

AKA:

Race: BLACK Sex: M Age: 24

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Columbia, SC 29203-3824

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Attempted Murder

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

GOLDBERG, DAN

72620
SC Bar#

Defendant

Attorney for Defendant

75392
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114 (BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$

Clerk of Court/ Deputy Clerk

Court Reporter: Ambralia

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS4005997 ✓

A/W#: M985586

Date of Offense: 12/16/2011

S.C. Code § : 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther: **CERTIFIED TRUE COPY
OF ORIGINAL FILED**☐ Appointed PD or appointed other counsel.
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code: 2164Sentence Date: Jan 6, 2014

WITNESSES

(S) Christopher Lindler – Richland County
Sheriff

ARREST WARRANT NUMBER

M985587

ACTION OF GRAND JURY

TRUE BILL

Jill R. Kaenig
For person of Grand Jury

Date: **NOV 07 2012**

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS40-05998

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2012

74

**THE STATE
vs.**

Maurice Antwon McCreary

**Indictment for
ATTEMPTED MURDER**

**SC Code: 16-03-0029
CDR Code: 3410**

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
FILED
Side
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on NOVEMBER 7, 2012,
the Grand Jurors of Richland County present upon their oath:

ATTEMPTED MURDER

That Maurice Antwon McCreary did in Richland County on or about
December 16, 2011, with the intent to kill, attempt to kill one Trobathaian
Johnson with malice aforethought, either expressed or implied, all in
violation of South Carolina Code of Laws § 16-3-29 (1976, as amended).

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



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

161

COUNTY OF Richland
 STATE VS.
Maurice Antwon McCreary

AKA: _____
 Race: BLACK Sex: M Age: 24
 DOB: [REDACTED] SS#: [REDACTED]
 Address: [REDACTED]
 City, State, Zip: Columbia, SC 29203-3824
 DL#: [REDACTED] SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Attempted Murder

INDICTMENT/CASE#: 2012GS4005998 ✓
 A/W#: M985587
 Date of Offense: 12/16/2011
 S.C. Code § : 16-03-0029
 CDR Code #: 3410

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] 72620 [Signature] [Signature] 75392
GOLDBERG, DAN SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed — years
 and/or to pay a fine of \$ —; provided that upon the service of — days/months/years and/or payment
 of \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for —

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ — plus 20% fee: — \$ —

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$
TOTAL		\$

PTUP _____
 _____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

CERTIFIED TRUE COPY
 OF ORIGINAL FILED

[Signature]
7 C. J. S.

RICHLAND COUNTY
 SOUTH CAROLINA

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

Re Hood
2164

Jan 6, 2014

WITNESSES

(S) Christopher Lindler – Richland County
Sheriff

ARREST WARRANT NUMBER

M985588

ACTION OF GRAND JURY

TRUE BILL

Jill R. Koenigs
Foreperson of Grand Jury
Date: **NOV 07 2012**

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS40-06000

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2012

74

**THE STATE
vs.**

Maurice Antwon McCreary

**Indictment for
ATTEMPTED MURDER**

**SC Code: 16-03-0029
CDR Code: 3410**

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

**CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jeanette W. M. Brade
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA**

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on NOVEMBER 7, 2012,
the Grand Jurors of Richland County present upon their oath:

ATTEMPTED MURDER

That Maurice Antwon McCreary did in Richland County on or about
December 16, 2011, with the intent to kill, attempt to kill Warren
Cavanaugh with malice aforethought, either expressed or implied, all in
violation of South Carolina Code of Laws § 16-3-29 (1976, as amended).

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



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Richland

VS.

Maurice Antwon McCreary

AKA:

Race: BLACK Sex: M Age: 24

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip: Columbia, SC 29203-3824

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Attempted Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS4006000 ✓

A/W#: M985588

Date of Offense: 12/16/2011

S.C. Code § : 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: DV 72620 JANIS BR 75392
GOLDBERG, DAN SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$

 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender FundOther:

VERIFIED TRUE COPY
ORIGINAL FILED
2013-12-17
S.C. P&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Amber

SCCA/217 (03/2011)

Presiding Judge ReHndJudge Code: 2164Sentence Date: Jan 6, 2014

WITNESSES

(S) Christopher Lindler – Richland County
Sheriff

ARREST WARRANT NUMBER

M985589

ACTION OF GRAND JURY

TRUE BILL

Jill R. Koenigs
Foreperson of Grand Jury

Date:

NOV 07 2012

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS40-06001

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2012

74

**THE STATE
vs.**

Maurice Antwon McCreary

**Indictment for
Unlawful Killing of a Police Dog**

SC Code: 47-03-0620
CDR Code: 3330

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

**CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jacqueline M. Brade
C.C.C. & G.S.
RICHLAND COUNTY
SOUTH CAROLINA**

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on NOVEMBER 7, 2012,
the Grand Jurors of Richland County present upon their oath:

UNLAWFUL KILLING OF A POLICE DOG

That Maurice Antwon McCreary did in Richland County on or about December 16, 2011, willfully or maliciously injure, disable, or kill a dog used by a law enforcement department or agency in the performance of the functions or duties of the department, all in violation of Section 47-3-620 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.



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

167

COUNTY OF Richland
STATE VS.
Maurice Antwon McCreary

AKA:

Race: BLACK Sex: M Age: 24DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Columbia, SC 29203-3824DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Unlawful Killing of a Police Dog

INDICTMENT/CASE#: 2012GS4006001 ✓A/W#: M985589Date of Offense: 12/16/2011S.C. Code § : 47-03-0620CDR Code #: 3330

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSin violation of § 47-03-0620 of the S.C. Code of Laws, bearing CDR Code # 3330

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] 72620 [Signature] 75392
GOLDBERG, DAN SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed — years
and/or to pay a fine of \$ —; provided that upon the service of — days/months/years and/or payment
of \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for —

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2012GS 40 5997, 5998, 6000, 6003, 6004
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ — plus 20% fee: \$ —Payment Terms: —☐ Set by SCDPPPS —Recipient: —*Fine: — \$§ 14-1-206 (Assessments 107.5 %) — \$§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$§ 56-5-2995 (DUI Assessment) \$12 \$§ 56-1-286 (DUI Breath Test) \$25 \$Proviso 47.9 (Public Def/Prob) \$500 \$§ 14-1-212 (Law Enforce. Funding) \$25 \$§ 14-1-213 (Drug Court Surcharge) \$150 \$§ 50-21-114 (BUI Breath Test Fee) \$50 \$§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$Proviso 90.5 (SCCJA Surcharge) \$5 \$3% to County (if paid in installments) — \$TOTAL — \$PTUP —— days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. —May serve W/E beginning —Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive, weekly/monthly
pmts. of \$ — beginning —\$ — paid to Public Defender FundOther: —

ORIGINAL TRUE COPY

OF ORIGINAL FILED,

JAN 17 2014

C.C.C.P.E.G.S.

RICHLAND COUNTY

SOUTH CAROLINA

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge [Signature]Judge Code: 2164Sentence Date: JAN 6, 2014Clerk of Court/ Deputy Clerk [Signature]Court Reporter: [Signature]

SCCA/217 (03/2011)

WITNESSES

(S) Christopher Lindler – Richland County
Sheriff

ARREST WARRANT NUMBER

M985638

ACTION OF GRAND JURY

TRUE BILL

Gill R. Koenigs
Foreperson of Grand Jury
Date:

NOV 07 2012

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS40-06003

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2012

74

**THE STATE
vs.**

Maurice Antwon McCreary

**Indictment for
ATTEMPTED MURDER**

SC Code: 16-03-0029
CDR Code: 3410

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

M. McCreary
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on NOVEMBER 7, 2012,
the Grand Jurors of Richland County present upon their oath:

ATTEMPTED MURDER

That Maurice Antwon McCreary did in Richland County on or about
December 16, 2011, with the intent to kill, attempt to kill one Adam
Oxendine with malice aforethought, either expressed or implied, all in
violation of South Carolina Code of Laws § 16-3-29 (1976, as amended).

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



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF Richland
STATE VS.
Maurice Antwon McCreary

AKA:
Race: BLACK Sex: M Age: 24
DOB: SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: Columbia, SC 29203-3824
DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was
TO: Attempted Murder

INDICTMENT/CASE#: 2012GS4006003
A/W#: M985638
Date of Offense: 12/16/2011
S.C. Code §: 16-03-0029
CDR Code #: 3410

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

In violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] 72620 Defendant [Signature] 75392 Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*, the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
☐ Set by SCDPPPS
Recipient: _____
*Fine: \$ _____
§ 14-1-206 (Assessments 107.5%) \$ _____
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ _____
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____
§ 56-5-2995 (DUI Assessment) \$12 \$ _____
§ 56-1-286 (DUI Breath Test) \$25 \$ _____
Proviso 47.9 (Public Def/Prob) \$500 \$ _____
§ 14-1-212 (Law Enforce. Funding) \$25 \$ _____
§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____
§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____
§ 56-5-2942(f) (Vehicle Assessment) \$40/ea \$ _____
Proviso 90.5 (SCCA Surcharge) \$5 \$ _____
3% to County (if paid in installments) \$ _____
TOTAL \$ 97.6114 9-NV-1102

_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/Deputy Clerk

Court Reporter: Ambrosia

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date: 2/16/2014

WITNESSES

(S) Christopher Lindler – Richland County
Sheriff

ARREST WARRANT NUMBER

M985639

ACTION OF GRAND JURY

TRUE BILL

Jill R. Koenig
Foreperson of Grand Jury

Date:

NOV 07 2012

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS40-06004

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2012

74

THE STATE

vs.

Maurice Antwon McCreary

**Indictment for
ATTEMPTED MURDER**

SC Code: 16-03-0029

CDR Code: 3410

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jeannette W. McBride
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Richland

VS.

Maurice Antwon McCreary

AKA:

Race: BLACK Sex: M Age: 24

DOB: SS#

Address:

City, State, Zip: Columbia, SC 29203-3824

DL#: SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Attempted Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS4006004 ✓

A/W#: M985639

Date of Offense: 12/16/2011

S.C. Code §: 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

GOLDBERG, DAN

72620
SC Bar#

Defendant

Attorney for Defendant

75392
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
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§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

CERTIFIED TRUE COPY
OF ORIGINAL FILED,J. W. McCreary
C.C.C.P. & G.S.OBTAIN GED ☐
Attend Voc. Rehab. or Job Corp. ☐
May serve W/E beginning _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code:

Sentence Date:

Re Howard
2164
Jan 6, 2014