

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

JAN 21 2020

Certiorari to Charleston County

S.C. SUPREME COURT

Honorable Michael G. Nettles, Circuit Court Judge

ARTHUR PETERSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-000829

APPENDIX

WANDA H. CARTER
Deputy Chief Appellate Defender

ALAN WILSON
Attorney General

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

BENJAMIN LIMBAUGH
Assistant Attorney General
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

ATTORNEY FOR PETITIONER

INDEX

INDEX	i
CONTINUANCE MOTION HEARING TRANSCRIPT DATED JANUARY 31, 2013	1
GUILTY PLEA HEARING TRANSCRIPT DATED JANUARY 31, 2013	57
APPLICATION FOR POST-CONVICTION RELIEF	87
RETURN.....	103
RECONSTRUCTION HEARING TRANSCRIPT DATED JUNE 13, 2018.....	109
DEFENDANT’S EXHIBIT NO. 1	139
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED OCTOBER 4, 2018	141
STATE’S EXHIBIT NO. 1 (LETTER FROM PETERSON PARHAM).....	211
ORDER OF DISMISSAL	212
INDICTMENTS	232

STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON 2011-GS-10-4154

STATE OF SOUTH CAROLINA	)	
	)	TRANSCRIPT OF RECORD
-vs-	)	
	)	January 31, 2013
FREDERICK ARTHUR PETERSON,	)	
	)	Charleston, South Carolina
Defendant.	)	

B E F O R E:

The Honorable Kristi Lea Harrington, Judge.

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

Bruce DuRant, Assistant Solicitor
Attorney for the State

Rose Mary Parham, Esquire
Attorney for Defendant

Reported By:

Amanda Kelly Haffenden, RPR, CRR
Circuit Court Reporter for the
Ninth Judicial Circuit

1	I N D E X				
2	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
3	Susan Knight	26	30	37	--
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					

1 (January 31, 2013.)

2 THE COURT: All right. Mr. DuRant, state
3 your name and the party you represent.

4 Mr. DuRANT: Yes, Your Honor. My name is
5 Bruce DuRant. I'm the chief deputy solicitor for the
6 Ninth Judicial Circuit representing the State of South
7 Carolina.

8 THE COURT: Thank you. Ms. Parham?

9 MS. PARHAM: Thank you, Your Honor. I
10 represent Art Peterson. He's charged with murder and
11 possession of a firearm in the commission of a violent
12 crime.

13 THE COURT: We're here on your motion for a
14 continuance; is that correct?

15 MS. PARHAM: That's right.

16 THE COURT: And, Mr. DuRant, I understand the
17 State opposes a continuance?

18 Mr. DuRANT: That is correct, Your Honor. We
19 do oppose the defense motion for a continuance.

20 THE COURT: Just to place on the record, we
21 had a telephone conference yesterday in which Mr. DuRant
22 explained to me the procedural posture of this case. Ms.
23 Parham explained to me her understanding of the
24 procedural posture of the case, indicated that due to my
25 understanding that this case had been continued

1 previously, that it was necessary to have a hearing on
2 this matter to allow Dr. Knight to be present to indicate
3 her time frame and what was needed before this case would
4 be able to be called for trial.

5 Mr. DuRant, just for the record, if you would
6 place on the record what you indicated during the
7 telephone conference.

8 Mr. DuRANT: I'd be more than happy to, Your
9 Honor.

10 Mr. Peterson was arrested for murder and
11 possession of a firearm in commission of a violent crime
12 on March 14, 2011. Ms. Parham was retained as his
13 counsel. Shortly thereafter, she filed a Rule 5 on our
14 office and was provided with the initial discovery,
15 together with a request for -- from us for a notice of
16 insanity defense on -- April 30th of 2011 is when she was
17 actually served with discovery, at our request.

18 The matter was originally scheduled for trial
19 on November 5th of last year. I notified defense counsel
20 six months in advance of trial, in May of 2012, and again
21 in September of 2012, two months in advance of trial.

22 In October of 2012, Ms. Parham contacted me
23 and requested that I continue the case. She had
24 indicated at the time that she needed to get her client
25 evaluated, which I understood was to be a second opinion;

1 and, secondly, that she had some matters pending in
2 federal court the week after our scheduled trial that
3 were very time-consuming and discovery heavy and asked me
4 to continue the case.

5 On October 16th, I agreed to continue the
6 case scheduled for November the 5th, told her at the time
7 that the new date for the trial would be February the 4th
8 of 2013. She indicated --

9 THE COURT: What date was that, Mr. DuRant?
10 I'm sorry.

11 Mr. DuRANT: That was October 16th of last
12 year and told her at the time that I would continue the
13 November trial and had rescheduled it at that time for
14 the week of February 4th.

15 This past Friday, January the 25th, I was
16 contacted by Lionel Lofton. He indicated Ms. Parham had
17 been in touch with him, wanted to associate him in the
18 case, but that he couldn't become involved that quickly.
19 He had a conflict with the week of February the 4th and
20 indicated that -- asked me if I would be willing to
21 continue it.

22 I told him, you know, The case is almost two
23 years old, Lionel. I've already continued it once. I'm
24 unwilling to continue it again, at least by consent.

25 And I notified him of that fact by text this

1 past Monday, I believe, the 28th, this week. That same
2 day, Ms. Parham e-mailed me, requesting a continuance due
3 to the fact that she had a sentencing hearing in federal
4 court scheduled for next Wednesday and that the
5 defendant's father-in-law had cancer.

6 I once again indicated to her that I was not
7 likely to consent to another continuance in the case due
8 to the age of the case. Then Tuesday of this week, I was
9 notified that there may potentially be an insanity
10 defense --

11 THE COURT: Was that your first notice of
12 insanity defense?

13 MR. DuRANT: That's the first time I had been
14 notified that they intended to raise the issue of
15 insanity, Your Honor, and that she was being -- her
16 client was being seen by Dr. Knight and that Dr. Knight
17 had not yet completed her evaluation, and that's pretty
18 much where we are today.

19 I understand, Your Honor, how these things
20 go. As my boss says, sometimes there is a value in the
21 Court hearing these motions, and, obviously, if the
22 defendant's psychiatric condition is at issue, that's
23 fine, but it should have been raised much sooner than
24 this.

25 THE COURT: Did you request any notice of an

1 insanity defense in writing?

2 Mr. DuRANT: Yes, ma'am, I have that.

3 THE COURT: When was that?

4 Mr. DuRANT: I'll hand this up to the Court,
5 Your Honor. This is basically a summary of the discovery
6 provided to Ms. Parham and when it was provided to her.
7 The notice of insanity defense was provided to her on
8 April the 30th of 2011, and just to point out, this is
9 the request, and this is when it was signed for.

10 THE COURT: Okay. Thank you. All right.
11 Anything further, Mr. DuRant?

12 Mr. DuRANT: I did want to put something on
13 the record regarding an offer, Your Honor, not really to
14 do with this particular issue.

15 I have offered voluntary manslaughter with a
16 negotiated 25 years. I believe that offer was conveyed
17 to Ms. Parham in January of this year.

18 THE COURT: How long will that offer be open?

19 Mr. DuRANT: I have told her that the
20 offer -- if the case is not continued, the offer will be
21 on the table up to the time we select the jury on Monday.
22 I told her if the case was continued that the offer will
23 remain open until close of business Friday of next week.

24 In other words, if it's going to be a plea,
25 it needs to be done next week.

1 THE COURT: Okay. Ms. Parham, have you
2 conveyed the offer of voluntary manslaughter to your
3 client?

4 MS. PARHAM: I have, Your Honor.

5 THE COURT: And did he understand the benefit
6 to him of a reduction to voluntary manslaughter and a
7 sentence of 25 years?

8 MS. PARHAM: He does, Your Honor.

9 THE COURT: He understands what the sentence
10 for murder is? You explained to him 30 to life?

11 MS. PARHAM: Absolutely, Your Honor.

12 THE COURT: And at this time he has rejected
13 the offer of voluntary manslaughter?

14 MS. PARHAM: No, Your Honor. We have not
15 rejected anything.

16 THE COURT: All right. Mr. Peterson, if you
17 will please stand, I'll place you under oath. You'll
18 remain under oath throughout the proceeding.

19 (Defendant duly sworn.)

20 THE COURT: Please state your name.

21 THE WITNESS: Arthur Frederick Peterson, Jr.

22 THE COURT: You understand the State has
23 charged you with murder?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: And you understand the punishment

1 for that should you be found guilty, which you are set
2 for a jury trial. Do you understand that, sir?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: All right. That the minimum
5 mandatory is 30 years, up to life in prison. Do you
6 understand what the possible punishment will be?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Do you understand the State has
9 offered you a reduction to that charge?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: And that reduction would be
12 voluntary manslaughter. Do you understand that?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Mr. DuRant, remind me what the
15 possible punishment for voluntary manslaughter could be.

16 Mr. DuRANT: Voluntary manslaughter is 2 to
17 25, 2 to 30, Your Honor. The difference primarily
18 between it and murder, murder is day for day. Anything
19 he got for murder he would have to serve day for day.
20 Voluntary manslaughter is an 85 percent sentence. The
21 negotiated -- the offer was for a negotiated 25 years,
22 which basically works out, if I'm not mistaken, to 21 and
23 a quarter years' actual service time. So it would
24 basically be about a nine-year reduction off of the
25 minimum sentence for murder.

1 THE COURT: All right. And that would be
2 assuming that he would receive --

3 Mr. DuRANT: Assuming he took it, that would
4 be the net result, Your Honor.

5 THE COURT: Do you understand what Mr. DuRant
6 has indicated to the Court about the benefits to you to
7 accept a plea to the lesser voluntary manslaughter?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: You understand that there is a
10 time limit? There is an expiration date to that offer?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Has your attorney conveyed that
13 to you?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Any questions that I'm not --
16 because the offer is not expiring today, is there any
17 questions that you have for the Court concerning the
18 terms of that plea offer?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: Thank you. You may have a seat.

21 Ms. Parham, Mr. DuRant has told me his
22 opinion and his view of the procedural posture of his
23 case. I'll allow you to place on the record your
24 understanding.

25 MS. PARHAM: Thank you, Your Honor, and I do

1 want to give Your Honor a brief synopsis of the facts
2 because I do think that is important in your deciding
3 this matter ultimately.

4 One housekeeping matter before I go forward:
5 I received an e-mail from your law clerk yesterday, I
6 believe, saying that you did not have jurisdiction of
7 this case until Monday and that we would have to send it
8 to another judge, so I just wanted to make sure you do,
9 in fact, have jurisdiction.

10 THE COURT: I do. Judge McDonald is the
11 chief administrative judge of criminal this year, and so,
12 technically, I do not have jurisdiction over the case,
13 but, first of all, as a resident judge, I do technically
14 have jurisdiction. It's just always my policy if we have
15 a chief admin that these types of matters, especially the
16 serious nature of this charge, would go through the chief
17 admin. He forwarded yesterday your e-mail and your
18 request, and Judge McDonald indicated, due to the fact
19 that this would be on my docket, that I would have
20 jurisdiction and for me to continue.

21 Thank you.

22 MS. PARHAM: Your Honor, my client graduated
23 from the Citadel. He has a CPA and no criminal history.
24 He had been ministering to Shakeyra Fields, who is a
25 paraplegic, for approximately two years before this

1 incident happened in March. On the day of the murder, he
2 went over -- this is based on all the State's discovery.
3 I think these are pretty much uncontradicted facts.

4 He went over to minister, as he usually did
5 several times a week, to Shakeyra Fields. She was a
6 paraplegic, based on eating bad shrimp in Charleston
7 which caused anaphylactic shock and caused brain damage,
8 and she had a \$1 million settlement that was going to be
9 in trust for her wellbeing. So he was going over there
10 multiple times a week to minister to her, witness to her,
11 as he did other people in the Charleston community.

12 On this particular day, he had called some
13 black leaders to meet her over there to get her relocated
14 because he believed she was being abused physically by
15 her mother. He gets over there and ministers to her, and
16 at that time Shakeyra tells him that her mother beat her
17 the night before and she was bleeding -- she bled the
18 night before. And so Art goes out on the porch and
19 called 911, and the police respond, and unbeknownst to my
20 client, there had been 127 911 calls to that residence,
21 so he, of course, did not know that, but police respond.

22 He actually called for an ambulance, but at
23 some point, he, according to their evidence, goes into
24 the kitchen and shoots her mother in the back after an
25 argument, three times in the back, and her mom dies.

1 When he was arrested for that offense, I knew immediately
2 from talking to my client that there were going to be
3 mental issues in this case.

4 I met with Scarlett and with Bruce, and we
5 talked about that. This is nothing that is some spur of
6 the moment mental defense, it's been going on since the
7 very beginning. I recognized it from the very beginning,
8 and I employed Dr. Susan Knight at the very beginning, I
9 believe in April of 2011.

10 There were difficulties and delays in that
11 process because of my client's mental state at the time,
12 and I had to make some decisions whether to continue with
13 a private exam or ask the State for an exam, and, you
14 know, I talked to different defense lawyers and, you
15 know, the pros and cons of all that, and Dr. Susan Knight
16 has been evaluating my client. She's met with him
17 multiple times.

18 When Bruce told me this case was scheduled
19 for November, I told him about the federal trial, and it
20 gotten continued. After it gotten continued, he
21 mentioned he was going to put it on February 4 and oppose
22 any further continuance when he told me -- I've told
23 Bruce throughout this proceeding that I still do not have
24 the opinion of my psychologist, Susan Knight. This is
25 not a surprise. This is something I have said from the

1 very beginning, is that I do not have the opinion from my
2 doctor, so I don't know how to proceed, and I said that
3 when he continued the case in November.

4 And he said, I'm going to be opposed to any
5 other further continuances in February.

6 I said, Well, I do not have the opinion of my
7 doctor.

8 He said, Well, you have to give me any
9 paperwork regarding that.

10 I said, I don't have any paperwork. I said,
11 Her policy is she wants to review all the discovery in
12 the case, meet with my client, and at the point that she
13 believes that she can do so, she's going to give me her
14 opinion on whether we have a valid mental defense.

15 That has always been a concern. After the
16 November continuance, Your Honor, we received 110
17 additional pages of discovery in October. We received
18 350 additional pages of discovery on November 30th, and
19 then we received Shakeyra's mental records, which are
20 extremely important in my psychologist evaluating my
21 client because a lot of it has to do with -- what was
22 going on in Shakeyra's mind is also relevant to my client
23 's mental state and conversations and what was going on
24 that day.

25 There are actually pieces, statements, from

1 Shakeyra in those medical records about what happened
2 that day. Those medical records of Shakeyra were
3 requested on September 17th of 2012, and that's just a
4 little over a month ago that we received Shakeyra's
5 medical records, and then the last discovery I received
6 from the case was on January 10th, 2013.

7 So although it was set for trial in November,
8 I have received over -- approximately 300 pages of
9 discovery, over half of the pages of discovery, because
10 there are over 700 pages of discovery. I've received all
11 of that in the past two months, and so my psychologist
12 wants time to review all that so that -- and then she
13 wants to re-interview my client and then that additional
14 discovery raises other issues, and I have hired -- from
15 the very beginning, I hired a former federal investigator
16 who's helping me with this case, and there are a lot of
17 things I'm not going to say in open court and the State
18 is not entitled to, but we have been working on this
19 defense for two years, and so every time I get a piece of
20 discovery, it raises additional questions.

21 I believe my client has an absolute right to
22 spend the time it needs to take to go through this case
23 and to get a psychologist to give her opinion, and, you
24 know, I didn't put it in my motion, but I object under
25 the case of Langford, our Supreme Court's decision that

1 holds that the docketing system that's run by the
2 solicitor's office -- I believe they held on November
3 21st of last year that that was unconstitutional and that
4 the entire system was unconstitutional and that the fact
5 the solicitor can call a case when they want to and put
6 it in front of whatever judge they want to is
7 unconstitutional.

8 And I believe that the solicitor saying,
9 We're going to try this on February 4th and we're going
10 to call it in front of this judge and you better be
11 ready, without regard to whether the defense is ready or
12 whether our psychologist is ready, is unconstitutional,
13 and, you know, in Langford, they found it was not
14 reversible error because Langford was not prejudiced. It
15 was actually the opposite that happened in Langford.

16 Langford wanted a speedy trial, and the
17 solicitor's office is the one that kept getting the
18 continuances, and so in that situation, they analyzed it.
19 They said it's a close call, but it's not prejudicial.
20 But in this situation, what could be more prejudicial
21 than a criminal defendant charged with murder, facing a
22 life sentence, not having due process to have his expert
23 look at all the discovery, his lawyer do all the due
24 diligence that I need to do, and have his expert render
25 an opinion?

1 And I'm a little bit, you know, taken aback
2 when the prosecutor says, Well, I haven't given notice of
3 the mental defense. Well, I submit to the Court and the
4 prosecutor the reason I haven't given notice is because
5 my expert hasn't told me, and how -- I don't want to just
6 blindly give notice of a mental defense if I can't back
7 it up, because then it would be a waste of the Court's
8 time.

9 THE COURT: Well, Ms. Parham, when do you
10 think you will have that? This has been a two-year-old
11 case. It's been on the docket several times, and,
12 Mr. DuRant, is there any particular reason you placed it
13 on February 4th?

14 Mr. DuRANT: Because she asked at the time
15 that I continue the case into the new year, and I said,
16 Okay. I've got February 4th. How about that week?

17 I talked it over with her before I even set
18 it, and she indicated that was fine, that would give her
19 enough time, and if I may address something --

20 THE COURT: I'll allow you time, Mr. DuRant.
21 I told you we have all morning, so I'll allow all the
22 time to address it.

23 So, counsel, how much time do you need? And
24 that really is the purpose of today's hearing, is how
25 much time is going to be sufficient time for you? Just

1 as you are entitled, your client is entitled, the State
2 and the victim are entitled to a trial.

3 MS. PARHAM: I understand, Your Honor, and
4 one thing I want to put in the record too, just like
5 Mr. DuRant asked me whether we had a mental defense,
6 right after this case was started, I went and asked
7 Mr. DuRant what the plea offer would be, and I did not
8 receive the first plea offer in this case -- they don't
9 have to give a plea offer, but usually they give
10 something, and what the plea offer is determines, a lot
11 of times, how you want to proceed.

12 I had not received the first plea offer in
13 this case until January 16th, this month, two weeks ago,
14 and, you know, how can you defend a case properly when
15 you don't know what the plea offer is and what you're
16 going to do? That factors into everything, what your
17 plea offer is.

18 So now I'm in a real precarious position
19 right now, because I have legitimate concerns about my
20 client's mental state at the time of the offense, and I
21 have a psychologist who needs more time, and then I have
22 the government saying, Well, you know, it is continued,
23 we withdraw the offer next Friday.

24 You know, that's a little bit offensive to me
25 because I think the solicitor's office should always take

1 into account someone's mental state and someone's mental
2 history and make an offer, quite frankly.

3 THE COURT: Back to my original question:
4 How much more time do you think you're going to need?

5 MS. PARHAM: I need to talk with Susan. I
6 would say 90 days.

7 THE COURT: All right. That was the purpose
8 of having Mr. Peterson transported at 8:30, so that you
9 could -- she could have time to meet with Mr. Peterson.

10 MS. PARHAM: We did, and there are things
11 that came up during that meeting which make me think --
12 but I'm not going to say -- you know, I'm still going to
13 talk to the State. I'm still going to meet with the
14 State. We're not saying we're not going to plead.

15 I don't want to be rushed into something, nor
16 do I want my client rushed into something, nor I do want
17 to be rushed into something without the opinion of the
18 person, you know, that we paid for her opinion.

19 THE COURT: Ms. Parham, and maybe I'm --
20 because I haven't been involved in this case, but it
21 seems to me it was set November 4th. You didn't raise
22 these issues then, and so now you're coming, and another
23 attorney was indicating that he wanted to be associated
24 and asked for a continuance, and so then you see, what
25 appears to me, as docketing what the issues are.

1 MS. PARHAM: Yes, ma'am. Your Honor, I
2 never, never believed this case would go in November
3 because I knew I had a federal trial. I knew it was
4 going to get delayed, and after November, again, we
5 received 350 pages of discovery and received the last
6 pages of discovery on January 10th.

7 And so, I mean, they obviously -- I mean, I
8 think they gave us a whole lot of discovery after that
9 first trial date. I had a federal trial that month. I
10 knew there was no way that we were going to go forward.

11 THE COURT: Counsel, you agree that pursuant
12 to the rules of criminal procedure you must give notice
13 of the insanity defense, correct?

14 MS. PARHAM: Yes, Your Honor, but I don't
15 want to give notice without -- because if I give notice
16 of the insanity defense, then the State would probably
17 have him sent off for evaluation, and then the plea offer
18 is off the table. So I'm in a catch-22.

19 I don't necessarily want to ask -- you know,
20 if I ask for a State evaluation, Your Honor could deny
21 it, or you could grant it, but if it's granted, then the
22 plea offer is going to be off the table. It's something
23 I've considered, but I didn't want to do it.

24 THE COURT: You put the burden on the State
25 to take the insanity and the mental state of your client

1 into consideration in offering a plea offer, but we are
2 two days away from starting trial, and they have nothing
3 pursuant to the rules of criminal procedure that would
4 even alert them.

5 There is some hypothetical indication. There
6 has been nothing indicated other than some conversations,
7 correct?

8 MS. PARHAM: Correct. I've told them that we
9 have a psychologist and I do not have her opinion yet.
10 Yes, I've told them that repeatedly.

11 THE COURT: And you understand that pursuant
12 to the rule that one of the consequences of failing to
13 properly file the notice is that that defense could be
14 excluded?

15 MS. PARHAM: Well, I understand that, Your
16 Honor, but I don't understand how a lawyer would be
17 required to file a notice before getting the opinion from
18 their expert and before their expert can make an opinion,
19 because I can't, in good faith, file that without the
20 opinion from that expert, and she has not made an opinion
21 yet.

22 THE COURT: Then you can't put the burden on
23 the State that they haven't taken that into
24 consideration.

25 MS. PARHAM: I'm just saying that is probably

1 why, Your Honor, a continuance is --

2 THE COURT: Talk to Dr. Knight and let me
3 know how much time she thinks she needs. The discovery
4 that you've been given, does it go to his mental state at
5 the time?

6 MS. PARHAM: The most recent discovery goes
7 to Shakeyra's mental state, and she did say that is very
8 pertinent to his own. I'm not a psychologist, but she
9 says it's important, that she looks at the conversations
10 of the victim and her state of mind in discussing with
11 him his, but -- so she believes it is, and she's here to
12 testify, Your Honor, if Your Honor wants to ask her those
13 questions.

14 THE COURT: All right. I need you to just
15 step out, if you need some additional time to meet with
16 your client before or after you meet with Dr. Knight, but
17 I need to know, in her time frame, what it is, in her
18 estimate, that she's going to need time-wise.

19 MS. PARHAM: Okay. May I step out with her?

20 THE COURT: You may step out, and, Ms.
21 Parham, do you need to speak with Mr. Peterson?

22 MS. PARHAM: All right. Thank you.

23 Your Honor, she says actually 60 days rather
24 than 90 days.

25 THE COURT: All right. Anything further, Ms.

1 Parham?

2 MS. PARHAM: Not unless you want to hear
3 testimony from her.

4 THE COURT: I may, but anything other than
5 that?

6 MS. PARHAM: No, Your Honor.

7 THE COURT: Mr. DuRant?

8 Mr. DuRANT: Okay. Thank you, Your Honor. I
9 know I keep jumping up like a jack-in-the-box.

10 THE COURT: Take your time.

11 Mr. DuRANT: I just wanted to address a
12 couple things brought up by Ms. Parham.

13 We had discussions about his mental state.
14 Quite frankly, I have known that could potentially be an
15 issue, but as I've constantly told her, unless you have a
16 psychiatrist that says he's incompetent or you have a
17 psychiatrist that says he's criminally insane, I don't
18 really care what his mental state is, okay?

19 And those are the two issues that I'm
20 interested in as a prosecutor, okay? I don't really care
21 if he's guilty but mentally ill, I need to know whether
22 she's raising competence and I need to know if she's
23 raising insanity, because if she is, I need to get the
24 guy evaluated. I've been trying ever since this case
25 began to get an answer on those questions and have not

1 gotten one until I get a potential insanity defense on
2 Tuesday before trial.

3 Secondly, on the discovery, Your Honor, I
4 don't think she's going to find any psychiatrist that
5 says he is not competent to stand trial. He's college
6 educated at the Citadel, a CPA. He understands what's
7 going on, where he is, who you are, what I am, what his
8 attorney is, what the jury is. That's not an issue. The
9 issue is, was he criminally insane at the time that this
10 incident occurred, okay?

11 His psychiatrist has the 911 call he made 30
12 minutes before the shooting. His psychiatrist has a
13 videotape of four hours and fifteen minutes of him right
14 after the shooting. His psychiatrist has had the
15 audiotaped statements of all of the witnesses to this
16 thing, all since April 30th of 2011.

17 The discovery she keeps talking about getting
18 late was stuff that is not really discovery. It's stuff
19 that I subpoenaed that she could have subpoenaed herself.
20 I subpoenaed the records from DSS regarding their
21 involvement with the victim's family. I subpoenaed the
22 victim's -- Shakeyra Fields' discharge summaries from the
23 medical university, and when I got those, I turned those
24 over to her. I wasn't required to, but I did, and
25 those -- that's the late discovery that she keeps

1 referring to, which I find hard to believe has any
2 bearing on what his mental state was on March the 14th of
3 2011.

4 MS. PARHAM: Your Honor, we subpoenaed the
5 DSS records. Then they filed a motion to quash the
6 subpoena, and it was quashed.

7 THE COURT: Is that correct, Mr. DuRant?

8 Mr. DuRANT: I don't believe we filed a
9 motion to quash. DSS may have filed a motion.

10 THE COURT: But that's not Mr. DuRant.

11 MS. PARHAM: I'm sorry. I don't have it in
12 front of me, but that was a while back.

13 THE COURT: All right. Anything further,
14 Mr. DuRant?

15 Mr. DuRANT: Oh, one other thing, Your Honor,
16 on the plea offer.

17 Up until January 16th, there was no plea
18 offer, because it is my opinion her client committed
19 murder, and that is what I was going to make him plead
20 to, okay? And I told him the plea offer up to that time
21 was murder. I talked to her. I had a note when I first
22 talked to her: Murder, I would recommend the minimum
23 sentence.

24 In January of this year, I came down to
25 voluntary, based upon voluntary 25, and I told her at the

SUSAN KNIGHT - DIRECT EXAMINATION

1 time that that is it. Take it or leave it. I'm not
2 going to renegotiate this. I'm not going to go to 20;
3 I'm not going to go to 24. It's 25, voluntary 25. Take
4 it or leave it, and that was conveyed, I believe, about a
5 month ago, and, as I told the Court, it expires next
6 week, and that's regardless of where they go with their
7 mental defense.

8 THE COURT: All right. Let me hear from
9 Dr. Knight, and it's just for the purpose of her
10 timeline, so let me hear from Dr. Knight.

11 SUSAN KNIGHT,

12 having been first duly sworn,
13 was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MS. PARHAM:

16 Q. Okay. Dr. Knight, where do you work?

17 A. I work at the Medical University of South Carolina
18 in the department of psychiatry and behavioral sciences
19 in the division of forensic psychiatry.

20 Q. How long have you worked there?

21 A. Five years.

22 Q. What was your prior training?

23 A. I have a doctorate, PhD, in clinical psychology.
24 I have completed post-doctorate training in forensic
25 psychology and did a forensic fellowship at the medical

SUSAN KNIGHT - DIRECT EXAMINATION

1 school at USC in Los Angeles. I'm licensed to practice
2 psychology in North Carolina and South Carolina. I'm
3 also Board certified in forensic psychology.

4 Q. Have you testified as an expert in both federal
5 and state court many times?

6 A. I've testified in both state and federal court,
7 correct.

8 Q. And even before Judge Harrington previously?

9 A. I believe so, yes.

10 Q. When were you hired to do a psychological analysis
11 of Mr. Peterson?

12 A. You and I spoke in late March about this case.

13 Q. Okay.

14 A. 2011.

15 Q. All right. And then since that time have you
16 visited with Mr. Peterson several times?

17 A. I have.

18 Q. And do you have concerns regarding his mental
19 state or status at the time of the offense, based on your
20 conversations with him?

21 A. I do.

22 Q. And do you believe those concerns are legitimate?

23 A. They are.

24 Q. And have you yet reached a conclusion as to
25 whether he was sane or not at the time of the offense?

SUSAN KNIGHT - DIRECT EXAMINATION

1 A. Throughout my evaluation, I've reached some
2 preliminary opinions and conclusions I've shared with you
3 along the way, but as far as a final opinion, when I do
4 these types of cases, they're complex. I generally look
5 at all the discovery involved before rendering a final
6 opinion.

7 Q. And have you made any kind of final decision about
8 that?

9 A. No, because I have not reviewed -- I have not been
10 provided with the new discovery.

11 Q. And that includes the Shakeyra Fields mental
12 health records?

13 A. Correct.

14 Q. And why do you believe those would be pertinent to
15 this case?

16 A. Any time where psychiatric issues are raised in a
17 case, particularly in a murder case, we want to just make
18 sure all of the bases are covered. Particularly given
19 the nature of their close relationship, that may have had
20 an impact on his actions or his functioning or his
21 interaction with her. I won't know until I review the
22 records.

23 Q. In addition to receiving the State discovery from
24 my office, have you also received material from the
25 defense to review?

SUSAN KNIGHT - DIRECT EXAMINATION

1 A. Correct.

2 Q. And are there still other items that you have
3 requested that we get you, that the defense get you, so
4 that you can help form your opinion?

5 A. I have requested several things, yes.

6 Q. And you've requested several things from us based
7 on your conversations with Mr. Peterson?

8 A. Yes.

9 Q. And do you believe that those items will help you
10 in making your determination?

11 A. They should. Again, I won't know until I review
12 the contents.

13 Q. Right. And based on our discussions -- and you
14 know what those items are, but, you know, I believe
15 that's privileged information, so I would ask that you
16 not go into that. But based on what those items are that
17 you need from Mr. Peterson and you need for us to get for
18 you, what is your best estimate as for how long it would
19 take for you to reach your final opinion in this case?

20 A. Once I receive everything?

21 Q. Uh-huh.

22 A. Probably not any more than 60 days.

23 Q. Okay.

24 A. I have to review the documents, and based on what
25 I find in the documents, I may well have to interview

SUSAN KNIGHT - CROSS-EXAMINATION

1 Mr. Peterson around those issues.

2 Q. Okay. Do you believe 60 days is a fair amount of
3 time for you to conclude your work in this case?

4 A. Correct, if I'm provided everything in a short --
5 within the next two weeks or so.

6 Q. Right.

7 MS. PARHAM: And I don't see a problem, Your
8 Honor. I know what those items are, and we have made
9 arrangements to get those items that she's requested, and
10 we'll have those within two weeks for her.

11 BY MS. PARHAM:

12 Q. Is your evaluation of Mr. Peterson still ongoing
13 at this time?

14 A. Correct.

15 MS. PARHAM: That's all I have.

16 THE COURT: Mr. DuRant?

17 CROSS-EXAMINATION

18 BY Mr. DuRANT:

19 Q. When were you actually hired?

20 A. I would say around late March of 2011.

21 Q. Okay. And do you have any questions concerning
22 Mr. Peterson's competence to stand trial?

23 A. I do not. That has never been an issue in this
24 case.

25 Q. So that's basically -- so what we're talking about

SUSAN KNIGHT - CROSS-EXAMINATION

1 is his psychological or mental health condition on March
2 14 of 2011?

3 A. That's correct.

4 Q. When did you receive and have you reviewed the
5 videotape of your client that began at 11:55 a.m. and
6 ended at 4:17 p.m. on the date he killed Gwendolyn
7 Fields?

8 A. I did not receive that. I do not know the exact
9 date. I believe it was some time over the summer of
10 2011.

11 Q. Okay. You've reviewed the 911 call that he made?

12 A. Correct.

13 Q. Have you reviewed the witness statements of the
14 people that were present at the time that Mr. Peterson
15 killed Glenda Lynn Fields?

16 A. Correct.

17 Q. Okay. And would you agree, as a psychologist,
18 that the people that interacted with him at the time of
19 the shooting and recordings of him at the time of the
20 shooting and videotapes of him right after the shooting
21 are the best evidence of his mental state at that time?

22 MS. PARHAM: Your Honor, I object. I don't
23 think she's a lawyer, and I don't think that's the best
24 evidence of his mental state.

25 THE COURT: I'm going to allow the question,

SUSAN KNIGHT - CROSS-EXAMINATION

1 if you're able to answer that question, Dr. Knight.

2 THE WITNESS: Yes, Your Honor. I think it's
3 good evidence. I don't know about the word "best", but I
4 think it's very good evidence.

5 BY MR. DURANT:

6 Q. And that's basically what we're talking about, is
7 his mental state at the time; is that correct?

8 A. Correct.

9 Q. Now, what do Shakeyra Fields' medical records have
10 to do with his mental state on March the 14th of 2011?

11 A. If there is something in the records about her
12 talking about Mr. Peterson -- from what I understand,
13 they had a close relationship. If there is something in
14 there that she's divulging to her treatment providers
15 about that relationship, about him, about their visits,
16 that may be important.

17 Q. Why would that be important to his mental state at
18 the time, what she thought or what she said?

19 A. Because she would -- she interacted with him
20 closely, not just around that time, but in the months
21 leading up to that time.

22 Q. Well, certainly. He is aware of his interaction
23 with her. You don't need to read that from her medical
24 record; is that correct?

25 A. Again, I won't know until I look at her records if

SUSAN KNIGHT - CROSS-EXAMINATION

1 there is anything in there that can help me. There may
2 well not be anything, but there could be. In a case like
3 this, I like to review all of the data.

4 Q. And what pertinence do the DSS records involving
5 their involvement with the Fields family have upon his
6 mental state on March the 14th of 2011?

7 A. Again, I would not know that until I review the
8 records. They may not be pertinent.

9 Q. And probably aren't.

10 A. I don't know.

11 Mr. DuRANT: I have nothing further, Your
12 Honor. Thank you.

13 THE COURT: Just so I understand what is at
14 issue, it is discovery that was provided by the State in
15 January of this year; is that correct, and they have to
16 do with Shakeyra? Is that correct, Ms. Parham?

17 MS. PARHAM: That's right, Your Honor, and
18 also there is -- from her meetings with Art, there is
19 some additional defense material that she's asked me to
20 provide her that I have said I can get her within 14
21 days, and then she wants 60 days after I get it to her,
22 but those are specific documents that she wants from the
23 defense based on her conversations with him.

24 THE COURT: When was the last time you've had
25 a conversation with Mr. Peterson prior to today?

1 THE WITNESS: In September 2011. I believe
2 it was September 18th.

3 THE COURT: Of 2011?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Is there a reason you haven't met
6 with him prior to that with all the discovery issues and
7 being set for trial prior to that?

8 THE WITNESS: Yes.

9 THE COURT: And I want you to be very
10 careful. I don't want you to disclose any confidential
11 information.

12 THE WITNESS: I'll try be to careful, Your
13 Honor. I met with him multiple times. I shared
14 preliminary opinions with Ms. Parham, and I was not asked
15 to write a report, and then it's up to the attorney to
16 let me know if it's going to trial, if it's going to
17 plead, how the case is proceeding. So on Tuesday of this
18 week, I found out it was going to trial next Monday. I
19 was not aware it was ever going to trial in the fall,
20 2012.

21 THE COURT: And you were retained in March of
22 2011.

23 THE WITNESS: Correct, yes.

24 THE COURT: And the last time you met with
25 Mr. Peterson was September of 2011.

1 THE WITNESS: Aside from today.

2 THE COURT: And you've had an opportunity to
3 meet with him today?

4 THE WITNESS: Yes.

5 THE COURT: Any concerns about his competence
6 to stand trial?

7 THE WITNESS: No, no concerns.

8 THE COURT: Has there ever been any concerns
9 about his competency?

10 THE WITNESS: Not during my evaluation, no.

11 THE COURT: You indicated these records may
12 be important or they could be of help to you. Do you
13 know what is contained in those items?

14 THE WITNESS: I have not reviewed them, so I
15 don't know the exact contents. I know what Ms. Parham
16 has told me in general what they are.

17 THE COURT: Is it possible for you, based
18 upon your review of the discovery that you have been
19 given thus far and your understanding of what is
20 contained in those items, to render an opinion and then
21 adjust it accordingly after you've reviewed those items?

22 I probably didn't articulate it as well as I
23 should have, but do you understand my question, the crux
24 of my question?

25 THE WITNESS: I can form a preliminary

1 opinion, but I would not want to finalize that opinion
2 without reviewing everything, which is typically my
3 practice to do so, especially in a murder case, and this
4 is a complicated case from a mental state perspective.

5 THE COURT: All right.

6 Anything further based upon my questions or
7 Mr. DuRant's questions, Ms. Parham?

8 MS. PARHAM: No, Your Honor.

9 THE COURT: And, Mr. DuRant, I'll give you an
10 opportunity. I understand she did not ask any questions,
11 but based on the Court's questions, do you have any
12 questions?

13 Mr. DuRANT: I thought there was one floating
14 around in my head, but no. No, thank you, Your Honor.

15 THE COURT: All right. Dr. Knight, you may
16 step down, and let me just ask one more question: If you
17 were given the material today, would you have the
18 availability to review the documentation before trial on
19 Monday?

20 THE WITNESS: I would be able to review the
21 documents that she has in hand. Now, the additional
22 documents that she's going to request, I'm not sure if
23 they would be here by Monday or not.

24 THE COURT: And I did understand that you're
25 requesting some items as well.

~~SUSAN KNIGHT -RE DIRECT EXAMINATION~~

1 THE WITNESS: I have requested all the
2 discovery, so Tuesday of this week I found out there was
3 more discovery that had not been provided. There is also
4 additional defense discovery that is in issue now that I
5 would want to review as well, and I don't think she has
6 that at this point.

7 THE COURT: Okay. Thank you.

8 Ms. Parham, based on my question, do you have
9 any more questions for Dr. Knight?

10 REDIRECT EXAMINATION

11 BY MS. PARHAM:

12 Q. After meeting with Art today, did you give me a
13 few more things that you would like for me to get for
14 you?

15 A. He mentioned something in our interview today,
16 correct.

17 MS. PARHAM: Thank you.

18 THE COURT: And, Mr. DuRant, I don't know
19 that there is an appropriate follow-up for that question.

20 Mr. DuRANT: No, no ma'am.

21 THE COURT: Thank you. You may step down.
22 Please stay with us for just a few moments. Thank you.

23 All right. Ms. Parham, based upon the
24 questions and the testimony of Dr. Knight, anything
25 further?

1 MS. PARHAM: No, Your Honor.

2 THE COURT: Mr. DuRant?

3 Mr. DuRANT: No, Your Honor. I think you
4 pretty much have a grasp of what the issue is here.

5 THE COURT: It's your motion, if you want to
6 just give it to me in a nutshell quickly as to what
7 you're requesting, what you think the Court should do.

8 MS. PARHAM: Thank you, Your Honor.

9 As I said, Your Honor, I object once again to
10 this being set by the solicitor at their urging when they
11 want in front of the judge they want. I believe the
12 defense is entitled to be ready at the time of trial.
13 I've told Mr. DuRant Dr. Knight and I have both known
14 this case involves mental issues and that I did not have
15 the opinion of my expert and that she didn't have
16 everything.

17 You know, if I've done something wrong, you
18 know, then my client should not be punished for my
19 actions; otherwise, it's just going to come back on a
20 PCR. It's important, murder cases, and I've spent a lot
21 of time on this case, and I've asked a lot of questions.
22 This is a very complicated case, and there are even
23 things I could not talk about or I would be violating a
24 privilege, so, you know, it's just -- it's a
25 complicated -- it's a weird set of facts.

1 Like she said, Dr. Knight said, there are
2 complicated mental issues, and there are some complicated
3 legal issues too regarding whether there is legal
4 provocation for voluntary manslaughter and all that, and
5 so there are a lot of considerations, Your Honor, and my
6 client is facing a lifetime.

7 Your Honor, I just want to be able to have an
8 opinion before I file some notice with the Court saying
9 that I believe my client, you know, was insane at the
10 time of the offense. You know, I think I have to have,
11 you know, a good faith belief as an attorney, and I just
12 don't want to make that call without the opinion of my
13 expert, and I don't want her to have to make that call
14 without getting all the documents and the interviews she
15 needs.

16 And with regard to what I think should
17 happen, Your Honor, I would ask that Your Honor continue
18 this case for 60 days.

19 THE COURT: All right. Mr. DuRant?

20 MR. DuRANT: Just very briefly on that. Your
21 Honor, contrary to what she says, this is a very easy
22 case, and where she can go in terms of defense is very
23 easy to ascertain --

24 THE COURT: Mr. DuRant, with all due respect,
25 that is your assessment of the case, and Ms. Parham has

1 different concerns.

2 Mr. DuRANT: I understand that.

3 THE COURT: So good and easy, hard and
4 difficult, I take all those with a grain of salt because
5 it's your personal perspective.

6 Mr. DuRANT: I understand that, Your Honor,
7 and, as I said, I think the Court has a grasp of what the
8 issue is here.

9 The real problem here is basically, as you
10 said, as you saw, that apparently from September of 2011
11 to Tuesday of this week nothing happened on the
12 psychiatric front, and that leaves us where that leaves
13 us, and that's why I say sometimes it's the value of the
14 Court hearing something.

15 THE COURT: All right. Ms. Parham, anything
16 further?

17 MS. PARHAM: No, Your Honor.

18 THE COURT: All right. Based upon what I've
19 heard and my understanding of it, taking into
20 consideration all the things that you have indicated, Ms.
21 Parham, about Langford -- I understand this is a dual
22 term, Mr. DuRant. Judge Young and myself are both trial
23 judges?

24 Mr. DuRANT: That's correct, Your Honor.

25 THE COURT: You had a conference and

1 indicated to Ms. Parham February 4th would be an
2 acceptable date and indicated who the judges were, if you
3 knew?

4 Mr. DuRANT: I don't even know if I knew who
5 the judges were at that time, Your Honor, when I actually
6 talked to her, but we disagreed on the date, not
7 necessarily --

8 THE COURT: And so Judge Young is hearing
9 something else, and then I have the remainder of the
10 trials, so this case is now on my docket, and due to
11 the -- this is the oldest case on my docket, so I do
12 not -- it is now my call as to the scheduling of the
13 docket.

14 Based upon Dr. Knight's testimony, the letter
15 that was provided pursuant and attached to the motion to
16 continue, the fact that she has not met with Mr. Peterson
17 since September 2011, the fact that she indicated she
18 does not know if the documentation would be of help to
19 her, the fact that she indicated that she could review
20 the issue if given the documents today, that she would
21 have an opportunity to review those before trial on
22 Monday, I'll deny your motion for a continuance.

23 MS. PARHAM: Thank you, Your Honor. I just
24 want to be clear for the record that -- are you denying
25 the defense the opportunity to get the items that she has

1 requested, that she believes will be relevant, Your
2 Honor?

3 THE COURT: You have until Monday, and if
4 something comes up and based upon -- if we need to
5 revisit this issue on Monday, but, counsel, what I heard
6 was that there -- she has not reviewed and you've had
7 these documents for two weeks that were provided, and I
8 understand it's ongoing, but she hasn't even been given
9 the documents today, and that was one of the reasons why
10 I had her come early.

11 MS. PARHAM: No. She did that, Your Honor,
12 and there is some things that we cannot talk about --
13 there are items, Your Honor, that corroborate -- I mean,
14 I just can't -- she has requested certain items from me,
15 based on her conversations with Mr. Peterson.

16 THE COURT: But she hasn't had a conversation
17 with Mr. Peterson but for today since September 2011.

18 MS. PARHAM: But she's had conversations with
19 me, Your Honor, and so regardless of that, we have been
20 talking about other things, Your Honor, and the things
21 that she has requested.

22 You know, at this time, Your Honor, I would
23 ask that the State evaluate Mr. Peterson to protect his
24 interest. I mean, that's why -- that's why, Your Honor,
25 I believe this case should be continued, because I don't

1 think, as a lawyer or for my client's sake, I should have
2 to make that call without the opinion of my expert,
3 because to protect his rights, I would be ineffective if
4 I did not do that, and I don't want to do that because I
5 want the opinion of my expert.

6 And it puts me in a bad situation because my
7 job is to protect my client's rights, and I don't think I
8 should be put in the position of making that decision
9 without my expert's opinion after she has done everything
10 that she needs to do.

11 THE COURT: Mr. DuRant, what's your position
12 now? She's requesting that Mr. Peterson be evaluated.

13 Mr. DuRANT: My position now is the same as
14 my position has always been in that regard: If you have
15 an opinion that your client lacked -- was McNaughton
16 (C)crazy, then I need to know. Until I get an opinion
17 from her that he is insane, there is no reason for me to
18 do so, because there is one presumption that we still get
19 the benefit of, and that is that he's sane, and it's up
20 to her to establish his insanity, and once she raises
21 that issue, it is incumbent upon me to have him evaluated
22 and get another opinion.

23 And that's another reason, you know, why we
24 oppose this motion, is here we are, two years down the
25 road, and we may have to start this thing all over again.

1 MS. PARHAM: I think if we just had a
2 continuance, Your Honor, it would solve everything. I
3 know what the issues are, and -- but I would be
4 ineffective if I didn't do that, Your Honor. I mean --
5 and a motion can be made based on -- I wanted to have the
6 opinion. You know, the Court can sua sponte order
7 someone to be evaluated --

8 THE COURT: I have nothing before me that
9 gives me any cause or concern to order an evaluation.

10 MS. PARHAM: Well, Your Honor, you have her
11 letter, and her letter specifically states -- her letter
12 specifically states his -- he was committed from August
13 of 2008, and it talks about all the things he was
14 diagnosed with, and it says given his history of serious
15 psychiatric illness, including psychosis, in addition to
16 my interviews thus far with Mr. Peterson, I have a
17 legitimate concern regarding his mental state as it
18 relates to the question of criminal responsibility and
19 capacity to conform.

20 His evaluation is still ongoing. You know,
21 she is a trained psychiatrist, and she's saying that she
22 has genuine concerns. I, as his lawyer, have genuine
23 concerns, and an attorney can move for an evaluation,
24 even without a psychologist, just based on my interaction
25 and the facts that I know from my client about the date

1 that this happened.

2 THE COURT: All right. She further goes on
3 to say, I will most likely need to see Mr. Peterson. She
4 has given me no indication through your examination,
5 through Mr. DuRant's examination, or the Court's
6 examination that she has any questions about his
7 competency to stand trial. There is nothing in that
8 letter that indicates that there is any concern -- there
9 was any concern in September of 2011 or any concern
10 today.

11 Your motion for continuance is denied, and we
12 will -- if there is anything that comes up on Monday
13 morning, we'll address it at that time.

14 MS. PARHAM: I'm moving right then to -- and
15 I just want to make sure we're clear, because you talk
16 about competency, and I'm not talking about competency.
17 I concede competency is not an issue. I'm talking about
18 insanity, and that's what she's talking about in her
19 letter, that she has a legitimate concern regarding his
20 mental state as to his criminal responsibility, that
21 being his sanity at the time of the issue, not
22 competency. That's completely off the table, but she has
23 a request regarding his sanity, as do I, as his lawyer.

24 What I would like to do is have her opinion
25 before making a motion to have him evaluated, but I

1 believe that based on my conversations with my client and
2 the facts as I know them that he needs to be evaluated by
3 the State if she's not going to be given time to conclude
4 her examination.

5 THE COURT: And, again, Ms. Parham, she has
6 been given since March of 2011 to make that evaluation
7 and there has been nothing, nothing that has been
8 indicated to the Court that there is any -- that I have
9 any reason to order an evaluation.

10 MS. PARHAM: Your Honor, she has said that
11 she has not reviewed all the discovery. The last
12 discovery came on January 10th.

13 THE COURT: But the discovery doesn't go to
14 his mental state.

15 MS. PARHAM: Yes, it does. It goes to
16 someone who interacted with him three times a week.
17 Shakeyra and him met three times a week.

18 THE COURT: But she indicated, Ms. Parham,
19 that it may be important and it could or should help her,
20 but she didn't indicate it was going to.

21 MS. PARHAM: Your Honor, you don't have to
22 know definitively --

23 THE COURT: I'm done arguing with you. You
24 file the appropriate paperwork if you need to.

25 MS. PARHAM: Are you denying my motion to

1 have him evaluated by the State?

2 THE COURT: Yes.

3 MS. PARHAM: I object to that motion. Are
4 you denying a continuance based -- to give us more time
5 to prepare a defense?

6 THE COURT: Yes.

7 MS. PARHAM: And I also move for a
8 continuance and believe this is unconstitutional based on
9 Langford. Do you deny the motion on that ground as well?

10 THE COURT: I've already addressed those
11 issues, so yes.

12 MS. PARHAM: Okay. Thank you.

13 THE COURT: Thank you.

14 MR. DuRANT: Thank you, Your Honor.
15 Appreciate you working with us.

16 THE COURT: Ms. Parham, if anything develops
17 between now and Monday, you can contact my chambers.
18 Mr. DuRant, you know how to get in touch with me.

19 Thank you.

20 MR. DuRANT: Thank you, Your Honor.

21 THE COURT: Let me see you all in chambers.

22 - - -

23 (Whereupon, the proceedings were concluded.)

24 - - -

25

I, the undersigned, Amanda Kelly Haffenden, RPR, CRR, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 31st of January 2013.

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

July 21, 2017

Circuit Court Reporter

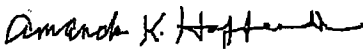
AMANDA K. HAFFENDEN, RPR, CRR
Circuit Court Reporter
P.O. Box 424
Summerville, SC 29484
Ahaffenden@sccourts.org

July 21, 2017

TO: Brianna Arnone
Office of the Attorney General
Rembert C. Dennis Building
PO Box 11549
Columbia, SC 29211-1549

IN RE: SC vs. Arthur Frederick Peterson
DATE: January 31, 2013
TRANSCRIPT OF PROCEEDINGS
BEFORE: Kristi Lea Harrington

ORIGINAL 48 pages @ \$3.25: \$156
Keyword Index: \$3.50
TOTAL DUE: \$159.50


Amanda K. Haffenden, RPR, CRR

***-**-6999

\$	3			
\$156 [1] - 49:13 \$3.25 [1] - 49:13	30 [5] - 2:3, 8:10, 9:5, 9:17, 24:11 300 [1] - 15:8 30th [4] - 4:16, 7:8, 14:18, 24:16 31 [3] - 1:5, 3:1, 49:10 31st [1] - 48:8 350 [2] - 14:18, 20:5 37 [1] - 2:3	36:20, 39:7 absolute [1] - 15:21 absolutely [1] - 8:11 abused [1] - 12:14 accept [1] - 10:7 acceptable [1] - 41:2 according [1] - 12:23 accordingly [1] - 35:21 account [1] - 19:1 accurate [1] - 48:4 actions [2] - 28:20, 38:19 actual [1] - 9:23 addition [2] - 28:23, 44:15 additional [5] - 14:17, 14:18, 15:13, 15:20, 22:15, 33:19, 36:21, 37:4 address [4] - 17:19, 17:22, 23:11, 45:13 addressed [1] - 47:10 adjust [1] - 35:21 admin [2] - 11:15, 11:17 administrative [1] - 11:11 advance [2] - 4:20, 4:21 age [1] - 6:8 ago [3] - 15:4, 18:13, 26:5 agree [2] - 20:11, 31:17 agreed [1] - 5:5 ahaffenden@ sccourts.org [1] - 49:3 alert [1] - 21:4 allow [5] - 4:2, 10:23, 17:20, 17:21, 31:25 almost [1] - 5:22 amanda [1] - 1:18 Amanda [2] - 48:1, 49:19 AMANDA [1] - 49:1 ambulance [1] - 12:22 amount [1] - 30:2 analysis [1] - 27:10 analyzed [1] - 16:18 anaphylactic [1] - 12:7 Angeles [1] - 27:1 answer [2] - 23:25, 32:1 appeal [1] - 48:7 appreciate [1] -	47:15 appropriate [2] - 37:19, 46:24 April [4] - 4:16, 7:8, 13:9, 24:16 arguing [1] - 46:23 argument [1] - 12:25 Arnone [1] - 49:5 arrangements [1] - 30:9 arrested [2] - 4:10, 13:1 Art [4] - 3:10, 12:18, 33:18, 37:12 Arthur [2] - 8:21, 49:10 ARTHUR [1] - 1:6 articulate [1] - 35:22 ascertain [1] - 39:23 aside [1] - 35:1 assessment [1] - 39:25 Assistant [1] - 1:13 associate [1] - 5:17 associated [1] - 19:23 assuming [2] - 10:2, 10:3 attached [1] - 41:15 Attorney [3] - 1:13, 1:15, 49:6 attorney [5] - 10:12, 19:23, 24:8, 34:15, 39:11, 44:23 audiotaped [1] - 24:15 August [1] - 44:12 availability [1] - 36:18 aware [2] - 32:22, 34:19	began [2] - 23:25, 31:5 beginning [5] - 13:7, 13:8, 14:1, 15:15 behavioral [1] - 26:18 belief [1] - 39:11 believes [3] - 14:13, 22:11, 42:1 benefit [2] - 8:5, 43:19 benefits [1] - 10:6 best [4] - 29:18, 31:21, 31:23, 32:3 better [1] - 16:10 between [2] - 9:18, 47:17 bit [2] - 17:1, 18:24 black [1] - 12:13 bled [1] - 12:17 bleeding [1] - 12:17 blindly [1] - 17:6 Board [1] - 27:3 boss [1] - 6:20 box [1] - 23:9 Box [2] - 49:2, 49:7 brain [1] - 12:7 Brianna [1] - 49:5 brief [1] - 11:1 briefly [1] - 39:20 brought [1] - 23:12 Bruce [5] - 1:13, 3:5, 13:4, 13:18, 13:23 Building [1] - 49:6 burden [2] - 20:24, 21:22 business [1] - 7:23 BY [5] - 26:15, 30:11, 30:18, 32:5, 37:11
1	4		B	C
1 [1] - 12:8 10th [3] - 15:6, 20:6, 46:12 110 [1] - 14:16 11549 [1] - 49:7 11:55 [1] - 31:5 127 [1] - 12:20 14 [3] - 4:12, 31:2, 33:20 14th [3] - 25:2, 32:10, 33:6 16th [4] - 5:5, 5:11, 18:13, 25:17 17th [1] - 15:3 18th [1] - 34:2	4 [1] - 13:21 424 [1] - 49:2 48 [1] - 49:13 4:17 [1] - 31:6 4th [8] - 5:7, 5:14, 5:19, 16:9, 17:13, 17:16, 19:21, 41:1	44:15 additional [5] - 14:17, 14:18, 15:13, 15:20, 22:15, 33:19, 36:21, 37:4 address [4] - 17:19, 17:22, 23:11, 45:13 addressed [1] - 47:10 adjust [1] - 35:21 admin [2] - 11:15, 11:17 administrative [1] - 11:11 advance [2] - 4:20, 4:21 age [1] - 6:8 ago [3] - 15:4, 18:13, 26:5 agree [2] - 20:11, 31:17 agreed [1] - 5:5 ahaffenden@ sccourts.org [1] - 49:3 alert [1] - 21:4 allow [5] - 4:2, 10:23, 17:20, 17:21, 31:25 almost [1] - 5:22 amanda [1] - 1:18 Amanda [2] - 48:1, 49:19 AMANDA [1] - 49:1 ambulance [1] - 12:22 amount [1] - 30:2 analysis [1] - 27:10 analyzed [1] - 16:18 anaphylactic [1] - 12:7 Angeles [1] - 27:1 answer [2] - 23:25, 32:1 appeal [1] - 48:7 appreciate [1] -	47:15 appropriate [2] - 37:19, 46:24 April [4] - 4:16, 7:8, 13:9, 24:16 arguing [1] - 46:23 argument [1] - 12:25 Arnone [1] - 49:5 arrangements [1] - 30:9 arrested [2] - 4:10, 13:1 Art [4] - 3:10, 12:18, 33:18, 37:12 Arthur [2] - 8:21, 49:10 ARTHUR [1] - 1:6 articulate [1] - 35:22 ascertain [1] - 39:23 aside [1] - 35:1 assessment [1] - 39:25 Assistant [1] - 1:13 associate [1] - 5:17 associated [1] - 19:23 assuming [2] - 10:2, 10:3 attached [1] - 41:15 Attorney [3] - 1:13, 1:15, 49:6 attorney [5] - 10:12, 19:23, 24:8, 34:15, 39:11, 44:23 audiotaped [1] - 24:15 August [1] - 44:12 availability [1] - 36:18 aware [2] - 32:22, 34:19	begin [2] - 23:25, 31:5 beginning [5] - 13:7, 13:8, 14:1, 15:15 behavioral [1] - 26:18 belief [1] - 39:11 believes [3] - 14:13, 22:11, 42:1 benefit [2] - 8:5, 43:19 benefits [1] - 10:6 best [4] - 29:18, 31:21, 31:23, 32:3 better [1] - 16:10 between [2] - 9:18, 47:17 bit [2] - 17:1, 18:24 black [1] - 12:13 bled [1] - 12:17 bleeding [1] - 12:17 blindly [1] - 17:6 Board [1] - 27:3 boss [1] - 6:20 box [1] - 23:9 Box [2] - 49:2, 49:7 brain [1] - 12:7 Brianna [1] - 49:5 brief [1] - 11:1 briefly [1] - 39:20 brought [1] - 23:12 Bruce [5] - 1:13, 3:5, 13:4, 13:18, 13:23 Building [1] - 49:6 burden [2] - 20:24, 21:22 business [1] - 7:23 BY [5] - 26:15, 30:11, 30:18, 32:5, 37:11
2	5			
2 [2] - 9:16, 9:17 20 [1] - 26:2 2008 [1] - 44:13 2011 [2] - 4:12, 4:16, 7:8, 13:9, 24:16, 25:3, 27:14, 30:20, 31:2, 31:10, 32:10, 33:6, 34:1, 34:3, 34:22, 34:25, 40:10, 41:17, 42:17, 45:9, 46:6 2011-GS-10-4154 [1] - 1:2 2012 [5] - 4:20, 4:21, 4:22, 15:3, 34:20 2013 [5] - 1:5, 3:1, 5:8, 15:6, 48:9, 49:10 2017 [2] - 48:12, 49:4 21 [3] - 9:22, 48:12, 49:4 21st [1] - 16:3 24 [1] - 26:3 25 [7] - 7:16, 8:7, 9:17, 9:21, 25:25, 26:3 25th [1] - 5:15 26 [1] - 2:3 28th [1] - 6:1 29211-1549 [1] - 49:7 29484 [1] - 49:2	5 [1] - 4:13 5th [2] - 4:19, 5:6	60 [5] - 22:23, 29:22, 30:2, 33:21, 39:18 6999 [1] - 49:20	bad [2] - 12:6, 43:6 based [23] - 12:2, 12:6, 25:25, 27:19, 29:6, 29:13, 29:16, 29:24, 33:23, 35:17, 36:6, 36:11, 37:8, 37:23, 40:18, 41:14, 42:4, 42:15, 44:5, 44:24, 46:1, 47:4, 47:8 bases [1] - 28:18 bearing [1] - 25:2 beat [1] - 12:16 become [1] - 5:18 BEFORE [1] - 49:11	C)crazy [1] - 43:16 cancer [1] - 6:5 cannot [1] - 42:12 capacity [1] - 44:19 captioned [1] - 48:6 care [2] - 23:18, 23:20 careful [2] - 34:10, 34:12 CAROLINA [2] - 1:1, 1:4 Carolina [7] - 1:6, 3:7, 26:17, 27:2, 48:3, 48:8 case [5] - 3:22, 3:24, 3:25, 4:3, 4:23, 5:4, 5:6, 5:18, 5:22,
	6			
	7			
	8			
	9			
	A			
	a.m [1] - 31:5 aback [1] - 17:1 able [4] - 4:4, 32:1,			

6:7, 6:8, 7:20, 7:22, 10:23, 11:7, 11:12, 13:3, 13:18, 14:3, 14:12, 15:6, 15:16, 15:22, 15:25, 16:5, 17:11, 17:15, 18:6, 18:8, 18:13, 18:14, 19:20, 20:2, 23:24, 27:12, 28:15, 28:17, 29:19, 30:3, 30:24, 33:2, 34:17, 36:3, 36:4, 38:14, 38:21, 38:22, 39:18, 39:22, 39:25, 41:10, 41:11, 42:25, 48:7 cases [2] - 28:4, 38:20 catch-22 [1] - 20:18 caused [2] - 12:7 certain [1] - 42:14 certainly [1] - 32:22 certified [1] - 27:3 certify [2] - 48:4, 48:10 chambers [2] - 47:17, 47:21 charge [2] - 9:9, 11:16 charged [3] - 3:10, 8:23, 16:21 CHARLESTON [1] - 1:2 Charleston [4] - 1:6, 12:6, 12:11, 48:8 chief [4] - 3:5, 11:11, 11:15, 11:16 Circuit [8] - 1:19, 1:19, 3:6, 48:2, 48:3, 48:7, 48:16, 49:1 Citadel [2] - 11:23, 24:6 clear [2] - 41:24, 45:15 clerk [1] - 11:5 client [24] - 4:24, 6:16, 8:3, 11:22, 12:20, 13:2, 13:16, 14:12, 14:21, 14:22, 15:13, 15:21, 18:1, 19:16, 20:25, 22:16, 25:18, 31:5, 38:18, 39:6, 39:9, 43:15, 44:25, 46:1 client's [4] - 13:11, 18:20, 43:1, 43:7 clinical [1] - 26:23 close [4] - 7:23, 16:19, 28:19, 32:13 closely [1] - 32:20 college [1] - 24:5	Columbia [1] - 49:7 coming [1] - 19:22 commission [2] - 3:11, 4:11 committed [2] - 25:18, 44:12 community [1] - 12:11 competence [3] - 23:22, 30:22, 35:5 competency [6] - 35:9, 45:7, 45:16, 45:17, 45:22 competent [1] - 24:5 complete [1] - 48:5 completed [2] - 6:17, 26:24 completely [1] - 45:22 complex [1] - 28:4 complicated [5] - 36:4, 38:22, 38:25, 39:2 concede [1] - 45:17 concern [7] - 14:15, 44:9, 44:17, 45:8, 45:9, 45:19 concerning [2] - 10:17, 30:21 concerns [9] - 18:19, 27:18, 27:22, 35:5, 35:7, 35:8, 40:1, 44:22, 44:23 conclude [2] - 30:3, 46:3 concluded [1] - 47:23 conclusion [1] - 27:24 conclusions [1] - 28:2 condition [2] - 8:22, 31:1 conference [3] - 3:21, 4:7, 40:25 confidential [1] - 34:10 conflict [1] - 5:19 conform [1] - 44:19 cons [1] - 13:15 consent [2] - 5:24, 6:7 consequences [1] - 21:12 consideration [3] - 21:1, 21:24, 40:20 considerations [1] - 39:5 considered [1] - 20:23	constantly [1] - 23:15 consuming [1] - 5:3 contact [1] - 47:17 contacted [2] - 4:22, 5:16 contained [2] - 35:13, 35:20 contents [2] - 29:12, 35:15 continuance [14] - 3:14, 3:17, 3:19, 6:2, 6:7, 13:22, 14:16, 19:24, 22:1, 41:22, 44:2, 45:11, 47:4, 47:8 continuances [2] - 14:5, 16:18 continue [11] - 4:23, 5:4, 5:5, 5:12, 5:21, 5:24, 11:20, 13:12, 17:15, 39:17, 41:16 continued [9] - 3:25, 5:23, 7:20, 7:22, 13:20, 14:3, 18:22, 42:25 contrary [1] - 39:21 conversation [2] - 33:25, 42:16 conversations [9] - 14:23, 21:6, 22:9, 27:20, 29:7, 33:23, 42:15, 42:18, 46:1 conveyed [4] - 7:16, 8:2, 10:12, 26:4 correct [22] - 3:14, 3:18, 20:13, 21:7, 21:8, 25:7, 27:7, 28:13, 29:1, 30:4, 30:14, 31:3, 31:12, 31:16, 32:7, 32:8, 32:24, 33:15, 33:16, 34:23, 37:16, 40:24 corroborate [1] - 42:13 counsel [6] - 4:13, 4:19, 17:23, 20:11, 42:5, 48:11 COUNTY [1] - 1:2 County [1] - 48:8 couple [1] - 23:12 course [1] - 12:21 COURT [98] - 1:1, 3:2, 3:8, 3:13, 3:16, 3:20, 5:9, 6:11, 6:25, 7:3, 7:10, 7:18, 8:1, 8:5, 8:9, 8:12, 8:16, 8:20, 8:22, 8:25, 9:4, 9:8, 9:11, 9:14, 10:1, 10:5, 10:9, 10:12,	10:15, 10:20, 11:10, 17:9, 17:20, 19:3, 19:7, 19:19, 20:11, 20:24, 21:11, 21:22, 22:2, 22:14, 22:20, 22:25, 23:4, 23:7, 23:10, 25:7, 25:10, 25:13, 26:8, 30:16, 31:25, 33:13, 33:24, 34:3, 34:5, 34:9, 34:21, 34:24, 35:2, 35:5, 35:8, 35:11, 35:17, 36:5, 36:9, 36:15, 36:24, 37:7, 37:18, 37:21, 38:2, 38:5, 39:19, 39:24, 40:3, 40:15, 40:18, 40:25, 41:8, 42:3, 42:16, 43:11, 44:8, 45:2, 46:5, 46:13, 46:18, 46:23, 47:2, 47:6, 47:10, 47:13, 47:16, 47:21 court [5] - 5:2, 6:4, 15:17, 27:5, 27:6 Court [17] - 1:19, 6:21, 7:4, 10:6, 10:17, 17:3, 26:5, 38:7, 39:8, 40:7, 40:14, 44:6, 46:8, 48:2, 48:7, 48:16, 49:1 Court's [4] - 15:25, 17:7, 36:11, 45:5 covered [1] - 28:18 CPA [2] - 11:23, 24:6 crime [2] - 3:12, 4:11 criminal [7] - 11:11, 11:23, 16:21, 20:12, 21:3, 44:18, 45:20 criminally [2] - 23:17, 24:9 CROSS [2] - 2:2, 30:17 CROSS-EXAMINATION [1] - 30:17 CRR [4] - 1:18, 48:2, 49:1, 49:19 crux [1] - 35:23	days [9] - 19:6, 21:2, 22:23, 22:24, 29:22, 30:2, 33:21, 39:18 deciding [1] - 11:2 decision [3] - 15:25, 28:7, 43:8 decisions [1] - 13:12 defend [1] - 18:14 Defendant [2] - 1:7, 1:15 defendant [2] - 8:19, 16:21 DEFENDANT [10] - 8:24, 9:3, 9:7, 9:10, 9:13, 10:8, 10:11, 10:14, 10:19, 34:4 defendant's [2] - 6:5, 6:22 defense [29] - 3:19, 4:16, 4:19, 6:10, 6:12, 7:1, 7:7, 13:6, 13:14, 14:14, 15:19, 16:11, 17:3, 17:6, 18:5, 20:13, 20:16, 21:13, 24:1, 26:7, 28:25, 29:3, 33:19, 33:23, 37:4, 38:12, 39:22, 41:25, 47:5 definitively [1] - 46:22 delayed [1] - 20:4 delays [1] - 13:10 denied [1] - 45:11 Dennis [1] - 49:6 deny [3] - 20:20, 41:22, 47:9 denying [3] - 41:24, 46:25, 47:4 department [1] - 26:18 deputy [1] - 3:5 determination [1] - 29:10 determines [1] - 18:10 develops [1] - 47:16 diagnosed [1] - 44:14 dies [1] - 12:25 difference [1] - 9:17 different [2] - 13:14, 40:1 difficult [1] - 40:4 difficulties [1] - 13:10 diligence [1] - 16:24 DIRECT [2] - 2:2, 26:14 disagreed [1] - 41:6 discharge [1] - 24:22
---	---	---	---	---

disclose [1] - 34:10 discovery [36] - 4:14, 4:17, 5:3, 7:5, 12:2, 14:11, 14:17, 14:18, 15:5, 15:9, 15:10, 15:14, 15:20, 16:23, 20:5, 20:6, 20:8, 22:3, 22:6, 24:3, 24:17, 24:18, 24:25, 28:5, 28:10, 28:23, 33:14, 34:6, 35:18, 37:2, 37:3, 37:4, 46:11, 46:12, 46:13 discussing [1] - 22:10 discussions [2] - 23:13, 29:13 division [1] - 26:19 divulging [1] - 32:14 docket [5] - 11:19, 17:11, 41:10, 41:11, 41:13 docketing [2] - 16:1, 19:25 doctor [2] - 14:2, 14:7 doctorate [2] - 26:23, 26:24 documentation [2] - 36:18, 41:18 documents [9] - 29:24, 29:25, 33:22, 36:21, 36:22, 39:14, 41:20, 42:7, 42:9 done [4] - 7:25, 38:17, 43:9, 46:23 down [4] - 25:24, 36:16, 37:21, 43:24 Dr [17] - 4:2, 6:16, 13:8, 13:15, 22:2, 22:16, 26:9, 28:10, 26:16, 32:1, 36:15, 37:9, 37:24, 38:13, 39:1, 41:14 DSS [4] - 24:20, 25:5, 25:9, 33:4 dual [1] - 40:21 DUE [1] - 49:15 due [8] - 3:24, 6:2, 6:7, 11:18, 16:22, 16:23, 39:24, 41:10 duly [2] - 8:19, 26:12 DuRant [59] - 1:13, 3:2, 3:4, 3:5, 3:16, 3:18, 3:21, 4:5, 4:8, 5:9, 5:11, 6:13, 7:2, 7:4, 7:11, 7:12, 7:19, 9:14, 9:16, 10:3, 10:5, 10:21, 17:12, 17:14, 17:20, 18:5, 18:7,	23:7, 23:8, 23:11, 25:7, 25:8, 25:10, 25:14, 25:15, 30:16, 30:18, 32:5, 33:11, 36:9, 36:13, 37:18, 37:20, 38:2, 38:3, 38:13, 39:19, 39:20, 39:24, 40:2, 40:6, 40:22, 40:24, 41:4, 43:11, 43:13, 47:14, 47:18, 47:20 DuRant's [2] - 36:7, 45:5 during [3] - 4:6, 19:11, 35:10 E e-mail [2] - 11:5, 11:17 e-mailed [1] - 6:2 early [1] - 42:10 easy [3] - 39:21, 39:23, 40:3 eating [1] - 12:6 educated [1] - 24:6 employed [1] - 13:8 ended [1] - 31:6 entire [1] - 16:4 entitled [5] - 15:18, 18:1, 18:2, 38:12 error [1] - 16:14 especially [2] - 11:15, 36:3 Esquire [1] - 1:14 establish [1] - 43:20 estimate [2] - 22:18, 29:18 evaluate [1] - 42:23 evaluated [8] - 4:25, 23:24, 43:12, 43:21, 44:7, 45:25, 46:2, 47:1 evaluating [2] - 13:16, 14:20 evaluation [11] - 6:17, 20:17, 20:20, 28:1, 30:12, 35:10, 44:9, 44:20, 44:23, 46:6, 46:9 evidence [6] - 12:23, 31:21, 31:24, 32:3, 32:4, 48:6 exact [2] - 31:8, 35:15 exam [2] - 13:13 examination [4] - 45:4, 45:5, 45:6, 46:4 EXAMINATION [3] -	26:14, 30:17, 37:10 examined [1] - 26:13 excluded [1] - 21:14 expert [11] - 16:22, 16:24, 17:5, 21:18, 21:20, 27:4, 38:15, 39:13, 43:2, 43:5 expert's [1] - 43:9 expiration [1] - 10:10 expires [1] - 26:5 expiring [1] - 10:16 explained [3] - 3:22, 3:23, 8:10 extremely [1] - 14:20 F facing [2] - 16:21, 39:6 fact [8] - 5:25, 6:3, 11:9, 11:18, 16:4, 41:16, 41:17, 41:19 factors [1] - 18:16 facts [5] - 11:1, 12:3, 38:25, 44:25, 46:2 falling [1] - 21:12 fair [1] - 30:2 faith [2] - 21:19, 39:11 fall [1] - 34:19 family [2] - 24:21, 33:5 far [3] - 28:3, 35:19, 44:16 father [1] - 6:5 father-in-law [1] - 6:5 February [8] - 5:7, 5:14, 5:19, 13:21, 14:5, 16:9, 17:13, 17:16, 41:1 federal [8] - 5:2, 6:3, 13:19, 15:15, 20:3, 20:9, 27:4, 27:6 fellowship [1] - 26:25 few [2] - 37:13, 37:22 Fields [6] - 11:24, 12:5, 28:11, 31:7, 31:15, 33:5 Fields' [2] - 24:22, 32:9 fifteen [1] - 24:13 file [5] - 21:13, 21:17, 21:19, 39:8, 46:24 filed [4] - 4:13, 25:5, 25:8, 25:9 final [4] - 28:3, 28:5, 28:7, 29:19	finalize [1] - 36:1 fine [2] - 6:23, 17:18 firearm [2] - 3:11, 4:11 first [8] - 6:11, 6:13, 11:13, 18:8, 18:12, 20:9, 25:21, 26:12 five [1] - 26:21 floating [1] - 36:13 follow [1] - 37:19 follow-up [1] - 37:19 follows [1] - 26:13 foregoing [1] - 48:4 forensic [4] - 26:19, 26:24, 26:25, 27:3 form [2] - 29:4, 35:25 former [1] - 15:15 forward [2] - 11:4, 20:10 forwarded [1] - 11:17 four [1] - 24:13 frame [2] - 4:3, 22:17 frankly [2] - 19:2, 23:14 FREDERICK [1] - 1:6 Frederick [2] - 8:21, 49:10 Friday [3] - 5:15, 7:23, 18:23 front [5] - 16:6, 16:10, 25:12, 38:11, 40:12 functioning [1] - 28:20 G General [1] - 49:6 general [1] - 35:16 GENERAL [1] - 1:1 generally [1] - 28:4 genuine [2] - 44:22 given [12] - 17:2, 17:4, 22:4, 28:18, 35:19, 36:17, 41:20, 42:8, 44:14, 45:4, 46:3, 46:6 Glenda [1] - 31:15 government [1] - 18:22 graduated [1] - 11:22 grain [1] - 40:4 grant [1] - 20:21 granted [1] - 20:21 grasp [2] - 38:4, 40:7 ground [1] - 47:9 guilty [2] - 9:1, 23:21	guy [1] - 23:24 Gwendolyn [1] - 31:6 H Haffenden [3] - 1:18, 48:1, 49:19 HAFFENDEN [1] - 49:1 half [1] - 15:9 hand [2] - 7:4, 36:21 happy [1] - 4:8 hard [2] - 25:1, 40:3 Harrington [3] - 1:10, 27:8, 49:11 head [1] - 36:14 health [2] - 28:12, 31:1 hear [3] - 23:2, 26:8, 26:10 heard [2] - 40:19, 42:5 hearing [6] - 4:1, 6:3, 6:21, 17:24, 40:14, 41:8 heavy [1] - 5:3 held [1] - 16:2 help [6] - 29:4, 29:9, 33:1, 35:12, 41:18, 46:19 helping [1] - 15:16 hereby [1] - 48:3 hereto [1] - 48:11 herself [1] - 24:19 hired [4] - 15:14, 15:15, 27:10, 30:19 history [3] - 11:23, 19:2, 44:14 holds [1] - 16:1 Honor [72] - 3:4, 3:9, 3:18, 4:9, 6:15, 6:19, 7:5, 7:13, 8:4, 8:8, 8:11, 8:14, 9:7, 9:17, 10:4, 10:8, 10:11, 10:14, 10:25, 11:1, 11:22, 14:16, 18:3, 20:1, 20:14, 20:20, 21:16, 22:1, 22:12, 22:23, 23:6, 23:8, 24:3, 25:4, 25:15, 30:8, 31:22, 32:2, 33:12, 33:17, 34:13, 36:8, 36:14, 38:1, 38:3, 38:8, 38:9, 39:5, 39:7, 39:17, 39:21, 40:6, 40:17, 40:24, 41:5, 41:23, 42:2, 42:11, 42:13, 42:19,
---	--	--	--	---

42:20, 42:22, 42:24, 44:2, 44:4, 44:10, 46:10, 46:21, 47:14, 47:20 Honorable [1] - 1:10 hours [1] - 24:13 housekeeping [1] - 11:4 hypothetical [1] - 21:5 I ill [1] - 23:21 illness [1] - 44:15 immediately [1] - 13:1 impact [1] - 28:20 important [8] - 11:2, 14:20, 22:9, 32:16, 32:17, 35:12, 38:20, 46:19 IN [1] - 49:10 incident [2] - 12:1, 24:10 includes [1] - 28:11 including [1] - 44:15 incompetent [1] - 23:16 incumbent [1] - 43:21 Index [1] - 49:14 Indicate [2] - 4:2, 46:20 indicated [19] - 3:24, 4:6, 4:24, 5:8, 5:16, 5:20, 6:6, 10:6, 11:18, 17:18, 21:6, 35:11, 40:20, 41:1, 41:2, 41:17, 41:19, 46:8, 46:18 indicates [1] - 45:8 indicating [1] - 19:23 indication [2] - 21:5, 45:4 ineffective [2] - 43:3, 44:4 Information [2] - 29:15, 34:11 initial [1] - 4:14 Insane [4] - 23:17, 24:9, 39:9, 43:17 Insanity [13] - 4:16, 6:9, 6:12, 6:15, 7:1, 7:7, 20:13, 20:16, 20:25, 23:23, 24:1, 43:20, 45:18 intended [1] - 6:14 interacted [3] -	31:18, 32:19, 46:16 Interaction [3] - 28:21, 32:22, 44:24 Interest [2] - 42:24, 48:11 interested [1] - 23:20 interview [3] - 15:13, 29:25, 37:15 Interviews [2] - 39:14, 44:16 Introduced [1] - 48:6 Investigator [1] - 15:15 Involved [3] - 6:18, 19:20, 28:5 involvement [2] - 24:21, 33:5 involves [1] - 38:14 involving [1] - 33:4 Issue [18] - 6:14, 6:22, 7:14, 23:15, 24:8, 24:9, 30:23, 33:14, 37:4, 38:4, 40:8, 41:20, 42:5, 43:21, 45:17, 45:21 issues [13] - 13:3, 15:14, 19:22, 19:25, 23:19, 28:16, 30:1, 34:6, 38:14, 39:2, 39:3, 44:3, 47:11 Items [13] - 29:2, 29:9, 29:14, 29:16, 30:8, 30:9, 35:13, 35:20, 35:21, 36:25, 41:25, 42:13, 42:14 J Jack [1] - 23:9 Jack-in-the-box [1] - 23:9 January [13] - 1:5, 3:1, 5:15, 7:17, 15:6, 18:13, 20:6, 25:17, 25:24, 33:15, 46:12, 48:9, 49:10 job [1] - 43:7 Jr [1] - 8:21 judge [7] - 11:8, 11:10, 11:11, 11:13, 16:6, 16:10, 38:11 Judge [5] - 1:10, 11:18, 27:8, 40:22, 41:8 Judges [3] - 40:23, 41:2, 41:5 Judicial [3] - 1:19, 3:6, 48:2 July [2] - 48:12, 49:4	jumping [1] - 23:9 jurisdiction [5] - 11:6, 11:9, 11:12, 11:14, 11:20 jury [3] - 7:21, 9:2, 24:8 K keep [1] - 23:9 keeps [2] - 24:17, 24:25 Kelly [2] - 1:18, 48:1 kept [1] - 16:17 Keyword [1] - 49:14 killed [2] - 31:6, 31:15 kin [1] - 48:10 kind [1] - 28:7 kitchen [1] - 12:24 Knight [18] - 2:3, 4:2, 6:16, 13:8, 13:15, 13:24, 22:2, 22:16, 26:9, 26:10, 26:16, 32:1, 36:15, 37:9, 37:24, 38:13, 39:1 KNIGHT [1] - 26:11 Knight's [1] - 41:14 known [2] - 23:14, 38:13 Kristi [2] - 1:10, 49:11 L lacked [1] - 43:15 Langford [7] - 15:25, 16:13, 16:14, 16:15, 16:16, 40:21, 47:9 last [8] - 4:19, 5:11, 15:5, 16:3, 20:5, 33:24, 34:24, 46:11 late [4] - 24:18, 24:25, 27:12, 30:20 law [2] - 6:5, 11:5 lawyer [8] - 16:23, 21:16, 31:23, 43:1, 44:22, 45:23 lawyers [1] - 13:14 Lea [2] - 1:10, 49:11 leaders [1] - 12:13 leading [1] - 32:21 least [1] - 5:24 leave [2] - 26:1, 26:4 leaves [2] - 40:12 legal [2] - 39:3 legitimate [4] - 18:19, 27:22, 44:17,	45:19 lesser [1] - 10:7 letter [6] - 41:14, 44:11, 45:8, 45:19 licensed [1] - 27:1 life [3] - 8:10, 9:5, 16:22 lifetime [1] - 39:6 likely [2] - 6:7, 45:3 limit [1] - 10:10 Lionel [2] - 5:16, 5:23 Lofton [1] - 5:16 look [3] - 16:23, 28:4, 32:25 looks [1] - 22:9 Los [1] - 27:1 Lynn [1] - 31:15 M ma'am [9] - 7:2, 8:24, 9:3, 9:10, 9:13, 10:19, 20:1, 34:4, 37:20 mail [2] - 11:5, 11:17 mailed [1] - 6:2 mandatory [1] - 9:5 manslaughter [10] - 7:15, 8:2, 8:6, 8:13, 9:12, 9:15, 9:16, 9:20, 10:7, 39:4 March [10] - 4:12, 12:1, 26:2, 27:12, 30:20, 31:1, 32:10, 33:6, 34:21, 46:6 Mary [1] - 1:14 material [3] - 28:24, 33:19, 36:17 matter [4] - 4:2, 4:18, 11:3, 11:4 matters [2] - 5:1, 11:15 McDonald [2] - 11:10, 11:18 McNaughton [1] - 43:15 mean [5] - 20:7, 42:13, 42:24, 44:4 Medical [1] - 26:17 medical [7] - 15:1, 15:2, 15:5, 24:23, 26:25, 32:9, 32:23 meet [7] - 12:13, 14:12, 19:9, 19:13, 22:15, 22:16, 35:3 meeting [2] - 19:11, 37:12 meetings [1] - 33:18 mental [34] - 13:3,	13:6, 13:11, 14:14, 14:19, 14:23, 17:3, 17:6, 18:5, 18:20, 19:1, 20:25, 22:4, 22:7, 23:13, 23:18, 25:2, 26:7, 27:18, 28:11, 31:1, 31:21, 31:24, 32:7, 32:10, 32:17, 33:6, 36:4, 38:14, 39:2, 44:17, 45:20, 46:14 mentally [1] - 23:21 mentioned [2] - 13:21, 37:15 met [7] - 13:4, 13:16, 34:5, 34:13, 34:24, 41:16, 46:17 million [1] - 12:8 mind [2] - 14:22, 22:10 minimum [3] - 9:4, 9:25, 25:22 minister [2] - 12:4, 12:10 ministering [1] - 11:24 ministers [1] - 12:15 minutes [2] - 24:12, 24:13 mistaken [1] - 9:22 mom [1] - 12:25 moment [1] - 13:6 moments [1] - 37:22 Monday [11] - 6:1, 7:21, 11:7, 34:18, 38:19, 38:23, 41:22, 42:3, 42:5, 45:12, 47:17 month [4] - 15:4, 18:13, 20:9, 26:5 months [4] - 4:20, 4:21, 15:11, 32:20 morning [2] - 17:21, 45:13 most [2] - 22:6, 45:3 mother [3] - 12:15, 12:16, 12:24 motion [16] - 3:13, 3:19, 15:24, 25:5, 25:9, 38:5, 41:15, 41:22, 43:24, 44:5, 45:11, 45:25, 46:25, 47:3, 47:9 motions [1] - 6:21 move [2] - 44:23, 47:7 moving [1] - 45:14 MR [5] - 6:13, 32:5, 39:20, 47:14, 47:20 MS [48] - 3:9, 3:15,
--	---	--	--	--

8:4, 8:8, 8:11, 8:14, 10:25, 11:22, 18:3, 19:5, 19:10, 20:1, 20:14, 21:8, 21:15, 21:25, 22:6, 22:19, 22:22, 23:2, 23:6, 25:4, 25:11, 26:15, 30:7, 30:11, 30:15, 31:22, 33:17, 36:8, 37:11, 37:17, 38:1, 38:8, 40:17, 41:23, 42:11, 42:18, 44:1, 44:10, 45:14, 46:10, 46:15, 46:21, 46:25, 47:3, 47:7, 47:12 multiple [3] - 12:10, 13:17, 34:13 murder [16] - 3:10, 4:10, 8:10, 8:23, 9:18, 9:19, 9:25, 12:1, 16:21, 25:19, 25:21, 25:22, 28:17, 36:3, 38:20 must [1] - 20:12	nine-year [1] - 9:24 Ninth [3] - 1:19, 3:6, 48:2 North [1] - 27:2 note [1] - 25:21 nothing [9] - 13:5, 21:2, 21:6, 33:11, 40:11, 44:8, 45:7, 46:7 notice [13] - 4:15, 6:11, 6:25, 7:7, 17:2, 17:4, 17:6, 20:12, 20:15, 21:13, 21:17, 39:8 notified [4] - 4:19, 5:25, 6:9, 6:14 November [12] - 4:19, 5:6, 5:13, 13:19, 14:3, 14:16, 14:18, 15:7, 16:2, 19:21, 20:2, 20:4 nutshell [1] - 38:6	16:17, 18:4, 21:12, 24:1, 25:15, 36:13, 36:16, 42:9, 43:18 ongoing [3] - 30:12, 42:8, 44:20 open [3] - 7:18, 7:23, 15:17 opinion [34] - 4:25, 10:22, 13:24, 14:1, 14:6, 14:14, 15:23, 16:25, 19:17, 19:18, 21:9, 21:17, 21:18, 21:20, 25:18, 28:3, 28:6, 29:4, 29:19, 35:20, 36:1, 38:15, 39:8, 39:12, 43:2, 43:5, 43:9, 43:15, 43:16, 43:22, 44:6, 45:24 opinions [2] - 28:2, 34:14 opportunity [4] - 35:2, 36:10, 41:21, 41:25 oppose [3] - 3:19, 13:21, 43:24 opposed [1] - 14:4 opposes [1] - 3:17 opposite [1] - 16:15 order [3] - 44:6, 44:9, 46:9 original [1] - 19:3 ORIGINAL [1] - 49:13 originally [1] - 4:18 otherwise [1] - 38:19 own [1] - 22:8	26:15, 30:7, 30:11, 30:15, 31:22, 33:17, 36:8, 37:11, 37:17, 38:1, 38:8, 40:17, 41:23, 42:11, 42:18, 44:1, 44:10, 45:14, 46:10, 46:15, 46:21, 46:25, 47:3, 47:7, 47:12 Parham [29] - 1:14, 3:8, 3:23, 4:12, 4:22, 5:16, 6:2, 7:6, 7:17, 8:1, 10:21, 17:9, 19:19, 22:21, 23:1, 23:12, 33:16, 34:14, 35:15, 36:7, 37:8, 37:23, 39:25, 40:15, 40:21, 41:1, 46:5, 46:18, 47:16 particular [3] - 7:14, 12:12, 17:12 particularly [2] - 28:17, 28:18 party [2] - 3:3, 48:11 past [3] - 5:15, 6:1, 15:11 PCR [1] - 38:20 pending [1] - 5:1 people [3] - 12:11, 31:14, 31:18 percent [1] - 9:20 person [1] - 19:18 personal [1] - 40:5 perspective [2] - 36:4, 40:5 pertinence [1] - 33:4 pertinent [3] - 22:8, 28:14, 33:8 PETERSON [1] - 1:6 Peterson [25] - 3:10, 4:10, 8:16, 8:21, 19:8, 19:9, 22:21, 27:11, 27:16, 29:7, 29:17, 30:1, 30:12, 31:14, 32:12, 33:25, 34:25, 41:16, 42:15, 42:17, 42:23, 43:12, 44:16, 45:3, 49:10 Peterson's [1] - 30:22 PhD [1] - 26:23 physically [1] - 12:14 piece [1] - 15:19 pieces [1] - 14:25 place [4] - 3:20, 4:6, 8:17, 10:23 placed [1] - 17:12 plea [18] - 7:24, 10:7, 10:18, 18:7, 18:8, 18:9, 18:10, 18:12,	18:15, 18:17, 20:17, 20:22, 21:1, 25:16, 25:17, 25:20 plead [3] - 19:14, 25:19, 34:17 PO [1] - 49:7 point [4] - 7:8, 12:23, 14:12, 37:6 police [2] - 12:19, 12:21 policy [2] - 11:14, 14:11 porch [1] - 12:18 position [5] - 18:18, 43:8, 43:11, 43:13, 43:14 possession [2] - 3:11, 4:11 possible [3] - 9:6, 9:15, 35:17 post [1] - 26:24 post-doctorate [1] - 26:24 posture [3] - 3:22, 3:24, 10:22 potential [1] - 24:1 potentially [2] - 6:9, 23:14 practice [2] - 27:1, 36:3 precarious [1] - 18:18 prejudiced [1] - 16:14 prejudicial [2] - 16:19, 16:20 preliminary [3] - 28:2, 34:14, 35:25 prepare [1] - 47:5 present [2] - 4:2, 31:14 presumption [1] - 43:18 pretty [3] - 6:17, 12:3, 38:4 previously [2] - 4:1, 27:8 primarily [1] - 9:17 prison [1] - 9:5 private [1] - 13:13 privilege [1] - 38:24 privileged [1] - 29:16 problem [2] - 30:7, 40:9 procedural [3] - 3:22, 3:24, 10:22 procedure [2] - 20:12, 21:3 proceed [2] - 14:2, 18:11
N	O	P		
name [3] - 3:3, 3:4, 8:20 nature [2] - 11:16, 28:19 necessarily [2] - 20:19, 41:7 necessary [1] - 4:1 need [19] - 16:24, 17:23, 19:4, 19:5, 22:14, 22:15, 22:17, 22:18, 22:21, 23:21, 23:22, 23:23, 29:17, 32:23, 42:4, 43:16, 45:3, 46:24 needed [2] - 4:3, 4:24 needs [7] - 7:25, 16:22, 18:21, 22:3, 39:15, 43:10, 46:2 negotiated [3] - 7:16, 9:21 net [1] - 10:4 never [3] - 20:2, 30:23 new [3] - 5:7, 17:15, 28:10 next [7] - 6:4, 7:23, 7:25, 18:23, 26:5, 30:5, 34:18 night [2] - 12:17, 12:18 nine [1] - 9:24	oath [2] - 8:17, 8:18 object [4] - 15:24, 31:22, 38:9, 47:3 obviously [2] - 6:21, 20:7 occurred [1] - 24:10 October [4] - 4:22, 5:5, 5:11, 14:17 OF [5] - 1:1, 1:2, 1:4, 1:4, 49:11 offense [5] - 13:1, 18:20, 27:19, 27:25, 39:10 offensive [1] - 18:24 offer [27] - 7:13, 7:16, 7:18, 7:20, 7:22, 8:2, 8:13, 9:21, 10:10, 10:16, 10:18, 18:7, 18:8, 18:9, 18:10, 18:12, 18:15, 18:17, 18:23, 19:2, 20:17, 20:22, 21:1, 25:16, 25:18, 25:20 offered [2] - 7:15, 9:9 offering [1] - 21:1 Office [1] - 49:6 office [5] - 4:14, 16:2, 16:17, 18:25, 28:24 old [2] - 5:23, 17:10 oldest [1] - 41:11 once [5] - 5:23, 6:6, 29:20, 38:9, 43:20 one [10] - 11:4,	p.m. [1] - 31:6 P.O. [1] - 49:2 pages [8] - 14:17, 14:18, 15:8, 15:9, 15:10, 20:5, 20:6, 49:13 paid [1] - 19:18 paperwork [3] - 14:9, 14:10, 46:24 paralegal [2] - 11:25, 12:6 PARHAM [48] - 3:9, 3:15, 8:4, 8:8, 8:11, 8:14, 10:25, 11:22, 18:3, 19:5, 19:10, 20:1, 20:14, 21:8, 21:15, 21:25, 22:6, 22:19, 22:22, 23:2, 23:6, 25:4, 25:11,		

proceeding [3] - 8:18, 13:23, 34:17 proceedings [2] - 47:23, 48:6 PROCEEDINGS [1] - 49:11 process [2] - 13:11, 16:22 properly [2] - 18:14, 21:13 pros [1] - 13:15 prosecutor [3] - 17:2, 17:4, 23:20 protect [3] - 42:23, 43:3, 43:7 provide [1] - 33:20 provided [10] - 4:14, 7:6, 7:7, 28:10, 30:4, 33:14, 37:3, 41:15, 42:7 providers [1] - 32:14 provocation [1] - 39:4 psychiatric [4] - 6:22, 28:16, 40:12, 44:15 psychiatrist [7] - 23:16, 23:17, 24:4, 24:11, 24:12, 24:14, 44:21 psychiatry [2] - 26:18, 26:19 psychological [2] - 27:10, 31:1 psychologist [10] - 13:24, 14:20, 15:11, 15:23, 16:12, 18:21, 21:9, 22:8, 31:17, 44:24 psychology [4] - 26:23, 26:25, 27:2, 27:3 psychosis [1] - 44:15 punished [1] - 38:18 punishment [3] - 8:25, 9:6, 9:15 purpose [3] - 17:24, 19:7, 26:9 pursuant [4] - 20:11, 21:3, 21:11, 41:15 put [8] - 7:12, 13:21, 15:24, 16:5, 18:4, 20:24, 21:22, 43:8 puts [1] - 43:6	quash [2] - 25:5, 25:9 quashed [1] - 25:6 questions [15] - 10:15, 10:17, 15:20, 22:13, 23:25, 30:21, 36:6, 36:7, 36:10, 36:11, 36:12, 37:9, 37:24, 38:21, 45:6 quickly [2] - 5:18, 38:6 quite [2] - 19:2, 23:14	RECORD [1] - 1:4 recordings [1] - 31:19 records [14] - 14:19, 15:1, 15:2, 15:5, 24:20, 25:5, 28:12, 28:22, 32:9, 32:11, 32:25, 33:4, 33:8, 35:11 RECROSS [1] - 2:2 REDIRECT [2] - 2:2, 37:10 reduction [4] - 8:6, 9:9, 9:11, 9:24 referring [1] - 25:1 regard [3] - 16:11, 39:16, 43:14 regarding [8] - 7:13, 14:9, 24:20, 27:18, 39:3, 44:17, 45:19, 45:23 regardless [2] - 26:6, 42:19 rejected [2] - 8:12, 8:15 relates [1] - 44:18 relationship [3] - 28:19, 32:13, 32:15 relative [1] - 48:7 relevant [2] - 14:22, 42:1 relocated [1] - 12:13 remain [2] - 7:23, 8:18 remainder [1] - 41:9 Rembert [1] - 49:6 remind [1] - 9:14 render [2] - 16:24, 35:20 rendering [1] - 28:5 renegotiate [1] - 26:2 repeatedly [1] - 21:10 report [1] - 34:15 Reported [1] - 1:17 Reporter [4] - 1:19, 48:2, 48:16, 49:1 represent [2] - 3:3, 3:10 representing [1] - 3:6 request [7] - 4:15, 4:17, 6:25, 7:9, 11:18, 36:22, 45:23 requested [10] - 4:23, 15:3, 29:3, 29:5, 29:6, 30:9, 37:1, 42:1, 42:14, 42:21 requesting [4] - 6:2,	36:25, 38:7, 43:12 required [2] - 21:17, 24:24 rescheduled [1] - 5:13 residence [1] - 12:20 resident [1] - 11:13 respect [1] - 39:24 respond [2] - 12:19, 12:21 responsibility [2] - 44:18, 45:20 result [1] - 10:4 retained [2] - 4:12, 34:21 reversible [1] - 16:14 review [14] - 14:11, 15:12, 28:21, 28:25, 29:11, 29:24, 33:3, 33:7, 35:18, 36:18, 36:20, 37:5, 41:19, 41:21 reviewed [8] - 28:9, 31:4, 31:11, 31:13, 35:14, 35:21, 42:6, 46:11 reviewing [1] - 36:2 revisit [1] - 42:5 rights [2] - 43:3, 43:7 road [1] - 43:25 Rose [1] - 1:14 RPR [4] - 1:18, 48:1, 49:1, 49:19 Rule [1] - 4:13 rule [1] - 21:12 rules [2] - 20:12, 21:3 run [1] - 16:1 rushed [3] - 19:15, 19:16, 19:17	seat [1] - 10:20 second [1] - 4:25 secondly [2] - 5:1, 24:3 see [4] - 19:24, 30:7, 45:3, 47:21 select [1] - 7:21 send [1] - 11:7 sent [1] - 20:17 sentence [8] - 8:7, 8:9, 9:20, 9:25, 16:22, 25:23 sentencing [1] - 6:3 September [9] - 4:21, 15:3, 34:1, 34:2, 34:25, 40:10, 41:17, 42:17, 45:9 serious [2] - 11:16, 44:14 serve [1] - 9:19 served [1] - 4:17 service [1] - 9:23 SESSIONS [1] - 1:1 set [7] - 9:1, 15:7, 17:17, 19:21, 34:7, 38:10, 38:25 settlement [1] - 12:8 several [5] - 12:5, 17:11, 27:16, 29:5, 29:6 Shakeyra [10] - 11:24, 12:5, 12:16, 15:1, 15:2, 24:22, 28:11, 32:9, 33:16, 46:17 Shakeyra's [4] - 14:19, 14:22, 15:4, 22:7 shared [2] - 28:2, 34:13 shock [1] - 12:7 shooting [5] - 24:12, 24:14, 31:19, 31:20 shoots [1] - 12:24 short [1] - 30:4 shortly [1] - 4:13 shrimp [1] - 12:6 signed [1] - 7:9 situation [3] - 16:18, 16:20, 43:6 six [1] - 4:20 Solicitor [1] - 1:13 solicitor [4] - 3:5, 16:5, 16:8, 38:10 solicitor's [3] - 16:2, 16:17, 18:25 solve [1] - 44:2 someone [2] - 44:7, 46:16 sometimes [2] -
Q quarter [1] - 9:23			S sake [1] - 43:1 salt [1] - 40:4 sane [2] - 27:25, 43:19 sanity [2] - 45:21, 45:23 saw [1] - 40:10 SC [3] - 49:2, 49:7, 49:10 Scarlett [1] - 13:4 scheduled [5] - 4:18, 5:2, 5:6, 6:4, 13:18 scheduling [1] - 41:12 school [1] - 27:1 sciences [1] - 26:18	

6:20, 40:13 sooner [1] - 6:23 sorry [2] - 5:10, 25:11 SOUTH [2] - 1:1, 1:4 South [5] - 1:6, 3:6, 26:17, 27:2, 48:3, 48:8 specific [1] - 33:22 specifically [2] - 44:11, 44:12 speedy [1] - 16:16 spend [1] - 15:22 spent [1] - 38:20 sponte [1] - 44:6 spur [1] - 13:5 stand [5] - 8:17, 24:5, 30:22, 35:6, 45:7 start [1] - 43:25 started [1] - 18:6 starting [1] - 21:2 STATE [2] - 1:1, 1:4 State [20] - 1:13, 3:6, 3:17, 8:22, 9:8, 13:13, 15:17, 18:1, 19:13, 19:14, 20:16, 20:20, 20:24, 21:23, 28:23, 33:14, 42:23, 46:3, 47:1, 48:3 state [26] - 3:2, 8:20, 13:11, 14:23, 18:20, 19:1, 20:25, 22:4, 22:7, 22:10, 23:13, 23:18, 25:2, 27:5, 27:6, 27:19, 31:21, 31:24, 32:7, 32:10, 32:17, 33:6, 36:4, 44:17, 45:20, 46:14 State's [1] - 12:2 statements [3] - 14:25, 24:15, 31:13 states [2] - 44:11, 44:12 status [1] - 27:19 stay [1] - 37:22 step [5] - 22:15, 22:19, 22:20, 36:16, 37:21 still [7] - 13:23, 19:12, 19:13, 29:2, 30:12, 43:18, 44:20 stuff [2] - 24:18 sua [1] - 44:6 submit [1] - 17:3 subpoena [1] - 25:6 subpoenaed [5] - 24:19, 24:20, 24:21, 25:4 sufficient [1] - 17:25	summaries [1] - 24:22 summary [1] - 7:5 summer [1] - 31:9 Summerville [1] - 49:2 Supreme [1] - 15:25 surprise [1] - 13:25 SUSAN [1] - 26:11 Susan [5] - 2:3, 13:8, 13:15, 13:24, 19:5 sworn [2] - 8:19, 26:12 synopsis [1] - 11:1 system [2] - 16:1, 16:4 T table [4] - 7:21, 20:18, 20:22, 45:22 talks [1] - 44:13 technically [2] - 11:12, 11:13 telephone [2] - 3:21, 4:7 term [1] - 40:22 terms [2] - 10:18, 39:22 testified [3] - 26:13, 27:4, 27:6 testify [1] - 22:12 testimony [3] - 23:3, 37:24, 41:14 text [1] - 5:25 THE [19] - 3:2, 3:8, 3:13, 3:16, 3:20, 5:9, 6:11, 6:25, 7:3, 7:10, 7:18, 8:1, 8:5, 8:9, 8:12, 8:16, 8:20, 8:21, 8:22, 8:24, 8:25, 9:3, 9:4, 9:7, 9:8, 9:10, 9:11, 9:13, 9:14, 10:1, 10:5, 10:8, 10:9, 10:11, 10:12, 10:14, 10:15, 10:19, 10:20, 11:10, 17:9, 17:20, 19:3, 19:7, 19:19, 20:11, 20:24, 21:11, 21:22, 22:2, 22:14, 22:20, 22:25, 23:4, 23:7, 23:10, 25:7, 25:10, 25:13, 26:8, 30:16, 31:25, 32:2, 33:13, 33:24, 34:1, 34:3, 34:4, 34:5, 34:8, 34:9, 34:12, 34:21, 34:23, 34:24, 35:1, 35:2, 35:4, 35:5, 35:7,	35:8, 35:10, 35:11, 35:14, 35:17, 35:25, 36:5, 36:9, 36:15, 36:20, 36:24, 37:1, 37:7, 37:18, 37:21, 38:2, 38:5, 39:19, 39:24, 40:3, 40:15, 40:18, 40:25, 41:8, 42:3, 42:16, 43:11, 44:8, 45:2, 46:5, 46:13, 46:18, 46:23, 47:2, 47:6, 47:10, 47:13, 47:16, 47:21 thereafter [1] - 4:13 thinks [1] - 22:3 three [3] - 12:25, 46:16, 46:17 throughout [3] - 8:18, 13:23, 28:1 time-consuming [1] - 5:3 time-wise [1] - 22:18 timeline [1] - 26:10 TO [1] - 49:5 today [12] - 6:18, 10:16, 33:25, 35:1, 35:3, 36:17, 37:12, 37:15, 41:20, 42:9, 42:17, 45:10 today's [1] - 17:24 together [1] - 4:15 took [1] - 10:3 TOTAL [1] - 49:15 touch [2] - 5:17, 47:18 trained [1] - 44:21 training [2] - 26:22, 26:24 transcript [1] - 48:5 TRANSCRIPT [2] - 1:4, 49:11 transported [1] - 19:8 treatment [1] - 32:14 trial [30] - 4:4, 4:18, 4:20, 4:21, 5:2, 5:7, 5:13, 9:2, 13:19, 15:7, 16:16, 18:2, 20:3, 20:9, 21:2, 24:2, 24:5, 30:22, 34:7, 34:16, 34:18, 34:19, 35:6, 36:18, 38:12, 40:22, 41:21, 45:7, 48:6 trials [1] - 41:10 true [1] - 48:4 trust [1] - 12:9 try [2] - 16:9, 34:12 trying [1] - 23:24 Tuesday [5] - 6:8, 24:2, 34:17, 37:2,	40:11 turned [1] - 24:23 two [13] - 4:21, 5:22, 11:25, 15:11, 15:19, 17:10, 18:13, 21:2, 23:19, 30:5, 30:10, 42:7, 43:24 two-year-old [1] - 17:10 types [2] - 11:15, 28:4 typically [1] - 36:2 U ultimately [1] - 11:3 unknownst [1] - 12:19 unconstitutional [5] - 16:3, 16:4, 16:7, 16:12, 47:8 uncontradicted [1] - 12:3 under [3] - 8:17, 8:18, 15:24 undersigned [1] - 48:1 understood [1] - 4:25 university [1] - 24:23 University [1] - 26:17 unless [2] - 23:2, 23:15 unwilling [1] - 5:24 up [15] - 7:4, 7:21, 9:5, 17:7, 19:11, 23:9, 23:12, 25:17, 25:20, 32:21, 34:15, 37:19, 42:4, 43:19, 45:12 urging [1] - 38:10 USC [1] - 27:1 V valid [1] - 14:14 value [2] - 6:20, 40:13 victim [2] - 18:2, 22:10 victim's [2] - 24:21, 24:22 videotape [2] - 24:13, 31:5 videotapes [1] - 31:20 view [1] - 10:22 violating [1] - 38:23 violent [2] - 3:11, 4:11	visited [1] - 27:16 visits [1] - 32:15 voluntary [13] - 7:15, 8:2, 8:6, 8:13, 9:12, 9:15, 9:16, 9:20, 10:7, 25:25, 26:3, 39:4 vs [2] - 1:5, 49:10 W wants [6] - 14:11, 15:12, 15:13, 22:12, 33:21, 33:22 waste [1] - 17:7 Wednesday [1] - 6:4 week [16] - 5:2, 5:14, 5:19, 6:1, 6:8, 7:23, 7:25, 12:5, 12:10, 17:16, 26:6, 34:18, 37:2, 40:11, 46:16, 46:17 weeks [4] - 18:13, 30:5, 30:10, 42:7 weird [1] - 38:25 wellbeing [1] - 12:9 whole [1] - 20:8 willing [1] - 5:20 wise [1] - 22:18 withdraw [1] - 18:23 WITNESS [15] - 2:2, 8:21, 32:2, 34:1, 34:8, 34:12, 34:23, 35:1, 35:4, 35:7, 35:10, 35:14, 35:25, 36:20, 37:1 witness [2] - 12:10, 31:13 witnesses [1] - 24:15 word [1] - 32:3 words [1] - 7:24 works [1] - 9:22 write [1] - 34:15 writing [1] - 7:1 Y year [10] - 4:19, 5:12, 7:17, 9:24, 11:11, 16:3, 17:10, 17:15, 25:24, 33:15 years [9] - 5:23, 7:16, 8:7, 9:5, 9:21, 11:25, 15:19, 26:21, 43:24 years' [1] - 9:23 yesterday [3] - 3:21, 11:5, 11:17 Young [2] - 40:22, 41:8
---	--	--	---	--

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON) 2011-GS-10-04154

STATE OF SOUTH CAROLINA,)

Plaintiff,)

vs.)

ARTHUR PETERSON,)

Defendant.)

Transcript of Record
(Plea Hearing)

January 31, 2013

B E F O R E:

Honorable Kristi Lea Harrington
Charleston County Courthouse
Charleston, South Carolina

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

Bruce DuRant, Esquire
Attorney for Plaintiff

Rose Mary Parham, Esquire
Attorney for Defendant

Kay H. Richardson
Circuit Court Reporter

State v. Peterson - 2011-GS-10-04154
INDEX

2

I N D E XJANUARY 31, 2013Pg.

By the Court 3
Ruling of the Court 27
Certificate of Court Reporter 30

E X H I B I T SNo.ID EV

(There were no exhibits marked or admitted.)

State v. Peterson - 2011-GS-10-04154
BY THE COURT

3

1 JANUARY 31, 2013 - 12:55 P.M.

2 THE COURT: Mr. Peterson, we're waiting on sentencing
3 sheets. Have you had the opportunity to have lunch? Are you
4 okay?

5 MR. PETERSON: Yes, ma'am.

6 THE COURT: All right.

7 Does he -- you provided lunch?

8 DEPUTY: Yes, ma'am.

9 THE COURT: Okay. Thank you.

10 Mr. DuRant, have the sentencing sheets been signed?

11 MR. DURANT: They have not been signed, Your Honor. And
12 if you'll give me a second, I'll just run get them. I was
13 over here and I didn't have a chance to go get them.

14 THE COURT: All right.

15 MR. DURANT: Or we can go ahead do the colloquy and we
16 can sign later, whatever you prefer.

17 THE COURT: Let's see if -- let's go ahead and get the
18 sentencing sheets, Mr. DuRant.

19 MR. DURANT: Can the Court just give me a couple of
20 minutes?

21 THE COURT: Yes, sir.

22 *****OFF THE RECORD*****

23 (On the Record.)

24 THE COURT: State ready, Mr. DuRant?

25 MR. DURANT: We are, Your Honor.

State v. Peterson - 2011-GS-10-04154
BY THE COURT

4

1 THE COURT: All right. Ms. Parham?

2 MS. PARHAM: Yes, Your Honor.

3 THE COURT: And do we have the sentencing sheets?

4 CLERK: Just one, Your Honor.

5 THE COURT: You are dismissing 2011-GS-10-4154 or --
6 excuse me -- 55; is that correct?

7 MR. DURANT: We are nolle prosequing in consideration of
8 the plea, Your Honor.

9 THE COURT: All right. Thank you.

10 All right. Mr. Peterson, I had previously, in the motion
11 for continuance hearing, sworn you but I'm gonna go ahead and
12 place you under oath again.

13 Please swear the defendant.

14 MS. PARHAM: Do we need to stand, Your Honor?

15 ARTHUR PETERSON, HAVING BEEN DULY
16 SWORN, TESTIFIED AS FOLLOWS:

17 THE COURT: Mr. Peterson, I'm gonna have you remain
18 standing just so that I can hear you. Are you comfortable? I
19 notice that you have handcuffs and shackles. Are you
20 comfortable?

21 MR. PETERSON: Yes, ma'am.

22 THE COURT: All right. And you've indicated -- it's a
23 little after 1:00 -- you've indicated that you've had some
24 lunch today?

25 MR. PETERSON: Yes, ma'am.

State v. Peterson - 2011-GS-10-04154
BY THE COURT

5

1 THE COURT: All right. And you've had an opportunity
2 since the last time that we have met to go over the plea offer
3 with your attorney?

4 MR. PETERSON: Yes, ma'am.

5 THE COURT: As a matter of fact, you've had about two
6 hours; is that right?

7 MS. PARHAM: Yes, we even went over it last night, Your
8 Honor.

9 THE COURT: All right. Mr. Peterson, do you need any
10 additional time to meet with your attorney?

11 MS. PARHAM: I mean, this is not the last time you'll --
12 but before your guilty plea?

13 MR. PETERSON: No, ma'am.

14 THE COURT: And Mr. Peterson, I understand there has been
15 a discussion and sentence would be deferred until a later
16 time. You're pleading guilty but mentally ill; is that
17 correct?

18 MS. PARHAM: That's right, Your Honor. If Your Honor
19 would consider deferring sentencing until May 1st, that'd be
20 wonderful.

21 THE COURT: All right. Any objection to doing that?

22 MR. DURANT: No, Your Honor.

23 THE COURT: And the terms and conditions?

24 MR. DURANT: Your Honor, he is indicted for murder at
25 04154 and possession of a firearm during the commission of a

State v. Peterson - 2011-GS-10-04154
BY THE COURT

6

1 violent crime at 04155. As I previously advised the Court, we
2 will be nolle prossing indictment 04155, the weapon's charge.
3 With regard to the 54, the murder charge, we've agreed to
4 allow Mr. Peterson to plead to the lesser included offense of
5 voluntary manslaughter. There will be a negotiated sentence
6 of 24 years, although it is understood by all parties that
7 sentence will not be imposed today. And it's my understanding
8 that he would be -- he would be pleading guilty but mentally
9 ill, that sentence will be deferred at a time to be determined
10 by Your Honor. And there were also discussions during the
11 plea that, that you would recommend service at a particular
12 institution which I believe all parties understood that we had
13 no objection to but that was completely up to the South
14 Carolina Department of Corrections.

15 THE COURT: Is that your understanding of the terms, Ms.
16 Parham?

17 MS. PARHAM: Yes, Your Honor. And I have told him that
18 there's no guarantee about SCDC but that you have agreed to
19 recommend, you know, beginning placement at Gilliam, which I
20 believe they do for the guilty but mentally ill and then to
21 move over next-door to Kirkland, and that you would even allow
22 reasons for that housing at Kirkland in your order, but that
23 there's no guarantee that that SCDC will abide by that order.

24 THE COURT: All right. Mr. Peterson, is that your
25 understanding of the terms of this negotiated sentence?

State v. Peterson - 2011-GS-10-04154
BY THE COURT

7

1 MR. PETERSON: Yes, ma'am.

2 THE COURT: You understand that after hearing the facts
3 in your prior record, if any, I cannot accept this negotiated
4 sentence, I will allow you to withdraw this plea; do you
5 understand that?

6 (REPORTER'S NOTE: Defendant confers with counsel.)

7 MR. PETERSON: Yes, ma'am.

8 THE COURT: Do you still wish to plead guilty but
9 mentally ill at this time?

10 MR. PETERSON: Yes, ma'am.

11 THE COURT: All right. Mr. Peterson, I notice that you
12 keep looking at Ms. Parham. Have you understood all of my
13 questions so far?

14 MR. PETERSON: Yes, ma'am.

15 THE COURT: And do you need any additional time to go
16 over with her any of the questions that I've asked you so far?

17 MR. PETERSON: No, Your Honor.

18 THE COURT: All right. Tell me a little bit about
19 yourself, Mr. Peterson. How old are you?

20 MR. PETERSON: Thirty-six.

21 THE COURT: How far did you go in school?

22 MR. PETERSON: Bachelor degree.

23 THE COURT: What is your bachelor's degree in?

24 MR. PETERSON: Business administration with a
25 concentration in accounting.

State v. Peterson - 2011-GS-10-04154
BY THE COURT

8

1 THE COURT: And you're 36. Are you married?

2 MR. PETERSON: Yes, ma'am.

3 THE COURT: And you have children?

4 MR. PETERSON: Yes, ma'am.

5 THE COURT: How many?

6 MR. PETERSON: One.

7 THE COURT: How old?

8 MR. PETESON: Getting ready to turn seven.

9 THE COURT: Sir, have you ever been treated for the abuse
10 of drugs or alcohol?

11 MR. PETERSON: No, ma'am.

12 THE COURT: Have you ever been treated for mental
13 illness?

14 MR. PETERSON: Yes, ma'am.

15 THE COURT: Tell me about that.

16 MR. PETERSON: I was treated at MUSC by Dr. Schwartz
17 (spelled phonetically) for bipolar disorder.

18 THE COURT: Okay. And was that the only time that you've
19 been treated for mental illness?

20 (REPORTER'S NOTE: Defendant confers with counsel.)

21 MR. PETERSON: Yes, ma'am.

22 THE COURT: And as a result of the diagnosis for bipolar
23 disorder, are you on any medication?

24 MR. PETERSON: No, Your Honor.

25 THE COURT: Should you be on any medication?

State v. Peterson -- 2011-GS-10-04154
BY THE COURT

9

1 MR. PETERSON: No, Your Honor.

2 THE COURT: Okay. And based upon that, Mr. Peterson, do
3 you -- have you understood my questions so far?

4 MR. PETERSON: Yes, ma'am.

5 THE COURT: Have you understood everything that your
6 attorney has explained to you so far?

7 MR. PETERSON: Yes, ma'am.

8 MS. PARHAM: There was some other treatment that he was
9 asking whether he should tell you and I said, yes, go ahead,
10 so you can ---

11 (REPORTER'S NOTE: Defendant confers with counsel.)

12 MS. PARHAM: I'm sorry, I misunderstood. Oh, no, I'm
13 sorry.

14 THE COURT: Mr. Peterson, it's important for me to
15 determine -- and we've had a hearing in which I heard from Dr.
16 Knight. Do you remember speaking with Dr. Knight -- I believe
17 the last time but for today was in September of 2011. Do you
18 remember speaking with her?

19 MR. PETERSON: Yes, ma'am.

20 THE COURT: And it's important for me to understand and
21 make sure that you know what you're doing here today. Do you
22 understand what we're doing here today?

23 MR. PETERSON: Yes, ma'am.

24 THE COURT: What are we doing here today?

25 MR. PETERSON: I'm accepting a negotiated plea for the

State v. Peterson - 2011-GS-10-04154
BY THE COURT

10

1 charge of voluntary manslaughter.

2 THE COURT: All right. And is that what you wish to do
3 here today?

4 MR. PETERSON: Yes, ma'am.

5 THE COURT: Sir, the sentence, potential sentence for
6 voluntary manslaughter, we went over this earlier in the
7 motion for a continuance hearing as well, is a minimum of two
8 years up to 30 years; do you understand that?

9 MR. PETERSON: Yes, ma'am.

10 THE COURT: And you understand the classification of this
11 is a violent and a most serious offense; do you understand the
12 classifications?

13 MR. PETERSON: Yes, ma'am.

14 THE COURT: Knowing that, do you still wish to enter into
15 this plea here today?

16 MR. PETERSON: Yes, ma'am.

17 THE COURT: Do you understand what those two
18 classifications will mean to you in your future?

19 MR. PETERSON: Yes, ma'am.

20 THE COURT: Do you have any questions for the Court or
21 for your attorney about what that means?

22 MR. PETERSON: No, ma'am.

23 THE COURT: Okay. Sir, there was some indication that,
24 as your attorney requested a motion for continuance, are you
25 entering into this plea freely?

State v. Peterson - 2011-GS-10-04154
BY THE COURT

11

1 MR. PETERSON: Yes, ma'am.

2 THE COURT: Are you entering into this plea voluntarily?

3 MR. PETERSON: Yes, ma'am.

4 THE COURT: Do you understand that by entering into a
5 plea, you are giving up certain rights?

6 MR. PETERSON: Yes, ma'am.

7 THE COURT: You understand that you have the right to a
8 jury trial? This case is first up on the jury docket on --
9 next week on Monday, do you understand that?

10 MR. PETERSON: Yes, ma'am.

11 THE COURT: Do you give up that right?

12 MR. PETERSON: Yes, ma'am.

13 THE COURT: You understand that you have the right to
14 have a jury determine your guilt beyond a reasonable doubt
15 based upon the evidence the state presents and you also have
16 the right to present evidence on your own behalf. Do you
17 understand those rights?

18 MR. PETERSON: Yes, ma'am.

19 THE COURT: And do you give up those rights at this time?

20 MR. PETERSON: Yes, ma'am.

21 THE COURT: You also have the right against self-
22 incrimination, which is your right to say nothing at all; do
23 you understand that, sir?

24 MR. PETERSON: Yes, ma'am.

25 THE COURT: Because I'm gonna ask you some questions and

State v. Peterson - 2011-GS-10-04154
BY THE COURT

12

1 so by pleading guilty you give up the right to say nothing at
2 all. Do you give up that right?

3 MR. PETERSON: Yes, ma'am.

4 THE COURT: All right. Do you understand what that
5 means?

6 MR. PETERSON: Yes, ma'am.

7 THE COURT: I'm gonna ask you some questions about what
8 happened and if you understand what you're doing and so the
9 constitution gives you protections that you don't have to be a
10 witness against yourself. By pleading guilty you give up that
11 right. Do you understand that, sir?

12 MR. PETERSON: Yes, ma'am.

13 THE COURT: You also give up your right to confront and
14 be confronted by the witnesses against you, which what that
15 simply means is the state would have witnesses come in and
16 testify and you would have the right to call witnesses to
17 testify on your own behalf. Do you understand that?

18 MR. PETERSON: Yes, ma'am.

19 THE COURT: And do you give up that right?

20 MR. PETERSON: Yes, ma'am.

21 THE COURT: You also give up or waive any defenses that
22 you may have. Do you understand what that means?

23 MR. PETERSON: Yes, ma'am.

24 THE COURT: And you have gone over all possible defenses
25 with your attorney?

State v. Peterson - 2011-GS-10-04154
BY THE COURT

13

1 MR. PETERSON: Yes, ma'am.

2 THE COURT: She's indicated to the Court in the previous
3 hearing that she has met with you and been attorney of record
4 for a length of time; is that correct?

5 MR. PETERSON: Yes, ma'am.

6 THE COURT: Do you -- do you need any additional time to
7 meet with her concerning your giving up any of these defenses?

8 MR. PETERSON: No, ma'am.

9 THE COURT: Sir, you understand that once I accept your
10 plea you have given up all of those constitutional
11 protections?

12 MR. PETERSON: Yes, ma'am.

13 THE COURT: You can't later come back and say I didn't
14 understand.

15 MR. PETERSON: Yes, ma'am.

16 THE COURT: Do you need any additional time to meet with
17 your attorney before entering into this plea?

18 MR. PETERSON: No.

19 THE COURT: You were present at the hearing earlier this
20 morning. You understand that all of the issues that your
21 attorney raised before the Court, you're giving up all of
22 those defenses?

23 MR. PETERSON: Yes, ma'am.

24 THE COURT: Any questions about that, sir?

25 MR. PETERSON: No, Your Honor.

State v. Peterson - 2011-GS-10-04154
BY THE COURT

14

1 THE COURT: Any complaints about the way your attorney
2 has handled this matter?

3 MR. PETERSON: No, Your Honor.

4 THE COURT: Do you think that there's anything that she
5 could have done or perhaps should have done or maybe should
6 not have done that would've assisted you in your defense?

7 MR. PETERSON: No, Your Honor.

8 THE COURT: What it's -- understanding the charge that
9 you are facing, the possible punishment as well as the
10 consequences of this plea, how do you plea to voluntary
11 manslaughter?

12 MR. PETERSON: Guilty.

13 THE COURT: Are you pleading guilty because you in fact
14 are guilty of this offense?

15 MR. PETERSON: Yes, ma'am.

16 THE COURT: Has anybody ---

17 MS. PARHAM: And that is guilty but mentally ill.

18 THE COURT: Has anybody promised you anything to get you
19 to plea here today?

20 MR. PETERSON: No, Your Honor.

21 THE COURT: All right. Other than the negotiation, has
22 anybody promised you anything?

23 MR. PETERSON: No, ma'am.

24 THE COURT: Has anybody threatened you to get you to
25 enter into your plea?

State v. Peterson - 2011-GS-10-04154
BY THE COURT

15

1 MR. PETERSON: No, ma'am.

2 THE COURT: Whose decision was it for you to plea to
3 voluntary manslaughter and plead guilty but mentally ill?

4 MR. PETERSON: Myself.

5 THE COURT: And one more time, have you been satisfied
6 with the services of Ms. Parham?

7 MR. PETERSON: Yes, ma'am.

8 THE COURT: Do you understand the terms and conditions of
9 your sentence?

10 MR. PETERSON: Yes, ma'am.

11 THE COURT: And again, I will not sentence you. I have
12 looked at my calendar. I will impose sentence upon you May
13 28th.

14 MR. PETERSON: Thank you, Your Honor.

15 THE COURT: May 28th. So, you will remain in Charleston
16 County Detention Center until that time. That is my first
17 General Sessions term after May 1st.

18 MR. DURANT: And is there any specific time, Your Honor?

19 THE COURT: I'll set it at 9:30.

20 MR. DURANT: Okay.

21 THE COURT: Is that sufficient, Ms. Parham, or would you
22 prefer an afternoon time?

23 MS. PARHAM: No, that'll be fine.

24 THE COURT: May 28th at 9:30.

25 MR. PARHAM: Yes.

State v. Peterson - 2011-GS-10-04154
BY THE COURT

16

1 THE COURT: Sir, you understand that there were certain
2 terms and conditions that the Court may have no control over
3 once I impose sentence upon you? Do you understand that?

4 MR. PETERSON: Yes, ma'am.

5 THE COURT: One of those terms meaning that I can place
6 on the sentencing sheet that you could be confined in a
7 certain institution but I cannot guarantee that; do you
8 understand that?

9 MR. PETERSON: Yes, ma'am.

10 THE COURT: Knowing that, do you still wish to enter into
11 your plea here today?

12 MR. PETERSON: Yes, ma'am.

13 THE COURT: All right. You're looking at Ms. Parham
14 again, do you need me to explain that more?

15 (REPORTER'S NOTE: Defendant confers with counsel.)

16 THE COURT: Do you need me to explain that in further
17 detail to you?

18 MR. PETERSON: No, Your Honor.

19 THE COURT: And Mr. Peterson, I always explain to
20 defendants as they're entering into a plea the terms and
21 conditions are a 24-year negotiated sentence. We have
22 explained to you and I think your attorney has explained to
23 you and it was placed on the record in the previous hearing
24 that it's 85 percent, but you should assume that you will do
25 the 24 years; do you understand that?

State v. Peterson - 2011-GS-10-04154
BY THE COURT

17

1 (REPORTER'S NOTE: Defendant confers with counsel.)

2 MR. PETERSON: Yes, ma'am.

3 MS. PARHAM: And obviously, he gets credit for the time
4 he's spent in Charleston Detention Center.

5 THE COURT: And that was my next -- and Mr. Peterson, why
6 I explain that to you is the Department of Corrections is the
7 one that calculates based upon the sentencing sheet the time
8 that you have already served, that you are currently serving
9 in the Charleston County Detention Center, as well as the
10 percentage of the time that I impose upon you. Do you
11 understand that?

12 MR. PETERSON: Yes, ma'am.

13 THE COURT: And so while I indicate on my sentencing
14 sheet, it is always better for you to assume that you're gonna
15 serve the 24 years and then the Department of Corrections will
16 calculate all the other time and the credits that you are
17 entitled to. Do you understand that?

18 MR. PETERSON: Yes, ma'am.

19 THE COURT: I am going to indicate that you are to get
20 credit for time served, but it is important that I know that
21 you understand what the sentence is that I am imposing upon
22 you. Do you understand what that term will be?

23 MR. PETERSON: Yes, ma'am.

24 THE COURT: And what is that term?

25 MR. PETERSON: Twenty-four years.

State v. Peterson - 2011-GS-10-04154
BY THE COURT

18

1 THE COURT: All right. Any questions about that, sir?

2 MR. PETERSON: No, Your Honor.

3 THE COURT: All right. You understand that you have the
4 right to appeal this plea and the sentence at the time I
5 impose it but you or your attorney must do so within 10 days.
6 Do you understand that, sir?

7 MR. PETERSON: Yes, ma'am.

8 THE COURT: And once I impose sentence upon you May 28th,
9 I'm also going to advise you that that's when your appeal
10 rights start. Do you understand that, sir?

11 MR. PETERSON: Yes, ma'am.

12 THE COURT: So, you will have substantial time to meet
13 with your attorney to discuss your appellate rights. Any
14 concerns or questions about that?

15 MR. PETERSON: No, Your Honor.

16 THE COURT: All right. I'm now going to hear from the
17 solicitor concerning your prior record if any and the facts of
18 this case. Please listen closely.

19 Mr. DuRant?

20 MR. DURANT: Thank you, Your Honor. With regard to prior
21 record, Mr. Peterson has none. The facts giving rise to this
22 indictment occurred on March the 14th of 2011 at [REDACTED]
23 Taberwood Circle, which is located west of the Ashley. At
24 that residence lived a young lady named Shakeyra Fields. Ms.
25 Fields was 24 years old. She suffered from a multitude of

State v. Peterson - 2011-GS-10-04154
BY THE COURT

19

1 physical and mental difficulties. As a result, she was unable
2 to care for herself and was cared for primarily by her mother
3 Gwendolyn Fields and a nursing service that basically came in
4 during the day every day. As I said, Shakeyra Fields had a
5 number of personality disorders and one of the -- one of the
6 symptoms of her personality disorders was that she had a
7 problem with the truth and telling the truth. And on numerous
8 occasions throughout her life, she had accused her mother of
9 being physically abusive with her. She accused DSS workers of
10 being physically abusive with her. She accused her aunt of
11 being physically abusive with her after her mother was killed.
12 So, she had a long history of making false accusations of
13 abuse in addition to some other issues she has due to her
14 mental health condition. In any event, Mr. Peterson developed
15 a relationship with Ms. Shakeyra Fields. He met her as I
16 understand it in a waiting room of either a doctor or
17 hospital, developed a friendship with her, and over a period
18 of time had come to a house where Shakeyra Fields lived to
19 pray with her. He prayed with her two or three days a week,
20 as I understand it. Everybody in the family knew him. As a
21 matter of fact, they thought he was a preacher. On the day in
22 question, March the 14th, he came over to the residence to
23 pray with Shakeyra. When we went and talked to Shakeyra,
24 Shakeyra made an allegation that her mother had abused her the
25 night before, that she had beaten her up and I believe

State v. Peterson - 2011-GS-10-04154
BY THE COURT

20

1 according to what Ms. Parham said, he even made comment to
2 them that her mother threatened to kill her that night if she
3 didn't get him out of there. Well, Mr. Peterson and Ms.
4 Shakeyra Fields called 911 and asked for an ambulance and
5 asked for -- and asked for police assistance. Mr. Peterson,
6 on the telephone, indicated that it was his plan to take the
7 girl and put her in a hotel, that she had a million dollar
8 settlement coming, that she didn't need to stay there any
9 longer, and the was going to help her get out of the house.
10 That phone call was made at 10:25 A.M. The police arrived
11 seven minutes later. When the police arrived at 10:32, they
12 talked to Mr. Peterson, they talked to Shakeyra Fields, they
13 talked to Gwendolyn Fields. They did not believe the
14 allegations because there was really no evidence that Shakeyra
15 Fields had been abused but they were nevertheless going to
16 take her into emergency protective custody just based upon the
17 allegation, et cetera. One officer was inside in the living
18 room and the other officer was outside on his cell phone
19 calling to make arrangements to take the young lady into
20 emergency protective custody. At that point, Mr. Peterson,
21 who apparently had armed himself sometime prior to the police
22 even arriving because his car was searched, there as an empty
23 holster in is -- an empty holster in the backpack in his car.
24 And, one of the witnesses that actually said that he had seen
25 him go out to the car and get a weapon before the police had

State v. Peterson - 2011-GS-10-04154
BY THE COURT

21

1 gotten there. So, in any event, the police are there. One of
2 them is out front trying to make arrangements to take Shakeyra
3 into emergency protective custody. The other one is inside in
4 the living room taking notes based upon his interviews with
5 people when Mr. Peterson walks right by him, walks to the door
6 leading from the living room to the kitchen, stands at the
7 door and shoots Gwendolyn Fields three times in the back as
8 she sat there -- as she sat there cooking at the stove.
9 Didn't say a word from what everybody said, just walked to the
10 door and starting shooting. Obviously, the police officer was
11 right there, drew his weapon and put Mr. Peterson directly on
12 the ground. He was immediately placed under arrest and taken
13 into custody.

14 THE COURT: And you have indicated that, Mr. DuRant, that
15 you have indicated that you are aware that Mr. Peterson is
16 pleading by but mentally ill?

17 MR. DURANT: I am aware of that, Your Honor. I have no
18 objection to him pleading guilty but mentally ill.

19 THE COURT: All right. Do you -- is it your position
20 that the defendant at this time based upon -- and while I
21 understand it's her burden that by preponderance of the
22 evidence when he committed the crime that he was mentally ill
23 as provided under the statute?

24 MR. DURANT: I believe so, Your Honor, based upon what
25 has been provided to us by Ms. Night, the psychologist. I

State v. Peterson - 2011-GS-10-04154
BY THE COURT

22

1 think he obviously had mental issues involved. I do not
2 believe they rose the level of insanity but -- which it's my
3 understanding the defendant is giving up any claim of insanity
4 by having his plea today, but I have no -- I do not contest
5 the fact that he suffers from mental illness.

6 THE COURT: Thank you.

7 Ms. Parham, you have indicated that you have been
8 provided substantial discovery by the state and have been
9 provided discovery earlier this month. Is that your
10 understanding of the facts that would be presented by the
11 state?

12 MS. PARHAM: Yes, Your Honor. We'd like to make a few
13 corrections.

14 THE COURT: All right.

15 MS. PARHAM: All right. Hold on one second.

16 And based upon the testimony that has been presented by
17 Dr. Knight today and your relationship with your client, do
18 you believe that at the time of the commission of the act that
19 he had the capacity to distinguish right from wrong and to --
20 or to recognize his act as being wrong as being defined under
21 the statute?

22 MS. PARHAM: I'm not sure, Your Honor. I never got a
23 final analysis from my -- we understand we're giving that up
24 today, obviously, but I never got a final opinion from my
25 psychologist.

State v. Peterson - 2011-GS-10-04154
BY THE COURT

23

1 THE COURT: Do you believe that he lacks sufficient
2 capacity to conform his conduct to the requirements?

3 MS. PARHAM: In my conversations with him ---

4 THE COURT: Well, let me do it -- let me ask it this way,
5 Ms. Parham. What, what evidence or what do you -- why do
6 believe that it is in your client's best interest to plead
7 guilty but mentally ill?

8 MS. PARHAM: Because we did not receive a continuance
9 today and because the state has said that they're gonna
10 withdraw the offer if we don't plead guilty, and I believe
11 that there is a strong possibility that he could be convicted
12 of murder and receive 35 years with that and the gun charge.

13 THE COURT: Mr. Peterson, you heard the facts as
14 presented by the state. Are those facts true?

15 MS. PARHAM: May I make the corrections that he wants me
16 to ---

17 THE COURT: Well, I mean, he hasn't indicated -- if he
18 indicates to me -- Mr. Peterson, are those facts true? Is
19 that what you did?

20 MR. PETERSON: Most of them are true, yes, Your Honor.

21 THE COURT: All right. Tell me what corrections that you
22 would like for me to make or the record to reflect.

23 MR. PETERSON: I never claimed to be a preacher. I
24 always carried a weapon in the house because I felt like I was
25 in a dangerous situation.

State v. Peterson - 2011-GS-10-04154
BY THE COURT

24

1 THE COURT: Into the house where Shakeyra and the victim
2 lived?

3 MR. PETERSON: Yes, ma'am.

4 THE COURT: All right. So, that was your weapon?

5 MR. PETERSON: There was -- there was no -- I was not
6 trying to get her to a hotel room that day. That day I was
7 trying to Shakeyra Fields to a hospital where she could tell
8 the medical professionals that she was being abused and
9 therefore she wouldn't have to be returned to her residence.
10 I had help on the way to assist me. A man named Terrance
11 Rivers, he was a financial advisor. I was trying to empower
12 Shakeyra Fields to be able to take care of herself and take
13 care of her family because she wasn't a minor so she didn't
14 need to live in this type of conditions. I acknowledge that,
15 you know, what I did was wrong and I'm sorry for it, but my
16 intent the whole time was I was trying to protect somebody who
17 couldn't defend themselves. I made a bad decision. I was
18 under a lot pressure. I ---

19 THE COURT: Mr. Peterson, you understand -- do you agree
20 with the facts that you shot the victim?

21 MR. PETERSON: Yes, ma'am.

22 THE COURT: All right. And you just indicated to me that
23 you realize that that was wrong?

24 MR. PETERSON: Yes, ma'am.

25 THE COURT: Do you understand what you're doing here

State v. Peterson - 2011-GS-10-04154
BY THE COURT

25

1 today?

2 MR. PETERSON: Yes, ma'am.

3 THE COURT: Do you understand that you do not have to
4 plead guilty but mentally ill here today? You do not have to
5 plead guilty at all.

6 MR. PETERSON: Yes, ma'am.

7 THE COURT: You are waiving your right to a jury trial as
8 well as all other constitutional rights that I have gone over
9 with you?

10 MR. PETERSON: Yes, ma'am.

11 THE COURT: You are also waiving any defense, affirmative
12 or otherwise, that you have may have to this charge?

13 MR. PETERSON: Yes, ma'am.

14 THE COURT: And do you understand the negotiated
15 sentence, once I accept your plea of guilty but mentally ill
16 that I must accept it, I can't give you any less time, that I
17 cannot give you any more time, I must accept it as the 24
18 years. Do you understand that, sir?

19 MR. PETERSON: Yes, ma'am.

20 THE COURT: Is that what you wish for me to do here
21 today?

22 MR. PETERSON: Yes, Your Honor.

23 THE COURT: Mr. Peterson, are you pleading guilty just
24 because you -- I did not grant a continuance; is that why
25 you're pleading guilty?

State v. Peterson - 2011-GS-10-04154
BY THE COURT

26

1 MR. PETERSON: No, Your Honor.

2 THE COURT: Why are you pleading guilty but mentally ill?

3 MR. PETERSON: Because I'm guilty of what I'm being
4 charged with, Your Honor.

5 THE COURT: And Mr. Peterson, you understood at the time
6 that you committed the offense that that was wrong to shoot
7 that individual?

8 MR. PETERSON: Yes, Your Honor.

9 THE COURT: Are you pleading guilty here today freely and
10 voluntarily?

11 MR. PETERSON: Yes, Your Honor.

12 THE COURT: Have you understood all of my questions and
13 everything that we've done here today?

14 MR. PETERSON: Yes, Your Honor.

15 THE COURT: Have you given me your complete and truthful
16 responses?

17 MR. PETERSON: Yes, Your Honor.

18 THE COURT: Have you responded to my questions today
19 because somebody told you how to answer my questions?

20 MR. PETERSON: No, Your Honor.

21 THE COURT: Are there any answers to any of the responses
22 that you have given me here today that you wish to change?

23 MR. PETERSON: No, Your Honor.

24 THE COURT: Have all of your responses to the Court and
25 to your attorney been complete?

State v. Peterson - 2011-GS-10-04154
RULING OF THE COURT

27

1 MR. PETERSON: Yes, ma'am.

2 THE COURT: Have they been truthful?

3 MR. PETERSON: Yes, ma'am.

4 THE COURT: What is it that you wish for the Court to do
5 here today, sir?

6 MR. PETERSON: Move forward with the negotiated plea of
7 24 years for involuntary manslaughter -- I mean, voluntary
8 manslaughter.

9 THE COURT: And you understand what we're doing here
10 today?

11 MR. PETERSON: Yes, ma'am.

12 THE COURT: And you understood that what you did on the
13 night of March 14th of 2011 was wrong?

14 MR. PETERSON: The morning, yes, ma'am.

15 THE COURT: Morning, sorry. What time was it, Mr.
16 DuRant, I'm sorry?

17 MR. DURANT: It was about 10:55 A.M. was the actual
18 shooting.

19 THE COURT: All right. Thank you.

20 RULING OF THE COURT:

21 THE COURT: I find a substantial factual basis for your
22 plea, your decision to plead guilty but mentally ill has been
23 freely, voluntarily, knowingly, and intelligently made.
24 You've indicated to the Court you've had the advice and
25 counsel of a competent attorney with whom you've told the

State v. Peterson - 2011-GS-10-04154
RULING OF THE COURT

28

1 Court you were satisfied. You've indicated to the Court that
2 you need no further time to meet with her. You have indicated
3 to the Court that the factual recitations with the corrections
4 that you have made is correct. You indicate to the Court that
5 you understood that the act constituting the offense to which
6 you are pleading was wrong. There has been an agreement and
7 the state concurs, and so I do find by preponderance of the
8 evidence that you were mentally ill as provided by this
9 section when you committed this crime. I accept your plea of
10 guilt but -- guilty but mentally ill at this time. I will
11 defer sentencing until May 28th at 9:30.

12 Anything further that we need to place on the record, Ms.
13 Parham?

14 MS. PARHAM: No, Your Honor. Thank you.

15 THE COURT: Mr. DuRant?

16 MR. DURANT: No. Thank you very much, Your Honor.

17 THE COURT: Mr. Peterson, I will see you May 28th at
18 9:30. I will be the judge to impose sentence upon you. Do
19 you have any further questions for the Court at this time?

20 MR. PETERSON: No, Your Honor.

21 THE COURT: Is it still your desire to enter into this
22 plea?

23 MR. PETERSON: Yes, ma'am.

24 THE COURT: Mr. Peterson, I wish you luck. I will see
25 you May 28th. It has been -- thank you for your honesty in

State v. Peterson - 2011-GS-10-04154
RULING OF THE COURT

29

1 answering all the questions.

2 And, Ms. Parham, thank you for your very zealous
3 representation of Mr. Peterson. You have, I believe, based
4 upon everything that I have seen and observed and by the
5 letters and by my inquiry of Dr. Knight, that you have done
6 everything and Mr. Peterson has concurred in his assessment
7 that you have done everything that you can in aiding in his
8 defense in this matter. So, thank you. I will see you May
9 28th.

10 Thank you, Mr. DuRant.

11 MR. DURANT: Thank you, Your Honor.

12 (ADJOURNED - 1:38 P.M.)
13
14
15
16
17
18
19
20
21
22
23
24
25

State v. Peterson - 2011-GS-10-04154
CERTIFICATE OF COURT REPORTER

30

C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the plea hearing held in the case of State of South Carolina v. Arthur Peterson, held in the Court of General Sessions for Charleston County, Charleston County Courthouse, Charleston, South Carolina, on January 31, 2013.

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

Kay H. Richardson
Official Court Reporter

October 31, 2018.

FORM 5

STATE OF SOUTH CAROLINA)

County of CHARLESTON)

SCDC# 355559

ARTHUR FREDERICK PETERSON, JR.)

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

v.)

State of South Carolina)

2014-CP-10-2878
IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

CLERK OF COURT

2014 MAY -5 PM 12:23

FILED

INSTRUCTIONS TO 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 PERRY CORRECTIONAL INSTITUTION
2. Name and location of Court which imposed sentence CHARLESTON COUNTY
GENERAL SESSIONS
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed: ...
(a) 11-65-1004154

- (b) _____
 (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 (a) MAY 28, 2013
 (b) _____
 (c) _____
6. Check whether a finding of guilty was made:
 (a) after a plea of guilty ✓
 (b) after a plea of not guilty _____
 (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No
8. If you answered Ayes@ to (7), list:
 (a) the name of each Court to which you appealed:
 i. N/A
 ii. _____
 iii. _____
 (b) the result in each such Court to which you appealed:
 i. N/A
 ii. _____
 iii. _____
 (c) the date of each such result:
 i. N/A
 ii. _____
 iii. _____
 (d) if known, citations of any written opinion or orders entered pursuant to such results:
 i. N/A
 ii. _____
 iii. _____
9. If you answered Ano@ to (7), state your reasons for not so appealing:
 (a) DID NOT KNOW I COULD

- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) SEE ATTACHED PAGES
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) SEE ATTACHED PAGES
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A
13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. _____

iv. _____

(c) the disposition thereof: _____

i. N/A _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition: _____

i. N/A _____

ii. _____

iii. _____

iv. _____

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

i. N/A _____

ii. _____

iii. _____

iv. _____

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

NO _____

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

(a) which grounds have been presented: _____

i. N/A _____

ii. _____

iii. _____

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

i. N/A _____

ii. _____

iii. _____

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

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

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

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

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

(a) the name and address of each attorney who represented you:

i. ROSE MARY PARHAM
152 SOUTH MCQUEEN STREET
 ii. FLORENCE, SC 29501
 iii. _____

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

i. PLEA HEARING
 ii. _____
 iii. _____

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

VACATE AND REMAND FOR NEW TRIAL

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

NO

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of CHARLESTON)

VERIFICATION

I, ARTHUR F. PETERSON JR. SCD#355559, 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.

Arthur F. Peterson Jr.

SWORN to and subscribed before me this 28
day of April, 2014.

Tamara C. Murrell (L.S.)

Notary Public

My Commission Expires
September 25, 2023

My Commission Expires: _____

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

I, ARTHUR F. PETERSON JR. SCDC# 355559, 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.

Arthur F. Peterson Jr.
Applicant

SWORN or affirmed to and subscribed before me this
28 day of April, 2014.

Tamara Conwell
Notary Public

My Commission Expires: September 25, 2023

APPLICANT CONTENDS THAT HIS CONVICTION AND SENTENCE WAS IN VIOLATION OF THE UNITED STATES CONSTITUTION AND THE SOUTH CAROLINA CONSTITUTION AND LAWS OF THIS STATE.

THE APPLICANT IS ASSERTING A 5TH, 6TH, AND 14TH AMENDMENT VIOLATION WHICH SETS FORTH THE PRIMA FACIE VIOLATION OF HIS CONSTITUTIONAL RIGHTS.

GROUND'S ARE CONSTITUTIONAL DIVERSIONS. THE FUNDAMENTAL DEFECTS ALLEGED ARE STANDARDS THAT REQUIRE ESTABLISHMENT OF A COMPLETE MISCARRIAGE OF JUSTICE AND AN OMISSION INCONSISTENT WITH THE RUDIMENTARY DEMAND OF FAIR PROCEDURE.

THE FOLLOWING ACTS AND OMISSIONS BY COUNSEL CONSTITUTED INEFFECTIVE ASSISTANCE OF COUNSEL.

IT WOULD BE A DENIAL OF DUE PROCESS NOT TO GIVE THE APPLICANT AN EVIDENTIARY HEARING ON THE APPLICANT'S CONSTITUTIONAL CLAIMS.

ANSWERS TO QUESTION #10

- 1) COUNSEL FAILED TO APPRISE APPLICANT OF THE SENTENCING CONSEQUENCES OF HIS GUILTY PLEA.
- 2) COUNSEL INEFFECTIVE FOR FAILURE TO PLACE APPLICANT'S PLEA AGREEMENT ON THE RECORD.
- 3) INVOLUNTARY PLEA
- 4) COUNSEL FAILED TO USE THE APPLICANT'S MEDICAL RECORDS AS MITIGATING EVIDENCE.
- 5) APPLICANT WAS DENIED EFFECTIVE ASSISTANCE OF COUNSEL IN VIOLATION OF THE SIXTH AMENDMENT TO THE U.S. CONSTITUTION AND ART. 1, SECTION 14 OF THE S.C. CONSTITUTION.
- 6) COUNSEL FAILED TO PUT THE STATE'S CASE THROUGH ADVERSORIAL TESTING.
- 7) COUNSEL FAILED TO INFORM THE APPLICANT OF THE MANDATORY TWO YEAR (CSP) COMMUNITY PROGRAM UPON RELEASE.
- 8) COUNSEL DENIED APPLICANT'S DUE PROCESS RIGHTS BY NOT REQUESTING A BLAIR HEARING.
- 9) APPLICANT WAS DENIED DUE PROCESS OF LAW BY HIS ATTORNEY FOR ADVISING HIM TO PLEAD GUILTY AS MENTALLY ILL.
- 10) APPLICANT RESERVES THE RIGHT TO AMEND AT A LATER DATE AFTER APPOINTED COUNSEL.

APPLICANT WAS DENIED DUE PROCESS OF LAW BY HIS ATTORNEY FOR ADVISING HIM TO PLEAD GUILTY AS MENTALLY ILL.

A LITERAL READING OF §17-24-10 AND §17-24-20 REQUIRES PERSON HAVING LEGAL CAPACITY TO DISTINGUISH RIGHT FROM WRONG, BUT WHO BECAUSE OF MENTAL DISEASE OR DEFECT IS UNABLE TO RECOGNIZE ACT CHARGED AS BEING WRONG, MAY NOT BE FOUND EITHER INSANE OR GUILTY BUT MENTALLY ILL. SEE GUILTY PLEA TRANSCRIPT.

TRIAL COUNSEL INEFFECTIVE IN FAILING TO FULLY APPRISE APPLICANT OF THE SENTENCING CONSEQUENCES OF HIS GUILTY PLEA.

IN ORDER FOR A DEFENDANT TO KNOWINGLY AND VOLUNTARILY PLEAD GUILTY, HE MUST HAVE A FULL UNDERSTANDING OF THE NATURE OF THE CHARGES AND THE CONSEQUENCES OF HIS PLEA. HINSON V. STATE, 377 S.E. 2d 338, STATE V. HAZEL, 271 S.E. 2d; DOVER V. STATE, 405 S.E. 2d 391. IN DOVER, THE COURT REVERSED WHERE THE DEFENDANT WHO PLEAD GUILTY TO 29 INDICTMENTS INVOLVING VARIOUS COUNTS OF LARCENY AND BURGLARY AND RECEIVED A SENTENCE OF YEARS DID NOT PREVIOUSLY UNDERSTAND HE COULD HAVE RECEIVED A PRISON TERM IN EXCESS OF 25 YEARS. COMPARE ALEXANDER V. STATE, 402 S.E. 2d 484.

HERE THE APPLICANT'S GUILTY PLEA WAS GIVEN INVOLUNTARILY BECAUSE HE WAS NOT ADEQUATELY ADVISED OF THE SENTENCING CONSEQUENCES OF HIS PLEA. THE APPLICANT'S PLEA WAS GIVEN INVOLUNTARILY IN VIOLATION OF BOYKIN V. ALABAMA, 395 U.S. 238 AND THE 5TH, 6TH AMENDMENT OF THE U.S. CONSTITUTION AND ARTICLE 1 §14 OF THE SC. CONSTITUTION. SEE ALSO

HILL V. LOCKHART, 474 U.S. 52.

IN HILL V. LOCKHART, SUPRA THE SUPREME COURT HELD THAT A CLAIM THAT COUNSEL'S ASSISTANCE WAS SO DEFECTIVE AS TO REQUIRE A REVERSAL OF A CONVICTION MANDATES THAT THE DEFENDANT SHOW THAT COUNSEL'S PERFORMANCE PREJUDICED THE DEFENSE SUCH THAT BUT FOR COUNSEL'S ERRORS, THE DEFENDANT MIGHT NOT HAVE PLEADED GUILTY. CLEARLY, COUNSEL'S FAILURE TO ADEQUATELY ADVISE APPLICANT REGARDING SENTENCING CONSEQUENCES IN THE CASE CONSTITUTED DEFICIENT LEGAL REPRESENTATION IN VIOLATION OF HILL V. LOCKHART, SUPRA AND THE 6TH AND 14TH AMENDMENTS TO THE U.S. CONSTITUTION. BUT FOR COUNSEL'S ERROR IN THIS REGARD, A REASONABLE PROBABILITY EXISTS THAT APPLICANT WOULD HAVE ELECTED A TRIAL BY JURY AND NOT PLEADED GUILTY TO THE PRESENT CHARGE.

THE U.S. SUPREME COURT HAS HELD THAT BEFORE A COURT CAN ACCEPT A GUILTY PLEA, A DEFENDANT MUST BE ADVISED OF THE CONSTITUTIONAL RIGHTS HE IS WAIVING; SPECIFICALLY A DEFENDANT MUST BE AWARE OF THE PRIVILEGE AGAINST SELF INCRIMINATION, THE RIGHT TO A JURY TRIAL AND THE RIGHT TO CONFRONT ONE'S ACCUSERS.

IN ADDITION TO THE REQUIREMENT OF BOYKIN, A DEFENDANT ENTERING A GUILTY PLEA MUST BE AWARE OF THE NATURE AND CRUCIAL ELEMENTS OF THE OFFENSE, MAXIMUM AND MINIMUM RANGE OF SENTENCE AND THE NATURE OF THE CONSTITUTIONAL RIGHTS BEING WAIVED.

APPLICANT DID NOT UNDERSTAND THE NATURE OF THE RIGHTS BEING WAIVED. THE RECORD IN THIS CASE SHOWS THAT THE TRIAL COURT DID NOT CLEARLY ESTABLISH IT.

COUNSEL FAILED TO PUT THE STATES CASE THROUGH ADVERSARIAL TESTING.

THERE WAS REASONABLE CAUSE TO BELIEVE THAT THE APPLICANT MAY BE PRESENTLY SUFFERING FROM A MENTAL DISEASE OR DEFECT RENDERING THE APPLICANT MENTALLY INCOMPETENT TO THE EXTENT THAT HE WAS UNABLE TO UNDERSTAND THE NATURE AND CONSEQUENCES OF THE PROCEEDINGS AGAINST HIM OR TO ASSIST PROPERLY IN HIS DEFENSE.

AS A MENTALLY INCOMPETENT DEFENDANT, THE APPLICANT WAS FORCED BY COUNSEL TO PLEAD GUILTY WITHOUT HAVING THE BENEFIT OF THE MANDATORY S.C. CODE OF LAW § 44-23-430-440. PRESUMPTION APPLICABLE WHEN COUNSEL CHOSE NOT TO OFFER EXPERT EVIDENCE IN SUPPORT OF APPLICANTS MENTAL DEFECT DEFENSE. THIS ISSUE WAS SUPPOSED TO BE BROUGHT UP DURING THE PRELIMINARY STAGES.

THIS COURT WILL COMMIT A MANIFEST ABUSE OF DISCRETION THAT WOULD AMOUNT TO AN ERROR OF LAW IF THE APPLICANT IS DENIED AN EVIDENTIARY HEARING. THERE WAS SUFFICIENT DOUBT ABOUT APPLICANT'S COMPETENCE TO STAND TRIAL. AS IN PATE V. ROBINSON, 865 CT. 836 (NOTING THAT IT IS CONTRADICTORY TO ARGUE THAT A DEFENDANT MAY BE INCOMPETENT AND YET KNOWINGLY OR INTELLIGENTLY WAIVE RIGHT TO HAVE THE COURT DETERMINE CAPACITY TO STAND TRIAL). CERT. DENIED, 474 U.S. 1073, 1065 CT. 834 A GUILTY BUT MENTALLY ILL PLEA ESTABLISHED A SUFFICIENT DOUBT ABOUT APPLICANTS COMPETENCE TO STAND TRIAL.

DUE PROCESS PROHIBITS THE TRIAL PLEA AND/OR SENTENCE OF A DEFENDANT WHO IS MENTALLY INCOMPETENT, DROPE V. MISSOURI, 955 CT. 896. THIS IS THE COMPETENCY PRINCIPLE. SEE WEISBERG V. MINNESOTA, 115 S.C.T. 955, 130 L.E.D. 2D 880.

MEDINA V. SINGLETARY, 116 S. CT. 205. DUE PROCESS [ALSO] REQUIRES THAT A HEARING BE HELD WHENEVER EVIDENCE RAISES A SUFFICIENT DOUBT ABOUT THE MENTAL COMPETENCY OF AN ACCUSED TO STAND TRIAL GRIFFIN V. LOCKHART, 935 F.2D 926. THIS PROCEDURAL COMPETENCY PRINCIPLE OPERATES AS A SAFEGUARD TO ENSURE THAT THE SUBSTANTIVE COMPETENCY PRINCIPLE IS NOT VIOLATED. CLAIMS INVOLVING THESE PRINCIPLES RAISE SIMILAR BUT DISTINCT ISSUES: THE ISSUE IN A SUBSTANTIVE CLAIM IS WHETHER THE DEFENDANT WAS IN FACT COMPETENT TO STAND TRIAL, BUT THE ISSUE IN A PROCEDURAL COMPETENCY CLAIM IS WHETHER THE TRIAL COURT SHOULD HAVE CONDUCTED A COMPETENCY HEARING. SEE SHELEY V. SINGLETARY, 955 F.2D 1434, 1438; UNITED STATES V. DAY, 949 F.2D 973, 983. A DENIAL OF EITHER OF THESE RIGHTS MAY PROVIDE THE BASIS FOR RELIEF. WEISBERG V. MINN., 29 F.3D AT 1276.

THE FAILURE OF TRIAL COUNSEL TO REQUEST A COMPETENCY HEARING WHERE THERE WAS EVIDENCE RAISING A SUBSTANTIAL DOUBT MAY CONSTITUTE INEFFECTIVE ASSISTANCE OF COUNSEL, SPEEDY V. WYRICK, 702 F.2D 723, 726.

THE APPLICANT DID NOT WAIVE THE DEFENSE OF HIS COMPETENCE TO STAND TRIAL BY FAILING TO DEMAND A SANITY HEARING AS PROVIDED BY S.C. CODE OF LAW. IT IS CONTRADICTIONARY TO ARGUE THAT A DEFENDANT MAY BE INCOMPETENT, AND YET KNOWINGLY OR INTELLIGENTLY "WAIVE" HIS RIGHT TO HAVE THE COURT DETERMINE HIS CAPACITY TO STAND TRIAL. SEE TAYLOR V. UNITED STATES, 282 F.2D 1623. THE RECORD WILL SHOW THAT COUNSEL INQUIRED THAT HIS PRESENT SANITY WAS AN ISSUE, BUT FAILED TO PROVE THAT HIS SANITY WAS AN ISSUE THAT SHOULD BE FULLY ADDRESSED.

MENTAL ALERTNESS AND UNDERSTANDING DISPLAYED BY ACCUSED IN COLLOQUIES WITH THE JUDGE DID NOT JUSTIFY IGNORING CONTRADICTED

MENTAL RECORDS OF ACCUSED HISTORY OF PRONOUNCED IRRATIONAL BEHAVIOR, WHILE APPLICANT'S DEMEANOR AT TRIAL MIGHT BE RELEVANT TO THE ULTIMATE DECISION AS TO HIS SANITY, IT CANNOT BE RELIED UPON TO FORGO A HEARING ON THAT VERY ISSUE. BISHOP V. UNITED STATES, 350 U.S. 961, 76 S. CT. 440.

APPLICANT'S CONSTITUTIONAL RIGHTS WERE ABRIDGED BY HIS FAILURE TO RECEIVE AN ADEQUATE HEARING ON HIS COMPETENCE TO STAND TRIAL, BY TRIAL COUNSEL.

APPLICANT IS ENTITLED TO A NEW TRIAL BECAUSE TRIAL COURT ABUSED IT'S DISCRETION BY NOT GRANTING A CONTINUENCE TO PERMIT PSYCHIATRIC EVALUATION OF APPLICANT'S COMPETENCY WHEN CONTINUENCE WOULD HAVE ONLY TAKEN ONE OR TWO DAYS. APPLICANT WAS PREJUDICED SINCE WITHOUT THE CONTINUANCE, HE WOULD NOT BE ABLE TO OBTAIN THE ONLY TESTIMONY POTENTIALLY SUPPORTIVE OF HIS INSANITY DEFENSE. U.S. V. POPE, 841 F.2D 954 AND JAMES V. SINGLETARY 957 F.2D 1562.

TRIAL COURT DENIED APPLICANT'S DUE PROCESS RIGHTS BY NOT HOLDING A BLAIR HEARING.

APPLICANT WAS CHARGED WITH MURDER AND POSSESSION OF A FIRE ARM DURING THE COMMISSION OF A VIOLENT CRIME ON OR ABOUT MARCH 14TH, 2011. PURSUANT TO SECTION 44-23-410 OF THE S.C. CODE OF LAWS, APPLICANT WAS ENTITLED TO BE COMMITTED TO THE SC. DEPARTMENT OF MENTAL HEALTH FOR EXAMINATION AND OBSERVATION TO DETERMINE HIS COMPETENCY TO STAND TRIAL. SECTION §44-23-410 PROVIDES:

THE JUDGE SHALL ORDER EXAMINATION OF SUCH A PERSON BY TWO EXAMINERS DESIGNATED BY THE DEPARTMENT OF MENTAL HEALTH, OR THE MENTAL RETARDATION DEPARTMENT, OR BOTH; SUCH AN EXAMINATION SHALL BE MADE WITHIN FIFTEEN DAYS AFTER THE COURT'S ORDER.

NEITHER PARTY REQUESTED NOR DID THE COURT ORDER A HEARING ON THE ISSUE OF APPLICANT'S COMPETENCY TO STAND TRIAL PURSUANT TO §44-23-430 WHICH PROVIDES:

UPON RECEIVING THE REPORT OF THE DESIGNATED EXAMINERS THE COURT SHALL SET A DATE FOR AND NOTIFY THE PERSON AND HIS FITNESS TO STAND TRIAL. THE PERSON SHALL BE ENTITLED TO BE PRESENT AT SUCH HEARING AND TO BE REPRESENTED BY COUNSEL.

AT THE APPLICANT'S GUILTY PLEA HEARING, HIS ONLY DEFENSE OF INSANITY WAS NOT FULLY AND ADEQUATELY EXPLORED. A CRIMINAL DEFENDANT'S FAILURE TO REQUEST COMPETENCY HEARING DID NOT WAIVE RIGHT TO SUCH HEARING WHERE DEFENDANT'S SANITY WAS A

CRUCIAL ISSUE IN HIS PLEA PROCEEDING. § 44-23-410, 44-23-430

STATUTE PROVIDING THAT UPON RECEIVING REPORT OF DESIGNATED EXAMINERS, "THE COURT SHALL" SET A DATE FOR COMPETENCY HEARING WHICH IS DESIGNED TO PROTECT ACCUSED'S RIGHT TO A FAIR TRIAL BY DUE PROCESS DETERMINATION OF HIS COMPETENCY AND FITNESS TO STAND TRIAL. CODE 1976 § 44-23-430; USCA CONST. AMEND. 14 NONE OF WHICH HAPPENED IN THIS CASE.

IN ESTABLISHING AN INEFFECTIVE ASSISTANCE OF COUNSEL CLAIM FROM A GUILTY PLEA, AN APPLICANT MUST PROVE THAT BUT FOR COUNSEL'S DEFICIENCIES THERE IS A REASONABLE PROBABILITY APPLICANT WOULD NOT HAVE PLEADED GUILTY, BUT WOULD HAVE INSISTED UPON GOING TO TRIAL. HILL V. LOCKHART, 474 U.S. 52, 106 S. CT. 366, STATE V. DAVIS, 468 S.E. 2D 747. THUS, ONCE A DEFRENCY IS FOUND, THE PROPER TEST FOR PREJUDICE SHOULD BE THE REASONABLENESS OF COUNSEL'S ACTIONS AS THEY AFFECTED PETITIONER'S DECISION TO PLEAD GUILTY, SUPRA.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	
	)	2014-CP-10-2878
Arthur Frederick Peterson, Jr., #355559,	)	
Applicant,	)	
	)	
v.	)	RETURN
State of South Carolina,	)	
	)	
Respondent.	)	

The Respondent, making its Return to the application for post-conviction relief (PCR) filed May 5, 2014, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the July 2011 term of the Charleston County Grand Jury for murder (2011-GS-10-4154). The Applicant was represented by Rose Mary Parham, Esquire.

On February 1, 2013, the Applicant pled guilty but mentally ill to the lesser included offense of voluntary manslaughter. The Honorable Kristi L. Harrington sentenced the Applicant to confinement for a period of twenty-four years. The Applicant did not appeal his conviction or sentence.

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

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

II.

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

1. Ineffective assistance of counsel.
 - a. Counsel failed to apprise Applicant of the sentencing consequences of his guilty plea.
 - b. Counsel failed to place Applicant's plea agreement on the record.
 - c. Counsel failed to use the Applicant's medical records as mitigation evidence.
 - d. Counsel failed to put State's case through adversarial testing.
 - e. 6th amendment violation.
 - f. Counsel failed to inform the Applicant of the mandatory two year community supervision program upon release.
2. Involuntary guilty plea.

III.

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

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The Applicant also alleges that he did not plead guilty freely and voluntarily. The Respondent submits this allegation has no merit. To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

The Respondent submits the transcript reflects that the pleas were knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Boykin, supra; Dover, supra. Further, because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976). The Respondent submits the Applicant should not be allowed to depart from the truth of the statements he made during his guilty plea hearing.

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993). Given the Applicant's burden of proof and the analysis to be applied to this claim, the Respondent submits that the Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it should therefore, be treated as such. Accordingly, this allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

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

VI.

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

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

ASHLEIGH R. WILSON
Assistant Attorney General

By: AL R. M. S.
ATTORNEYS FOR RESPONDENT

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

March 20, 2015.

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

ARTHUR F. PETERSON, Jr., #355559

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

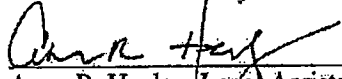
2014-CP-10-2878

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 of the Respondent in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

James K. Falk
 Bush Law Group
 3 Broad Street, Ste 450
 Charleston, SC 29401

DATED this 20th day of March, 2015


 Anne R. Henley, Legal Assistant
 For Respondent

1 STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
2 COUNTY OF CHARLESTON) CASE NO. 2014-CP-10-2878

3

4 STATE OF SOUTH)
CAROLINA,)
5) Transcript of Record
Plaintiff,)
6)
vs.)
7) Date: June 13, 2018
ARTHUR PETERSON,)
8)
Defendants.)

9

* * * * *

10

11

B E F O R E:

12

The Honorable Kristi Harrington

13

14

15

16

17

18

19

20 * * * * *

21

22

Denise J. Lauder, RPR

23

Ninth Judicial Circuit

24

25

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

2

3 REPRESENTING THE STATE OF SOUTH CAROLINA:

4 MEGAN JAMESON, ESQUIRE

5 Office of the Attorney General

6 P. O. Box 11549

7 Columbia, SC 29211-1549

8

9 REPRESENTING THE DEFENDANT:

10 JAMES K. FALK, ESQUIRE

11 38 Broad Street

12 Charleston, SC 29401

13

14

15

16

17

18

19

20

21

22

23

24

25

1 I N D E X

2		Page
3	WITNESS/EXAMINATION	
4	<u>ROSEMARY PARHAM</u>	7
5	DIRECT EXAMINATION BY MR. FALK	7
6	CROSS-EXAMINATION BY MS. JAMESON	10
7	REDIRECT EXAMINATION BY MR. FALK	13
8	<u>ARTHUR PETERSON</u>	14
9	DIRECT EXAMINATION BY MR. FALK	14
10	<u>DOUGLAS BRUCE DURANT</u>	16
11	DIRECT EXAMINATION BY MR. FALK	17
12	CROSS-EXAMINATION BY MS. JAMESON	19
13	REDIRECT EXAMINATION BY MR. FALK	22
14	CERTIFICATE OF REPORTER	30

15

16

17

18 E X H I B I T S

19 Page/Line

20 DFT. EXH. 1, Notes 21 4

21

22

23

24

25

1 (The following proceedings were had
2 June 13, 2018, Charleston County General Sessions
3 Court.)

4 (Attorney Rosemary Parham appearing by
5 speakerphone.)

6 THE CLERK: Ms. Rosemary, I'm going to
7 put you on speakerphone.

8 MS. PARHAM: Yes. Hello.

9 THE COURT: Good morning. It's Judge
10 Harrington. How are you?

11 MS. PARHAM: Good. How are you?

12 THE COURT: Good.

13 MS. JAMESON: May it please the Court.
14 Megan Jameson on behalf of the State. We're here
15 to construct a hearing -- or attempt to reconstruct
16 a hearing of a plea proceeding of Arthur Peterson's
17 guilty plea that was taken by Your Honor January
18 31, 2013.

19 He was indicted by the Charleston
20 County Grand Jury July 2011 for murder. He was
21 represented by Rosemary Parham, who is present via
22 telephone.

23 The case was prosecuted by Chief --

24 THE COURT REPORTER: I'm sorry, there
25 was some interruption. Could you please speak up

1 just a little bit?

2 MS. JAMESON: Yes. On January 31,
3 2013, the parties convened before Your Honor for a
4 pretrial motions hearing. At that time, Mr.
5 Peterson's counsel moved for a continuance of the
6 upcoming trial to allow the defense's expert to
7 complete her psychiatric evaluation of Mr.
8 Peterson.

9 This motion was denied by Your Honor as
10 was Mr. Peterson's motion to have -- to be
11 evaluated by the State. We do have a copy of that
12 transcript.

13 Later that same afternoon, the parties
14 reappeared before Your Honor and Mr. Peterson pled
15 guilty, but mentally ill as to the indicted --
16 excuse me, to the lesser included offense of
17 voluntary manslaughter. Sentencing was deferred at
18 that time.

19 This is the transcript that we are
20 missing and we are attempting to reconstruct. We
21 reached out to numerous court reporters, Desiree
22 Allen from Court Administration, and we were told
23 that the transcript cannot be produced.

24 Later on May 28, 2013, the parties
25 reconvened before Your Honor for a sentencing

1 hearing, and at that time, Your Honor sentenced Mr.
2 Peterson to 24 years imprisonment pursuant to plea
3 negotiations between Mr. Peterson and the State.
4 And we do have a copy of that transcript.

5 He didn't file a notice of appeal but
6 he did have an application for post-conviction
7 relief in 2014. He was represented by James Falk
8 who moved to reconstruct the missing plea
9 proceedings before Your Honor. That was granted by
10 Judge Needles at a hearing in December of last
11 year, and we're here today to attempt to
12 reconstruct that January 31, 2013, plea proceeding.

13 THE COURT: All right. And I have no
14 independent recollection other than what is
15 contained in the sentencing sheet. That is all
16 that I can reconstruct for you.

17 MS. JAMESON: Certainly, Your Honor.
18 We would like to -- I believe Jim and I talked and
19 we would like to call Mr. Peterson as well as the
20 parties who were involved before Your Honor in an
21 to attempt to reconstruct.

22 THE COURT: I am happy to accommodate.
23 I don't know that that's the appropriate procedure
24 because -- but happy to -- happy to go through this
25 drill.

1 All right. Mr. Falk.

2 MR. FALK: I would ask Ms. Parham to be
3 sworn.

4 ROSEMARY PARHAM,
5 being first duly sworn, testified as follows:

6 (Sworn over the telephone)

7 THE CLERK: Please state your full name
8 for the record spelling your last.

9 THE WITNESS: Rosemary Parham,
10 P-A-R-H-A-M.

11 DIRECT EXAMINATION

12 BY MR. FALK:

13 Q. Ms. Parham, I just have a couple of
14 questions. I'm not trying to drag this out. Do
15 you have any independent recollection of any
16 conversation regarding -- let me just back this up.

17 On July 30 -- excuse me, January 31st,
18 you made a motion to have him evaluated; is that
19 correct?

20 A. I did.

21 Q. And that motion was denied; is that
22 correct?

23 A. Yes.

24 Q. And as part of your motion to have him
25 evaluated, you indicated that his doctor hadn't

1 completed her evaluation; is that correct?

2 A. Yes.

3 Q. All right. So now coming to -- then,
4 sometime between that and the sentence hearing, my
5 -- was there anything -- do you have an independent
6 recollection of what was said regarding Mr.
7 Peterson giving up his right to assert an insanity
8 defense?

9 THE COURT: And, Mr. Falk, I'm just --
10 I want to be very clear as to what we're doing
11 here. We're attempting to reconstruct the plea
12 part. So what she's indicated to her client is not
13 -- that's the PCR hearing.

14 MR. FALK: No. No. No. I understand.
15 I just want to know if she recollected any part of
16 the colloquy with the Court regarding -- this is a
17 case where he certainly had asserted an affirmative
18 defense and wasn't going to be able to --

19 THE COURT: I want you to be clear as
20 to the narrow parameters for why we are here.

21 MR. FALK: Exactly. I'm just -- and
22 thank you, Judge.

23 BY MR. FALK:

24 Q. So do you remember any particular
25 colloquy between the Court and your client

1 regarding his -- waving his affirmative defense of
2 insanity?

3 A. I do remember that. What happened was,
4 after the hearing where I asked for the continuance
5 and Dr. Knight testified, the Court and Mr. Durant
6 and I had a conference in chambers. And the Court
7 granted us time for Dr. Knight to speak to Mr.
8 Peterson at the courthouse, and she did. And she
9 did that during the delay.

10 And Mr. Peterson and I discussed all of
11 the options. You know, if we proceeded to have him
12 evaluated, then the State was going to withdraw the
13 offer. And Dr. Knight continued to speak with Mr.
14 Peterson and me at the courthouse.

15 And based on what she told me, my
16 client and I decided it was in his best interest to
17 go ahead and plead that day.

18 And so we reconvened in a different
19 courtroom. I distinctly remember the courtroom.
20 It was a different courtroom than where we had the
21 motion for continuance hearing. I think it was to
22 the left and -- I can't remember the Charleston
23 courtrooms that well.

24 And Mr. Durant was there, my client was
25 there, I was there, Judge was there. And she went

1 through the entire plea colloquy as judges normally
2 do, but because of the motion for continuance and
3 the issues that were put on the record earlier, the
4 judge went over those in great detail; about his
5 right to these mental defenses and that we were
6 waiving those.

7 Because, I mean, I think the Court had
8 a lot of concern, it seemed to me in her colloquy,
9 about the fact that we just raised that that
10 morning and, you know, were we knowingly and
11 voluntarily giving up those rights to assert the
12 mental defenses. And my client knew what he was
13 doing and chose to do that at that time.

14 And I remember the plea colloquy and --
15 I believe, and I told the Court at that time that
16 my client was competent and sane at the time of the
17 offense and wished to plead guilty. And I still
18 believe that that was the right thing that he did.

19 MR. FALK: No further questions.

20 THE COURT: Okay.

21 MS. JAMESON: Briefly, Your Honor.

22 CROSS-EXAMINATION

23 BY MS. JAMESON:

24 Q. Ms. Parham, was there anything out of
25 the ordinary that you remember about this plea

1 proceeding?

2 A. No, other than I believe that the judge
3 went over in greater detail than an average guilty
4 plea his rights to a mental evaluation because he
5 had just asserted that that morning.

6 Q. Do you recall whether he was questioned
7 about his constitutional rights and giving those up
8 under a guilty plea?

9 A. He was questioned about that.

10 Q. Do you recall if he was asked by the
11 Court if he wanted to plead guilty?

12 A. He was asked that.

13 Q. Do you recall how he responded?

14 A. Yes. I mean, he responded, yes, that
15 he wanted to plead guilty and, yes, that he wanted
16 to give up his constitutional rights.

17 Q. Did he indicate that he was indeed
18 guilty?

19 A. He did. He indicated that he was
20 guilty.

21 Q. Do you recall if he was asked if there
22 were any promises or threats to induce this guilty
23 plea?

24 A. He was asked that, and he said no.

25 Q. Do you recall whether he was asked by

1 the Court if he was satisfied with your services as
2 his attorney?

3 A. He was asked that, and he indicated
4 that he was satisfied.

5 Q. Do you recall whether the State gave a
6 summary of the facts giving rise to this charge?

7 A. Yes. My recollection is the State gave
8 -- Mr. Durant gave a recitation of the facts, and I
9 also gave a recitation of some mitigating facts.

10 Q. And that was a negotiated plea,
11 correct?

12 A. It was 24 years.

13 Q. And do you recall -- earlier in the day
14 during that motion for a continuance hearing, did
15 the Court also review the terms of the plea
16 agreement with your client?

17 A. Yes. And Mr. Durant, as I recall, put
18 on the record in detail about our negotiation and
19 the amount of time that Mr. Peterson was facing on
20 the different charges. And Mr. Peterson was in the
21 courtroom as well.

22 Q. And the sentencing was deferred,
23 correct?

24 A. It was. My client felt strongly that
25 he wanted to finish some programs that he was

1 involved in in the Charleston County detention
2 center and he would not complete those until the
3 end of May.

4 And so that was also part of our
5 negotiation. Mr. Durant said he would not object
6 to Mr. Peterson staying at the Charleston County
7 detention center and finishing those programs.

8 MS. JAMESON: No further questions.

9 THE COURT: Any redirect?

10 REDIRECT EXAMINATION

11 BY MR. FALK:

12 Q. Just one question, Ms. Parham. You
13 don't have -- your recollection is, that based on
14 notes that you have or is that just --

15 A. I remember this case very well in a lot
16 of detail. This is a real significant case to me;
17 it was my first murder case as a defense attorney;
18 it had a very unusual set of facts.

19 I liked Mr. Peterson a lot. I spent a
20 lot of time with him at the detention center. I
21 believe I represented him for almost two years. I
22 mean, this isn't just a run of the mill criminal
23 case. This was my first murder case and really an
24 unusual set of facts and an unusual client.

25 Q. I appreciate that. Do you have -- I

1 just want to know if you're going off of
2 contemporaneous notes that you made at the time of
3 the hearing?

4 A. No. I just -- no. I don't make notes
5 during a guilty plea.

6 MR. FALK: Thank you. No further
7 questions.

8 MS. JAMESON: No further questions.

9 THE COURT: Ms. Parham, you're excused.
10 It was good to hear from you. Have a great day.

11 THE WITNESS: Oh, thank you. Thank
12 you.

13 THE COURT: Call your next witness.

14 MR. FALK: I call Arthur Peterson.

15 ARTHUR PETERSON,

16 being first duly sworn, testified as follows:

17 THE CLERK: I need you to speak into
18 that microphone so we can hear you. State your
19 full name for the record and spell you last name.

20 THE WITNESS: Arthur Fredrick Peterson,
21 Junior, P-E-T-E-R-S-O-N.

22 DIRECT EXAMINATION

23 BY MR. FALK:

24 Q. Mr. Peterson, I would like to know what
25 your recollection is of the plea hearing on

1 January 31st. Now, you remember there was a
2 hearing earlier in the day and then there was a
3 break and then there was a plea hearing.

4 So I want you to confine your remarks
5 to your recollection of the plea hearing. Is that
6 okay?

7 A. Yes, sir.

8 Q. And you heard your lawyer talk about
9 what happened at the plea hearing. Do you have any
10 recollection of what happened that afternoon?

11 A. Sir, I don't have a good recollection
12 of it. I was under a lot of stress. I was nervous
13 and -- I mean, I was scared. And when I was in the
14 courtroom, I just -- you know, I just wasn't
15 myself.

16 And I prayed to God while I was there
17 if he would just show me a sign that he was there I
18 would be all right. And I prayed for him to make
19 the flag move behind Judge Harrington's seat. And
20 when I said that prayer, it fluttered just a little
21 bit. And it was in a room like this where there
22 wasn't much air flow so I know he was with me, and
23 I knew I was in the right place.

24 Q. You heard Ms. Parham talk about the
25 discussion that you had with the Court about your

1 rights that you were giving up. Do you have an
2 independent recollection of that discussion?

3 A. No, sir.

4 Q. So your rights to the insanity defense,
5 you don't have a recollection of that discussion?

6 A. The only thing I remember about the
7 insanity defense was just all the commotion about
8 how it was my only defense and I was being denied
9 it -- the opportunity to build it under the use of
10 my expert.

11 That's all I can recall, but most of
12 that was outside of the courtroom. It wasn't in
13 the courtroom. It was in the -- it was in the
14 visitation booth with Rosemary Parham.

15 MR. FALK: No further questions, Judge.

16 MS. JAMESON: No questions.

17 THE COURT: You may step down. Thank
18 you.

19 Call your next witness.

20 MR. FALK: I would call Mr. Durant.

21 DOUGLAS BRUCE DURANT,

22 being first duly sworn, testified as follows:

23 THE CLERK: Please state your full name
24 for the record spelling your last name.

25 THE WITNESS: Douglas Bruce Durant,

1 D-U-R-A-N-T.

2 DIRECT EXAMINATION

3 BY MR. FALK:

4 Q. Mr. Durant, what is your recollection
5 of that plea hearing?

6 A. In general terms, my recollection of
7 that plea hearing is in accord with Ms. Parham's
8 testimony. I certainly do not remember the
9 specifics as well as she did. I do remember that
10 we had a conference with Judge Harrington in
11 chambers and we agreed to the time.

12 I think I was at 25 and she was at 23,
13 and we split the baby and arrived at 24. And it
14 was all agreed it was going to be a negotiated
15 plea. And I don't think there was ever any really
16 serious issue that your client was incompetent or
17 not criminally responsible, because, as you can see
18 from his testimony, he's a right intelligent fellow
19 and was certainly able to assist in his defense and
20 certainly knew that murder was wrong, especially
21 given his strong religious predilection.

22 In any event, we agreed to the plea and
23 we had the plea later that afternoon. I don't
24 remember the specifics as well as Ms. Parham. All
25 I know is that Judge Harrington went through the

1 full plea colloquy that she does in every case.

2 I do recall there was some discussion
3 concerning him giving up his defenses and things of
4 that nature. There was nothing unusual about the
5 plea hearing that raised a red flag in my mind, and
6 I thought I should go back behind and say, Judge,
7 maybe you should ask this or ask that.

8 Judge Harrington was an experienced
9 judge. She has a series of questions she goes
10 through in every plea and she did in this plea and,
11 I believe, did some stuff in addition to that.

12 Q. And you don't have any --

13 A. I don't have any --

14 Q. -- contemporaneous notes?

15 A. No, I do not. This is actually a sheet
16 I prepared at the time of the actual sentencing,
17 because I think we took the plea in January and the
18 actual sentence -- actually sentenced in May of
19 that year.

20 Q. And you don't have an independent
21 recollection of what you specifically did to go off
22 of her standard script?

23 A. I do not.

24 MR. FALK: No further questions.

25 THE COURT: Ms. Jameson, do you have

1 any questions?

2 MS. JAMESON: Yes, Your Honor, briefly.

3 CROSS-EXAMINATION

4 BY MS. JAMESON:

5 Q. Morning, Mr. Durant.

6 A. Morning.

7 Q. You testified that you recall that
8 Judge Harrington went over her standard series of
9 questions?

10 A. I do.

11 Q. Do you recall whether he was questioned
12 about his constitutional rights?

13 A. I can't say that I specifically
14 remember in this case, but I know from many years
15 of experience with Judge Harrington that she asks
16 it in every plea.

17 Q. Do you recall whether he informed the
18 Court that he wanted to plead guilty?

19 A. I do, indeed, because his plea would
20 never have gone through if he had not.

21 Q. And he informed the Court that he was
22 guilty?

23 A. Yes.

24 Q. Do you recall whether he was questioned
25 about if there had been any promises or threats?

1 A. I believe, once again, no specific
2 recollection, but that is part of Judge
3 Harrington's plea colloquy and I believe that it
4 was asked.

5 Q. Is part of the standard plea colloquy
6 that he was satisfied with the services of
7 attorney?

8 A. That is as well.

9 Q. And I believe you referenced a summary
10 of facts that you had typed up following -- or in
11 anticipation of the plea. Do you have a copy of
12 that?

13 A. Yes. This was actually a copy of what
14 -- it was a summary of the facts that I provided in
15 May when we -- she actually imposed sentence, just
16 to remind Judge Harrington of what case we were
17 talking about.

18 But I gave a summary of the facts at
19 the actual plea hearing on January 31st.

20 Q. Was it similar to the facts --

21 A. It was probably the same facts, but
22 this is all I could find --

23 Q. Okay.

24 A. -- in my file.

25 MS. JAMESON: Your Honor, I would like

1 to introduce this as Respondent's 1.

2 THE COURT: Any objection?

3 MR. FALK: No objection.

4 (DFT. EXH. 1, Notes, was marked for
5 identification.)

6 BY MS. JAMESON:

7 Q. Do you mind reading the facts that are
8 listed there?

9 A. Victim, Gwendolyn Fields, resided at
10 [REDACTED] Taperwood Circle with her disabled daughter,
11 Shakeera Fields. The defendant, Art Peterson, had
12 developed a relationship with the disabled
13 daughter, Shakeera, and came over to the house
14 frequently to pray with her.

15 In addition to suffering from
16 paralysis, Shakeera had a number of mental health
17 issues which, among other things, led to her
18 falsely accusing others of physical and emotional
19 abuse.

20 On March 14th of 2011, the defendant
21 came to the house to pray with Shakeera. Shakeera
22 told the defendant that her mother, Gwendolyn, had
23 physically abused her the previous night.

24 911 was called and Peterson requested
25 an ambulance and police assistance in removing

1 Shakeera from the home. The police arrived. One
2 was inside the residence obtaining information for
3 his report while the supervisor was outside making
4 arrangements to place Shakeera into emergency
5 protective custody.

6 At this time, the defendant walked to
7 the doorway separating the kitchen from the living
8 room, removed a Glock nine-millimeter, which had
9 been concealed under his coat, and shot the victim
10 three times as she was washing dishes at the
11 kitchen sink.

12 Q. And, to the best of your recollection,
13 that is a similar summary of the facts that you
14 gave the Court during the plea colloquy?

15 A. That is the -- those are the facts of
16 this case.

17 Q. And sentencing was deferred in this
18 case, correct?

19 A. It was, at the request of Ms. Parham.

20 MS. JAMESON: No further questions.

21 THE COURT: Mr. Falk.

22 REDIRECT EXAMINATION

23 BY MR. FALK:

24 Q. I think Ms. Jameson asked you whether
25 or not you know if you read those facts at the --

1 at the plea colloquy. And you corrected her and
2 said those are the facts of the case, but you
3 didn't answer her question.

4 A. I would have read those facts or
5 something that is substantially similar because
6 those are the facts of the case.

7 MR. FALK: Thank you.

8 THE COURT: Any re-cross?

9 MS. JAMESON: No, Your Honor.

10 MR. FALK: No further questions.

11 THE COURT: You may step down. Thank
12 you. Go ahead and take your comfort break so we
13 can get ready for the trial.

14 Call your next witness.

15 MR. FALK: No further witnesses.

16 MS. JAMESON: The State doesn't have
17 any witnesses to call.

18 THE COURT: Just for the record, on
19 every criminal case that I have done, I have the
20 solicitors complete a guilty plea information sheet
21 known as the Harrington form. I have kept every
22 Harrington form of every plea that I have done over
23 the last ten plus years. So I have Mr. Peterson's
24 original Harrington form.

25 And so what is contained on that form

1 is the charges that Mr. Peterson is facing, the
2 potential punishment, as well as the
3 recommendation.

4 So, actually, I think my law clerk
5 filled this out, not Mr. Durant. And so I utilize
6 this so that when I'm advising the defendant of
7 their rights and possible punishment that
8 everything is contained right in front of me.

9 I also go through the preliminary
10 information and ask the client his age, his
11 educational status, if he has any children. My
12 notes indicated at the time he was 36, he had a BS,
13 he was married and had a child that was seven.

14 My typical guilty plea questions, I
15 have a standard script. Based upon the seriousness
16 of the charge, I typically expand and go into
17 greater detail, but I include these questions every
18 time.

19 The defendant is always sworn. I
20 inquire of the attorney if they represent the
21 defendant. I ask the attorney if they have
22 explained to the defendant the charge that he's
23 facing, the possible punishment, their
24 constitutional rights, and if they agree with the
25 client's decision to plead guilty.

1 At that point, I begin my questions of
2 the defendant to determine not only some of the
3 information that I indicated, age, marital status,
4 mental health issues, substance abuse issues, but I
5 indicate that I ask these questions to insure that
6 the plea is made freely and voluntarily.

7 I indicate to the defendant that they
8 are pleading guilty to the charge; in this case, it
9 was pleading guilty to voluntary manslaughter,
10 which carries 2 to 30. I went over that it was
11 negotiated, that based upon the facts and his prior
12 record that I cannot change it, it would be
13 24 years.

14 There was substantial discussion about
15 him being placed at Kirkland. At this point, I do
16 not remember why he wanted to be placed at
17 Kirkland, but even in the sentencing I indicated
18 that I would put it on the sentencing sheet, but
19 that I don't -- I don't control the Department of
20 Corrections. And I can almost guarantee that I
21 made that statement during -- during the initial
22 plea.

23 At that point, I go over the
24 constitutional rights that the defendant is giving
25 up. That the defendant would give up the right to

1 a jury trial and have the jury determine his guilt
2 beyond a reasonable doubt based upon the evidence
3 that the State presents as well as any evidence
4 that he may introduce; the right against
5 self-incrimination; the right to say nothing at
6 all; the right to confront and be confronted by the
7 witnesses against you, as well as the right to call
8 witnesses on your behalf. And then I indicate by
9 pleading guilty he's giving up any defense that he
10 may have.

11 In a case of this nature, knowing it
12 was a guilty but mentally ill plea, I probably
13 would have broke this down into subsections and
14 inquired as to whether or not Mr. Peterson
15 understood each one and had him make that
16 affirmative statement on the record. I cannot
17 indicate to you that I did it in that case, but
18 that is my normal procedure.

19 I then ask, understanding the nature of
20 the charges against you, the possible punishment
21 and the consequence of the guilty plea, how do you
22 wish to plead.

23 Then I ask, did you commit the offense?
24 Are you pleading guilty because you are guilty? At
25 that point, then I ask has anyone promised you,

1 threatened you, or forced you to plead guilty here
2 today.

3 Then I ask if the defendant is
4 satisfied in the way that counsel has handled it
5 and ask if there's -- have any complaints, now is
6 the time to tell me. I indicate that they have ten
7 days in which to appeal the guilty plea and
8 sentence, and I probably went over that it would be
9 ten days from the date of the sentence.

10 And on the back of the Harrington form
11 I evidently had written a note to my law clerk to
12 find the next GS Charleston term after May 1st,
13 because he was completing his programs, and the
14 response was May 27th. I picked May 28th at 9:30,
15 which I believe was a Tuesday.

16 Then I tell the defendant to listen to
17 the solicitor as he states the facts, and I
18 listened to the facts and the prior record from the
19 solicitor. At that time, I would typically hear
20 from any victims if they were present.

21 And then I indicate you have heard the
22 facts. Are those facts true? Are you pleading
23 guilty? I accept the plea by stating that I find
24 there is a substantial factual basis for the plea;
25 the decision to plead guilty has been freely,

1 voluntarily, knowingly and intelligently made. The
2 defendant indicates that they've had the advice and
3 counsel of a competent attorney with whom they've
4 told the Court they are satisfied, I hereby accept
5 the plea of guilt. And then I will hear mitigation
6 from the defense attorney.

7 That typically is in every plea. I
8 would change it up infrequently because it's just
9 easier for me to state it in that way, it makes the
10 most sense to me. And so at that -- at this point,
11 I cannot indicate that I would have deviated in any
12 way from that basic pattern.

13 Anything further, Mr. Falk?

14 MR. FALK: No, Your Honor.

15 MS. JAMESON: Your Honor, the State
16 would submit that the record has been reconstructed
17 sufficiently to allow for a meaningful collateral
18 review, which is the standard as set forth in State
19 v. Ladson, a 2007 Court of Appeals case, as well as
20 Adams v. H. R. Allen, a 2012 Court of Appeals case
21 and so we would ask Your Honor to find that the
22 record has been reconstructed for collateral
23 review.

24 THE COURT: Do you agree, Mr. Falk?

25 MR. FALK: Your Honor, it would be our

1 position that since the insanity defense was
2 initiated in this case and nobody has any
3 contemporaneous notes of any specific questioning
4 that was done at the plea as far as Mr. Peterson
5 waiving those rights and that was a knowing, a
6 fully intelligent waiver of his rights, absent that
7 we would argue that that is a specific significant
8 issue that has not been sufficiently reconstructed.

9 THE COURT: Okay. Thank you.

10 I find that the record has been
11 reconstructed. Thank you.

12 MS. JAMESON: Thank you.

13 (These proceedings were concluded at
14 10:10 a.m.)

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATE OF REPORTER

2

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

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

11 Witness my hand, I have hereunto affixed my
12 official seal this 23rd day of August, 2018 at
13 Charleston, Charleston County, South Carolina.

14

15

16

17 S/Denise Lauder _____
18 Carol Denise Lauder
19 Registered Professional
20 Reporter, CP
21 My Commission expires
22 February 27, 2028

23

24

25

Arthur Peterson

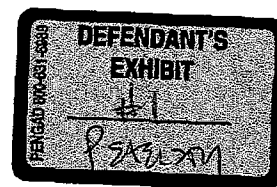
Attorney: Rose Mary Parham

Charges:

- 2011- 04154 – Murder
- 2011- 04155 – Poss. Firearm During Crime of Violence

History: On 1/31/13 pled to Voluntary Manslaughter on Indictment 2011-04154 for a negotiated sentence of 24 years. Judge Harrington delayed imposition of sentence until May 28, 2013 at the request of defense. Upon imposition of sentence indictment 2011-04155 will be NPed.

Facts: Victim, Gwendolyn Fields, resided at [REDACTED] Taborwood Circle with her disabled daughter, Skekyra Fields. The defendant, Arthur Peterson, had developed a relationship with the disabled daughter, Skekyra, and came over to the house frequently to pray with her. In addition to suffering from paralysis, Skekyra had a number of mental health issues which, among other things, led to her falsely accusing others of physical and emotional abuse. On March 14, 2011, the defendant came to the house to pray with Skekyra. Skekyra told the defendant that her mother, Gwendolyn, had physically abused her the previous night. 911 was called and Peterson requested an ambulance and police assistance in removing Skekyra from the home. The police arrived. One was inside the residence obtaining information for his report while his supervisor was outside making arrangements to place Skekyra into emergency protective custody. At this time the defendant walked to the doorway separating the kitchen from the living room, removed a Glock 9 mm



which had been concealed under his coat and shot the victim 3 times as she was washing dishes at the kitchen sink.

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) 2014-CP-10-02878
ARTHUR PETERSON,)
Applicant,) Transcript of Record
vs.)
STATE OF SOUTH CAROLINA,) October 4, 2018
Respondent.)

B E F O R E:

Honorable Michael G. Nettles
Charleston County Courthouse
Charleston, South Carolina

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

James K. Falk, Esquire
Attorney for Applicant

Megan Harrigan Jameson, Esquire
Attorney for Respondent

Kay H. Richardson
Circuit Court Reporter

Peterson v. State - 2014-CP-10-02878
INDEX

2

1	<u>I N D E X</u>	
2	<u>OCTOBER 4, 2018</u>	<u>Pg.</u>
3	By the Court	3
4	Rose Mary Parham	
5	Direct by Falk	7
6	Cross by Jameson	24
7	Redirect by Falk	29
8	Arthur Peterson	
9	Direct by Falk	31
10	Argument of Counsel	55
11	Ruling of the Court	68
12	Certificate of Court Reporter	70

13

14

E X H I B I T S

15

No.IDEV

16

S1 Letter from Peterson to Parham

25

17

18

19

20

21

22

23

24

25

Peterson v. State - 2014-CP-10-02878
BY THE COURT

3

1 OCTOBER 4, 2018 - 10:11 A.M.

2 BY THE COURT:

3 THE COURT: Yes, ma'am, you are recognized.

4 MS. JAMESON: Thank you. Megan Jameson on behalf of the
5 state. This is Arthur Peterson versus the State of South
6 Carolina, Docket Number 2014-CP-10-2827. During the July 2011
7 term, the Charleston County Grand Jury indicted Mr. Peterson
8 for murder following the fatal shooting of Gwendolyn Fields on
9 March 14th, 2011. Rose Mary Parham represented him. Chief
10 Deputy Solicitor Bruce DuRant prosecuted the case. On January
11 31st, Mr. Peterson appeared before Judge Harrington for a
12 pretrial motions hearing. Specifically, Mr. Peterson and
13 counsel were moving for a continuance of the upcoming trial
14 for the next week to allow the defense's psychiatric expert to
15 complete her evaluation of Mr. Peterson and moving to have him
16 evaluated by the state. Judge Harrington denied both of those
17 motions. Later that same day, Mr. Peterson reappeared with
18 counsel before Judge Harrington and pled guilty but mentally
19 ill to the lesser included offense of voluntary manslaughter
20 pursuant to negotiations with the state for a 24-year
21 sentence. Judge Harrington accepted Mr. Peterson's plea but
22 deferred sentencing at Mr. Peterson's request. On My 28th,
23 2013, Judge Harrington reconvened all parties for a sentencing
24 hearing and at that time she imposed the negotiated 24-year
25 sentence pursuant to the plea negotiations with Applicant and

Peterson v. State - 2014-CP-10-02878
BY THE COURT

4

1 the state.

2 He did not file a notice of appeal. He did timely file
3 this current PCR action on May 5th, 2014 alleging counsel
4 failed to apprise him of sentencing consequences of his plea;
5 failing to place his plea agreement on the record; that his
6 guilty plea was involuntary; that counsel failed to use his
7 medical records as mitigation evidence; that counsel failed to
8 put the state's case through adversarial testing; that counsel
9 failed to inform him of the mandatory two-year communicate
10 supervision program upon his release; that counsel failed to
11 request a *Blair* hearing; and that counsel improperly advised
12 him to plead guilty but mentally ill. The state made its
13 return on March 20th, 2015 requesting an evidentiary hearing
14 and he is represented by James Falk.

15 The court reporter from Applicant's plea proceeding
16 advised us, as did Court Administration that we weren't able
17 to get a copy of the transcript and by order filed on January
18 24th of this year, Your Honor, ordered the parties to attempt
19 to reconstruct the proceeding before Judge Harrington. That
20 was done on June 13th of this year before Judge Harrington,
21 and following that hearing, Judge Harrington determined the
22 record was sufficiently reconstructed to allow her meaningful
23 collateral review. A copy of that transcript has been ordered
24 and is in Your Honor's Judge's packet.

25 And I'll turn it over to Mr. Falk at this time.

Peterson v. State - 2014-CP-10-02878
BY THE COURT

5

1 THE COURT: Mr. Falk, you're recognized.

2 MR. FALK: Just as an initial point, and I just wanted to
3 preserve this if this could possibly go forward is that at the
4 conclusion of the reconstruction hearing, and it was my
5 contention -- that I did not believe that the adequate -- that
6 the record was sufficiently reconstructed and I just want to
7 preserve that issue if we keep going forward with this.

8 THE COURT: Okay. All right.

9 MR. FALK: At this time, we would call Ms. Parham to the
10 stand.

11 THE COURT: Before we do that, I'm gonna ask for you to
12 delineate the specific allegations that you're going forward
13 with today.

14 MR. FALK: Your Honor, we thought that -- we believe that
15 there should've been a *Blair* hearing.

16 THE COURT: All right. That's -- the *Blair* hearing is
17 one issue?

18 MR. FALK: Yes, Your Honor.

19 THE COURT: All right.

20 MR. FALK: And that he is asserting that his plea was
21 made involuntarily.

22 THE COURT: Okay.

23 MR. FALK: And that there were not medical records
24 introduced at the competency hearing.

25 THE COURT: Is that all?

Peterson v. State - 2014-CP-10-02878
BY THE COURT

6

1 MR. FALK: Yes, Your Honor.

2 THE COURT: Okay. Let me -- before ---

3 MR. FALK: Excuse me, Your Honor. (Confers with
4 Applicant.)

5 Yes, Your Honor.

6 THE COURT: All right. Before we get started, let's talk
7 about the issue of what the law is concerning going forward
8 when there is a legitimate question about a person's
9 competency. How can you go forward with a plea if there's a
10 problem with that? What do you understand the law to be in
11 that regard?

12 MS. JAMESON: If there was a legitimate concern, I think
13 there would've had to be a hearing, but I believe based on my
14 prehearing interviews with counsel, that there wasn't a
15 legitimate concern, that he was evaluated multiple times, and
16 she was comfortable with him going forward. So, I don't think
17 that's the position we're in here today.

18 THE COURT: I think she's the one that moved for the
19 continuance to have him evaluated and to complete some sort of
20 psychiatric evaluation; is that correct?

21 MS. JAMESON: Yes, Your Honor, but I think there is more
22 to it and I hope to elicit that testimony from counsel when
23 she's on the stand based on my prehearing interviews with her.
24 I believe there is some more to that. I don't want to speak
25 on her behalf. I think her testimony will speak for itself,

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - DIRECT BY FALK

7

1 but I think there were other motivating factors for why she
2 moved for that continuance based on her client's requests.

3 THE COURT: Good, good. All right.

4 You may call your first witness.

5 MR. FALK: Ms. Parham.

6 THE COURT: Ms. Parham, if you could place your left hand
7 on the Bible and raise your right hand as the clerk
8 administers the oath.

9 ROSE MARY PARHAM, HAVING BEEN DULY
10 SWORN, TESTIFIED AS FOLLOWS:

11 CLERK: You can go ahead and have a seat.

12 THE COURT: I'd ask you if you could to go ahead and have
13 a seat in the witness chair. Pull up real close to that
14 microphone and speak loudly, clearly, and slowly in order that
15 we can hear everything that you have to say and let's start
16 with your full name and spell that last one for us.

17 MS. PARHAM: Rose Mary Parham, P-A-R-H-A-M.

18 THE COURT: Very good.

19 Mr. Falk?

20 DIRECT EXAMINATION OF ROSE MARY PARHAM BY MR. FALK:

21 Q: Thank you, Ms. Parham. And I apologize for the many
22 trips you've had to make down here to Charleston on this case,
23 but -- thank you. You're normally in Florence, right?

24 A: Yes.

25 Q: Can you tell me something about how you became involved

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - DIRECT BY FALK

8

1 in Mr. Peterson's case?

2 A: Yes. I have a friend who is an attorney in Columbia,
3 Bill Watkins. He called me one day and told me that another
4 lawyer was representing Art and was Jewish and Art wanted a
5 Baptist Christian female to represent him and he said that I
6 was the first person he thought of. And so he asked me if I
7 would come down to Charleston from Florence and meet with Art,
8 which I did.

9 Q: Can you tell me something about that first visit with
10 Art?

11 A: Yes. It was pouring down rain. I think there was a
12 nor'easter or something like -- it was just literally raining
13 cats and dogs. And I met with him and before he would speak
14 to me about the case, he asked me where my Bible was, and I
15 told him I didn't have a Bible, and he said that I had to go
16 get one or he wasn't going to speak to me. So, I asked around
17 the jail, no one would give me a Bible, so I got in my car, I
18 went down 526 to Barnes and Noble, stood there and decided to
19 buy the King James Version. And then when I got back to Mr.
20 Peterson, he asked me what version, I said King James Version,
21 and said, no, I like the New International Version. I said,
22 look, dude, we're going forward with this King James Version.
23 And so we talked and we -- from that point on, he hired me.
24 We talked about the case and we talked about, you know, our
25 religious beliefs and things like that.

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - DIRECT BY FALK

9

1 Q: Is it safe to say that he exhibited a bit of religious
2 fervor?

3 A: He did.

4 Q: Did he tell you a little bit about what lead him to be at
5 the house that day?

6 A: He did.

7 Q: And can you share that with us?

8 A: Yes. He told me that at one point, he thought his wife
9 was dying of an illness and that the doctors had advised him
10 of the same and that he had prayed in the waiting room if the
11 doctor would allow his wife to live, that he would spend the
12 balance of his days working for the Lord, and the doctor
13 apparently came out and said she was gonna live. And, I
14 believe Shakira Fields was in the waiting room that day. And
15 Shakira was a young lady who got food poisoning from bad
16 shrimp in Charleston, which rendered her paralyzed. And so he
17 started ministering to Shakira, and Shakira lived in a crack
18 house in North Charleston, and so he made regular visits to
19 Shakira and other people in Charleston to minister to them.
20 And on this particular morning -- Shakira was getting ready to
21 have a large monetary settlement, I think over a million
22 dollars for the paralysis from the bad shrimp. And so he had
23 called some black leaders in town because he wanted to make
24 sure that people were looking after Shakira and that her
25 family members were not going to misspend the money that was

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - DIRECT BY FALK

10

1 coming her way. And so he was supposed to meet some leaders
2 in town at the house. I think he stopped and got some, like,
3 chicken biscuits for the family members as he usually did.
4 And the leaders in the community who were supposed to meet him
5 that morning got delayed in traffic in Charleston. And so,
6 when he got to the house, Shakira was in the bedroom and she
7 started crying and told Art that her mother had abused her and
8 that she thought her mother was going to kill her and that her
9 mother wasn't giving her water because her mother didn't want
10 to change her, you know, diaper or whatever it was. And so
11 Art was upset and he asked where Gwendolyn, her mother, was
12 and the family said she's not here. He called 911 and law
13 enforcement responded to the scene. And he's pacing around
14 because he wanted an ambulance to be called for Shakira. He
15 was worried, based on what Shakira told him that her mother
16 was going to kill her. And so the police officers just did
17 not seem alarmed at the situation. He kept asking them where
18 the ambulance was and the ambulance never showed up. And so
19 at that point, Art, I believe, went to his car and got a
20 firearm that he had -- he had a right to have that firearm --
21 and carried it on his person and, when he saw Gwendolyn in the
22 kitchen with police officers present, he pulled the gun and
23 shot Gwendolyn several times in the back as she washed dishes,
24 that's the mother. You know, unbeknownst to Art -- I mean, I
25 think Art was manipulated by Shakira as well. You know,

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - DIRECT BY FALK

11

1 unbeknownst to him, there had been like over a 120 911 calls
2 to that residence within the 12 months before, both from
3 Shakira and her mother calling 911 on each other. And so he
4 was frustrated that law enforcement was not alarmed and doing
5 something to help Shakira, but he didn't realize, you know,
6 they were just like, here we go again. I mean, they had been
7 there multiple times a week for a year.

8 Q: Was it your understanding from talking to him that that
9 was his first time he was concerned about the care that
10 Shakira was getting from his [sic] mother?

11 A: No, I think he was worried about Shakira's care
12 previously.

13 Q: That there was a continuing problem for him?

14 A: Yes.

15 Q: So, during these conversations with him, did he appear as
16 though -- well, obviously, you've been practicing for a long
17 time, did you ever any concerns about his competency?

18 A: Well, I did on the initial meeting, and maybe the first
19 two meetings with him at the Charleston County Detention
20 Center. When I met with him, and I met with Art a lot. I saw
21 him at least once a month, sometimes twice a month, or if I
22 didn't see him, I would speak to him on the Charleston phone
23 system. But usually, they would bring him down to the
24 visitation room. And so, the first couple of times I met with
25 him, he was -- you know, he couldn't sit still, he was

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - DIRECT BY FALK

12

1 hallucinating, he had a real fascination with numbers, he
2 would ask me what my cell phone said because he would equate
3 numbers with numbers of scripture and decisions he should make
4 and things like that. And real antsy, real anxious, and so I
5 did, I had a -- you know, there was kind of like, I kind of
6 thought there might be the holy spirit told me to do it, so to
7 speak. And so immediately -- I got hired in the beginning of
8 April of 2011, and within a week, I contacted -- I found a
9 psychiatrist or psychologist, Susan Knight with MUSC, and
10 contacted her to get her involved. At the same time, I hired
11 retired ATF Agent David Lazar, who I knew had investigated
12 murder cases and things like that, so I had called those two
13 people immediately and hired them on this case. And so, you
14 know, I kept telling Art he was going to have to meet with
15 Susan and be honest with her and tell her how he was feeling,
16 and he said, no, I don't want to rely on any kind of mental
17 defense. You know, I think I should -- I think the facts are
18 good enough. I think I was justified in what I did because I,
19 I saved Shakira's life. And so he kept wanting me to call
20 SLED and he wanted to tell SLED that, you know, he was
21 justified in doing what he did. And I was like, no, that's
22 just not gonna work. You don't need to be talking to SLED.
23 And so, he had several interviews with Susan Knight over the
24 summer. I believe there was one -- the first interview was
25 messed up because they didn't transport Art correctly to her

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - DIRECT BY FALK

13

1 office. But she met with him, I think in April, May, and
2 September of 2011. She interviewed him two or three times.
3 And she just kept telling me, Rose Mary, you know, he's not
4 telling me what you're telling me and, you know, my report is
5 just not gonna be favorable to you. And so I said, well, no,
6 then don't write a report and we'll just continue to work with
7 this. And so I would go back to Art -- and then the other
8 thing is over the time that -- as he spent more time at the
9 Charleston County Detention Center, he became much more
10 normal. And within several months of him being in the
11 Charleston County Detention Center, you know, he wasn't doing
12 the hallucinating. He wasn't seeing numbers. He wasn't
13 saying the things that he had said on my first several visits
14 with him. And so over time, Art became much more normal. I
15 don't know about his medicine, you know, what he was on when
16 he got in versus what he was on several months into his stay
17 but I would say within six months of him being in Charleston
18 County, he was -- he seemed pretty normal to me.

19 Q: Did you ever consider whether or not you should ask the
20 Court to go through the mechanism with Department of Mental
21 Health to evaluate him for NGRI and competency to stand trial?

22 A: I did. But I didn't think that was necessary because of
23 my conversations with Susan, and then Art said he was not
24 going to participate in that. He sent me a letter, which is
25 in my file and I believe I've given that to you all. He sent

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - DIRECT BY FALK

14

1 me a letter in October of 2011 saying that he did not want any
2 kind of mental defense and he was not gonna participate in any
3 interview that had to do with that, that he wanted to have his
4 defense based on that he thought his actions were justified.

5 And I kept trying to get him to use a mental defense because,
6 you know, quite frankly, that's the only defense we had
7 because he shot Gwendoline in front of the police officers.

8 Q: Okay. What did Susan Knight say about whether he was
9 criminally responsible for the actions?

10 A: She said that based on her interviews with him, he knew
11 the difference between right and wrong. He admitted to her
12 that he knew what he did was wrong that day.

13 Q: Okay. But he did seem to be in somewhat of a -- the
14 first couple of times you spoke with him, he seemed to be
15 hallucinating or somewhat delusional?

16 A: Yes, he did. And you know, if Art hadn't had some kind
17 of mental illness, do I think he would've shot Gwendoline
18 Fields, no, but, you know, that's not the legal standard.

19 Q: What came around to the -- when we got to the -- what was
20 the -- can you explain sort of the lead up to the plea
21 negotiations in this case?

22 A: Yes. Well, I met with Bruce DuRant once or twice at the
23 solicitor's office and told him that, you know, that I had
24 hired an investigator. I had subpoenaed DHEC records and they
25 weren't giving me the records but they would sent the records

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - DIRECT BY FALK

15

1 to Bruce DuRant. And so, you know, the ATF agent was working.
2 We interviewed witnesses, we interviewed everyone again after
3 the police officers. So, I just would meet with Bruce and
4 say, you know, this is a strange case. Art is a Citadel
5 graduate, he had no criminal history, he was a CPA, and he
6 just -- he snapped, but you know in his mind he thought he
7 was, he was -- Shakira had him believing that she was gonna
8 die that day, and I believe he truly believed that. So, I
9 kept trying to get Bruce to give me a decent plea offer and he
10 would never give me one. He would say, well, let me talk with
11 the family. And so I would say within just a month or two
12 before the case was scheduled for trial. I think it was
13 scheduled and then I asked for a continuance because of a
14 conflict and then it was rescheduled, but he gave me my first
15 plea offer kind of late in the game. And, you know, I emailed
16 him and said, that's pretty harsh given the situation and
17 tried to whittle him down and he wasn't budging. And I was
18 meeting with Art and Art didn't want to go to trial, but he
19 didn't want to plead guilty and get that much time either.
20 And so like a week or two before the case was scheduled for
21 trial, Bruce dumps, you know, several hundred pages of
22 discovery, which were -- I think the DHEC records and maybe
23 some of Shakira's medical records. I mean, I was ready to go
24 to trial, but Art wasn't ready to plead guilty and he also
25 didn't want to go to trial. And so, at that point, he wanted

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - DIRECT BY FALK

16

1 to do anything to delay so that hopefully we could try to get
2 a better deal. So, I tried to use the discovery to get a
3 delay, and that was not successful. And so then Art says,
4 well, you know, I would be willing to be evaluated again. I
5 would be willing to talk to someone again. And so, you know,
6 I knew Bruce wasn't gonna be happy, I knew the Court wasn't
7 gonna be happy but my client wanted me to do this, so I was
8 gonna try to do it. You know, I didn't think that was gonna
9 be successful because I had had multiple conversations with
10 Susan Knight. And so I -- we had the motion for continuance
11 hearing, Judge Harrington called us back into chambers and
12 Bruce and I spoke with her and then she allows Dr. Knight to
13 basically evaluate Art again that day, I think, up here at the
14 courthouse. And so, Dr. Knight spent several more hours with
15 Art and she came out and shook her head and said, Rose Mary,
16 you know, my opinion has not changed.

17 Q: And what was the purpose of that evaluation. Was that
18 gonna be competency to stand trial or criminal responsibility?

19 A: Both.

20 THE COURT: And your -- you've already mentioned that the
21 doctor indicated that he knew right from wrong, and I'm sure
22 you discussed competency with her, and he understood what your
23 role was, what the Court's role was, what the jury was
24 supposed to do and what the solicitor was supposed to do; he
25 understood all that? He is very smart in that regard?

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - DIRECT BY FALK

17

1 A: Absolutely. I mean, Art is extremely smart. And
2 actually, Art learned the legal system very well. He was in
3 Charleston County for almost two years and he actually started
4 getting involved in other people's cases and tried to get me
5 involved in other people's cases at the Charleston County
6 Detention Center. So, yes, he's very aware and was extremely
7 competent.

8 THE COURT: No question about the fact that he was
9 competent?

10 A: No, question about that.

11 THE COURT: All right. And although he didn't have a
12 court evaluation and the Judge denied the request for him to
13 be evaluated on the eve of trial, he was evaluated on a number
14 of occasions and right prior to the trial ---

15 A: Yes.

16 THE COURT: --- by the doctor?

17 A: Yes, sir.

18 THE COURT: Okay. That might -- that clears it up a
19 little bit.

20 Go ahead.

21 BY MR. FALK:

22 Q: But wasn't -- but Dr. Knight did explain to you that he
23 was not participating in these earlier evaluations?

24 A: No, she didn't say that. Well, the very first one, I
25 didn't think he was as open and forthcoming. He just said --

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - DIRECT BY FALK

18

1 she told me in the earlier evaluations that he was -- there
2 was no indication of the religion and seeing numbers and the,
3 you know, the Holy Spirit kind of told him to do this. There
4 was no indication of that, which I had kind of felt that on my
5 first meeting or two with him but never felt that again, and
6 then he never expressed that to her.

7 Q: So, if you would've gone to -- and how close before the
8 plea was the trial?

9 A: Pardon?

10 Q: How far in front of the -- when was the trial scheduled?
11 How many months after the plea date before -- would've it have
12 been two months from the trial date when they ---

13 A: The trial was gonna be the next week, yes.

14 Q: Okay.

15 A: Yes.

16 Q: What was the defense gonna be at trial?

17 A: Well, I would've probably tried to call Susan Knight or
18 use his medical records as mitigation, but -- Art and I talked
19 about this, I thought the jury might try to throw Art a bone,
20 but I thought they would find him guilty but mentally ill of
21 murder. And as we all know, that's not a bone.

22 Q: Right.

23 A: I mean, in my best estimate, I think Art would've been
24 convicted guilty but mentally ill of murder. And then he also
25 had the firearms charge, and so, you know, that was 30 years

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - DIRECT BY FALK

19

1 to life. And Art and I talked about this. I mean, you know,
2 was I happy with the 25-year offer? No. And then Bruce came
3 down to 24 years; I still wasn't happy. I mean, Art and I
4 were hoping more in the neighborhood of 15 to 20 years but,
5 you know, the reality was he shot this woman in front of
6 police officers. And so it wasn't a whodunit. And the mental
7 evaluations by Dr. Knight were just not working for us.

8 Q: But you were not going to be able to argue to the jury
9 that he was led by the Holy Spirit?

10 A: No. Not unless -- I mean, no, I wasn't.

11 Q: So, you weren't really gonna be use any type of insanity
12 defense ---

13 A: No.

14 Q: --- at a trial because there was no insanity notice?

15 A: Right, right. And let me add, Art would never say that
16 to me again. I mean, I met with Art monthly, if not
17 bimonthly. Some of the things Art told me when he first went
18 into jail, he never told me again over two years.

19 Q: Uh-huh, (affirmative response). But as you said, it does
20 seem like something that only a crazy person would do is shoot
21 somebody else right in front of a police officer in her own
22 home?

23 A: Well ---

24 Q: I'm sorry. That's not a fair question.

25 A: I mean, it's not -- you know, it was a very unusual case.

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - DIRECT BY FALK

20

1 Q: Yes.

2 A: But I think Art was also duped by Shakira. I mean, I
3 think Shakira was playing Art, too.

4 Q: Uh-huh, (affirmative response). Do you know if he was
5 ever made aware of -- never mind. Was there a lawsuit that
6 was then going on from the family?

7 MS. JAMESON: Objection, relevance.

8 A: No. I -- no.

9 THE COURT: I'll overrule. Go ahead.

10 A: There was the lawsuit with regard to the bad shrimp, but
11 I actually kind of hoped that the family might have a lawsuit.
12 I thought maybe it might -- and I was kind of surprised they
13 never did that. I was -- kind of thought that might help
14 things, but they didn't do it.

15 MR. FALK: One moment, Your Honor. (Confers with
16 Applicant.)

17 THE COURT: All right. We've got us a revelation here.
18 This is the court reporter who took the plea. Apparently
19 there was some -- you know, they always are complaining about
20 judges changing court reporters without telling Court
21 Administration, this is the reason why you don't do that.

22 So, I think what we need to do is we need to proceed
23 forward with this hearing to its conclusion and hold the
24 record available to -- for everybody to review the plea
25 transcript and see if that -- I've read the reconstruction and

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - DIRECT BY FALK

21

1 it appears to me as if it was adequately reconstructed and --
2 all pleas essentially follow the same format, you ask the same
3 questions, and that was covered in this hearing that was
4 conducted by -- conducted with Judge Harrington,
5 reconstructed. I've read that, I think that's adequate for us
6 to proceed forward. However, I'm gonna allow everybody an
7 opportunity to, once the transcript is transcribed, we'll give
8 y'all an opportunity to review it. And if we need to
9 reconvene on this matter, we can do that but we need to get
10 the witnesses taken care of and we'll reevaluate it after
11 that. But we need to proceed forward with the testimony here
12 today.

13 Do you have objection to that, Mr. Falk?

14 MR. FALK: No, Your Honor.

15 THE COURT: Do you have an objection to that?

16 MS. JAMESON: No, Your Honor. It has been more than five
17 years and I want to make sure we do still have the record.

18 COURT REPORTER: I still have it.

19 MS. JAMESON: I'm sorry, Your Honor. We reached out to
20 Desiree Allen at Court Administration, numerous court
21 reporters. I can look through my records. We diligently
22 tried to get it and kept getting ---

23 THE COURT: Well, I think the problem is that the records
24 were just not -- I think she was assigned to Markley Dennis
25 but stepped in for Judge Jefferson for some reason. That's

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - DIRECT BY FALK

22

1 what the problem was. I think the moral of that story is that
2 Judge's ought to always notify Court Administration and
3 lawyers need to write down the name of the all their court
4 reporters and put it in the file. That's the lesson to be
5 learned.

6 MR. FALK: Your Honor, may I have a moment with -- can we
7 go off the record for a second?

8 THE COURT: Yes.

9 *****OFF THE RECORD*****

10 (On the Record.)

11 THE COURT: You may proceed.

12 BY MR. FALK:

13 Q: Ms. Parham, when you were asking for the continuance,
14 what were you seeking? Were you seeking two months, 60-day
15 type continuance to have Ms. Knight do the evaluation? How
16 much time were y'all contemplating?

17 A: Yeah, I think 60 days. But Bruce kept telling me his
18 offer wasn't gonna change and that he might withdraw the
19 offer. Because -- so, there was risk involved.

20 Q: And maybe you can't answer this, but had you gotten the
21 -- had you gotten the extension, do you think she would only
22 still spend two or three hours with him?

23 A: Yes. I mean, she had talked to Art three times before
24 the courthouse that day. I mean, this would've been her
25 fourth meeting with him.

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - DIRECT BY FALK

23

1 Q: Uh-huh, (affirmative response).

2 A: And like I said, the more time he spent in Charleston
3 County Detention Center, he was -- I mean, he was fine.

4 Q: Did he ever tell you that he wasn't telling Ms. Knight
5 about the voices in his head?

6 A: No. At the beginning he told me he wasn't going to talk
7 to her. That was, you know, in those first few months when I
8 was getting to know him. He said that he was not going to
9 talk about those things, that it was private, and he was not
10 gonna try to rely on the mental defense. Actually, he said
11 that the whole time I represented him that he wasn't gonna
12 rely on a mental defense until, you know, it came up to court
13 time, trial time. And we were running a serious risk that
14 Bruce DuRant was gonna withdraw the plea offer and Art
15 understood that as well. I mean, he told us that if we -- he
16 did not believe we had good reason to delay the case and that
17 he was gonna withdraw the plea offer.

18 Q: But did he -- so when you were speaking with him
19 immediately before the request for the continuance, did he
20 tell you he wanted to talk to Dr. Knight then and be more
21 forthcoming with her?

22 A: He did. He told me that.

23 Q: And do you recall what he wanted to tell her? I mean,
24 did he summarize that for you, I'm gonna tell her such and
25 such?

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - CROSS BY JAMESON

24

1 A: No, because -- no, but he talked with her and then she
2 told me, you know, my opinion still hasn't changed. So, he
3 met with her for several hours is my best recollection that
4 day.

5 Q: Okay. No further questions.

6 THE COURT: Any cross examination?

7 MS. JAMESON: Yes, briefly, Your Honor.

8 CROSS EXAMINATION OF ROSE MARY PARHAM BY MS. JAMESON:

9 Q: Ms. Parham, you discussed a letter that Arthur wrote you
10 in October of 2011, right?

11 A: Yes.

12 Q: Where he said he did not want to pursue an insanity
13 defense?

14 A: Yes.

15 MS. JAMESON: May I approach, Your Honor?

16 BY MS. JAMESON:

17 Q: I'm handing you a two-page document, a letter and then a
18 copy of an envelope. Do you recognize that document?

19 A: I do.

20 Q: What is that?

21 A: This is a letter from my file. This is one of several
22 letters Art wrote me.

23 MS. JAMESON: Your Honor, the state would introduce this
24 as Respondent's or State's Number 1.

25 THE COURT: Yes. Any objection from you, Mr. Falk?

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - CROSS BY JAMESON

25

1 MR. FALK: I don't believe so. Let me just look. No
2 objection.

3 THE COURT: All right. It's into evidence without
4 objection.

5 STATE'S EXHIBIT NUMBER 1

6 ADMITTED INTO EVIDENCE

7 BY MS. JAMESON:

8 Q: Ms. Parham, in that letter, Arthur indicates he doesn't
9 want to pursue an insanity defense, correct?

10 A: Yes.

11 Q: And that's consistent with the conversations you had with
12 him?

13 A: Yes.

14 Q: And it's consistent with your previous testimony that he
15 was hoping you would secure the best plea offer possible from
16 the state, correct?

17 A: Yes.

18 Q: And after receiving this letter, did you go to Bruce
19 DuRant and try to secure a better plea offer?

20 A: Well, I hadn't had a plea offer yet, but yes I talked to
21 Bruce and told him that, you know, this case was very unusual
22 and that, you know, tried to use as much as I could as
23 mitigation for Art.

24 Q: And I believe you testified that Art told you he knew
25 what he had done was wrong but he thought he was justified in

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - CROSS BY JAMESON

26

1 doing it, correct?

2 A: Yes.

3 Q: And Dr. Knight told you that that's also what he told
4 her?

5 A: Yes.

6 Q: He understood that it was wrong to shoot Gwendoline three
7 times in the back?

8 A: Yes.

9 Q: But he thought it was a justified homicide based on the
10 abuse of Shakira or the alleged abuse of Shakira?

11 A: Yes. He thought he was saving Shakira's life.

12 Q: Would you have presented that to a jury if it had gone to
13 trial, try and make those arguments?

14 A: Well, I would've had to see how the testimony shook out.
15 Maybe that was one of the mitigating factors is that I believe
16 in Art's mind he truly believed he was trying to help Shakira.

17 Q: But he understood it was wrong to shoot her.

18 A: Correct. I mean, I mean, Art's a caring person. I mean,
19 he cried at the detention center. I mean, he knew what he had
20 done.

21 Q: You testified as trial got ready to approach, you got
22 that plea offer from Solicitor DuRant about two weeks before?

23 A: Yes. I've given you my file, if that's what the email
24 shows. I think it was a couple of weeks before.

25 Q: And you were ready for trial you testified, correct?

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - CROSS BY JAMESON

27

1 A: I was.

2 Q: But your client, Mr. Peterson, he didn't want to go
3 forward with trial?

4 A: He never wanted a trial, but he also didn't want 25 years
5 in jail, I mean.

6 Q: And you testified that you tried to use the late
7 discovery as a delay tactic to get it continued?

8 A: I did.

9 Q: And then when that didn't work, Mr. Peterson said he'd be
10 willing to be evaluated again?

11 A: He did.

12 Q: And so you made that motion based on your client's
13 request as a delay tactic in hope of getting the case
14 continued?

15 A: Well, I mean, yeah, I mean, it was to buy more time. But
16 also, I -- you know, I always had hope that maybe something
17 would change with Art and Dr. Knight or, you know, her
18 evaluation, you know, might change, but it never did.

19 Q: And she was -- she evaluated him four times, correct?

20 A: I believe so.

21 Q: And each of those times, she told you it would not be
22 favorable and you asked her not to write a report?

23 A: That's right.

24 Q: Your questions about failing to give an insanity defense
25 notice, did you have anything to support it?

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - CROSS BY JAMESON

28

- 1 A: No, I did not.
- 2 Q: You testified that you thought a jury might throw Art a
3 bone and convict him of murder as guilty but mentally ill,
4 correct?
- 5 A: Yes.
- 6 Q: Did you explain to Mr. Peterson that that would be 30
7 years day-for-day mandatory minimum?
- 8 A: I did.
- 9 Q: Up to a life sentence?
- 10 A: I did.
- 11 Q: Did he appear to understand that?
- 12 A: He did.
- 13 Q: Did you explain to him that if he accepted the state's
14 plea offer for the lesser included offense, it would remove
15 that day-for-day requirement?
- 16 A: I did.
- 17 Q: Did you explain to him that it would be served at
18 approximately 85 percent?
- 19 A: Yes.
- 20 Q: Did you explain the two-year community supervision
21 provision?
- 22 A: Yes.
- 23 Q: Did he appear to understand these discussions?
- 24 A: He did.
- 25 MS. JAMESON: A moment indulgence, Your Honor?

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - REDIRECT BY FALK

29

1 BY MS. JAMESON:

2 Q: Did you explain what guilty but mentally ill was to Mr.
3 Peterson?

4 A: I did.

5 Q: Did he appear to understand this?

6 A: He did.

7 Q: Do you recall in the discovery were there any videotaped
8 interviews of Mr. Peterson?

9 A: There -- yeah, I think there was or audiotaped. I can't
10 remember if the video was working or not but there was
11 audiotaped interview.

12 Q: And that as shortly after the shooting?

13 A: Yes.

14 Q: Did you review that yourself with him?

15 A: I did.

16 Q: Did he appear to seem coherent in that videotape?

17 A: You know, I have not looked at that -- I didn't look at
18 it again in preparation for this hearing. I don't know.

19 MS. JAMESON: No further questions, Your Honor.

20 THE COURT: Any redirect?

21 MR. FALK: One, briefly.

22 REDIRECT EXAMINATION OF ROSE MARY PARHAM BY MR. FALK:

23 Q: The decision not to pursue the insanity, any type of
24 insanity aspect of the defense, that was my client's decision?

25 A: Yes.

Peterson v. State - 2014-CP-10-02878
ROSE MARY PARHAM - REDIRECT BY FALK

30

1 Q: And had you gone to trial that next week, what type of
2 witnesses were you gonna call?

3 A: Well, I had his wife and I had some other individuals
4 that he helped in the community.

5 Q: Was that also in mitigating?

6 A: Mitigating, yeah. And we had some good cross examination
7 from our interviews and some of our records that we had
8 received regarding the Fields and -- but that -- yeah, it's
9 just hard to get around the fact of that the shooting happened
10 in front of the police officers.

11 MR. FALK: No further questions.

12 THE COURT: All right. You may step down.

13 MS. PARHAM: Thank you.

14 THE COURT: Any further witnesses?

15 MR. FALK: We would call Arthur Peterson to the stand.

16 THE COURT: Mr. Peterson, please come forward. I'm gonna
17 ask if you could to place your left hand on the Bible and
18 raise your right hand as the clerk administers the oath.

19 Place your left hand on the Bible and raise your right as
20 the clerk administers the oath.

21 ARTHUR PETERSON, HAVING BEEN DULY
22 SWORN, TESTIFIED AS FOLLOWS:

23 CLERK: Thank you. You can have a seat.

24 And for the record, if you would state your name and
25 spell your last name, please.

Peterson v. State - 2014-CP-10-02878
ARTHUR PETERSON - DIRECT BY FALK

31

1 THE COURT: Mr. Peterson, I'm gonna ask you pull up real
2 close to that microphone.

3 MR. PETERSON: Yes, sir.

4 THE COURT: Speak loudly, clearly, and slowly in order
5 that we can hear everything that you have to say.

6 Thank you, sir.

7 MR. PETERSON: Arthur Peterson, A-R-T-H-U-R, P-E-T-E-R-S-
8 O-N.

9 THE COURT: Very good.

10 DIRECT EXAMINATION OF ARTHUR PETERSON BY MR. FALK:

11 Q: Mr. Peterson, let's just start a little bit with talking
12 about Shakira. How did you -- how did she become a part of
13 your life?

14 A: I can answer however I want?

15 THE COURT: Answer truthfully.

16 Q: Only the truth.

17 A: Yes, sir. Thank you guys all for being here today, to
18 begin with. I know it's been hard to get everybody in the
19 same place at the same time. Despite what the Court says and
20 what the record says, I'm -- it's just not my opinion, it's
21 people I know. I really try my best to do the right thing and
22 help people and be a good person to others. And when I was a
23 kid my mom died in an automobile accident and my father was
24 abusive. And, you know, I was able to overcome that as a
25 young adult, and I graduated from the Citadel, and I attempted

Peterson v. State - 2014-CP-10-02878
ARTHUR PETERSON - DIRECT BY FALK

32

1 a career as an accountant. But two events during my life that
2 threw it into a tailspin as an adult was I worked for an
3 abusive employer and my wife was misdiagnosed with a disease
4 that was life-threatening. All this that I'm talking about,
5 after the disease, you know, up until the time of my offense
6 was, you know, more than two years. We had a -- I had a
7 daughter at the time, my wife was really sick, she wasn't
8 getting better. What was wrong with her is one half of her
9 went palsy and she had got marble-sized nodes in her joints.
10 I think my worst day on the streets, I had to take my wife to
11 emergency room, I had to take my daughter to an eye doctor and
12 find out she needed to have eye surgery, and one of the family
13 pets was urinating blood. So, I just had a whole lot on me
14 and it wasn't getting better. And during that time period, I
15 turned everything I had to God and I just prayed to God that
16 if I can't help my own wife and I can't help my own family and
17 I can't make this better in my house, then I'm gonna do
18 everything I can to serve and help others.

19 We ended up finding out in the end that it wasn't an
20 illness that she was suffering from, it was the medications
21 that was being given to her by the hospital. We found that
22 out at the Mayo Clinic. But during that time period, this --
23 my attorney -- I know I'm giving you a long answer, but he
24 asked me how I came to know the Fields. I experienced -- I
25 started hearing voices during that time period and I believed

Peterson v. State - 2014-CP-10-02878
ARTHUR PETERSON - DIRECT BY FALK

33

1 it was the Holy Spirit guiding me through the mess that I was
2 going through. And I know we're only here because of one
3 incident that took place over that two-and-a-half, three-year
4 time period, but I always followed and listened to whatever I
5 was told to do and it was purely just to serve God and help
6 other people. So, when I -- when I was -- I did not meet
7 Shakira or her family after my wife was clear of her illness,
8 I met her during the illness. And, you know, on that two days
9 a week that I took my daughter to preschool, I would go over
10 there and I would visit with her. And I found out that she
11 didn't need anything from me other than just someone just to
12 talk to because she was in a paraplegic state. She was being
13 denied her ability to leave the house and meet and visit with
14 other people. And, you know, over time I figured out that she
15 was being abused in that house. And there were other people
16 that I served in the same ways to just -- I laid down myself
17 to help them. Those two events that threw my life into a
18 tailspin, my wife getting sick and just other pressures in my
19 life, they caused me to fall apart. And, there was a period
20 of time where I had psychological problems and the whole way
21 through it, I was experiencing psychological problems, but
22 there was a time when I turned to psychiatric treatment. And
23 during that time period, I was experiencing mania, I was
24 hearing voices, I believed the Holy Spirit was guiding me
25 through the turmoil that was going on around me. I sought

1 treatment for these psychological problems. I took
2 medications as treatment and was eventually hospitalized at
3 the MUSC Institute of Psychiatrist -- Psychiatry in August of
4 2008.

5 In response to what Ms. Parham is saying about me being
6 unwilling to work with the insanity defense, and you know I
7 just -- to be honest in here, I'm gonna agree that I wasn't.

8 Q: Mr. Peterson, I'll maybe help you get back to that, but
9 I've got a couple of questions I want to get clear on, first.

10 THE COURT: I wanted to hear about what he had to say
11 about that. Go ahead.

12 MR. FALK: I'm sorry.

13 A: There's one sin that's unforgiveable in God's eyes and
14 it's betrayal of the Holy Spirit. And when I was working with
15 an elderly gentleman, I'd go over and visit with him and I'd
16 feel a hard pain in my jaw. And it hurt so bad I went to MUSC
17 to get it checked out, but it only happened when I was in his
18 company. And they checked my mouth out and there wasn't
19 anything wrong with it. And, you know, so what I interpret
20 that to be is the Holy Spirit was telling me to be quiet. And
21 what I figured out about Mr. Dennis Felts is that the only
22 help that he needed was just someone to listen to him. And I
23 believe that God was telling me to be quiet and listen. And
24 that same problem occurred to me a couple of times when I was
25 in the presence of Dr. Susan Knight.

Peterson v. State - 2014-CP-10-02878
ARTHUR PETERSON - DIRECT BY FALK

35

1 THE COURT: Mr. Peterson, before Mr. Falk interrupted
2 you, you said your lawyer Ms. Parham said that you did not
3 want to cooperate in an insanity defense, and you were about
4 -- you started to say, and I agree with her about that, and
5 then you stopped.

6 A: Initially, Your Honor, that was the case. I did agree
7 with that initially, but as time went on and I saw that the
8 insanity defense was my only way through it, I was willing to
9 work with Mr. Knight. And that day in court, Dr. Knight said
10 she had -- she had concerns of my mental state at the time of
11 the offense. And the whole purpose of the hearing that day
12 was to determine if -- how much time she needed. And she
13 stated 60 days. And then on Page 47 of the transcript, Judge
14 Harrington denied, denied the continuance. It's the same
15 exact situation in *U.S. v. Pope*, where insanity was only the
16 -- was Pope's only defense. And Dr. Kruzich was there and
17 willing to conduct the even. So, his expertise and his expert
18 opinion could've been used but the Court abused its discretion
19 and denied it. When the insanity defense was -- when the
20 psychological evaluation was denied by the Court, Ms. Parham
21 was ineffective because she should've asked -- requested a
22 *Blair* hearing. In Section 44-23-430 states that the *Blair*
23 hearing is to take place after the psychiatric evaluation.
24 So, it's my understanding of the law that just having
25 requested the *Blair* hearing would've caused the psychiatric

1 evaluation to become mandatory.

2 Other issues that I studied at Perry Correctional's law
3 library is on Page 4 of the transcript, Mr. DuRant is
4 recalling the procedural posture of the case says his office
5 is awaiting a notice of insanity on 4-30-211. He also states
6 that in October of 2012 Ms. Parham was indicating that she
7 needed to have me evaluated. On Page 13, Ms. Parham refers to
8 a discussion she had the solicitor's office in April of 2011
9 stating there would be mental issues in this case. The
10 background information was given at the beginning of the
11 hearing on 1-31-13. So, Mr. DuRant, Ms. Parham, and Judge
12 Harrington were made aware that my mental health was an issue
13 in this case from the beginning on 1-31-13. After taking my
14 personal mental health testimony in consideration and these
15 discussions on the record on 1-31-13, about my mental health,
16 I draw the following two conclusions that are points on my PCR
17 application and that counsel failed to use Applicant's medical
18 records as mitigating evidence and counsel denied Applicant's
19 due process rights by not requesting the *Blair* hearing.

20 The next thing I wanted to discuss was the involuntary
21 plea. On Page 47 of the transcript, the Court denied Ms.
22 Parham's motion to have me evaluated by the state. This was
23 prejudice because without the continuance to conduct the
24 evaluation, I was denied the only -- the ability to obtain the
25 only testimony potentially supported with an insanity defense,

Peterson v. State - 2014-CP-10-02878
ARTHUR PETERSON - DIRECT BY FALK

37

1 the psychiatric evaluation. This is why my plea was
2 involuntary because I was denied my only defense and forced to
3 take a plea or proceed without the evaluation. Similarly, in
4 *U.S. v. Pope*, insanity was Pope's only defense, testimony from
5 Dr. Kruzich would've been relevant. The fact that Dr. Kruzich
6 was available and expressed a willingness to conduct the
7 examination indicates that his testimony could've been
8 obtained had the Court granted the continuance. The
9 continuance therefore would've been useful. This was abuse of
10 the discretion of the Court.

11 On Page 3 and 4, Judge Harrington states that the purpose
12 of the hearing was to allow Dr. Knight to be present and to
13 indicate her timeframe and what was needed for the case would
14 be called for trial.

15 On Page 28, Mr. Knight, my forensic psychiatrist said she
16 had legitimate concerns regarding my mental state at the time
17 of the offense. On Page 30, Dr. Knight says she needed 60
18 days to complete her work to reach the final opinion. And
19 again on Page 47, this additional time was denied by the
20 Court.

21 Ms. Parham was ineffective because once the evaluation
22 was denied, she should've requested a *Blair* hearing to
23 determine competence. Section 44-23-430 provides the
24 competency to stand trial hearing shall be held after the
25 psychiatric evaluation. It's my understanding that in asking

Peterson v. State - 2014-CP-10-02878
ARTHUR PETERSON - DIRECT BY FALK

38

1 for the *Blair* hearing would've triggered a mandatory
2 psychiatric evaluation.

3 There are similarities between my case and the findings
4 in *Pate v. Robinson* as it pertains to competency. And this is
5 what Ms. Parham was talking about in our previous meetings
6 that she brought before the Court. *Pate v. Robinson* found
7 it's contradictory to argue that the defendant made ---

8 MR. FALK: May I approach, Judge?

9 THE COURT: Yes.

10 (REPORTER'S NOTE: Bench conference is held off the record.)

11 BY MR. FALK:

12 Q: We can get back to that, but I have a couple of items and
13 you'll have an opportunity to say what you want to say, but
14 let me just ---

15 A: Will I be able to finish?

16 Q: Yes, yes. But let me just sort of get back in control
17 here.

18 A: Yes, sir.

19 Q: Let me talk -- I mean, you heard the voices and the Holy
20 Spirit all your life?

21 A: Yes, sir. I still do.

22 Q: When you were a child? I mean, is this something that
23 would ---

24 A: No, it was -- it born during the sickness of my wife.

25 Q: Okay. So, that's what I'm trying to get at. So, this --

Peterson v. State - 2014-CP-10-02878
ARTHUR PETERSON - DIRECT BY FALK

39

1 what was your religious upbringing sort of?

2 A: I mean, I was raised in a Christian family where we
3 attended church on Sundays but I believe where it talks about
4 John, Chapter 3, that you're -- you're born again.

5 Q: Okay.

6 A: And this pain that I went through with my wife's illness
7 caused me to see the world in different ways. I was born
8 again.

9 Q: But experiencing these what I think you were alluding to
10 as far as, you know, your jaw locking up and that was you
11 believed it was a sign from the Holy Spirit.

12 A: I believe that there was manifestation of the Holy Spirit
13 within my body, yes, sir.

14 Q: But those types of manifestations of the Holy Spirit in
15 your body only started -- you only started appreciating those
16 once you've had these crises in your life?

17 A: The moment that it started was the day that I was
18 hospitalized at the Institute of Psychiatry on August 7th,
19 2008.

20 Q: Okay. All right. All right. And then you -- when did
21 you first see Shakira? Was that -- I mean, I had been told
22 that it was -- she was in the oper -- she was in the waiting
23 room while your doctor was advising you that your wife was
24 gonna be okay, something like that.

25 A: No, that's not true. I met her during -- while I was

Peterson v. State - 2014-CP-10-02878
ARTHUR PETERSON - DIRECT BY FALK

40

1 waiting in the waiting room of one of my wife's appointments
2 while she was going through the illness.

3 Q: Okay. All right. I see.

4 A: Yes, sir.

5 Q: And so you had seen her a couple of times because y'all
6 were at the doctor at the same time?

7 A: I mean, once I met her, I saw her a couple of times a
8 month for the next two years.

9 Q: I understand. Okay. Okay. Now, what kind of
10 conversations did you have with your lawyer about your
11 meetings with Dr. Knight?

12 A: I don't recall.

13 Q: Did you tell -- well, when you were talking with Dr.
14 Knight, when you were in these meetings, were you forthcoming
15 with her? Did you tell Dr. Knight that you were hearing these
16 visions and that the Holy Spirit was ---

17 A: My jaw was locking up and it was telling me not to speak
18 on ---

19 Q: Okay. So, were you literally not moving your mouth? I
20 mean not responding at all or just ---

21 A: It's just an excruciating pain inside my mouth when I
22 went to speak.

23 Q: Did you ever share that with your lawyer, Ms. Parham?

24 A: No.

25 Q: Why was that?

Peterson v. State - 2014-CP-10-02878
ARTHUR PETERSON - DIRECT BY FALK

41

1 A: Or maybe I did. I'm not completely sure that I didn't.

2 I -- if she's talking about the clocks and the numbers and all
3 that, then it's possible that I did because those were
4 conversations that she brought to my attention today that I
5 was -- I vaguely remember, but I'm not real certain of.

6 Q: So, you don't recall the conversation you had with her or
7 asking her to go get a Bible and that ---

8 A: I remembered it, recalled it when she talked about it
9 today. I had totally forgotten about that.

10 Q: Okay. And the ---

11 A: It's almost like the way that I remember that time
12 period, it's almost like being in a dream and you can remember
13 bits and pieces of it, but no I don't remember a lot of it. I
14 was even -- I'm not a suicidal person, but I was even put on
15 suicide watch twice during that time period. So, I was
16 experiencing some -- I mean, and I've given the Court an idea
17 of what I was going through with these voices and these
18 terrifying things that were going on with me, you know, going
19 through this being arrested and thrown into a cell where I'm
20 by myself with a Bible for eight months in solitary
21 confinement, I mean, it only got worse from there. I don't
22 feel like I actually started to get it -- any recovery until I
23 started being around other people. And I would say throughout
24 this whole thing, the most -- the most horrible part of it was
25 being, having these mental problems going on and being put in

1 a cell not having a clock, not knowing what time it is, not
2 being able to turn on and off my light switch, not having
3 anything to occupy my mind, just -- what I did was I played
4 cards, read the Bible, and drew pictures. And as soon as I
5 started to just become overwhelmed with all these things that
6 were going on, I'd shift to the next activity just to keep my
7 mind right.

8 Q: Did you -- this letter that Ms. Parham saw, we looked at
9 the bench, you recall seeing that?

10 A: Yes, sir.

11 Q: Did you want to have a -- did you -- what was your
12 thought there, why did you ask her to try and get a plea deal?

13 A: I believed that God was gonna get me through this without
14 having to talk about these problems -- these voices I was
15 hearing, that I believed would be betraying the Holy Spirit.
16 So, I was doing everything I could to seek a way around that.
17 And that letter, someone helped me write it. I'd never been
18 arrested or incarcerated for anything before and I'm just
19 trying to find a way through this. Having lost my mother at
20 the age of five, taken the life of someone else so that they
21 would lose their mother was never anything that I wanted to
22 do.

23 Q: Did you -- so you did talk to Dr. Knight again on the day
24 that you entered your plea; is that right?

25 A: Yes, but I don't remember it being a couple of hours like

Peterson v. State - 2014-CP-10-02878
ARTHUR PETERSON - DIRECT BY FALK

43

1 Ms. Parham is saying. I just remember it being 15 minutes or
2 so and I told her a detail that she was gonna investigate that
3 would've helped my case.

4 Q: What was that detail?

5 A: I told her where I had heard the voices, the source of
6 the -- the voice of the Holy Spirit that told me take a life.

7 Q: Did you have problems with your jaw at that time?

8 A: No, sir, and I'm not having it now.

9 Q: During that conversation with her, the last one you had
10 with Dr. Knight, did you ever tell her some of the physical
11 manifestations that experience when the Holy Spirit ---

12 A: Like I said, I only remember that time period then, like
13 10 or 15 minutes, and when she heard that she immediately knew
14 that she needed to speak with me further. And that's why we
15 were trying to get the continuance. She could've investigated
16 down -- that was me starting to open up and starting to tell
17 her what was going on, and I never talked to her again, and I
18 would've done that because my jaw wasn't locked up.

19 Q: So, you're asserting that you were -- entered an
20 involuntary guilty plea?

21 A: Yes, sir.

22 Q: And how were you coerced into pleading guilty that day?

23 A: Well, it's kind of like what I was going over a minute
24 ago, that the insanity defense was my only way. And on Page
25 47, Ms. Parham, my attorney, tried to get me the continuance

1 and the Court wouldn't allow it. And had she asked for a
2 *Blair* hearing to determine competence, the law states that
3 that's supposed to take care -- take place after psychiatric
4 evaluation, which we would've been able to move forward. And
5 then, Judge Harrington abused her discretion as a judge and
6 gave me the plea for guilty but mentally ill as if she's
7 diagnosed me herself as a medical expert.

8 Q: Did you -- did anyone explain to you the significance of
9 guilty but mentally ill?

10 A: I still don't even have a real clear understanding of it.

11 Q: Okay.

12 A: May I continue for a few minutes with what I have
13 prepared? Not to work against you, it's just that I really
14 just -- I've been working on this for four years and I know
15 this is my only day to get these things on the record, and
16 some of the answers will come out.

17 Q: Let me go back to -- my question I wanted to ask you was,
18 did you ever have conversations with Ms. Parham early on that
19 you did not want to pursue an insanity defense?

20 A: Yes, sir.

21 Q: And why did you tell her that?

22 A: Because it's -- I felt like talking about these voices
23 that I was hearing was a sin against the Holy Spirit. I
24 didn't think that -- I felt it would be wrong for me to say
25 what was going on and I was -- the Holy Spirit and God was the

Peterson v. State - 2014-CP-10-02878
ARTHUR PETERSON - DIRECT BY FALK

45

1 only element that was there for me when my wife got real sick
2 and so I was scared to implicate myself and sin against God by
3 saying that the Holy Spirit told me to do something.

4 Q: I appreciate your argument and I'm sure the Court does as
5 far as you believe that you should've been granted the *Blair*
6 hearing at that time, and had you had the *Blair* hearing that
7 that could've been -- go into a position where you could've
8 then asserted an insanity defense; is that correct?

9 A: I think we could've at least just tried to go the best
10 way, the only way that we could with it. Yes, sir.

11 Q: Okay. And the reason -- and your testimony today, the
12 reason why you were not telling Dr. Knight all of this
13 information was because you felt that the Holy Spirit was
14 telling you that you shouldn't, is that ---

15 A: It'd be a betrayal against the Holy Spirit to say that
16 the Holy Spirit told me to commit a murder.

17 Q: Okay. And had -- just let me go back, had Shakira told
18 you that her mother was -- she told you -- was that the only
19 time that Shakira, that day, the day of the shooting, was that
20 the only time that Shakira made you aware that her mother was
21 ---

22 A: No, sir.

23 Q: Can you tell me ---

24 A: Abusing her, no, sir. She had -- she had told me that
25 her mom was addicted to drugs and was physically abusing her.

Peterson v. State - 2014-CP-10-02878
ARTHUR PETERSON - DIRECT BY FALK

46

1 Q: How was she physically abusing her, which way?

2 A: Punching her. The week before this happened, I caught
3 the mother choking her in bed. So, I had seen the abuse. So,
4 no, I knew this was going on and I was trying to find ways to
5 get her safely removed from the house. I questioned the
6 police -- a police officer that I had seen and he said the
7 only way that I could take care of it was to report a
8 suspicion of disabled person abuse at which case, the police
9 would have to catch the act being committed. So, I knew that
10 wasn't a way to do it. I had met some -- I knew some people,
11 I worked at an accounting firm and I knew some people, I tried
12 to get some people involved to get her safely removed from the
13 house. A guy I went to the Citadel with, he was an investment
14 advisor at a company here in town and he was willing to help
15 with the financial aspect of it. During the death of my
16 grandmother two years before I had -- she had a hospice nurse
17 who was in-between jobs and she was willing to come down here
18 and get involved to help. I was basically trying to have
19 Shakira moved on her own resources into an environment that
20 was safe for her. But that morning when I went over to the
21 house, she told me that my mother was up beating me all night.
22 I -- she's gonna kill me, you've got to get me out of the
23 house today. I wasn't ready to get her out of the house today
24 because I wasn't completely sure how that they money was set
25 up that she had settled with, that if her mother was the

Peterson v. State - 2014-CP-10-02878
BY THE COURT

47

1 custodian or not or the ---

2 Q: So what had you -- what had you experienced to make you
3 think that he life was actually in jeopardy?

4 A: The fear, she had bruises on her, you could tell that she
5 had been abused. She'd been beaten.

6 BY THE COURT:

7 THE COURT: Mr. Falk, one of the things that is -- has
8 come to my attention is one of the things that seems to be an
9 allegation here today is that Ms. Parham might've done
10 something improper with regard to not requesting a *Blair*
11 hearing. It sounds to me in my reviewing of the records that
12 have been provided to me here today in the testimony is that
13 she did everything that she could to get an extension of time
14 to get another evaluation to pursue the insanity defense. And
15 that she did everything that she could in that regard, but it
16 was denied by Harrington which would therefore might make this
17 a question of law that should've been an appellate issue as
18 opposed to an ineffectiveness issue. What do you think about
19 that?

20 MR. FALK: Because I'm not sure that the error was
21 preserved and I'm not sure if it could've been an appellate.
22 I don't know. I mean, I appreciate that, that I would be of
23 the assumption that the -- I don't know how you preserve that
24 error so that it would be an appellate issue, because when you
25 go in and plea, you have to ---

Peterson v. State - 2014-CP-10-02878
BY THE COURT

48

1 THE COURT: But what you're asking me to do is to say
2 that Judge Harrington was wrong in denying the continuance and
3 I don't have the authority to do that; the Court of Appeals
4 does.

5 MR. FALK: When you go in and plead ---

6 THE COURT: One of the things as far as preserving it,
7 she made the motion and it was denied and I assume what you
8 could've done is filed a notice of intent to appeal after the
9 plea and raise that issue, maybe.

10 MR. FALK: Maybe.

11 THE COURT: But what I'm saying is what -- do you think I
12 have the authority to say that Judge Harrington was wrong in
13 denying the continuance. That's the question that comes to my
14 mind.

15 MR. FALK: My contention is that a *Blair* hearing
16 should've been asked for.

17 THE COURT: I mean, as a practical matter, it was because
18 she asked for more time to have an evaluation, which she is
19 sort of in a bad spot because she -- it almost appears as if
20 was a delay tactic but she was doing it because her client
21 asked her to do it.

22 MR. FALK: I'm not sure I know the answer to that because
23 that'd mean when he goes in to plea, the plea acts as a waiver
24 of any offenses he has so he has to waive his ability to plead
25 insanity when he has the -- I mean, he has to waive all -- you

Peterson v. State - 2014-CP-10-02878
BY THE COURT

49

1 have to waive all your defenses when you're entering the plea,
2 so I don't -- I don't know if that would've been an appellate
3 issue or not. I -- the appellate timeframe had obviously run
4 by the time I was appointed to his case.

5 THE COURT: All right. What do you think about that?

6 MS. JAMESON: Your Honor, I have a two-part response. I
7 want to first draw Your Honor's attention to Page -- starting
8 on Page 43 through the end of the transcript. After the
9 continuance was denied, counsel then asked the Court to order
10 the state get him evaluated. So, I think that defeats any
11 sort of allegation that she was ineffective for failing to
12 move for ---

13 THE COURT: That's even better than asking for a *Blair*
14 hearing because a *Blair* hearing, you can have a *Blair* hearing
15 without ---

16 MS. JAMESON: An evaluation.

17 THE COURT: --- an evaluation. You can just do whatever
18 is necessary to do that, you can look at medical records, you
19 can -- the Court can ask them questions.

20 MS. JAMESON: Certainly, Your Honor. And if you look on
21 Page 47, Ms. Parham clearly states to the Court, she's looking
22 for a ruling, she says, are you denying my motion to have him
23 evaluated. So, she made sure that she was preserved.
24 Thereafter, they go back in chambers. Dr. Knight talks to Mr.
25 Peterson, evaluates him for a fourth time over two years. And

1 at that point, he decides to take the state's favorable 24-
2 year offer. And I agree with Mr. Falk, South Carolina is not
3 a state that allows conditional guilty pleas. So, once he
4 decided to forego his right to a trial and the preservation of
5 the continuance denial, and the denial to have him evaluated,
6 he's on the plea path to an unconditional guilty plea. So,
7 even if counsel had filed a notice of appeal, I still think it
8 would've been dismissed because there aren't conditional
9 guilty pleas, it's a waiver of all of those appellate issues
10 ---

11 THE COURT: Can I say that Harrington -- I don't think I
12 have the ability to say Harrington made a mistake in denying
13 the continuance.

14 MS. JAMESON: No, Your Honor. That is a Trial Court
15 issue that would've had to have been ---

16 THE COURT: My evaluation here is whether or not trial
17 counsel was ineffective, perhaps.

18 MS. JAMESON: Certainly, Your Honor. I don't believe
19 Your Honor has the ability to overrule another Circuit Court
20 Judge or determine that what Judge Harrington did was
21 improper. I think that's for our appellate court or the Court
22 of Appeals or ultimately the Supreme Court to do if the issue
23 had been properly preserved for appellate review.

24 THE COURT: All right. Go ahead.

25 A: Mr. Falk?

Peterson v. State - 2014-CP-10-02878
ARTHUR PETERSON - DIRECT BY FALK

51

1 BY MR. FALK:

2 Q: Yes, sir.

3 A: May I finish putting the things on the record that I
4 prepared.

5 Q: Yes, but I think the Judge is not gonna want you to argue
6 too much of the law but just tell me the points.

7 A: It's only just like a page. In *Pate v. Robinson* it's
8 contradictory to argue that a defendant may be incompetent and
9 yet knowingly and intelligently waive his right to have the
10 Court determine his capacity to stand trial. In any event,
11 the record shows that counsel throughout proceedings insisted
12 that Robinson's present state of sanity was very much an
13 issue, which I believe is the same thing that happened in my
14 case. They found that we believe that evidence introduced on
15 Robinson's behalf entitled him to a hearing on the issue. The
16 Court's failure to make such an inquiry thus deprived Robinson
17 of his constitutional right to a fair trial. Furthermore, in
18 *Pate v. Robinson*, the U.S. Supreme Court found that a sanity
19 hearing cannot be waived. The Court's failure to make an
20 inquiry of his competence, deprived Robinson of his
21 constitutional right to a fair trial, and that's *Thomas v.*
22 *Cunningham*. On Page 35, Judge Harrington questioned Dr.
23 Knight about my competence, which we're talking about in the
24 courtroom here today, to stand trial and she stated that she
25 had no concerns during her evaluation. I want to point out

Peterson v. State - 2014-CP-10-02878
ARTHUR PETERSON - DIRECT BY FALK

52

1 that, according to *State v. Blair*, that to determine
2 competency the Court has only two options, an order an
3 examination of such person by two examiners designated by the
4 Department of Mental Health or a retardation department; or
5 number two, order such person committed for examination and
6 observation to an appropriate facility period not to exceed 15
7 days. And neither one of these methods was used to determine
8 my competence and the Court using Dr. Knight's opinion of my
9 competence does not qualify under the law as an allowed method
10 under *State v. Blair*.

11 Had Ms. Parham requested the *Blair* hearing, the
12 psychiatric evaluation would've taken place before the *Blair*
13 hearing. The psychiatric evaluation would've then supported
14 my insanity defense, which we would've been able to prepare
15 for a trial and the outcome of this evaluation would've
16 provided a reasonable probability that that for counsel's
17 errors, a result would've been -- we would've gone to trial
18 and the result would've been different.

19 Subsequently, Judge Harrington abused her discretion by
20 misapplying the competency statute of law under 44-23-410,
21 which mandated that the competency evaluation be triggered.
22 Judge Harrington made the diagnosis herself as if she were a
23 medical expert and proceeded by giving me the charge of guilty
24 but mentally ill. In *Pate v. Robinson*, guilty but mentally
25 ill plea established a sufficient doubt about the applicant's

Peterson v. State - 2014-CP-10-02878
ARTHUR PETERSON - DIRECT BY FALK

53

1 competence to stand trial. Anyone can see by reading the
2 transcript there are mental health concerns throughout. Due
3 process prohibits the trial plea and/or sentencing of a
4 defendant who is mentally incompetent, and that's *Drope v.*
5 *Missouri*. This is a competency principle and I believe that
6 since my competency was not a concern on 1-31-13, I was
7 unlawfully convicted.

8 And, Your Honor, I know that what I've done since I've
9 been convicted, it might not be relevant to what happened
10 during this conviction, but since I've been in the South
11 Carolina Department of Corrections, I've never received a
12 charge for breaking any rules. I have a record of all the
13 work that I've done in the CVU, character base unit up in
14 Greenville in Pelzer, South Carolina. I've been a mentor to
15 help other young men who've been lost and had problems
16 throughout their lives that have brought them to the same
17 place as mine. I'm not someone who is a threat to other
18 people or myself. I'm someone who is always constantly trying
19 to help other people. And the fact that this whole thing
20 happened and everything got messed up, it is because I was out
21 of my mind. It is because that I was sick. It is not because
22 I'm in here trying to hoodoo the Court or waste everyone's
23 time in here. I'm a good person and I care about other
24 people. I'm not a threat to society, I'm not a threat to the
25 people that are around me. I've always tried to do the right

Peterson v. State - 2014-CP-10-02878
ARTHUR PETERSON - DIRECT BY FALK

54

1 thing and help other people. And, you know, I just -- I have
2 this for you to look at if you want to see it. I brought a
3 copy just for you. And I hope all these things will be
4 considered and I hope that you will take my conviction into
5 your consideration. I put this whole thing before you, Your
6 Honor, and let God's will be done.

7 THE COURT: Very good. I'll be happy to see those
8 documents if you would like for me to look at them.

9 MR. FALK: Thank you, Your Honor. I don't have any
10 further questions for Mr. Peterson.

11 BY MR. FALK:

12 Q: Do you have anything else?

13 A: I appreciate everyone's time.

14 Ms. Parham, thank you for coming down here from Florence.

15 Q: I believe -- please answer any questions that Ms. Jameson
16 has.

17 MS. JAMESON: No questions. Thank you.

18 THE COURT: You may step down. Thank you.

19 Anything further?

20 MR. FALK: No, Your Honor.

21 THE COURT: Anything from the state?

22 MS. JAMESON: No, Your Honor. Since the record is gonna
23 be left open for the 30 days, I'd reserve my right to make any
24 argument until after we get the ---

25 THE COURT: Okay. Well, I'm gonna hear -- you know, what

Peterson v. State - 2014-CP-10-02878
ARGUMENT OF COUNSEL

55

1 the transcript says, I anticipate is not gonna make a
2 difference because the recreated transcript through the
3 hearing that took place, essentially establishes that the
4 proper questions were asked, establishes that the plea was
5 voluntary and that sort of thing. And I anticipate that the
6 actual transcript is not gonna change that. So -- but if it
7 does, then we can revisit the matter. But we're in a position
8 to go forward and be glad to hear from Mr. Falk as far as the
9 -- any arguments that he might have.

10 ARGUMENT OF COUNSEL:

11 MR. FALK: Your Honor, I would -- we would assert that
12 Trial Counsel was ineffective for not going through the
13 mechanism of having him evaluated for criminal competency and
14 competency to stand trial under the statute. Going through
15 that procedure, taking him to the Department of Mental Health
16 for evaluation, this case may've taken a different trajectory
17 at that point. And then that would've still allowed Ms.
18 Parham to come back in and get her own independent, to get a
19 second evaluation, that at least would've set this up for two
20 evaluators. So, we believe that that is -- I think that Ms.
21 Parham was -- some notice of information that he at times was
22 delusional, maybe he had a fit of -- a fugue state or whatever
23 which caused him to be maybe temporarily incapacitate and
24 maybe not responsible for his actions.

25 I do think at the end of the day, whether or not he was

1 coerced into pleading guilty, I do think that you have the
2 situation that maybe seems somewhat unique, but he was put in
3 a situation, whether it was by the Court or whether it was by
4 counsel, but he was not able -- he was forced into taking a
5 guilty plea because the case the was gonna go forward next
6 week. And they were not prepared to assert an insanity
7 defense. I mean, I think Ms. Parham testified that the case
8 was on the docket for the next week, she asked for the
9 continuance and she couldn't get it. From my client's point
10 of view, regardless of the source of the coercion, he was
11 coerced into pleading guilty because he's gonna have to go
12 forward without his really sole defense. You heard Ms. Parham
13 testify that really her defense was ---

14 THE COURT: What do you think about the sequence of
15 events where he had adequate opportunity to have his own
16 forensic psychiatrist evaluate him and he was not cooperative
17 in that regard with the psychiatrist and specifically stated
18 that he did not want to pursue an insanity defense?

19 MR. FALK: I would argue that he wasn't competent to make
20 that decision. I mean, if you -- I mean, you're in that
21 situation where you're -- it's not like I don't want to plead
22 self-defense. I mean, whether or not he was sane enough to
23 make a decision about whether or not he wanted to use the
24 insanity defense.

25 THE COURT: Well, the -- he was indeed evaluated and the

Peterson v. State - 2014-CP-10-02878
ARGUMENT OF COUNSEL

57

1 doctor seemed to indicate that he was indeed sane and
2 competent.

3 MR. FALK: And it's his -- and it's his testimony that
4 ---

5 THE COURT: What do you think about the argument that it
6 was merely a delay tactic? He had adequate opportunity to
7 pursue any kind of insanity defense and he certainly, based on
8 what he said here today and his understanding of the law, he's
9 certainly competent to stand trial.

10 MR. FALK: I can appreciate how the Court would be
11 somewhat skeptical of a delaying tactic on the eve of trial
12 and, you know, the typical try and fire your lawyer the day of
13 the trial, those type of tactics, but I -- I honestly have a
14 bona fide sense that he has some mental issues that may be
15 fading in and fading out. I'm not sure if he was ---

16 THE COURT: Right.

17 MR. FALK: I don't think he's refusing that he had some
18 type of -- I think there really was an issue.

19 THE COURT: One of the things that -- another thing that
20 comes to my mind is that in these matters such as this in a
21 post-conviction relief hearing, it's incumbent upon the
22 applicant to prove that he was insane or incompetent, and
23 wouldn't that be incumbent upon you at this juncture to have
24 someone come in during your period of representation to you
25 and he work together and maybe have him evaluated and then to

1 have somebody come up here and say that he was insane when it
2 happened?

3 MR. FALK: I think whether or not I'd done that ---

4 THE COURT: Well, I mean, I'm not asking whether or not
5 -- why you didn't do it or -- but don't you think that it's
6 incumbent upon the applicant, they have the burden of proving
7 that; don't you think?

8 MR. FALK: I would -- I will accept that but I'm not sure
9 you can consider whether or not my failure to bring a witness
10 here necessarily means that I got one and he said the wrong
11 thing.

12 THE COURT: Right. That's absolutely right; yes, sir.

13 MR. FALK: Okay. It's sort of like those SVP cases in
14 Gonzales. You know, you can't use that against the person if
15 they hired an independent evaluator and they ---

16 THE COURT: I wasn't ---

17 MR. FALK: Okay.

18 THE COURT: I wasn't saying that. I was just saying that
19 ---

20 MR. FALK: Your Honor, I'm just trying to ---

21 THE COURT: There is a -- there is a burden that needs to
22 be met.

23 MR. FALK: Yes, Your Honor, and I'm hopeful that his
24 testimony along with -- and it was corroborated to some extent
25 from Ms. Parham's testimony that he had mental health issues.

Peterson v. State - 2014-CP-10-02878
ARGUMENT OF COUNSEL

59

1 THE COURT: Okay. And there's no question that he has
2 mental health issues. I don't doubt that whatsoever. But,
3 the legal standard is knowing right from wrong and being
4 competent to stand trial, which is completely different than
5 -- and I think the plea that actually took place is a
6 reflection of the fact that he does have a mental illness. I
7 mean, he's guilty but mentally ill which allows him to be
8 treated upon entering the Department of Corrections and I
9 anticipate that's what happened.

10 Anything else?

11 MR. FALK: No, Your Honor.

12 THE COURT: Okay.

13 MS. JAMESON: Your Honor, to start off with, the point
14 Your Honor just hit with Mr. Falk, it is Mr. Peterson's burden
15 of proof and he hasn't brought -- he hasn't, to our knowledge,
16 had an evaluation and had a report done. There's been no
17 expert here today to show that he isn't -- isn't competent or
18 wasn't criminally responsible, so he hasn't met his burden of
19 proof. And his testimony and the testimony of Ms. Parham that
20 he might've had some mental health concerns, those are -- Your
21 Honor is completely correct, those are different, different
22 sort of themes then, competency and criminal responsibility.
23 She had him evaluated four times over a two-year period for
24 both competency and criminal responsibility. She was told by
25 Dr. Knight that they weren't gonna be favorable. She didn't

Peterson v. State - 2014-CP-10-02878
ARGUMENT OF COUNSEL

60

1 think that he wasn't competent, whether he wasn't criminally
2 responsible. She actually told counsel, Dr. Knight told
3 counsel that he knew right from wrong, he was just justified
4 in the killing. So, she asked the report not to be done. So,
5 she had no basis to request a *Blair* hearing but she actually
6 went above and beyond and did request the Court have him
7 evaluated by the state and Judge Harrington denied that
8 request instead of proceeding forward to trial and preserving
9 that issue for appellate review, Mr. Peterson chose to accept
10 a favorable plea offer from the state for a significant
11 reduction in time, went from that mandatory minimum of 30
12 years down to 24 years at 85 percent and the dismissal of the
13 weapons charges.

14 THE COURT: Do you think that in retrospect it would've
15 been appropriate for Ms. Parham to file an appeal of the
16 denial of the continuance? Would that be interlocutory or ---

17 MS. JAMESON: No, I don't believe ---

18 THE COURT: Would it have been incumbent upon her to not
19 enter the plea, try the case, and the issue with regard of the
20 denial of continuance would've been preserved at that point?

21 MS. JAMESON: It certainly would've been preserved if he
22 had proceeded forward to trial but I think then we'd be in a
23 situation where my attorney advised me to proceed forward to
24 trial even though we have her testimony that she thought he
25 was gonna be convicted by the jury of murder and face about 30

Peterson v. State - 2014-CP-10-02878
ARGUMENT OF COUNSEL

61

1 years that they might, I think the testimony was throw him a
2 bone and convict him of guilty but mentally ill. But which
3 for all intents and purposes is still an adjudication of guilt
4 and he's still going to the Department of Corrections with
5 that mandatory minimum of 30 years. So, I think if she had
6 taken that course of action, we'd be here arguing that she ---

7 THE COURT: She was ineffective ---

8 MS. JAMESON: --- improperly advised her client to turn
9 down that very favorable offer. I mean, Ms. Fields was shot
10 three times in the back in front of law enforcement officers.
11 And all the testimony we have here today is that he knew what
12 he was doing was wrong, he just thought it was a justifiable
13 homicide, sort of a defense of others. And so there's nothing
14 to support that he wasn't competent or he wasn't criminally
15 responsible.

16 THE COURT: Let me ask you this -- of course, I can't
17 issue a ruling that says that Judge Harrington was wrong in
18 denying the motion for a continuance for a mental evaluation.
19 But what do you think about the -- just the general
20 voluntariness of the plea itself given the fact that he was
21 not mentally evaluated, they gave him a 24-year deal, and
22 DuRant says if we get a mental evaluation, I'm gonna withdraw
23 that, and all they -- just the voluntariness of it.

24 MS. JAMESON: I would like to say we don't have Mr.
25 DuRant here, that is just her recollection that she was scared

1 that the offer would go away. I don't believe anything has
2 been introduced ---

3 THE COURT: Well, she testified to that and I believe
4 her.

5 MS. JAMESON: I believe she testified it was a concern
6 and she thought he might -- Bruce indicated he might withdraw
7 the deal.

8 THE COURT: All right. It's in the record.

9 MS. JAMESON: I would defer to whatever the record is
10 then on that. But I want to be careful -- even though a
11 report wasn't done, he was evaluated four times by Dr. Knight
12 over a two-year period, and I think that the Court needs to
13 look at Mr. Peterson's ---

14 THE COURT: I understand all that and I agree that -- it
15 says -- all right, backing up just a minute. Mr. DuRant: I
16 had told her that the offer, if the case is not continued, the
17 offer will be on the table up till the time we select the jury
18 on Monday. I told her if the case was continued that the
19 offer will remain open until the close of business Friday of
20 next week.

21 MS. JAMESON: Which would've been a time to get her --
22 get him evaluated. I mean, Dr. Knight evaluated him again --
23 I think most -- at the courthouse that day. I believe the
24 testimony from counsel that the evaluation lasted a couple of
25 hours, and I think that's more credible than Mr. Peterson's

Peterson v. State - 2014-CP-10-02878
ARGUMENT OF COUNSEL

63

1 recollection that it lasted 15 or 20 minutes. I mean, he
2 testified that he couldn't remember most things that were
3 going on at that time, so I think the Court has to look at it
4 through that credibility lens. The credible testimony we have
5 today is that Dr. Knight spent hours with him before he
6 decided to enter this guilty plea and, after spending hours
7 with him, Dr. Knight went back to counsel and said nothing has
8 changed. And this is even after Mr. Peterson said he was
9 willing to talk and his jaw was longer locked up and he wanted
10 to be helpful at this point. Nothing changed from those three
11 prior evaluations over the past two years. So, there's
12 nothing to support that he wasn't competent or wasn't
13 criminally responsible, that counsel did anything wrong. She
14 went above and beyond, retained an expert within two weeks of
15 meeting with him, had him evaluated multiple times, tried to
16 encourage him to be forthcoming with the experts. And,
17 ultimately, there wasn't gonna be any sort of insanity defense
18 because there's nothing to support it. And so the state's
19 position is that he hasn't met his burden as to failing to
20 move for a *Blair* hearing, because counsel did move to have him
21 evaluated by the state after her continuance was denied. He
22 hasn't shown prejudice as to any of these allegations
23 regarding his mental health or competency. There is a
24 distinct difference between competency to stand trial, criminal
25 responsibility and mental health. And just because someone

Peterson v. State - 2014-CP-10-02878
ARGUMENT OF COUNSEL

64

1 has mental health issues, that doesn't automatically equate to
2 competency concerns or criminal responsibility concerns. And
3 so he hasn't met his burden of proof. Counsel went well above
4 and beyond her duties in this case and Mr. Peterson, after the
5 denial of the request for the continuance, and the request for
6 the evaluation ---

7 THE COURT: And the promise that he would withdraw the
8 plea if he didn't take -- he would withdraw the offer if he
9 did not plead guilty?

10 MS. JAMESON: Yes. It looks like the offer would've been
11 open for another week, week and a half at that point, enough
12 time to get him evaluated. And I think that's important that
13 that portion from the transcript that Your Honor highlighted
14 didn't say that the offer would be off the table that day. He
15 was gonna give him an additional week. The trial was supposed
16 to start that Monday and he'd leave the offer open until the
17 next Friday. So, I don't recall what day of the week January
18 31st was, but it was gonna be at least another week that the
19 offer would be left open and he could be evaluated. Mr.
20 Peterson decided to take a good offer from the state for 24
21 years at that 85 percent as opposed to a mandatory minimum
22 day-for-day 30 years and that's what induced his plea. It
23 wasn't anything that counsel did.

24 MR. FALK: Your Honor, if I could just make one point
25 about burden of proof?

Peterson v. State - 2014-CP-10-02878
ARGUMENT OF COUNSEL

65

1 THE COURT: Just one second.

2 Okay. Yes, sir?

3 MR. FALK: Your Honor, just a practical point as far as
4 my burden of proof is that I believe that mental health is
5 something that is easier to evaluate at the time. And so,
6 it's an extreme difficulty to make these type of evaluations
7 on competency to stand trial or criminal responsibility for an
8 evaluation to have been made two or two-and-half years after
9 the fact, and that's what we're dealing with.

10 THE COURT: What we were fighting is over is having an
11 evaluation on the eve of trial. When did the murder take
12 place?

13 MS. JAMESON: March 14th, 2011.

14 THE COURT: All right. And the plea was when?

15 MS. JAMESON: January 31st, 2013.

16 THE COURT: It was two years we're talking about. Would
17 it be more difficult -- you know, it was two years out anyway.

18 MR. FALK: I know, but I was just saying, and evaluation
19 that PCR counsel might've made would've been ---

20 THE COURT: But you're removed in time at least two years
21 regardless. And now it's longer but I don't -- I'm not real
22 sure that would make a lot difference, would it? Maybe, maybe
23 not. I understand your point, it'd be more difficult and
24 longer is what you're saying.

25 MR. FALK: That's -- I will tell you that that's what

Peterson v. State - 2014-CP-10-02878
ARGUMENT OF COUNSEL

66

1 happened.

2 THE COURT: Right.

3 MR. FALK: I had him evaluated and he was unable to
4 because of the time.

5 THE COURT: Say that again now.

6 MR. FALK: Dr. Moultrie (spelled phonetically) talked
7 with him. I mean, I hired a forensic psychologist to speak
8 with him and he had a difficult time because of the gap of
9 time making any type of diagnosis that he could stand up in
10 here in court about his competency to stand trial two years
11 earlier or his criminal responsibility from four years
12 earlier.

13 THE COURT: Okay. Could it have been done two years
14 after the event?

15 MR. FALK: I don't know. I'm just telling you when you
16 were ---

17 THE COURT: Right.

18 MR. FALK: You were bringing that point up and I was
19 trying to make that point that he was evaluated but it was a
20 significant time and he was not able to ---

21 THE COURT: All right. Well ---

22 MS. JAMESON: Your Honor, if I could briefly respond to
23 that. That's the same situation that Ms. Parham was in. She
24 had him evaluated and no report was done. She retained Dr.
25 Knight two weeks after she was retained and Dr. Knight ---

Peterson v. State - 2014-CP-10-02878
ARGUMENT OF COUNSEL

67

1 THE COURT: So, that would've been the best time to
2 evaluate and ---

3 MS. JAMESON: And he was evaluated and was told that a
4 report would not be favorable, there were not concerns about
5 competency or criminal responsibility and there was not a
6 report done, which is -- it sounds like the same sort of
7 situation we're in now on PCR and so it's -- it's an
8 interesting argument to be making that counsel should've had
9 him evaluated and not do a report when that wasn't done here
10 for possibly strategic reasons.

11 MR. FALK: Your Honor, I'm not trying to -- there's no
12 strategy. You can ---

13 THE COURT: I think you're being forthright in that -- I
14 think you're being forthright in that regard. You attempted
15 to have him evaluated.

16 MS. JAMESON: I wasn't meaning to slight Mr. Falk in any
17 sort of the matter, but no report was done there because it
18 wouldn't have been favorable and no testimony was presented
19 because no conclusion would've been reached. And that's the
20 situation we have with counsel who actually did more than
21 that. Counsel was told it wasn't gonna be favorable and
22 therefore she didn't ask for a report. She didn't seek -- she
23 didn't give notice of an insanity defense and she didn't
24 request a *Blair* hearing until the eve of trial because she
25 knew that it wasn't a viable defense.

Peterson v. State - 2014-CP-10-02878
RULING OF THE COURT

68

1 THE COURT: All right.

2 MS. JAMESON: Thank you, Your Honor.

3 RULING OF THE COURT:

4 THE COURT: Ms. Jameson, I'm gonna ask that you prepare
5 an order denying the post-conviction relief requested here
6 today and I'm gonna ask that you hold on that to that order
7 and give everybody an opportunity to review the actual
8 transcript as it's being prepared. And as soon as the court
9 reporter gives it to you, I'm gonna give y'all an adequate
10 opportunity to review that.

11 But based on the testimony that's been presented here
12 today and the transcript of the recreated record, I find,
13 number one, that the plea was voluntary. The defendant knew
14 the charges pending against him; he knew -- understood the
15 charges; he understood his constitutional rights; and he
16 understood the possible defenses that he could assert during
17 the trial; and I also find that he indicates he was satisfied
18 with his lawyer. I specifically find that based on the
19 testimony that's been presented here today that Mr. Peterson
20 was competent to stand trial and that he was criminally
21 responsible. I find that counsel was effective in her
22 representation. One of the allegations of ineffectiveness was
23 Trial Counsel's failure to request a *Blair* hearing, but there
24 is -- was indeed a request for a continuance and to have an
25 additional period of time for a mental evaluation but that was

Peterson v. State - 2014-CP-10-02878
RULING OF THE COURT

69

1 denied. She did everything that she could to protect the
2 record in that regard. There was some specific mention of the
3 lack of use of medical records, but I think it was made very
4 clear based on the transcript and the testimony of the
5 forensic psychiatrist that all of that -- those issues were
6 brought before the Court. And as far as putting forth medical
7 records in the plea itself, the plea was negotiated and there
8 was plenty of discussion about the problems that Mr. Peterson
9 had and I think the Court was apprised of all of those issues.
10 I think that any argument with regard to voluntariness is
11 addressed in the plea colloquy and it's dispositive in that
12 regard.

13 I ask that you prepare an order to that effect. I'm not
14 gonna sign it until everybody has had an opportunity to review
15 the plea transcript which I think is gonna be consistent with
16 what the transcript of the recreation.

17 I wish you the best of luck, Mr. Peterson.

18 MR. PETERSON: Thank you, Your Honor.

19 MR. FALK: Thank you, Your Honor.

20 MS. JAMESON: Thank you, Your Honor.

21 ADJOURNED - 11:58 A.M.

22

23

24

25

C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of Arthur Peterson v. State of South Carolina, held in the Court of Common Pleas for Charleston County, Charleston County Courthouse, Charleston, South Carolina, on October 4, 2018.

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



Kay H. Richardson

Official Court Reporter

August 21, 2019.

HEY ROSE MARY,

10/2/2011

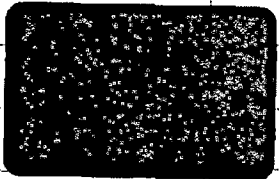
I DO NOT WANT TO USE AN INSANITY PLEA. I WISH TO HAVE A NEGOTIATED PLEA, AND I HAVE SOMETHING IN MIND THAT I BELIEVE WILL SUFFICE THE SOLICITOR, THE JUDGE, AND THE FAMILY. PLEASE COME AND SEE ME AS SOON AS YOU CAN.

MY IDEA IS: 10 YEARS SUSPENDED UPON THE SERVICE OF 5 YEARS WITH 10 YEARS PROBATION

I HOPE YOU ARE FEELING BETTER. PLEASE COME AND SEE ME. I REALLY NEED TO TALK TO YOU.

THANKS,

ART PETERSON



212
AG
AT
SOL
GS

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Arthur Peterson, SCDC No. 355559,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2014-CP-10-2878

ORDER OF DISMISSAL

FILED
2019 MAY -9 PM 3:19
JULIE J. ARMSTRONG
CLERK OF COURT

This matter comes before this Court by way of an application for post-conviction relief filed on May 5, 2014, by Arthur Peterson (Applicant), alleging he was entitled to post-conviction relief based on constitutionally ineffective counsel and an involuntary guilty plea. Respondent served its return on March 20, 2015, requesting an evidentiary hearing be convened on the application.

An evidentiary hearing was held on October 4, 2018, before this Court at the Charleston County Courthouse. Applicant was present and was represented by counsel James K. Falk. Respondent was represented by Senior Assistant Deputy Attorney General Megan Harrigan Jameson of the South Carolina Attorney General's Office. At the hearing, testimony was taken from plea counsel Rose Mary Parham and Applicant.

Following a thorough review of the record in its entirety, and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant has failed to establish any constitutional violations and denies this application with prejudice.

PROCEDURAL HISTORY

The records before this court establish Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. During its July 2011 term, the Charleston County Grand Jury indicted Applicant

for murder (2011-GS-10-4154) following his fatal shooting of Gwendolyn Fields on March 14, 2011. Applicant retained Rose Mary Parham, Esquire, to represent him. Chief Deputy Solicitor Bruce DuRant of the Ninth Circuit Solicitor's Office prosecuted the case.

On January 31, 2013, Applicant appeared in the Charleston County Court of General Sessions before the Honorable Kristi L. Harrington, circuit court judge, for a pre-trial motions hearing on Applicant's motion for a continuance of his trial, set to start the following week, to allow the defense expert to complete her psychiatric evaluation of Applicant and his motion to be evaluated by the State for competency and criminal responsibility. During the hearing, Applicant called Dr. Susan Knight, a forensic psychiatrist at the Medical University of South Carolina who was retained by counsel Parham to evaluate Applicant in March of 2011 and had met with Applicant several times. Dr. Knight specifically told Judge Harrington she did not have any concerns about Applicant's competency. (Jan. 31, 2013 Mot. Tr. p. 35). Following testimony from Dr. Knight and argument by Applicant and the State, Judge Harrington denied Applicant's motion for a continuance and to have Applicant evaluated by the State prior to proceeding forward to trial.

Later that same day, Applicant reappeared before Judge Harrington and pled guilty but mentally ill¹ to the lesser-included offense of voluntary manslaughter pursuant to negotiations with the State for a twenty-four year term of imprisonment and the dismissal of a related weapons charge. During the plea proceeding, Applicant informed the court he had sufficient time to discuss his case with counsel, was satisfied with counsel's representation, and understood the plea agreement with the State. Applicant further affirmed that he understood his constitutional

¹ See S.C. Code Ann. § 17-24-20(A) ("A defendant is guilty but mentally ill if, at the time of the commission of the act constituting the offense, he had the capacity to distinguish right from wrong or to recognize his act as being wrong as defined in Section 17-24-10(A), but because of mental disease or defect he lacked sufficient capacity to conform his conduct to the requirements of the law.")

rights and wished to waive them to enter the negotiated plea of guilty but mentally ill. Applicant informed the court that he had previously been diagnosed as having bi-polar disorder, but that he understood what he was doing and wished to enter his plea of guilty but mentally ill. He informed the court he understood he would be waiving any possible defenses based on competency or criminal responsibility by entering his plea and he wished to do so. He affirmed he was pleading guilty but mentally ill because he was indeed guilty and agreed with the factual recitation as presented by the State. Judge Harrington accepted Applicant's plea but deferred sentencing at Applicant's request.

On May 28, 2013, Judge Harrington reconvened all parties for a sentencing hearing. At that time, Judge Harrington sentenced Applicant to twenty-four years imprisonment pursuant to plea negotiations between applicant and the State. Applicant did not file a notice of appeal.

SUMMARY OF FACTS GIVING RISE TO THE CONVICTION

Applicant, who was a devout Christian, often went to the home of Shakeyra Fields, a paralyzed woman whom he had befriended, to minister and pray with her. Shakeyra shared the home with her mother Gwendolyn, whom she often falsely accused of physical and emotional abuse. On March 14, 2011, Applicant arrived at the Fields home to minister to Shakeyra. Upon arrival, Shakeyra told Applicant that her mother had physically abused her the previous evening. Applicant called 911 for an ambulance and law enforcement assistance removing Shakeyra from the home. Law enforcement arrived and were making arrangement to place Shakeyra into emergency protective custody when Applicant walked into the doorway between the living room and the kitchen and removed a nine-millimeter Glock from underneath his coat. He shot Gwendolyn Fields three times in the back while she was cooking at the stove. Gwendolyn was taken to the hospital and died a short time later. Applicant was apprehended at the scene along with his weapon. (Plea Tr. p. 18-21; Reconstruction Hearing Tr. p. 21-22, Affidavit for Arrest

Warrant M-610236).

CURRENT PROCEEDING

On May 5, 2014, Applicant filed an application for post-conviction relief, alleging the following grounds for relief:

1. Counsel failed to apprise Applicant of the sentencing consequences of his guilty plea;
2. Counsel failed to place his plea agreement on the record;
3. Involuntary guilty plea;
4. Counsel failed to use the Applicant's medical records as mitigation evidence;
5. Counsel failed to put the State's Case through adversarial testing;
6. Counsel failed to inform Applicant of the mandatory two year community supervision program upon release;
7. Counsel failed to request a Blair² hearing; and
8. Counsel improperly advised Applicant to plead guilty but mentally ill.

The Charleston County Clerk of Court appointed James K. Falk, Esquire to represent Applicant. The State of South Carolina (Respondent) made its return on March 20, 2015, requesting an evidentiary hearing be held.

Thereafter, Respondent attempted to order the transcript from Applicant's plea proceeding, but despite diligent efforts by both Respondent and Court Administration, Respondent was notified by Court Administration that the transcript from the plea proceeding could not be located. This case was scheduled for an evidentiary hearing before this Court on December 7, 2017, at which time Applicant moved for a continuance and to reconstruct the record of the plea proceeding based on the unavailable transcript. This Court continued the matter and ordered the parties to attempt to reconstruct the plea proceeding before Judge Harrington.

A reconstruction hearing was held on June 13, 2018, before Judge Harrington. During the hearing, Applicant, plea counsel Parham, and Chief Deputy Solicitor DuRant testified as to what

² State v. Blair, 275 S.C. 529, 273 S.E.2d 536 (1981).

transpired at the plea proceeding. Following this hearing, Judge Harrington ruled the record was sufficiently reconstructed for meaningful collateral review.³

An evidentiary hearing was held before this Court on October 4, 2018. At the evidentiary hearing, Applicant proceeded forward on the following grounds for relief:

1. Counsel was ineffective for failing to request a hearing on his competency pursuant to State v. Blair, 275 S.C. 529, 273 S.E.2d 536 (1981);
2. Counsel was ineffective for failing to use his medical records in mitigation; and
3. Applicant's guilty plea was involuntary.

During the evidentiary hearing, the court reporter (Kay H. Richardson), after listening to a portion of the testimony, informed this Court and the parties that she was the court reporter who took Applicant's plea proceeding at the request of the chief administrative judge in 2013 even though she was not assigned to Judge Harrington. She informed the parties that she would be able to provide a copy of the transcript and has so provided a copy of this transcript, which this Court has reviewed and incorporated into the record in this case.

SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

At the evidentiary hearing, Applicant called Rose Mary Parham (counsel) to testify. She testified she was retained to represent Applicant in March 2011 shortly after his arrest. She testified she was referred to Applicant by Bill Watkins, a Columbia attorney and friend of hers, who called her and told her Applicant did not like his current attorney, who was Jewish. She elaborated Watkins told her Applicant wished to be represented by a "white, Christian, Baptist female" and that Watkins instantly thought of her as a perfect attorney for Applicant. Counsel testified she came to Charleston to visit Applicant shortly after receiving the referral from Watkins. She testified she arrived at the Charleston County Detention Center during a torrential rainstorm and went to meet with Applicant, who informed her that he did not want to meet with her without a Bible. She testified she asked around the detention center to see if anyone had a

³ A copy of this transcript was ordered and was reviewed by this Court.

Bible she could borrow, and when she was unable to procure one, she drove to Barnes and Noble bookstore to get a Bible. She testified she bought a King James Version of the Bible and returned to the detention center to visit Applicant, who initially expressed displeasure with the version she had selected as it was not his preferred New International Version.

Applicant eventually agreed to speak with counsel and the two discussed his religious beliefs, which counsel described as religious fervor. She testified Applicant told her the Holy Spirit had instructed him to kill the victim. She testified Applicant was an intelligent man, noting he was a certified public accountant (CPA) who graduated from the Citadel, but suffered from mental illness. She testified Applicant told her that his wife had previously been diagnosed with a grave illness and her prognosis was not good. She elaborated that while waiting at one of his wife's medical appointments, Applicant prayed that if God would cure his wife, he would devote the bulk of his time to ministering to those less fortunate. At this appointment, Applicant met Shakeya Fields, a woman who had become paralyzed after a severe bout of food poisoning, and decided to befriend and minister to Shakeya.

Counsel testified Applicant routinely visited Shakeya at her home, which she described as a crack house that Shakeya shared with her mother. She testified Shakeya accused her mother of abusing her and law enforcement had routinely been called to the home to intervene (information of which Applicant was unaware). Counsel testified Shakeya was in the process of finalizing a large settlement related to her injuries and Applicant was concerned her mother would misuse the money and abuse Shakeya. She testified on the day of the shooting, Applicant went to Shakeya's home to minister to her and Shakeya reported her mother had physically abused her the evening before. Shakeya told Applicant she was worried that her mother would kill her if he did not get her out of the home immediately. She testified Applicant called law enforcement for assistance. Applicant, who was unaware that law enforcement was already

familiar with this address based on the voluminous complaints they had previously received, became agitated that it was taking so long for assistance to arrive. Counsel testified Applicant then went to his car, got his gun, and shot Shakeyra's mother as police officers were nearby. Counsel testified she believed Shakeyra had manipulated Applicant, who had already been concerned for her well-being.

Counsel testified she visited with Applicant frequently, averaging approximately two visits per month for the roughly two years she represented him. She testified she also talked to Applicant by telephone and exchanged letters with him. She testified she also hired an investigator, David Lazar, a former federal Bureau of Alcohol, Firearms and Explosives (ATF) investigator, David Lazar, shortly after she was retained to assist with Applicant's case. She testified Lazar investigated the case and visited with Applicant frequently. She testified the bulk of Lazar's investigation was gathering mitigation evidence, which she repeatedly used while attempting to negotiate a favorable plea deal for Applicant.

She testified she initially had concerns about Applicant's competency during her first visit or two with Applicant. She elaborated Applicant was experiencing hallucinations and had a fascination with numbers, which he often connected back to scripture, during these initial meetings. She testified that based on these concerns, she retained the services of Dr. Knight within two weeks. She testified Dr. Knight evaluated Applicant numerous times. She testified Applicant originally told her he would not be forthcoming with Dr. Knight about his hallucinations, but eventually told counsel he would be open with Dr. Knight. She testified Dr. Knight told her she did not think Applicant was incompetent or lacked criminal responsibility and that any report she issued would not be beneficial to Applicant's case. She elaborated Dr. Knight told her that Applicant knew his actions were wrong but that he believed his actions were justified, which was consistent with what Applicant had told her. She testified Applicant

understood the role of the judge, attorneys, and others in the legal system and was able to assist in his defense. Based on these discussions, counsel asked Dr. Knight not to prepare a report.

Additionally, counsel testified she ultimately did not have any concerns about Applicant's competency. She testified the longer Applicant was in the detention center, the more "normal" his behavior became, citing that he no longer reported any hallucinations or fixation with numbers. She testified Applicant was not only able to fully assist in his own defense, but he also involved himself in the cases of numerous other inmates at the detention center and attempted to assist in their defenses. She testified Applicant also told her that he did not want to pursue any sort of defense based on competency or mental illness, which he deduced to writing in a letter he sent her on October 2, 2011. See Respondent's Ex. No. 1. Additionally, she testified did not give the State any notice that she was challenging Applicant's competency to stand trial or criminal responsibility based on Dr. Knight's numerous evaluations of Applicant, her own experiences with Applicant, and Applicant telling her that he did not want to pursue any defense based on mental illness.

She testified she ultimately made her motion for continuance and to have Applicant evaluated the week prior to trial at Applicant's request because he wanted more time to negotiate a plea offer with the State and was willing to be evaluated if it would delay his trial. She testified the State had only made one plea offer to voluntary manslaughter for twenty-five years imprisonment a few weeks prior and Applicant wanted to delay his trial in the hope he would be able to secure a better plea offer. She testified she was afraid the State would withdraw its only plea offer if the continuance was granted, but she moved for one at her client's request. She testified Applicant never wanted to proceed to trial and was always interested in negotiating a favorable plea offer. She testified she also argued the trial should be delayed based on recently received discovery. She testified once her motion for a continuance was denied, she then asked

Judge Harrington to order an evaluation of Applicant, again to delay his trial. She testified Judge Harrington denied both motions, but did allow Dr. Knight additional time that day to meet with Applicant. She testified Dr. Knight met with Applicant that day for a few hours and her opinion as to his competency was the same as after her previous evaluations—that Applicant was competent and criminally responsible. She testified although Applicant was never evaluated by the State, he was evaluated numerous times by Dr. Knight, including the hours prior to his guilty plea.

Counsel testified that although Applicant never indicated he wanted to go to trial, her defense at trial would have focused on mitigation and presenting evidence of his mental illness. She elaborated Applicant had shot the victim multiple times in the back in front of police officers, so mitigation was all she would have been able to present. She testified she would have called several witnesses on his behalf, including Applicant's wife and members of the community as character witnesses, and also would have cross-examined the State's witnesses vigorously. She testified she believed Applicant would have been convicted of murder at trial because although he would not have killed the victim but if he hadn't suffered from mental illness, he understood that what he did was wrong. She testified the jury might have "thrown him a bone" and found him guilty but mentally ill thinking it would have some benefit to Applicant, but ultimately would have not had any impact on his sentence. She testified she had explained this to Applicant and he appeared to understand. She testified she explained the sentence range for murder, including the mandatory minimum sentence of thirty years, which must be served day for day, up to life imprisonment without the possibility of parole. She testified Applicant wanted a sentence of fifteen to twenty years, but she was never able to get Chief Deputy Solicitor DuRant to agree to a sentence of less than what Applicant ultimately pled guilty. She testified she explained to Applicant that the twenty-four year plea offer would remove the requirement of

serving his sentence day-for-day and he would likely serve eighty-five percent of his sentence. She testified she also explained what a plea of guilty but mentally ill would entail and he appeared to understand.

Applicant testified next on his own behalf. He testified his mother died when he was younger and was raised by his abusive father. Applicant testified he suffers from mental illness and had previously been hospitalized. He testified he had two "tailspin" moments in his life: first, working for an abusive employer, and second, misdiagnosis of his wife with a grave illness. He testified it was while his wife was suffering from her illness that he met Shakeyra Fields. He testified he was going through an extremely difficult time in his life, including his wife's life-threatening illness, his daughter's recent surgery, and medical issues with the family pet. He testified he had decided to devote his life to helping others and met Shakeyra, who was paraplegic, and decided to minister to her. He testified he regularly visited with Shakeyra for the next two years and she did not want anything from him other than companionship and counseling. He testified he believed the Holy Spirit was guiding him. He testified there is one unforgiveable sin and that is to not listen to the Holy Spirit. He testified he does not remember most of his time at the Charleston County Detention Center and he described the period as "like a dream." He noted he was put on suicide watch twice while at the detention center and was hallucinating.

Applicant testified he never wanted to kill Gwendolyn and he was trying to protect Shakeyra. He testified Shakeyra has told him multiple times that her mother was abusing her and he shot her mother because he believed it was the only way to protect Shakeyra.

Applicant testified he wanted to secure a plea deal because God would get him through without a trial or having to discuss the Holy Spirit with anyone. However, he testified he was coerced into pleading guilty because it was the only option available. He testified counsel did not

fully explain what a plea of guilty but mentally ill entailed. Applicant testified he originally refused to cooperate with Dr. Knight and consider a defense based on his mental illness, but he eventually realized it was his only option and cooperated. He testified he originally refused to speak with Dr. Knight, citing an extreme pain in his jaw and fear of betraying the Holy Spirit, but finally opened up to her during their final meeting before his guilty plea. He testified this final meeting only lasted fifteen minutes and was not long enough.

He testified Counsel should have requested a Blair hearing and had him evaluated by the State. He conceded counsel did move to have him evaluated after the motion got a continuance was denied. He testified Counsel should have used his medical records to support his request for a psychological evaluation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has thoroughly reviewed the record in its entirety. Additionally, this Court heard the testimony presented at the evidentiary hearing and was able to observe the witnesses presented at the evidentiary hearing, which allowed the Court to scrutinize the credibility of all witnesses presented. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

Applicant has alleged plea counsel, Rose Mary Parham, was constitutionally ineffective for failing to request a competency evaluation pursuant to Blair and failing to utilize his medical records to support his request for an evaluation. He also argues his plea was involuntary. Both allegations are addressed below.

Ineffective Assistance of Counsel

The Sixth Amendment to the United States Constitution guarantees a defendant the right to effective assistance of counsel. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008).

In a post-conviction relief action, an applicant bears the burden of proving the allegations in his or her application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland, 466 U.S. 668. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

Strickland does not guarantee perfect representation, only a " 'reasonably competent attorney.' " 466 U. S. at 687 (quoting McMann v. Richardson, 397 U. S. 759, 770 (1970)). Representation is constitutionally ineffective only if it "so undermined the proper functioning of the adversarial process" that the defendant was denied a fair proceeding. Strickland, 466 U.S. at 686. Just as there is no expectation that competent counsel will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be remote possibilities. Id.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, an applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's

deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Although courts may not indulge “post hoc rationalization” for counsel’s decision making that contradicts the available evidence of counsel’s actions, Wiggins, 539 U. S. at 526-527, neither may they insist counsel confirm every aspect of the strategic basis for his or her actions. There is a “strong presumption” that counsel’s attention to certain issues to the exclusion of others reflects trial tactics rather than “sheer neglect.” Yarborough v. Gentry, 540 U. S. 1, 8 (2003) (per curiam). After an adverse verdict at trial even the most experienced counsel may find it difficult to resist asking whether a different strategy might have been better, and, in the course of that reflection, to magnify their own responsibility for an unfavorable outcome. Strickland, however, calls for an inquiry into the objective reasonableness of counsel’s performance, not counsel’s subjective state of mind. Id. at 688; Harrington v. Richter, 562 U.S. 86 (2011).

With respect to prejudice, an applicant must demonstrate “a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome.” Id. at 694. It is not enough “to show that the errors had some conceivable effect on the outcome of the proceeding.” Id. at 693. Counsel’s errors must be “so serious as to deprive the defendant of a fair trial, a trial whose result is reliable.” Id. at 687. See Harrington, 562 U.S. 86. With respect to guilty plea counsel, Applicant must establish there is a reasonable probability that, but for counsel’s alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985).

“Surmounting Strickland’s high bar is never an easy task.” Padilla v. Kentucky, 559 U.S. 356, 371 (2010), and the strong societal interest in finality has “special force with respect to

convictions based on guilty pleas.” United States v. Timmreck, 441 U.S. 780, 784 (1979). An ineffective assistance of counsel claim can function as a way to escape rules of waiver and forfeiture and raise issues not presented at trial, and so the Strickland standard must be applied with scrupulous care, lest “intrusive post-trial inquiry” threaten the integrity of the very adversary process the right to counsel is meant to serve. Strickland, 466 U.S. at 689–690. Even under de novo review, the standard for judging counsel’s representation is a most deferential one. Unlike a later reviewing court, the attorney observed the relevant proceedings knew of materials outside the record and interacted with the client, with opposing counsel, and with the judge. It is “all too tempting” to “second-guess counsel’s assistance after conviction or adverse sentence.” Id. at 689; see also Bell v. Cone, 535 U. S. 685, 702 (2002); Lockhart v. Fretwell, 506 U. S. 364, 372 (1993). The question is whether an attorney’s representation amounted to incompetence under “prevailing professional norms,” not whether it deviated from best practices or most common custom. Strickland, 466 U.S. at 690.

In assessing prejudice under Strickland, the question is not whether a court can be certain counsel’s performance had no effect on the outcome or whether it is possible a reasonable doubt might have been established if counsel acted differently. Wong v. Belmontes, 558 U. S. 15 (2009); Strickland, 466 U.S. at 693. Instead, Strickland asks whether it is “reasonably likely” the result would have been different. Id. at 696. This does not require a showing that counsel’s actions “more likely than not altered the outcome,” but the difference between Strickland’s prejudice standard and a more-probable-than-not standard is slight and matters “only in the rarest case.” Id. at 693, 697. The likelihood of a different result must be substantial, not just conceivable. Id. at 693. Harrington, 562 U.S. 86.

“When a PCR applicant raises issues of competency in the context of a plea proceeding, the two-prong Strickland analysis still applies; however, because of the nature of the claim, proof

of deficiency of counsel is intertwined with prejudice.” Ramirez v. State, 419 S.C. 14, 21, 795 S.E.2d 841, 844–45 (2017). “Specifically, when establishing Strickland prejudice in the context of plea counsel’s failure to request a mental competency evaluation, ‘the [applicant] need only show a ‘reasonable probability’ that he was . . . incompetent at the time of the plea.” ” Id. (quoting Jeter v. State, 308 S.C. 230, 233, 417 S.E.2d 594, 596 (1992); see also Matthews v. State, 358 S.C. 456, 458–60, 596 S.E.2d 49, 50–51 (2004) (expanding the reasonable probability standard as the burden for proving both the deficiency of counsel and the prejudice prongs). Once a PCR applicant has established his counsel was deficient in failing to obtain a mental competency evaluation, he is entitled to relief if he demonstrates a reasonable probability that he was incompetent at the time he pled guilty. Ramirez, 419 S.C. at 22, 795 S.E.2d at 845 (citing Jeter, 308 S.C. at 233, 417 S.E.2d at 596; Matthews, 358 S.C. at 459, 596 S.E.2d at 51).

Based on this standard set forth above, this Court finds Applicant has failed to meet his requisite burden of establishing any constitutional ineffectiveness of counsel as to either of his allegations: failing to request a competency evaluation pursuant to Blair and failing to utilize his medical records to support his request for an evaluation. Specifically, this Court finds Applicant has failed to establish deficiency of counsel or any resulting prejudice. Addressing deficiency first, this Court finds Counsel’s performance was effective. Immediately upon visiting with Applicant, Counsel recognized Applicant may suffer from mental illness and retained a forensic psychiatrist, Dr. Susan Knight from MUSC, who evaluated Applicant four separate times. Each time, Dr. Knight informed Counsel that Applicant was competent and criminally responsible, which would be reflected in any report she prepared. Based on this information, and her clients repeated wishes that he did not want to present any defense based on competency or insanity, Counsel did not notify the State that she intended to challenge Applicant’s competency or criminal responsibility. Moreover, despite the opinion from Dr. Knight that Applicant was

competent and criminally responsible, Counsel still moved for Applicant to be evaluated by the State at Applicant's request. This motion was denied by the court, but the court allowed Applicant to be evaluated by Dr. Knight again that afternoon, yielding the same result—Applicant was competent to stand trial or enter his guilty plea. The introduction of any medical records would not have changed this ultimate result. Counsel's performance was effective and exceeded the minimum constitutional standards required. Additionally, this Court finds Applicant cannot establish any requisite prejudice. The consistent testimony and evidence before this Court establishes Applicant was competent to enter his guilty plea and was criminally responsible. Moreover, the plea proceeding establishes that Applicant was specifically asked about his decision to forgo any defenses based on competency or criminal responsibility and he affirmed he wished to do so.

Based on the foregoing, this Court finds Applicant has failed to meet his requisite burden of establishing Counsel was constitutionally ineffective in her treatment of his mental health condition, including her failure to have him evaluated for competency and failing to use his medical records to support a request for an evaluation. These allegations are denied and dismissed with prejudice.

Involuntary Guilty Plea

Applicant further alleges his guilty plea was not voluntarily entered. This Court finds Applicant's guilty plea was freely and voluntarily made. In evaluating issues concerning guilty pleas, this Court will consider the entire record, including the transcript of the guilty plea proceeding and the evidence presented at the post-conviction relief hearing. Roddy v. State, 339 S.C. 29, 528 S.E.2d 418 (2000). Voluntariness of a guilty plea is not merely determined by an examination of a specific inquiry by the plea court alone but rather is determined by the record of both the guilty plea proceeding and the post-conviction relief hearing. Id. In order to find a guilty

plea was knowingly and voluntarily entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238 (1969). Further, “[a] guilty plea is a solemn, judicial admission of the truth of the charges” against the applicant; thus, an applicant’s right to contest the validity of such a plea is usually foreclosed. Dalton v. State, 376 S.C. 130, 137–38, 654 S.E.2d 870, 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, admissions “made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements.” Id. (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975)); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

This Court finds this allegation is without merit, and Applicant has failed to carry his burden of proving his guilty plea was involuntarily made. The records before this Court, and particularly the transcript of Applicant’s plea proceeding, show that Applicant engaged in a thorough colloquy with the court before electing to forgo his constitutional rights and knowingly, voluntarily, and intelligently enter a plea of guilty but mentally ill. This Court finds Applicant knew the charges he was facing and understood the plea he was entering to the lesser-included offense, including the significant sentence reduction and dismissal of an accompanying weapons charge based on his negotiated plea. This Court also finds Applicant was properly and fully advised of his constitutional rights and knowingly and voluntarily waived those rights to accept a favorable negotiated plea based on the advice of competent counsel.

Therefore, this Court finds Applicant had a full understanding of the consequences of his plea and the charges against him, and the plea court correctly found Applicant’s plea was freely, voluntarily, and intelligently made. This allegation is denied and dismissed with prejudice.

CONCLUSION

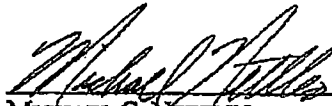
Based on all the foregoing, this Court finds Applicant has not established any other constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Therefore, this application for post-conviction relief is denied and dismissed with prejudice.

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

IT IS THEREFORE ORDERED:

1. This application for post-conviction relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the State within the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 6 day of May, 2018¹⁹.


 MICHAEL G. NETTLES
 Presiding Judge
 Ninth Judicial Circuit

Florence, South Carolina

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

MAY 20 2019

APPEAL FROM BEAUFORT COUNTY

S.C. SUPREME COURT

Court of Common Pleas

Honorable Michaels G Nettles, Circuit Judge

Case No.: 2014-CP-10-2878

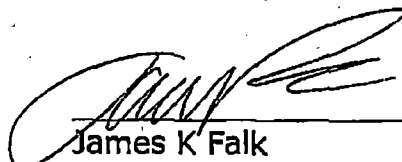
Arthur Peterson 35559.....PETITIONER

V.

State of South Carolina.....RESPONDENT

NOTICE OF APPEAL

The Petitioner Arthur Peterson appeals the Honorable Michael G Nettles' May 6, 2019 Order of Dismissal. Undersigned counsel received notice of entry of the order on May 12, 2019. A copy of the order on appeal is attached hereto.


James K Falk
Falk Law Firm
PO Box 1058
Charleston, SC 29402

May 15, 2019

Benjamin Limbaugh, Esq.
Office of S.C. Attorney General
PO Box 11549
Columbia, SC 29211-1549

Clerk of Court- Charleston CP
100 Broad Street
Charleston, SC 29401

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

MAY 20 2019

APPEAL FROM CHARLESTON COUNTY

S.C. SUPREME COURT

Court of Common Pleas

Honorable Michael G Nettles, Circuit Judge

Case No.: 2014-CP-10-2878

Arthur Peterson 355559.....PETITIONER

V.

State of South Carolina.....RESPONDENT

CERTIFICATE OF SERVICE

I, James Falk, certify that I have today served the within notice of appeal upon the Respondent by depositing a copy of it in the U.S. Mail, postage prepaid, addressed to its attorney of record, Benjamin Limbaugh Esq. Office of the S.C. Attorney General, PO Box 11549, Columbia, SC 29211-1549 and the Charleston County Clerk of Court. I further certify that all parties required by Rule to be served have been served this May 15, 2019.



James K Falk
Falk Law Firm
PO Box 1058
Charleston, SC 29402

DBD20110301501

WITNESSES

Craig Kösarko
Charleston City Police Department

AGENCY CASE NUMBER

1103960

ARREST WARRANT NUMBER

M610236

DATE OF ARREST

March 15, 2011

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

JUL 12 2011

VERDICT

Foreperson of Petit Jury

Date:

INDICT.DOT

DOCKET NO. 2011GS1004154

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

July 2011 Term

THE STATE

vs.

ARTHUR F PETERSON

DOB: [REDACTED]
W/M

Indictment for

MURDER

FILED

8/4/2011 2:58:05 PM
JULIE J. ARMSTRONG
CLERK OF COURT

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK C.D. GS & F.C.
By *[Signature]*
DEPUTY CLERK

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

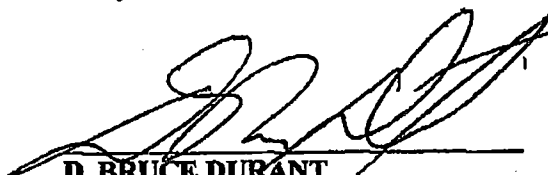
INDICTMENT

At a Court of General Sessions, convened on July 11, 2011, the Grand Jurors of
Charleston County present upon their oath:

MURDER

That in Charleston County on or about March 14, 2011, with malice aforethought, **ARTHUR F PETERSON** did kill and murder Gwendolyn F[REDACTED] by means of shooting her, and that Gwendolyn F[REDACTED] did die in Charleston County as a proximate result thereof on March 14, 2011; in violation of Section 16-3-10 of the South Carolina Code of Laws (1976) as amended.

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


D. BRUCE DURANT
CHIEF DEPUTY SOLICITOR