

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Sumter County

Honorable Kristi F. Curtis, Circuit Court Judge

TERVIN GOODMAN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-001992

APPENDIX

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State of South Carolina)
)
County of Sumter)
)

Tervin Goodman,
Plaintiff

Guilty Plea
2009-GS-43-01120

vs.

The State of South Carolina,
Defendants

September 19, 2011
Sumter, S.C.

Before the Honorable Howard P. King, Judge.

Mr. Charles T. Brooks,
Attorney for Plaintiff

Mr. John P. Meadors
Attorney for Defendants

Margaret T. Sullivan,
Court Reporter

1 MR. MEADORS: Your Honor, before you is
2 the Sumter County true billed indictment
3 2009-GS-43-1120, is Tervin Goodman, Your Honor.
4 This is an indictment for murder and burglary in
5 the first degree. Your Honor, he is here with his
6 attorney, Mr. Charles Brooks. We were prepared to
7 go to trial this morning, Your Honor. Mr. Brooks
8 informed me that Mr. Goodman would like to enter a
9 plea to murder and burglary first. Straight up,
10 Your Honor.

11 (Whereupon, the defendant is sworn.)

12 THE COURT: Mr. Brooks you represent the
13 defendant?

14 MR. BROOKS: I do, judge.

15 THE COURT: Were you retained or
16 appointed?

17 MR. BROOKS: Appointed.

18 THE COURT: Have you explained to him the
19 two charges, or actually three charges contained
20 in this indictment? One for murder. One for
21 burglary first and one for grand larceny. Have
22 you explained to him the charges contained in the
23 indictment, the possible punishment and his
24 constitutional rights; including, his right to a
25 jury trial?

1 MR. BROOKS: I have, Your Honor.

2 THE COURT: In your opinion does he
3 understand those things?

4 MR. BROOKS: He does.

5 THE COURT: And how does he indicate he
6 wishes to plead to Counts 1 and 2?

7 MR. BROOKS: Guilty.

8 THE COURT: And I understand, Mr. Meadors,
9 Count 3 is going to be nol-prossed.

10 MR. MEADORS: Your Honor, apparently that
11 was -- yes, sir, it would have been the grand
12 larceny.

13 THE COURT: You are Tervin Goodman; is
14 that correct?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Is it Tevin, or Tervin?

17 THE DEFENDANT: Tervin.

18 THE COURT: T-E-R-V-I-N? Because the
19 indictment shows your name as Tervin Goodman. But
20 there is no r?

21 THE DEFENDANT: There is an r.

22 THE COURT: There is an r? So it's Tervin
23 Goodman. Mr. Meadors, the sentencing sheet says
24 Tervin Goodman. I think his correct name is
25 Tervin. So we ought to correct that. It shows

1 Tervin. I'll take care of it.

2 MR. MEADORS: Thank you, Your Honor.

3 THE COURT: Mr. Goodman, before I can
4 accept your plea of guilty, I need to make sure
5 that it freely and voluntarily given. I need to
6 ask you some questions. If you don't understand
7 the questions or the words that I use, you tell
8 me. I will be glad to explain them to you. You
9 may talk with your lawyer at any time as we go
10 through this process. You understand?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: How old are you?

13 THE DEFENDANT: 20.

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

15 The DEFENDANT: 11th grade.

16 THE COURT: How long have you been out of
17 school?

18 THE DEFENDANT: Since 07.

19 THE COURT: Have you worked at any gainful
20 occupation since then?

21 THE DEFENDANT: McDonald's.

22 THE COURT: McDonald's? Have you ever
23 been treated for the abuse of alcohol or drugs?

24 THE DEFENDANT: No, sir.

25 THE COURT: Is that a no?

1 THE DEFENDANT: No, sir.

2 THE COURT: Have you ever been treated for
3 any kind of mental illness?

4 THE DEFENDANT: No, sir.

5 THE COURT: Are you today under the
6 influence of any medication, drugs or alcohol?

7 THE DEFENDANT: No, sir.

8 THE COURT: Are you today aware of any
9 physical, emotional or nervous problems that would
10 keep you from understanding what you are doing
11 here today?

12 THE DEFENDANT: No, sir.

13 THE COURT: You have heard your attorney
14 tell me that he has explained to you the charges
15 against you, the possible punishment and the
16 constitutional rights and that you understand
17 these things; is that correct?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: The Indictment in this case
20 which has been returned as a true bill by the
21 Grand Jury of Sumter County and thus this court
22 has jurisdiction of the matter. And the Grand
23 Jury having returned a true bill on
24 October 9th 2009, charges that on or about June
25 8th 2008, that you feloniously, wilfully, and with

1 malice aforethought, either express or implied
2 killed one Mary Hunter, by means of beating her
3 about the head, and that said Mary Hunter died as
4 a proximate result. Count 1 of the Indictment is
5 one for murder on June 8th of 2008, of Mary
6 Hunter. Do you understand that charge?

7 THE DEFENDANT: Yes, sir.

8 The COURT: Do you understand for that
9 offense that you can get from 30 years to life in
10 prison?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Count 2, charges that on that
13 same day June 8th 2008, that you did enter the
14 dwelling of Mary Hunter at [REDACTED]
15 without consent with the intent to commit a crime.
16 That while in the dwelling, did cause physical
17 injury to the person of Mary Hunter. And that you
18 had; that this is a charge for burglary in the
19 first degree. Do you understand that charge?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And do you understand that for
22 that offense you can you get up 15 years
23 imprisonment up to life in prison. Do you
24 understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And the State has indicated
2 that they are willing then to nol-pros or dismiss
3 Count 3 for the grand larceny, for the theft of
4 the automobile from Ms. Hunter on that same day.
5 Do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Now, Mr. Goodman, when you
8 plead guilty, you give up important constitutional
9 rights. You give up your right to remain silent;
10 that is your privilege against self incrimination.
11 You cannot be required to provide testimony or
12 evidence against yourself. You give up your right
13 to have a jury trial; that is, your right to have
14 a jury decide whether you are guilty beyond a
15 reasonable doubt. In a trial you would be
16 presumed to be innocent. And the State would have
17 to prove by evidence which convinces all 12
18 members of the jury of your guilt beyond a
19 reasonable doubt.

20 We have a jury panel here in the
21 courthouse. And the State was prepared to try
22 your case. And if you wanted a jury trial, that
23 jury is here and prepared to do that. Do you
24 understand that?

25 THE DEFENDANT: Yes.

1 THE COURT: And finally you give up your
2 right to confront the witnesses against you; that
3 is, the right to require the witnesses against you
4 to come in to court and testify, and have your
5 lawyer cross examine those witnesses. And also
6 the right to subpoena and call witnesses on your
7 own behalf. Do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: So you understand that your
10 free and constitutional rights that you are giving
11 up are your right to a jury trial, your right to
12 remain silent, and your right to confront the
13 witnesses. Do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you understand that when
16 you plead guilty, you waive or give up all of
17 those rights and that there will be no jury trial.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Understanding then the nature
20 of the charges against you and the consequences of
21 the guilty plea, how do you wish to plead to the
22 charge of murder and the charge of burglary first,
23 guilty or not guilty?

24 THE DEFENDANT: Guilty.

25 THE COURT: Do you understand that when

1 you plead guilty, you are admitting that the
2 charges against you are true.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Now you may have defenses to
5 these charges. I don't know whether you do or
6 not. But do understand that when you plead
7 guilty, you waive or give up any defenses that
8 might have these charges?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You also may have given
11 incriminating statements or a confession in this
12 case. Do you understand that when you plead
13 guilty, you waive or give up your right to
14 challenge or contest whether or not that statement
15 was freely and voluntarily given in accordance
16 with your constitutional right?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: The State has indicated that
19 this plea has been without negotiations other than
20 dropping of the grand larceny. Has anyone
21 promised you anything or held out any hope of
22 reward to get you to plead guilty?

23 THE DEFENDANT: No, sir.

24 THE COURT: Has anyone threatened you or
25 intimidated you in any way to get you to plead

1 guilty?

2 THE DEFENDANT: No, sir.

3 THE COURT: Has anyone done anything to
4 you to make you plead guilty?

5 THE DEFENDANT: No, sir.

6 THE COURT: And are you pleading guilty to
7 these charges as I have outlined them to you
8 freely and voluntarily?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You are represented in this
11 case by Mr. Brooks. Do you understand, or have
12 you had enough time to talk with Mr. Brooks about
13 whether you should or should not plead guilty?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you need any more time to
16 talk to Mr. Brooks?

17 THE DEFENDANT: No, sir.

18 THE COURT: Are you completely satisfied
19 with his services?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you have any complaint at
22 all that you want to make about Mr. Brooks?

23 THE DEFENDANT: No, sir.

24 THE COURT: Has he done anything to you
25 that you feel he should not have done?

1 THE DEFENDANT: No, sir.

2 THE COURT: Has he done everything that
3 you feel he should have done?

4 THE DEFENDANT: Yes, sir?

5 THE COURT: Do you have any complaint at
6 all that you want to make about your lawyer, the
7 solicitor's office, anybody in law enforcement?
8 Any complaints at all?

9 THE DEFENDANT: No, sir.

10 THE COURT: Now is the time to tell me,
11 not after you get over to the Department of
12 Corrections and you decide that you want to file a
13 writ against Mr. Brooks. If you have got any
14 complaints against him at all, now is the time to
15 tell me. Do you have any complaints?

16 THE DEFENDANT: No, sir.

17 THE COURT: Has anyone promised you
18 anything or held out any hope of reward to get you
19 to plead guilty?

20 THE DEFENDANT: No, sir.

21 THE COURT: And are you pleading guilty of
22 your own free will and accord?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you understand that you
25 have the right to appeal the guilty plea and you

1 must do so within 10 days?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Have you understood my
4 questions?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Is there anything you would
7 like to ask me about what we have been over?

8 THE DEFENDANT: No, sir.

9 THE COURT: And have your answers to me
10 been truthful?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. And just for the
13 record again so that there won't be any question
14 about it, I would ask you again, how do you wish
15 to plead to the charge of murder on June 8th of
16 2008, and burglary in the first degree on June 8th
17 2008, guilty or not guilty?

18 THE DEFENDANT: Guilty.

19 THE COURT: Mr. Meadors, give me the
20 factual background, please.

21 MR. MEADORS: If it pleases, Your Honor.

22 THE COURT: Yes, sir.

23 MR. MEADORS: Your Honor, if we go back to
24 June 8th of 2008, I believe the State could have
25 shown on that day that the victim in this case,

1 who is Ms. Mary Hunter, was 67 years old at the
2 time of her death, Judge. She was probably
3 quilting, Judge. We talked with her family.
4 There was an ironing board down in one of the
5 bedrooms downstairs. Iron wasn't out, but she had
6 been in the process of quilting. That's what she
7 did. This was a Sunday evening. I believe she
8 had gone to church that morning.

9 Judge, someone in this neighborhood had
10 described an individual meeting the Defendant's
11 description of going to various houses this day on
12 June 8th, trying to get work; asking for work.
13 That may or may not be how this came about here.
14 But we believe on June 8th, [REDACTED]
15 here in Sumter County, is when Ms. Hunter was
16 killed. Her body wasn't found until 4 days later,
17 is why I said that, with that background, Your
18 Honor.

19 Judge, between the 8th and the 12th,
20 family members, who I will introduce in a little
21 bit, weren't able to get in touch with Ms. Hunter.
22 They called Ed Wilson, who is a local reality,
23 Your Honor, knowing he had the house listed. They
24 asked Mr. Wilson to go in and see, just to see,
25 check what was up. Mr. Wilson went in, and he did

1 find the body of Ms. Mary Hunter in a downstairs
2 bedroom, Judge.

3 At that point, of course, it's now June
4 12th, Judge. Law enforcement was called. Truman
5 Duggin responds. Richburg here, Your Honor.
6 Investigator Richburg came to the scene and began
7 to process the scene, Judge. And just, I want to
8 tell, Your Honor, there was some items she -- was
9 found; Ms. Hunter at the bottom. She had a closed
10 head injury; trauma to her head. There was a
11 ceramic vase that was broken right near her head,
12 Judge.

13 There was blood upstairs on the carpet.
14 Her purse had been kind of gone thru, and some of
15 the items were taken out and they were in an
16 upstairs bedroom. There was a cup that was in the
17 kitchen that was gathered. There was also some
18 tissue with some blood on it in an upstairs
19 bathroom.

20 Judge, all of law enforcement gathers
21 these items. There is a swab of blood in the
22 kitchen floor from the carpet as I stated. From
23 the tissue found in the bathroom and trash can.
24 Swab from a piece of ceramic vase, Your Honor.
25 All that is gathered and taken back to the law

1 enforcement center. Truman Duggin does process
2 it. There is also, it's processed for
3 fingerprints, Your Honor. Which I will get back
4 to in a just a second. Your Honor, that went on
5 from about 10ish until about 5:30 that afternoon
6 on the 12th.

7 Judge, one thing that was immediately
8 apparent that missing also was Ms. Hunter's 2006
9 burgundy Camry. Just gone, Judge. So obviously
10 law enforcement put out a B.O.L.O. for that. On
11 that same day, Judge, at James Village Apartments,
12 [REDACTED] law enforcement I believe it was,
13 Deputy Elmore. Deputy Elmore who spotted what
14 appeared to be the burgundy Camry, Judge. He sat
15 on it if you will. At that time, Demetrius
16 Goodman and Theophilus Goodman who were associated
17 with the car, went into the apartment. Law
18 enforcement goes inside and is kind of doing the
19 investigation trying to figure out how this car is
20 tied to these individuals at this place.

21 At that time on June 12th, Jerod Ramsey
22 and Tervin Goodman come up to law enforcement.
23 And Mr. Goodman is inquiring why basically law
24 enforcement is asking about this car. Judge, it's
25 at this point in the investigation that the

1 Defendant Tervin Goodman was taken back down to
2 law enforcement; that he comes in contact with
3 Curtis Hodge, Your Honor, initially. Mr. Hodge's,
4 Investigator Hodge's testimony would have been as
5 he is out in front of the law enforcement center,
6 he's talking to Mr. Goodman and saying, you know,
7 you got your family involved in this. They were
8 in the car, and your brother. Ms. Hunter is dead.
9 She's dead. And at that point he says and
10 describes that the Defendant kind of dropped his
11 body and started crying, Your Honor. And he said
12 I am the one that got the car. They took him back
13 initially on the 12th, Your Honor.

14 And initially this first statement the
15 Defendant gives says he was upstairs. The woman
16 started yelling. I pushed her and she fell. Says
17 that she scratched him on his arm. But he
18 basically describes that he, he stopped by the
19 bathroom and grabbed some tissue and threw it in
20 the trash. Well that will become significant in a
21 minute when we get to DNA results on it, Your
22 Honor. Ran out of the house with keys and the
23 phone. And Ms. Hunter's phone.

24 So he admits initially on the 12th, to
25 going in and assaulting her, Your Honor. Pushing

1 her is what he says. He says that it was around
2 Sunday after 2 o'clock. But he also says that it
3 was an unknown black male that kind of suggested
4 to him at that point to go on in there.
5 Respectfully we don't think that's true. We think
6 that individual was made up, Your Honor. Went
7 into the house. Went to the side door. Went
8 inside and started looking for stuff. Lady
9 surprised and yelled. She had on clothes. Left
10 out the side door. Got in the car and left. Was
11 planning on stealing the car in the first place is
12 what he told Mr. Hodge.

13 Got the phone, and started using it. And
14 the phone tolls actually showed not on Mr.
15 Goodman, but several of his other friends and
16 family members were using Ms. Hunter's home phone.
17 That phone was ultimately turned in by his mother
18 to law enforcement, where it had been thrown away
19 and broken up. And law enforcement got that phone
20 back, Judge.

21 THE COURT: A cordless phone or cell
22 phone.

23 MR. MEADORS: Cell phone, I'm sorry. We
24 were able to tie that back to the victim. Judge,
25 he said he was going over to Curtiswood to hang

1 out with friends; gave his brother Demetrius the
2 car Sunday. He does say in here one thing, I
3 killed somebody so I am going to hell. I got a
4 tissue because I thought it would drip.

5 Judge, that's the initial statement he
6 gave Curtis Hodge. Actually good law enforcement.
7 They get that statement and they go out and they
8 start talking to the brothers and the relatives
9 that were in the car, Judge. As a result of that,
10 I think it's fair to say that all the friends and
11 family implicated the Defendant, to the respect
12 they put him in the car. He was clearly the one
13 that brought the car up. They were all in the
14 car, his brother, his other friends.

15 A fingerprint from Ms. Hodge when we
16 recovered the car basically had not only, well it
17 had, Mr. Goodman's friends, his brother, a broad
18 range, a lot of the folks that he was associated
19 with, their fingerprints were on the car. I don't
20 think they had anything to do with the murder.
21 And their charge is totally related to the car,
22 and the obstruction of the charge.

23 THE COURT: That's what I was going to ask
24 you. They have been charged with accessory after
25 all that. Either obstruction, or some other. And

1 Ms. Fant, I think, had made a deal with a lot of
2 it. They cooperated about those charges, and
3 that's for another day. Let me ask you one other.
4 It was a two story house? One story and a
5 basement, or what?

6 MR. MEADORS: Yes, sir, two story.

7 THE COURT: Two story.

8 MR. MEADORS: A couple of things that
9 would have been presented, and I want to present
10 them to the court. One of his friends, basically
11 there was a wedding. And some of the family
12 members of the Goodman's had come from Florida.
13 And those were the folks, some of them were in the
14 car with him riding around. They had no idea it
15 was the car of a lady who had been murdered,
16 Judge.

17 One particular individual who has prepared
18 to testify, said that during this time period,
19 Judge on August 8th to August 12th, it's that
20 four-day time period, we would have offered
21 different statements.

22 And again at this point Mr. Goodman
23 appears with some money. We think at least 4 or
24 \$5,000. He has offered to buy drugs. But don't
25 mean anything bad about this. I don't think he

1 had been in that type of -- didn't have that type
2 of money on a regular basis. Again, that would
3 have been evidence. One witness said he saw him
4 with money, one's, five's, 10's. And I am about
5 through, Judge.

6 THE COURT: That's all right, take your
7 time.

8 MR. MEADORS: One of these witnesses says
9 that Mr. Goodman was trying to talk to him. And
10 he said, I was like, what have you got to talk to
11 me about. And he said, you know, this. And he
12 used the term, he said, we're hood rich. And he
13 has described stealing the money from Ms. Hunter.
14 And that he had hit a lick. This individual was
15 asking him what was he talking about over and
16 over, and he said, man, you got to hear it face to
17 face.

18 He ends up coming and meeting with
19 Mr. Goodman. And sees Mr. Goodman flashing the
20 money. He says he got 1800. But again, we think
21 it was \$5,000. And then he said, Tervin will say
22 lightly, you ain't about to do what I -- about
23 what I did. Because he was saying where's another
24 lick we can do. And he said, I had to kill
25 somebody. And they didn't believe him, Judge. I

1 think his friends didn't believe him. And just,
2 oh, you are just talking. And he said, no, this
3 is real talk.

4 And he says he just ran in the house, and
5 got some money. Judge, several folks we were
6 prepared to go call that basically would have said
7 he confessed to doing a lick. I had to do a lick.
8 I had to do this. Just for the record, that would
9 have been the testimony.

10 THE COURT: So he made statements to
11 several people, but did not make a statement to
12 law enforcement admitting it.

13 MR. MEADORS: No, he's already started on
14 the 12th, saying he admitted to them, to law
15 enforcement.

16 THE COURT: Oh, okay.

17 THE COURT: Law enforcement then goes and
18 talks to these folks that have been in the car
19 with him, his brother, his cousins, some other
20 individuals. They say, yeah, he was here. He had
21 this car. He admitted basically to doing this.
22 And we really believed him to start with, that he
23 admitted to doing this. Law enforcement then
24 goes back to Irene Culick, Curtis Hodge, Your
25 Honor, on the 16th.

1 And again, both of these statements, this
2 statement is, Advise of Rights; as well as the
3 12th, Your Honor. The 16th was the Advise of
4 Rights. He was not in custody at the first
5 statement. He was in custody at this point, Your
6 Honor. He was given his Advise of Rights. And at
7 this point, Your Honor, he gives a written
8 statement where he admits to pushing Ms. Hunter.
9 And at this point, he adds in some of his other
10 friends saying they were there with him.

11 Well I think that's because they have now
12 rolled on him, your Honor. He adds them back
13 there. For the family's sake and everybody here,
14 I do think Mr. Goodman did this by himself. I
15 want the record and the family to know that. He
16 added some other folks at the end, but I think he
17 was doing that in retaliation for them telling on
18 him, just to be as straight as I can be.

19 But he did admit in the
20 June 16th statement, for the second time to law
21 enforcement, that he pushed her, and that he stole
22 the money, Your Honor. He said, I was, first I
23 got to the top. The old lady came around the
24 corner and surprised me. At that time, I threw
25 my hands up, and then pushed her. She fell to the

1 floor. Kept going toward the closet. I saw a
2 safe in the corner. Opened the safe. It didn't
3 have a lock on it. I saw a blue pouch. And when
4 I looked inside, I saw a lot the money. So I took
5 it and ran out.

6 Judge, he signed that. Curtis Hodge and
7 Irene Culick were a part of that statement. And
8 that would have been presented too. Judge, we
9 have all that. And then finally some of the
10 forensic starts coming back. And what we would
11 have presented is, that the swab from the kitchen
12 floor, the swab from the carpet upstairs, that
13 would have been Mary Hunter's blood.

14 The cutting from the tissue paper found in
15 the bathroom trash basket was Mary Hunter's blood.
16 And the swab's from the ceramic vase were Mary
17 Hunter's blood. So I think we could have argued,
18 Your Honor. I don't know exactly how it happened.
19 But he came in. He killed her with the vase. And
20 then started looking through the house. Blood had
21 spattered on him from Ms. Hunter. And that was
22 the blood that he had wiped off, left in the trash
23 can; which kind of corroborated his statement that
24 he had wiped something off. And her blood
25 upstairs. He may have stepped in it. And that

1 was the blood upstairs, Your Honor, where the
2 money was found, was from a shoe. So we think we
3 could have argued that.

4 Judge, as far as the fingerprints, the
5 fingerprints on the vase, and, Your Honor, that
6 fingerprint was from Tervin Goodman. Marie Hodge
7 found that fingerprint. In addition, Your Honor,
8 one of the items upstairs was a Penny's -- and,
9 Your Honor, for the record, there was fingerprints
10 on the murder weapon, Your Honor. With the blood
11 of the victim and the fingerprint of the
12 defendant, Tervin Goodman.

13 THE COURT: I can't see what's in that
14 box.

15 MR. MEADORS: I'm sorry. It's a piece of
16 the ceramic vase. I apologize. Judge, in
17 addition to that, one of the J.C. -- or the
18 Penny's credit cards fingerprint came back to
19 Tervin Goodman.

20 THE COURT: One of her credit cards was
21 taken.

22 MR. MEADORS: A credit card that was
23 rummaged through in her house; left on the bed.
24 We found his fingerprint on that credit card in
25 the upstairs bedroom, Judge. I beg the Court's

1 indulgence.

2 THE COURT: Yes, sir. And while you are
3 looking at that, Mr. Meadors, one other thing, not
4 that it really matters. But I am just curious the
5 original indictment for grand larceny was for the
6 automobile. But no indictment for the stolen
7 money.

8 MR. MEADORS: No, sir. I was a little
9 unclear about the grand larceny as I was getting
10 ready on that. Out of an abundance of caution,
11 when he was offered to plea, we thought to keep it
12 clear to the murder and burglary first, Judge.

13 THE COURT: Okay.

14 MR. MEADORS: Judge, Ms. Hunter's body
15 was taken to Dr. Ross who was obviously on
16 standby, and prepared to testify. During the
17 autopsy some of ceramic vase, which we were
18 prepared to present testimony was from the same
19 vase that was broken beside her. Was found in her
20 hair and in her head. And Dr. Ross was prepared
21 to present testimony to a reasonable degree of
22 medical certainty that the cause of death to Ms.
23 Hunter was a closed head injury. With a subdural
24 on the right side. Laceration and contusion of
25 the face. Pulmonary edema and congestion. But

1 the cause of death was a closed head injury, due
2 to blunt head trauma, as a result of the beating,
3 Judge. That would have been her testimony.

4 Judge, I have had the opportunity to try a
5 couple of Sumter County Sheriff's Departments
6 case, and I do want to say that this investigation
7 by the police department and the forensic and
8 the---

9 THE COURT: The Sheriff's Department.

10 Mr. MEADORS: The Police Department.

11 THE COURT: The Police Department.

12 MR. MEADORS: In this case, not only the
13 gathering of the forensic evidence and the
14 statements, these officers did was outstanding,
15 Judge. They did a great job on this. Judge, at
16 the appropriate time, there are some family
17 members that want to speak. I do believe at this
18 point, I want to thank you for your patience, I
19 didn't mean to be too long.

20 THE COURT: It's an important matter. You
21 didn't take too long at all.

22 MR. MEADORS: I believe that completes the
23 factual basis for the plea.

24 THE COURT: The Court finds that the
25 Defendant does understand the nature of the

1 charges against him; that he has been advised by
2 competent counsel with whom he says he is
3 satisfied.

4 The Court would further find that there is
5 a substantial factual basis for the plea as to
6 both the murder and the burglary first. As a
7 result of which, the Court is going to accept the
8 pleas as presented to the court based upon the
9 factual showing of the State as to what they can
10 prove if this matter were called for trial. And
11 the guilty pleas as to both murder and burglary
12 first degree are accepted.

13 At this time, Mr. Meadors, I would be glad
14 to hear from members of the victim's family and
15 those that would like to step forward and let me
16 talk to them for just a minute. And I will tell
17 members of the victim's family, and that under the
18 victim's rights amendment passed a number of years
19 ago, by the voters of this State in implementing
20 legislations, the law is that the members of the
21 victim's family have the right to be kept advised
22 of everything that is going on. I'm sure that the
23 Solicitor's office and the victim's advocate have
24 kept you advised of everything that is going on.

25 You also have the right to be present

1 anytime there is anything going on with this
2 matter in court. And you also have the right to
3 address the court. So if there are members of the
4 victim's family who would like to address the
5 court, I will be glad to hear from you.

6 MR. MEADORS: Thank you. We have got it
7 down to four. Judge, the thing I was looking for,
8 I just found. There was also a phone box that he
9 stole the phone out of. And we also got his print
10 off of that in the bedroom. That's what I was
11 looking for.

12 THE COURT: All right.

13 MR. MEADORS: Judge, all the family is
14 here. I think also we have some folks at St.
15 Mark's who might have been in the search here. Is
16 anybody here from St. Mark's? Your Honor, can
17 see the support there. As far as the family that
18 is here, I think members who want to speak. Your
19 Honor, this Charles Herger, the brother of the
20 victim in this case.

21 THE COURT: Yes, sir. Just give your name
22 to the Court Reporter and I will be glad to hear
23 from you, sir.

24 MR. HERGER: Judge, Your Honor, my name
25 Charles Herger. I'm the older brother of the

1 victim. And I just believe that with all my heart
2 that due to the violent nature of crime; that this
3 man should receive the maximum penalty under the
4 law. Whatever the law allows for the maximum
5 penalty, I think this man should receive it.

6 This was a violent crime that was a home
7 invasion to a helpless widow. And she, the way
8 she died, the way her home was invaded, the nature
9 of the crime, she was a fine christian mother,
10 christian lady. And I just firmly believe and ask
11 that you -- that he receive the maximum penalty,
12 Your Honor. Thank you.

13 THE COURT: Thank you, and thank you for
14 being here.

15 MR. MEADORS: Your Honor, next is Gail
16 Winzell, the daughter of the victim.

17 MS. WINZELL: This is the last thing on
18 God's green earth that I ever thought I would have
19 to do. This is the last thing I can do for mom.
20 I lost my confidant. The last person that will
21 ever love me unconditionally, my sounding board,
22 my mom. My children lost their only remaining
23 grandparent. My youngest still doesn't know what
24 happened. The whole story of what happened.
25 Because he has just turned 5 when it happened.

1 Now I am now tasked with shattering his
2 innocence by telling him what happened to his
3 grandmother that gave him the nickname of Sweet
4 William that still sticks to this day. The
5 Sumter Community has lost a volunteer at Tuomey
6 Hospital. A very active member of St. Mark's
7 United Methodist Church. A mall walker, a crochet
8 teacher, and someone willing to help anyone that
9 truly needs it. She had retired as a property
10 manager having worked for years with the Creech
11 family. She's kind, loving, gentle and has a
12 beautiful soul on the inside as she was on the
13 outside.

14 My understanding is that this is not the
15 person's first run-in; that he had only been out
16 of D.J.J. less than a year when this happened.
17 When you put this person away, he will be, the
18 community will be free of a murderer, a theft and
19 a general menace to society. My life and my
20 family's life won't change. But Sumter deserves
21 to be free from this menace as long as the law
22 would allow. Thank you.

23 THE COURT: Thank you. And thank you for
24 being here.

25 MR. MEADORS: Your Honor, this is Randy

1 Hunter, the victim's son.

2 MR. HUNTER: I just want to say that based
3 on what Mr. Meadors was saying about access to the
4 money, I don't think he put his hands on that
5 money, I think mama had to get it out and give it
6 to him. And for that, I think she wanted him to
7 consider her life, and not hurt her. There was a
8 little bit more money right there next to her. I
9 know, I found it. And my sister asked how come
10 she didn't just give that to him. And I said I
11 think she was buying her life. He didn't give her
12 that consideration. I don't think he should get
13 any consideration today. I think you should, and
14 I asking and pleading with you to sentence him to
15 the maximum. Thank you.

16 THE COURT: Thank you for being here.

17 MR. MEADORS: Your Honor, that money was
18 kind of hidden up there, and that was the major
19 point. I think she could have possibly could have
20 shown him that money. We don't know for him to
21 have access.

22 THE COURT: All right.

23 MR. MEADORS: Linda Fuquay. I hope I am
24 pronouncing that right, Your Honor. Also, she's
25 a---

1 MS. FUQUAY: Friend. Just about 8 or 9
2 months ago before this happened, her mother passed
3 away. And she's in her mid 90's. And I have no
4 doubt and she also has an aunt who is over 100
5 years old. And I have no doubt that she would
6 have lived well into her 90's and possibly longer.
7 And he cut her life that short. And it's been a
8 profound loss for me and my family as well. I
9 used to talk to her. I live about a days drive
10 from here. And I used to talk to her 3 or 4 times
11 a week on the phone for an hour. Sometimes two
12 hours.

13 That night before she -- before this
14 happened, I talked to her for about two and a half
15 hours because she had been to a family funeral
16 that had died. And I have lost countless phone
17 calls since then. Since then. I calculated and
18 so far, I missed 648 phone calls with her since
19 this happened. And you multiply that by three or
20 four times a week, during the course of 20, 25
21 more years.

22 It's a profound loss for us, for me.

23 THE COURT: Thank you, ma'am.

24 MR. MEADORS: Your Honor, if the court
25 will just briefly indulge me. Also in the

1 courtroom and I don't think they are going to
2 speak, but I told them I would recognize them.

3 THE COURT: Sure.

4 MR. MEADORS: Charlotte Fuquay, the
5 granddaughter. Natalie Fuquay, the granddaughter.
6 Beth Tollson great niece. Connie Wissenhurt,
7 niece. Evelyn Wissenhurt, sister. Gary Winzell,
8 son-in-law. Gene Herger, brother. Mavis Herger,
9 sister-in-law. Autumn Hunter, daughter-in-law.
10 And Kathy Hugerville, cousin.

11 Judge, there is some pictures here of
12 Ms. Hunter. I don't know if you want to see them
13 or not. We passed them up, but they are here.
14 Judge, I again, want to thank the Police
15 Department for an outstanding job. I know the
16 Solicitor does also. And on his behalf, we thank
17 him. We thank Solicitor Finney for being a part
18 of this and has helped with this case.

19 Judge, as far as a prior record, back in
20 2004, I think February, March 2004, as a juvenile,
21 he had a burglary second, 10 counts, and a
22 burglary first conviction. Which again was a kind
23 of a home invasion of an elderly individual in the
24 same neighborhood. The investigators here who did
25 the background on that. Obviously we wanted to

1 convey that to Your Honor.

2 THE COURT: What happened on that, Ms.
3 Culick? He was handled in Family Court, or just
4 through D.J.J.?

5 OFFICER CULICK: Yes, he was handled
6 through Family Court. He was sentenced to go to
7 D.J.J. He was released and was actually on parole
8 at the time that this offense occurred. He had
9 just recently gotten out of D.J.J.

10 THE COURT: Have you got the date of his
11 release? Do you have that by any chance? I mean,
12 it doesn't matter. He was on basically was on
13 D.J.J. parole.

14 OFFICER CULICK: Yes, he was. At the time
15 of this incident, this armed robbery and burglary,
16 was actually in the same neighborhood as
17 Ms. Hunter's. It was [REDACTED] The
18 victim in this case was a 63-year-old named
19 [REDACTED]. She stated that Tervin Goodman
20 came to the house, knocked on the door, asked for
21 somebody. She told him she didn't know who this
22 individual was.

23 At that time, he forced his way into her
24 home yelling and screaming profanities. You,
25 F'ing old bitch, give me your money. If you don't

1 give me your money, you F'ing old bitch, I am
2 going to hurt you. He had a large knife. She had
3 a 9-year-old grandson in the room at the time with
4 her. She gave him \$21. That's all she had. He
5 yelled you F'ing bitch, that's all you have got.
6 And asked for the car keys. She explained that
7 her husband had the keys. He asked if anyone else
8 was home at the time. The 9-year-old explained
9 that his brother was in the backyard. He told him
10 if you call the police, I will come back and kill
11 you. At that time he ran from the residence. And
12 that was in the victim's statement. This was from
13 February 9th 2004.

14 MR. MEADORS: And, Your Honor, those were
15 when he was a juvenile. They were burglary second
16 10 counts. And armed robbery convictions.

17 THE COURT: That was in February of 2004.
18 And his date of birth is February of 91?

19 MS. CULICK: He was 12 at the time.

20 THE COURT: So 12 or 13?

21 MS. CULICK: Yes, sir.

22 MR. MEADORS: Judge, again we wanted to
23 thank the family for their patience. Judge, she
24 was 67, he was 17. Ms. Culick, is there anything
25 you would like to add? Ms. Rabon, I'm sorry.

1 MS. RABON: Ms. Rabon. My name is Angela
2 Rabon. I just want to say that it's evident from
3 his juvenile history, and what he did to Ms.
4 Hunter, was evidently the same type of crime, the
5 same situation. I just really feel that the
6 maximum in this case would apply.

7 THE COURT: Let me ask the question, and I
8 will ask you, Ms. Rabon, because you are probably
9 more familiar with the area than Mr. Meadors is.
10 But the address that I have on the sentencing
11 sheet is [REDACTED]. I know where
12 Curtiswood Drive is.

13 MS. RABON: If you cross the tracks back
14 in that neighborhood, you cross the tracks, it
15 would be in that neighborhood of Burkette and
16 Curtiswood Drive where he resides.

17 THE COURT: That's what I was asking.
18 Distance is how far would you estimate?

19 MS. RABON: About a mile at the most.

20 THE COURT: Okay. Walking distance.

21 MS. RABON: That's right.

22 MR. MEADORS: Judge, and finally, and I
23 guess maybe it was intentionally, but it wasn't.
24 When they did a search warrant on his residence
25 at McCray's, Your Honor, there were about 9 or 10

1 pairs of shoes. Truett and I have looked through
2 them several times. Our investigator.

3 Judge, what is significant about them,
4 there was also a pairs of shoes in a trash can
5 right beside the house. And on those pair of
6 shoes there was a drop of blood that came back to
7 Ms. Hunter. When you look at the other shoes and
8 that shoe, we were prepared -- I'm a pronoun. All
9 the other shoes had the same wear pattern as the
10 shoes that were thrown in the trash can next to
11 his house. And on those shoes which we believe he
12 wore was the blood of Mary Hunter. Thank you.

13 THE COURT: Anything else from law
14 enforcement, Mr. Meadors?

15 MR. MEADORS: That's all.

16 THE COURT: Thank you to the officers as
17 well, and to the members of the family who are
18 here as well, and I will come back to you in just
19 a minute. Mr. Brooks, I will be glad to hear from
20 you.

21 MR. BROOKS: May it please the Court,
22 Judge, I have represented Tervin for quite a
23 while. I was court appointed to him on a juvenile
24 case, so I am familiar with the family dynamic.
25 Judge, he's basically been raised by a single

1 mother. I am not saying that to make excuses. I
2 am just letting you know what his situation was.
3 He's 20 now. And, I believe, he was about 17 when
4 this particular incident occurred. He was 12 when
5 the juvenile incident occurred. Tervin has really
6 not had any strong male role models in his life.
7 Judge, he's not making this as an excuse. It's
8 totally inexcusable.

9 And we would tell the court that that's
10 why Tervin, he did come forward. He did tell law
11 enforcement. Even though his story was changing
12 about whether or not a friend or his cousin---

13 THE COURT: After four days.

14 MR. BROOKS: Actually, Judge, he told his
15 family members, they just didn't believe him.
16 For whatever that's worth. And then when it came
17 time to deal with this case, I mean he had pretty
18 much bellied up. And I told him, you're just
19 going to have to deal with the consequences of
20 that. Judge, he is totally sorry about it. And
21 his mother stands by him. She has always stood by
22 him throughout this whole matter. Throughout the
23 juvenile matter.

24 As Mr. Meadors has indicated what went on
25 in terms of his family, he had a sister that was

1 living in Florida at the time. That's where a lot
2 of the family members and cousins and things come
3 up during that particular time. And he is
4 remorseful and sorry for Ms. Hunter's family.
5 He's also sorry for his family, because he got
6 them, you know, wrapped up in something that they
7 and Mr. Meadors said didn't have anything to do
8 with it. Didn't have any real involvement.

9 And, Judge, I know this is a terrible
10 case. Obviously coming into somebody's home is
11 something a lot of us cannot fathom. And I
12 explained to Tervin, you know, what he is facing.
13 I told him about the State's evidence, and giving
14 us discovery. I told him everything that, pretty
15 much everything that Mr. Meadors said, what they
16 had and what they were going to do. And, Judge,
17 be that as it may, we would just ask the court for
18 as much mercy and as much leniency, considering
19 that this young man has pretty much been
20 incarcerated almost half his life.

21 And obviously will spend a great deal more
22 time in prison. More years than he had been on
23 this earth. And we would just for as much mercy
24 and leniency as you can, even though this is a
25 terrible situation. And again, Tervin is sorry

1 for this, Judge.

2 THE COURT: I will be glad, is there
3 anything his mother would like to say? I will be
4 glad to hear from her. Anything you would like to
5 say, ma'am? Give me your name, and I will be glad
6 to hear from you.

7 MS. LEE: Patricia Lee.

8 THE COURT: Yes, ma'am.

9 MS. LEE: I just want to say that, tell
10 the family of Ms. Hunter that I am sorry what
11 happened. But at the end of the day, everything
12 will be all right. I am just praying for them,
13 and my brother. And my brother's family, sisters
14 and my family and Tervin.

15 THE COURT: Mr. Goodman, anything you like
16 to tell me?

17 THE DEFENDANT: No, sir.

18 THE COURT: Anything else, Mr. Brooks?

19 MR. BROOKS: Judge, he did indicate he
20 doesn't have a lot of words to say. So I just
21 don't want, Your Honor, to take it; to hold that
22 against him. The fact that he didn't have
23 anything to say to you just now. Because I mean,
24 it is what it is. And that's how our conversation
25 between him and myself went. So we are just

1 throwing ourselves on the mercy of the court. We
2 just ask for as much mercy and leniency as you can
3 give.

4 Thank you, judge.

5 THE COURT: Mr. Goodman, I was elected to
6 this job in February of 1996. And actually was
7 sworn in in March of 1996. So I have been at this
8 for over 15 years. I was told at the time that I
9 was elected, the most difficult thing that we
10 would have to do would be criminal sentencing.
11 The more than 15 years plus that I have been in
12 this position, I have learned that is the most
13 difficult thing that we have to do.

14 We judges have no crystal ball. We cannot
15 see the future. All we can do is make a decision
16 based upon the matter that is before us, and the
17 facts and the situation that is before us, the law
18 and our experience. That doesn't make it any
19 easier, but it is my duty to do what the law
20 requires me to do. Before I sentence you, I do
21 want to address the victim's family for just a
22 minute. There is nothing I can say or that we can
23 do here today that would ease your pain.

24 I do empathize with you, and I sorry for
25 your loss. I only hope that today's proceedings

1 will bring some closure to this matter and we will
2 be able to go forward. When deciding what to do
3 with a criminal defendant, I usually think of not
4 only the charges and the facts surrounding, but at
5 one there was some consideration in South Carolina
6 to have sentencing guidelines with aggravating and
7 mitigating factors. And sometimes I try to apply
8 those aggravating and mitigating factors in
9 determining what will be the appropriate sentence.

10 In this particular case, I find a lot of
11 aggravating factors and very few mitigating
12 factors. And aggravating factors being the
13 viciousness and brutality of this particular crime
14 against an older female who lived alone. That's
15 one of the aggravating factors. Another
16 aggravating factor is the home invasion. I think
17 everybody has the right to be safe in their homes.

18 And in particular concern to me is when
19 somebody's breaks into a house, and I consider
20 that a very serious crime in and of itself, even
21 if there had been no homicide in this case.
22 Another aggravating factor is prior record,
23 including the committing of the various same type
24 of crime that is involved here when you were 12
25 years old. Even though there was no homicide, I

1 don't think involved in that, It was still the
2 same type of crime.

3 Another aggravating fact is the fact that
4 you went to prison for that as a 12-year-old and
5 as a juvenile, and you came out on parole, and
6 were under basically D.J.J. parole, and committed
7 the same type of crime again. Another what I
8 would consider, aggravating factor, is that there
9 is very little, you have very little family
10 stability. And the only family member that is
11 here in your support apparently is your mother.

12 In one respect your age is a mitigating
13 factor, but not in this case because of your
14 juvenile record. In fact, there really are no
15 mitigating factors to what you have done, just
16 aggravating factors. As I say, I have been in
17 this job now for 15 years. And this is one of the
18 more heinous crimes that I have heard in the 15
19 years that I have been on the bench. And I do
20 think they you are just one of these people that
21 society is going to have to be protected from.
22 And I am going to do everything I can to protect
23 society. I am going to punish you for the crimes
24 that you have committed.

25 So with regard to murder conviction, the

1 Sentence of the Court is the Defendant is
2 committed to the State Department of Corrections
3 for a determinate term of life in prison. For the
4 burglary first, the Sentence of the Court is that
5 the Defendant is committed to the South Carolina
6 Department of Corrections for a determinate term
7 of life in prison; to run consecutive to the
8 murder charge. And Mr. Goodman, you are going to
9 serve the rest of your time in -- the rest of your
10 life in prison. But you have got no one to blame
11 for that but yourself. Good luck to you.

12 --End of Requested Transcript of Record--
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C-E-R-T-I-F-I-C-A-T-E

I, Margaret T. Sullivan, Court Reporter, for the Third Judicial Circuit of the State of South Carolina, do hereby Certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the Court of General Sessions on September 19, 2011, in Sumter County, Sumter, South Carolina.

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

8/26/12
DATE

Margaret T. Sullivan

COURT REPORTER

My Commission expires: 9/7/21

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF SUMTER) 2009-GS-43-1120

The State,	)	
	)	
Plaintiff,	)	Transcript of Record
	)	
vs.	)	October 5, 2017
	)	
Tervin Goodman,	)	
	)	
Defendant.	)	

B E F O R E:

Honorable William H. Seals, Jr.
 Florence County Courthouse
 Florence, South Carolina

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

Ernest Finney, III, Esquire
 Lisa Beharry, Esquire
 Attorneys for Plaintiff

Timothy Murphy, Esquire
 Attorney for Defendant

Grace L. Hurley, CVR-CM-M
 Circuit Court Reporter

State v. Goodman

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I N D E X

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Jim Manning

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Direct by Mr. Murphy.

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Cross by Mr. Finney

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Redirect by Mr. Murphy.

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Irene Culsek

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Direct by Mr. Finney.

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Cross by Mr. Murphy

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Gayle Wenzel

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Direct by Mr. Finney.

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Joseph Horger

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Direct by Mr. Finney.

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Charles Horger

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Direct by Mr. Finney.

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Closing Remarks by Counsel.

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Ruling by Court and Sentencing.

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Certificate

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18

E X H I B I T S

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S-1 File

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S-2 Statement by Defendant

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1 (On the record, October 5, 2017.)

2 THE COURT: Solicitor, if you'll call the case.

3 MR. FINNEY: May it please the Court, Your Honor.

4 THE COURT: Yes, sir.

5 MR. FINNEY: This is State of South Carolina versus
6 Tervin Goodman, a Sumter County General Sessions matter on the
7 docket, number 2009-GS-43-1120. It's a true-billed indictment
8 charging the Defendant, Mr. Goodman, count one with murder and
9 count two burglary in the first degree. Count three of the
10 original indictment was for grand larceny. As a result of the
11 plea, Mr. -- that case was nolle prossed against Mr. Goodman.

12 We're here this morning on a petition by the Defendant
13 for an Aiken versus Byars hearing on count one, which is the
14 murder charge, and also, Your Honor, the court has directed us
15 to resentence on the burglary charge because the life sentence
16 that was given was an illegal sentence at the time.

17 THE COURT: All right. Thank you very much, and Mr.
18 Murphy, anything you want to put on the record before we go
19 forward?

20 MR. MURPHY: No, Your Honor. We're, we're prepared to
21 proceed.

22 THE COURT: All right. If you want to go ahead and call
23 your first witness.

24 MR. MURPHY: Yes, Your Honor. The Defense calls Mr. Jim
25 Manning.

Jim Manning - Direct by Mr. Murphy

4

1 Whereupon, Jim Manning was called to the stand, duly
2 sworn by the clerk and testified as follows:

3 THE CLERK: You may be seated in the witness box and
4 please state your name for the record.

5 MR. MANNING: My name is Jim Manning.

6 THE COURT: Would you be so kind as to spell your last
7 name for the court reporter?

8 MR. MANNING: Absolutely. M-A-N-N-I-N-G.

9 THE COURT: Thank you.

10 DIRECT EXAMINATION

11 BY MR. MURPHY:

12 Q Mr. Manning, why don't you tell us a little bit about
13 yourself. What is it that you do and where you're from?

14 A Yes, sir. I'm a social worker. I received my master's
15 in social work from West Virginia University in 1979. I've
16 had a career that's spanned nearly 40 years now. I've worked
17 in -- with the Department of Social Services, Department of
18 Mental Health, South Carolina Department of Disabilities and
19 Special Needs and then a non-profit Palmetto AIDS Life Support
20 Services.

21 Q Are you -- do you have any certifications or licenses?

22 A Yes, sir. I'm a licensed independent social worker for
23 clinical and advanced practices here in South Carolina,
24 license number 133. I'm also a part of the Academy of
25 Certified Social Workers through the National Association of

1 Social Workers, the professional association, and I have a
2 diplomate in clinical social work.

3 Q You belong to any professional organizations or have any
4 professional affiliations?

5 A Yes, sir. I'm a member of the National Association of
6 Social Workers.

7 Q And do you, do you hold any special -- during your time
8 in that organization, have you held any leadership positions?

9 A Yes, sir. I've served as the president of the South
10 Carolina chapter and chaired a number of committees within the
11 professional association at the South Carolina chapter.

12 Q Now, in your capacity as a social worker in these various
13 positions, have you had occasion to evaluate individuals and
14 could you inform the Court basically what, what type of
15 practical and, and clinical work you've done?

16 A Yes, sir. Throughout that I've had opportunities to do
17 family histories, social histories. I did work part-time for
18 a period of time at a private counseling center at which I did
19 evaluations, including the DSM III and IV and revised IV.

20 Q Have you had any experience with children and child
21 development issues, areas like that?

22 A Yes, sir. I'd worked in child protective services for
23 four or five years and that was strictly with children.

24 MR. MURPHY: Your Honor, at this point we would offer Mr.
25 Manning as an expert witness in social history and child

Jim Manning - Direct by Mr. Murphy

6

1 development.

2 THE COURT: All right. Any objections from the State?

3 MR. FINNEY: None.

4 THE COURT: All right. Your motion is granted.

5 BY MR. MURPHY:

6 Q Mr. Manning, are you familiar with the case that we're
7 here for today involving Mr. Goodman?

8 A Yes, sir.

9 Q All right. And have you had an opportunity to review
10 both -- I mean, various records involved in this case to
11 include the circumstances surrounding the murder that had
12 occurred earlier as well as other records involving Mr.
13 Goodman?

14 A Yes, sir.

15 Q Briefly, could you describe who, who -- you know, the
16 extent of the, of the records and other actions you've taken
17 to prepare yourself to discuss this case?

18 A Yes, sir. I've met with Mr. Goodman twice. I've met in
19 person with his mother, with his older half-sister, two of his
20 half-brothers, maternal grandmother, two maternal uncles.
21 I've additionally had telephone interviews with his eldest
22 half-sister and his cousin, Eric. Additionally, I've reviewed
23 the records from the Sumter Public Schools, South Carolina
24 Department of Youth Services, Sumter Lee Detention Center and
25 the South Carolina Department of Corrections.

1 Q And those youth services records would have included his
2 records when he was at DJJ?

3 A Yes, sir.

4 Q And the -- you're, you're also familiar with his records
5 since he's been in SCDC?

6 A Yes, sir.

7 Q All right. And you're familiar with the facts and
8 circumstances surrounding the actual murder that he committed?

9 A Yes, sir.

10 Q What I want to do now, Mr. Manning, is discuss various
11 aspects that, you know, what we need to go through, and I
12 guess what I'd begin with is could you describe for the Court
13 in regard -- specifically with regard to Mr. Goodman. He was
14 17 years old when this incident occurred; correct?

15 A Yes, sir.

16 Q And, and is chronological age and maturity constitute the
17 same thing, and, and for a clinician like yourself if there is
18 a difference, what -- could you help explain that difference?

19 A Yes, sir. Sometimes chronological age and a maturity age
20 can differ based on factors to include upbringing and a
21 person's intellectual quotient, their IQ, and those, those are
22 the two main things that -- there's also issues of birth
23 orders, male adolescents and female adolescents, gender
24 differences that can have maturity or immaturity level that
25 can vary a little differently than the chronological age.

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1 Q Now, in evaluating an individual's level of maturity, are
2 there evaluations, formalized evaluations that are -- can --
3 that, that can be conducted, various tests and things like
4 that that are involved when an individual's assessed?

5 A Yes, sir. There are, and those are a matter of record
6 from when Mr. Goodwin [sic] was in Department of Juvenile
7 Justice.

8 Q And those include -- and he, he was first entered into
9 the Department of Juvenile Justice about 2004; is that
10 correct?

11 A That's correct.

12 Q Is that your recollection? And that was based on a
13 series of home break-ins that occurred while he was a
14 juvenile; correct?

15 A That's correct.

16 Q All right. Have you had the opportunity to review these
17 records?

18 A Yes, sir.

19 Q All right. And at the time of these evaluations do you
20 recall how old he was?

21 A He was at the age of 14.

22 Q Okay. Some of these tests would you -- are -- involve
23 the -- let's talk -- what I'll do is I'll mention a test and
24 you can describe kind of what the test evaluates.

25 A Yes, sir.

1 Q And the Wechsler Abbreviated Scale of Intelligence Test,
2 The WASI, W-A-S-I, that was given to Mr. Goodman?

3 A Yes, sir. The Wechsler Abbreviated Scale Intelligence
4 Test, this is pretty standard and basic IQ test. It was
5 administered. The results of that indicated a verbal IQ of
6 83, which is in the low average range. His performance IQ was
7 at 104, within the average range. His full scale IQ was 92,
8 which is in the average range, but on the lower side of the
9 average range.

10 Q All right. What about the California Achievement Test,
11 what does that test and what were the results for Mr. Goodman?

12 A Yes, sir. That, that test is more to look at grade
13 levels, school functioning and his reading and math scores
14 were a tad below the grade level, showed that he was slightly
15 delayed for his age for those.

16 Q Now, is that -- you also had an opportunity to review his
17 school records from Sumter School District. Is that pretty
18 much consistent with what his academic achievement was prior
19 to taking this test?

20 A Yes, sir. Very consistent.

21 Q And then there's the Beery-Buktenica Development Test of
22 the Visual-Motor Integration or the VMI.

23 A Yes, sir. That's commonly referred to as the VMI for the
24 Visual-Motor Integration. This tends to be a more
25 development, looking at developmental adjustment, and he had a

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1 low average range in that, that test.

2 Q All right. The --

3 A Which was consistent with the other ones.

4 Q All right. And then the Minnesota Multiphasic
5 Personality Inventory-Adolescent or the MMPI-A.

6 A Yes, sir.

7 Q What does that test?

8 A As by its name mutipolistic. It's a personality
9 inventory. It's really quite comprehensive. They do have one
10 that is specific for adolescents, which is the one that was
11 administered. It indicated some difficulties, such as conduct
12 disorder, which is also documented within his DJJ record.

13 Q Okay. And when you talk about conduct disorder, what,
14 what, what specific indicia were there in Mr. Goodman's case
15 that would be reflected in -- through this test and, and
16 result in this conclusion?

17 A Yes, sir. For that to be referenced as an indicator in
18 the diagnostic statistical manual, the DSM, one has to have a
19 minimum of three characteristics out of approximately 15
20 possibilities. The ones that the person who administered the
21 test they did not indicate anywhere which of those three
22 minimum. My review of it would be the areas of burglary,
23 breaking and entering, breaking and entering in a malicious
24 attempt and also having difficulty dealing with law or law and
25 order institutions.

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1 Q All right. Then the next one he took was the Substance
2 Abuse Screening Inventory Adolescent Test?

3 A Yes, sir.

4 Q And what does that test and what were the results for Mr.
5 Goodman?

6 A It was indicative that there was some drug and alcohol
7 use.

8 Q Okay. Is that consistent with the background interviews
9 you conducted that -- and, and including your interviews of
10 Mr. Goodman?

11 A Yes, sir.

12 Q Okay. What kind of drug abuse -- how, how was drug use?
13 Was that -- was it an -- you know, is it something he -- that,
14 that he did over time or was it recent or, or how extensive
15 was that from, from your assessment?

16 A That's really difficult to tell because the records and
17 the documentation are not very clear on that, but it was over
18 time.

19 Q Okay. And then the last ones, the Jesness Inventory-
20 Revised or the JI-R. What does that demonstrate?

21 A That's a personality and psychotherapy for children and
22 adolescents. It's a self-reporting administered test, and it
23 indicated a general tendency to resolve social and personal
24 issues that can disregard societal rules and expectations,
25 which lends itself paralleling into what we talked about

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1 earlier with the conduct disorder.

2 Q Now, again, these tests were administered when he entered

3 DJJ --

4 A Yes, sir.

5 Q -- when he was 14 years old. Were any subsequent tests

6 similar to this or identical to this ever administered after

7 that?

8 A I'm not aware of any.

9 Q All right. So there's nothing in the record that would
10 indicate he was evaluated later?

11 A No, sir.

12 Q But you've had -- you have had the opportunity to review
13 all of the DJJ records that occurred?

14 A Yes, sir.

15 Q Okay. What is your evaluation generally speaking about
16 his progress in DJJ over this period of time, and he was in
17 DJJ for approximately three years; correct?

18 A That's correct.

19 Q All right. What, what's your -- what, what are some of
20 the significant things that you find?

21 A Right. Right. Some of the significant things that I find
22 in reviewing that record is that there was quite a deal of
23 adjustment kind of issues to being in that placement, and as a
24 result of that he had an interest in being in JROTC but was
25 not able to do so. The professionals there wanted him to be

1 involved in multidisciplinary treatment team. He resisted
2 that a bit at the beginning, but then he started to involve
3 himself in that treatment team. As a result of the progress
4 made there, they did allow him to enroll into the JROTC
5 program, which he stayed enrolled and was able to maintain the
6 type of behavior to remain in that program. Also during this
7 time in DJJ he was able to complete the GED.

8 Q So over the course of this three years would you -- is it
9 fair to say his adaptability actually improved over time?

10 A Yes, sir. The record appears to show that.

11 Q You had an opportunity to interview a number of family
12 members; correct?

13 A Yes, sir.

14 Q Could you describe generally speaking in regard to Mr.
15 Goodman what, what are some of the dynamics that you found
16 significant concerning his family background?

17 A There were a number of things that, that I find
18 significant. Had a pretty stable life up until he was
19 starting school. He was living in Florida at the time and had
20 a couple of uncles that were involved, very positive male role
21 models. When he moved to South Carolina and began school, his
22 mother's circumstances were such that for work and housing
23 moved pretty often. Pretty much each year Mr. Goodman was in
24 a different school, and so that's a, a very difficult kind of
25 way to go through particularly elementary school education.

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1 Brothers were having some influences that weren't always
2 positive. His sisters, his older sisters moved to Florida to
3 be with grandmother, and I think that changed some of the
4 family dynamics in terms of his life. Then he ended up in DJJ
5 the first time, and we've talked about his time there. When
6 he came out of DJJ he moved to Florida, lived with an older
7 sister there for about six months, and during that time did
8 well. He had already had his GED, was working at a McDonald's
9 and then there was an incident with his cousin, Eric, in which
10 his sister had sent the two of them on an errand, and Eric,
11 the cousin, had a driver's license. Mr. Goodman didn't. On
12 the way back these two youths had the idea that they would let
13 Mr. Goodman drive and was pulled over with a traffic violation
14 and that had him returned to Sumter, back to South Carolina as
15 a result of that, and then started getting in trouble into the
16 incident that's placed us in the point where we are now.

17 Q Is there a -- so, so is it fair to say when he was in
18 Florida with his sisters they were positive influences and his
19 uncles and he seemed to do okay there?

20 A Yes, sir. That, that period of time from interviews, and
21 there are no police reports or anything, and he was working,
22 all indications are and that his two uncles that live in that
23 area were involved in his life and, and were good, strong
24 significant role models.

25 Q At least at this time is it your assessment that Mr.

1 Goodman is more of a follower type or a leader type?

2 A He's always been seen as a follower type.

3 Q And that's the observations of all the family members?

4 A That's, that's observations of all the family and really
5 pretty much the records.

6 Q Anything significant in the disciplinary record that,
7 that substantiates that, some of the incidents?

8 A Yeah. There's some things. The, the record indicates
9 that there was a fight in which he had a write-up for, but he
10 was just observing that. The, the things in the, the record
11 are generally not with him taking a lead in any way of the
12 incidents that are write-ups.

13 Q Now, Mr. -- you, you, you've read the criminal record
14 here. There, there's -- part of the criminal investigative
15 process Mr. Goodman made a statement to the police; correct?

16 A Yes, sir.

17 Q And he lied?

18 A Yes, sir.

19 Q About his involvement in this?

20 A Yes, sir.

21 Q And he tried to shift blame actually to his brothers;
22 correct?

23 A Yes, sir.

24 Q Okay. Based on your assessment of his maturity level,
25 his track record, does that demonstrate deviousness? Does

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1 that demonstrate -- what, what -- based on -- what, what's
2 your observation of, of that?

3 A Right. Would have no indication that that was a well-
4 thought-out and planned approach to try to avoid
5 responsibility for what he had done.

6 Q And again, we've already talked about his maturity level.
7 Is it fair to say he's -- thinks in the moment?

8 A Yes.

9 Q He was the kind of guy that thought in the moment, he
10 didn't -- doesn't think about long-term consequences of his
11 conduct?

12 A That's the indication through records and interviews.

13 Q Now, on paper, admittedly, obviously, we're here for
14 probably the most serious crime a person can commit.

15 A Yes, sir.

16 Q His juvenile record consists of breaking into homes.
17 There's, there's one armed robbery. There's some incidents in
18 his prison record. There's one -- at least one incident of a,
19 you know, possessing a weapon. Okay. Is that -- in your
20 assessment, does that impact your assessment in regard to
21 whether or not you view him as a violent risk in the future
22 or, or what's your assessment based on this, the record, and
23 how do you view that in the, in the context of an, of an
24 overall consideration of his rehabilitation potential?

25 A Yes, sir. In terms of the overall rehabilitation

1 potential, as I look at the progress that was made at DJJ from
2 where he began and that the treatment team would not let him
3 enroll in JROTC, and that with the work that he had done there
4 allowed him to get into that program and achieve his GED.
5 With regard to the incidents in -- while he's been in the
6 corrections, as you say there are incidents, the records, I
7 believe, indicate that the, the, the weapons that you
8 mentioned, that was in a shakedown and so it's in a two-person
9 cell and nobody admitted to whose it was. So it wasn't
10 actually on his possession, but yes, the, the incidents there
11 are not of a high and aggravated assault of other people or
12 that kind of thing if that's what you're making reference to.
13 Q So it'd be your assessment that over -- in a structured
14 environment over time he could be released to society?

15 A Yes, sir.

16 Q Thank you. I have no further questions.

17 THE COURT: All right.

18 MR. FINNEY: May it please the Court, Your Honor?

19 THE COURT: Sure.

20 CROSS EXAMINATION

21 BY MR. FINNEY:

22 Q Good morning, Mr. Manning.

23 A Good morning.

24 Q My name is Chip Finney.

25 A Yes, sir.

Jim Manning - Cross by Mr. Finney

18

1 Q Mr. Manning, did you have an opportunity to review the
2 confidential South Carolina Department of Juvenile Justice
3 Upstate Evaluation Center Report on Mr. Goodman that was dated
4 4-28-04?

5 A Yes, sir.

6 Q All right. The reason I ask you about that is because
7 you talked a little bit about an incident just now as terms of
8 the rehabilitation that Mr. Murphy asked you about, about him
9 having been maybe charged with being in a room with a knife or
10 some kind of weapon that was against the rules.

11 A Yes, sir.

12 Q But while he was at the upstate center there was also a
13 write-up of his having negative behavior on three separate
14 times.

15 A Yes, sir.

16 Q Specifically that he was in lockup for assault and
17 battery of a peer in April of 2004 shortly after he got sent
18 to the DJJ center.

19 A Yes, sir.

20 Q And it reports, I believe it does report that he has
21 trouble with his conduct, behavior.

22 A Yes, sir.

23 Q Is that correct?

24 A Yes, sir.

25 Q All right. Now, Mr. Murphy started out asking you about

1 Mr. Goodman's background. There were never any mental health
2 defects noted in any of the records you reviewed; is that
3 correct?

4 A That's correct.

5 Q And there was never any medication prescribed for this
6 young man for any kind of an attention problem or conduct
7 problem.

8 A That's correct. He had those two diagnoses but no
9 medication prescribed.

10 Q All right. And he -- if, if I'm understanding this
11 report correctly his mother, Mrs. Lee, was a teacher in the
12 public school system in Sumter County; is that correct?

13 A That's what the report says. Yes, sir.

14 Q And did you speak to her?

15 A I did.

16 Q All right. And did she impress you as being a mother who
17 was in charge of the family and able to assist in the
18 development of her children in, in raising the children?

19 She wasn't an absent from the home type of person; was she?

20 A No, sir. She was not absent.

21 Q All right. And there was also a stepfather living in the
22 home after this young man came back from Florida and was in
23 the Sumter area?

24 A Yes, sir.

25 Q And the father, the stepfather, I'm sorry, also worked

Jim Manning - Cross by Mr. Finney

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1 at the, at the -- had a full-time position at the Sumter
2 -- it says District 17 Career Center where he was a
3 brick masonry teacher. He also was a teacher?

4 A Yes, sir. He was employed as well.

5 Q All right. And neither of the parents had any legal
6 history or any problems with society so to speak?

7 A Not that I'm aware of.

8 Q All right. In fact, there were also some older
9 brothers or stepbrothers, half-brothers, that lived in the
10 home in Sumter along with Mr. Goodman?

11 A Yes, sir.

12 Q To your knowledge, did they ever have any problems with
13 the law?

14 A Yes, sir.

15 Q They did?

16 A Yes, sir.

17 Q And were they able to resolve it or did they continue to
18 escalate into other problems with the law?

19 A They're now gainfully employed.

20 Q All right. So they had some juvenile issues but they
21 resolved themselves?

22 A Yes, sir.

23 Q All right. Now, let me talk to you just a minute about
24 Mr. Goodman's conduct at the age of 13 or 14 when he began
25 breaking in. Is it true from your review of the records that

1 he started out with a level of breaking into cars and things
2 like that and then graduated to breaking into homes?

3 A I do not recall the breaking into cars.

4 Q And the breaking into homes it was a pretty significant
5 record. Would you agree?

6 A Yes.

7 Q That there were ten or 11 charges of breaking into homes?

8 A Yes, sir.

9 Q Was he associated with other people with those charges or
10 was he doing this mostly by himself?

11 A He had some peer influences that were not good, but by
12 and large his actions, at least according to the records, were
13 by himself.

14 Q All right. And in fact the last charge that he was faced
15 with before he was committed to DJJ was the armed robbery and
16 burglary first degree of a lady in Sumter where he actually
17 pulled a knife on her after forcing the door open and demanded
18 money?

19 A Yes, sir.

20 Q All right. And did he give a statement to your knowledge
21 about that incident to the Sumter officials?

22 A I don't recall.

23 Q All right. As of that armed robbery and burglary, he was
24 then committed to DJJ?

25 A Yes, sir.

Jim Manning - Cross by Mr. Finney

22

1 Q And I believe the record reflects that he was in DJJ for
2 about three years.

3 A That's correct.

4 Q All right. And during that structured environment you
5 say progress was made, he was able to complete his GED.

6 A Yes, sir.

7 Q And he was able to get into the ROTC program.

8 A And remain in the program throughout the remainder of his
9 time there. Yes, sir.

10 Q At the time that he was discharged from DJJ, he was put
11 back in the community on a parole status.

12 A Yes, sir.

13 Q Do you know whether or not he was still on parole at the
14 time that -- of this murder in Sumter County?

15 A I believe he was.

16 Q He still was on parole. Do you believe that there were
17 reports issued, and maybe you can tell the Judge what in your
18 mind -- what did DJJ say to the people who were monitoring Mr.
19 Goodman about what they, they should expect from him and what
20 they should look for in order to keep him on the, on the
21 straight and narrow path when he got out of DJJ?

22 A You know, I'm not sure what the people from DJJ
23 communicated directly to the family. I know there was -- if I
24 recall correctly there was curfew information and to not get
25 in trouble with the law anymore.

1 Q And do you believe that -- do you know what Mr. Goodman
2 and his family tell you about his behavior during the ten
3 months that he was in the community?

4 A Yes, sir. For the first part of that time was when he
5 was in Florida with his older sister, and then when he came
6 back to South Carolina he did work part-time at a McDonald's
7 there and I'm sorry. Your question again, please, with regard
8 to that?

9 Q Well, I'm asking what did you find out for the Judge's
10 benefit --

11 A Oh, okay. Yeah.

12 Q -- during this 10 or 12 months that he was in the
13 community --

14 A Okay. Yes, sir.

15 Q -- before he committed the murder?

16 A Yes, sir. So the first part of that approximately six
17 months was a very stable existence in Florida until he had the
18 traffic incident without his license, and then when he came
19 back up to Sumter his brothers were still in the home. They
20 were involved in some activities as they reported to me that
21 they didn't feel like he should be around and tried to
22 discourage him from hanging around them as being negative
23 peer, albeit family, but not a good experience, well, just not
24 people that he ought to be hanging with and he -- Mr.
25 Goodman's made reference to some of the home boys that he hung

Jim Manning - Cross by Mr. Finney

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1 with that were not good influence, not talked with them.

2 There's not anything in the, the court reports or records to
3 indicate who they were or what they were.

4 Q Is it also during this time that he started experimenting
5 with marijuana and alcohol?

6 A He had had some history of that previously, but yes,
7 there, there was at least, for sure, marijuana use during this
8 time.

9 Q All right. And --

10 A In, in, in, in the South Carolina area. There's no
11 indication of that in the first part of that time when he was
12 in Florida.

13 Q And once the June 2008 murder occurred Mr. Goodman was
14 sought as a suspect, he was arrested, did you talk to him
15 about the details of that matter?

16 A Yes, sir.

17 Q All right. And you -- I think Mr. Murphy mentioned to
18 you that at first when he talked to law enforcement he did not
19 tell the whole truth, he, he hid his involvement, blamed it on
20 other people?

21 A That is correct.

22 Q And it was after law enforcement found details, it was
23 after law enforcement, in fact, talked to these family members
24 that the, the, the real story then came out.

25 A That's correct.

1 Q All right. And to, to your knowledge was anybody else in
2 the family ever convicted of any participation in this crime
3 except Mr. Goodman?

4 A Not directly in this crime.

5 Q All right. You are aware that Mr. Goodman has been in
6 prison now for quite some time?

7 A Yes, sir.

8 Q I think about seven years.

9 A Yes, sir.

10 Q And you've reviewed the fact that he has had disciplinary
11 issues with the prison system on a number of occasions?

12 A Yes, sir.

13 Q Throughout the, the years that he's been there?

14 A Yes, sir.

15 Q Does, does that include substance abuse?

16 A Yes, sir. There was a positive test over a year ago for
17 THC.

18 Q Does it also include violation of the prison rules?

19 A Yes, sir.

20 Q Does it also involve possession of contraband?

21 A Yes, sir.

22 Q On more than one occasion?

23 A Yes, sir.

24 Q Does it also involve possession of a weapon on one
25 occasion or, excuse me, on two occasions?

Jim Manning - Cross by Mr. Finney

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1 A Yes, sir. There were two occasions where there was a
2 shakedown and in the cell. He and his roommate it was found
3 in there.

4 Q All right, sir.

5 A And neither of which admitted that it was theirs.

6 Q All right, sir. And this is while he's been -- is he
7 located in a high security prison?

8 A Yes, sir.

9 Q All right, sir. And just for the record, the South
10 Carolina Department of Corrections' report goes up to it looks
11 like the last incident that may have been listed as a
12 disciplinary was in August of 2016, roughly a year ago?

13 A Yes, sir.

14 Q I know you've already testified to this, but none of the
15 sources of information that you used to, to get your
16 background report on Mr. Goodman involved intelligence testing
17 or other MMPI, Wechsler, all of these showed Mr. Goodman to be
18 functioning in the average or low average range -- area?

19 A That's correct.

20 Q And his full scale IQ is 92?

21 A That's correct.

22 Q All right.

23 MR. FINNEY: Beg the Court's indulgence.

24 I don't have anything further. Thank you, Your Honor.

25 THE COURT: All right. Any redirect?

1 MR. MURPHY: Just a couple, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. MURPHY:

4 Q In response to the incidents that occurred when he was a
5 juvenile --

6 A Yes, sir.

7 Q -- did Mr. Goodman in the records indicate any remorse
8 or, or responsibility for that in the course of the
9 interactions he had with the professionals there?

10 A Yes, sir. I believe that's demonstrated by his becoming
11 more involved and participating in the treatment team which
12 then led to his being allowed to be enrolled in the JROTC.

13 Q And in fact, in one of the incidents, in one of these
14 examinations he talked about sending flowers to the victim of
15 one of the -- of the armed robbery to express his sorrow;
16 correct?

17 A Oh, yes, sir. I'm sorry. I thought you were just
18 meaning with reference to incidents that he had in the DJJ,
19 but yes, sir. That's correct.

20 Q What, what kind of maturity does that demonstrate to you
21 that, that an individual who's robbed somebody would send the
22 victim flowers? What -- I mean, can you comment on that?

23 A Yeah. Not a great deal of maturity and comprehensive
24 understanding of what really happened.

25 Q And it's the understanding of a 13 year old; correct?

Irene Culsek - Direct by Mr. Finney

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1 A Yes.

2 Q All right. I have no further questions. Thank you.

3 THE COURT: All right. Any re-cross, Solicitor?

4 MR. FINNEY: No, Your Honor.

5 THE COURT: All right. You may step down. Thank you.

6 A Thank you, sir.

7 THE COURT: Appreciate you coming.

8 A Yes, sir.

9 THE COURT: All right. If you'll call your next witness.

10 MR. MURPHY: Your Honor, I have no more witnesses. As we
11 discussed in chambers, my client would like to make a
12 statement at the end of the proceeding.

13 THE COURT: That'll be fine. All right. I recognize the
14 State.

15 MR. FINNEY: Thank you, Your Honor. Like to call Irene
16 Culsek to the stand.

17 WHEREUPON, Irene Culsek is called to the stand, duly
18 sworn by the clerk and testified as follows:

19 THE CLERK: You may be seated and state your name for the
20 record.

21 MS. CULSEK: Thank you. It's Irene Culsek, C-U-L-S-E-K.

22 DIRECT EXAMINATION

23 BY MR. FINNEY:

24 Q Good morning.

25 A Good morning.

1 Q Ms. Culsek, tell the Judge what, what you do for a
2 living.

3 A I am a sergeant with the Sumter Police Department.

4 Q How long have you been employed in law enforcement?

5 A For 19 years.

6 Q All right. And did you have occasion to work a case
7 regarding the death of Ms. Mary Hunter in 2008 in Sumter
8 County?

9 A Yes, sir. I did.

10 Q All right. Can you tell us a little bit about what you
11 were doing back in 2008 with law enforcement?

12 A Back in 2008 I was a detective assigned to the violent
13 crimes division where I worked cases such as murder, any type
14 of assaults to a person, things like that.

15 Q All right. Would you tell the Judge just a little bit of
16 background of how you got involved in the case involving the
17 death of Ms. Hunter? It was June 2008, I believe?

18 A Yes, Your Honor. It was. I mean, yes, sir. It was. On
19 June the 12th, 2008, law enforcement was called to the
20 residence of Ms. Mary Hunter, which is [REDACTED]. We
21 were called there by a realtor. He stated that he got a call
22 from the victim's daughter, who is here today in the
23 courtroom. She was concerned about her mother, wasn't able to
24 reach her by phone. They normally talk constantly and she
25 just hadn't been able to reach her, and when family members

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1 had gone by they said, "Well, her car's not there. So she
2 must be gone at this time." So he went over because he had
3 keys to the residence, went inside, and he found Ms. Hunter in
4 a downstairs bedroom where she had been murdered. He backed
5 out of the house and called for law enforcement and that's how
6 we got involved to start with and --

7 Q All right.

8 A -- went to the residence.

9 Q And this house was located in the city proper, in the
10 downtown area of Sumter, of Sumter City?

11 A Yes. [REDACTED] is in the City of Sumter.

12 Q All right. And did Ms. Hunter live alone?

13 A She did.

14 Q All right.

15 A Her husband had passed away.

16 Q And I believe the record reflects she was 67 years old at
17 the time of her death?

18 A Yes.

19 Q All right. What did you -- what can you tell the Judge
20 about the manner, cause of death?

21 A According to the autopsy results, it was closed head
22 injury and that was due to blunt head trauma due to a beating.

23 Q And was there evidence as to what item was used to take
24 her life?

25 A Well, when we responded to process the crime scene, like

1 I stated earlier, we found Ms. Hunter in a downstairs bedroom.
2 There was a ceramic vase that was broken on the floor by her
3 and there were pieces of the ceramic vase in her hair and
4 embedded in her head.

5 Q All right. Did -- can you remember as to whether or not
6 there was any indication that there was forced entry at the
7 house?

8 A We did not. We did not see any forced entry.

9 Q And as a result of that you also determined that her
10 automobile was not at the house?

11 A That's correct. When we, when we started investigating
12 and talking to family we found out that she did have an '06
13 Toyota Camry that was burgundy in color that was missing from
14 her residence.

15 Q And --

16 A And so we immediately boloed that vehicle out to other
17 officers.

18 Q And did you locate that vehicle within a short time?

19 A Yes. That same day, a few hours later while we were
20 still there processing that crime scene a patrol officer that
21 heard the bolo come out spotted the vehicle off of Main Street
22 in a little apartment complex and set on the vehicle until we
23 could get there.

24 Q All right. As a result of finding the vehicle did you
25 find a link to Mr. Goodman?

Irene Culsek - Direct by Mr. Finney

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1 A Yes. We did. His brother and another individual were
2 there with the vehicle, and while we were there trying to deal
3 with all that, that's when Mr. Goodman, Tervin Goodman came
4 up.

5 Q All right. As a result of the investigation did you find
6 evidence at the house that Mr. Goodman had been in that house
7 around the time that Ms., Ms. Hunter was, was killed?

8 A We did on the murder weapon. It was processed and the
9 Defendant Mr. Tervin Goodman, his fingerprints were found on
10 this vase. Also, we found his fingerprints on a cell phone
11 box that was located in an upstairs bedroom. We also found
12 his fingerprints on a credit card. It looked like her purse
13 had been taken and dumped over, and one of her -- and just
14 gone through. One of her credit cards, it was a J.C. Penny's
15 one, had his fingerprint on it. So there were several
16 different locations in the residence that had his fingerprint.

17 Q All right. I believe there also may have been DNA
18 testing done on items that were found in the house?

19 A There was DNA testing done. We found some blood in
20 different locations in the house. There was some on a tissue
21 located in a downstairs bathroom. There was some blood
22 located on the kitchen floor area. There was some blood
23 located upstairs on the carpet, and we, we sampled different
24 items. There was also some blood found on a cup in the
25 kitchen, and all of those came back to the victim, Ms. Mary

1 Hunter.

2 Q All right.

3 A And so it was our determination that some of it was
4 transferred from shoes. We feel like that's how it got from
5 different rooms, but also from the Defendant having it on him
6 at the time moving throughout the house.

7 Q Did you have anything to do with the actual interrogation
8 of Mr. Goodman after he was placed into custody?

9 A I did have occasion to interview Mr. Goodman with
10 Detective Curtis Hodge.

11 Q All right. And did Mr. Goodman give you a statement and
12 what -- if, if it was a developing situation, tell the Judge a
13 little bit how it developed.

14 A Well, Your Honor, when we initially got the call and
15 realized that there had been a homicide, vehicle stolen and
16 then of course we got the individuals that were in the car at
17 the time. We started interviewing all of those as far as the
18 forensics that was being gathered and then analyzed at the
19 same time. So through all of that, through the investigation
20 we ended up interviewing Mr. Goodman's brother, which is here
21 today, Demetrius Goodman. We also interviewed some of his
22 friends that were with him at the time. We interviewed a
23 Bernard English and also a Gerard Ramsey, several females, and
24 we began to kind of put, put everything in order as to what
25 happened. She was actually killed on the Sunday prior to us

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1 finding her, which was on a Thursday, the 12th. She was
2 actually killed on the 9th of June. We were able to determine
3 through witnesses and others that it was Tervin Goodman who
4 showed up with the victim's car with a cell phone that
5 belonged to the victim, that he had a lot of money on him and
6 we found out from the family that Ms. Hunter had a life
7 insurance policy that she had cashed when her husband had
8 passed away that she had at the house. She didn't really use
9 a lot of banks at the time. So we just kept interviewing
10 those, polygraphing the others, making sure that they were
11 telling us the truth, that they weren't there, and then that's
12 when we got Tervin Goodman again and interviewed him, letting
13 him know what we had discovered, things like that and asked
14 what his side of this incident was. He waived his rights. He
15 talked to us and that's when he admitted to going into the
16 residence and pushing Ms. Hunter and then -- but he stated
17 that his brother and the other individuals I named he stated
18 that they were in there, also.

19 Q And did your investigation lead you to believe that that
20 was not a true and accurate reflection of the facts?

21 A That's correct. When I asked him about the absence of
22 the others' fingerprints or would we find them, what are
23 things they touched, then he stated that his brother wore
24 socks on his hands, he stated the others had gloves, but yet
25 he was the only one who didn't have on gloves. He stated, you

1 know, when I asked about the car because there was an incident
2 with a flat tire, you know, that it was just him in the
3 vehicle, he stated, "Oh, well, I left them and just rode off
4 to see a girl by myself," that he had the majority of the
5 money, he was controlling it, he was giving it out to the
6 others, buying things for his brother, giving his mother some
7 money. He stated he gave his friends money. They bought
8 several items, things like that. So that was just little
9 facts, along with we polygraphed the others just to make sure
10 that they weren't involved or in the house.

11 Q As the investigation unfolded, did you also find that he
12 had made statements to people in the community about the fact
13 that he had killed somebody?

14 A Yes. That was the big part of the investigation when we
15 were talking to the others that were in the car, the others
16 that he was hanging around at the time. They kept saying,
17 "Where'd you get all this money", you know, because he had so
18 much and said it was crisp and hundreds and just lots, and
19 they kept saying, you know, he would tell them, "I committed a
20 lick," which is basically, "I stole it or committed a robbery
21 or burglary, something to obtain it." Then he went on as they
22 continued to pressure him like, "Where, where, where, you
23 know, we want some of that. We want in on the action," then
24 it was, "You don't want to do what I did," and he made the
25 comments to his brother and two others that he, he had to kill

Irene Culsek - Direct by Mr. Finney

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1 someone for it.

2 Q All right.

3 A And they, at the time, thought that he was just, just
4 kidding is, is what they indicated to us. They really didn't
5 think that he had killed someone to get the money. We also
6 looked at his history when we were investigating this, and the
7 fact that this incident was very similar to one of the ones
8 that he was convicted of back in '04 when he was a juvenile.
9 He did enter the home of an elderly white female in the same
10 neighborhood. At the time he was armed with a knife, and he
11 made several comments, "Give me the money, you old bitch,"
12 after he had knocked on the door asking if someone else lived
13 there. She stated she didn't know them. He forced his way
14 in, held her at knifepoint, demanding money, kept saying,
15 "That's all you've got," kept calling her an old bitch, asked
16 for her car keys. She stated her husband had them at the
17 time. So this was eerie similar to, to this incident, the
18 same neighborhood, all of that. We also did a search warrant
19 at his residence. In a trashcan outside we found tennis
20 shoes, and on those tennis shoes we found the DNA matched Mary
21 Hunter.

22 Q All right. Since you have brought up, once he became a
23 suspect and he was charged, you went back, you and your
24 officers went back and looked at his criminal history?

25 A Yes. We did.

1 Q And did you find that the criminal history -- in other
2 words, there were a large numbers, I believe ten or 11
3 burglaries prior to him having this murder charge placed on
4 him?

5 A Yes. I believe he was convicted or he pled to ten
6 burglaries and the armed robbery.

7 Q And, and these burglaries were they residential type
8 breaking into homes?

9 A They were residential and they were all in the same
10 neighborhood. He lived at that time over on McCrays Mill Road
11 and behind his house was a set of railroad tracks, and if you
12 cross those tracks then you're in this neighborhood.

13 Q Okay. And I believe it's called Curtiswood area?

14 A Yes.

15 Q And most of the --

16 A Curtiswood.

17 Q -- the ten burglaries were --

18 A Burkette. Yes.

19 Q -- in the Curtiswood area?

20 A Yes, sir.

21 Q And the home of Ms., Ms. Hunter was also in that area?

22 A Yes. It was [REDACTED].

23 Q All right. And you say he basically lived a short
24 distance away, I believe in the, in the guilty plea it was
25 described as about a mile away?

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1 A If that.

2 Q Okay. What can you tell the Judge about any
3 investigation you did on the family that Mr. Goodman had? Did
4 you meet, interview his mom and stepfather?

5 A I did. Once we developed him as a suspect, we also had
6 his brother for being in the vehicle and charged and some of
7 the friends they came down, they met with us at the law
8 enforcement center. We told them what we had. We did a
9 search warrant at their house, talked to them while we were
10 there, told them we were still looking for Ms. Hunter's phone.
11 That was still missing. I believe it was his mother who
12 remembered him being on the phone, and she stated that they
13 had thrown the phone out of the window when they started
14 realizing everything, but she went back and got it, brought it
15 up and gave it to us when she realized that that was actually
16 a part of the case and that we needed it. They seemed
17 saddened about this happening, but cooperative.

18 Q All right. Is there anything else, Ms. Culsek, that you
19 can think of as we've been talking this morning that might
20 have stimulated something that you haven't been asked about
21 that you want to tell the Judge before you take off from the
22 stand?

23 A There's just so much with this case. Just the, just the
24 crime itself with the victim, it's, it's one of the, one of
25 the worst that I've had, and I've had a lot with the Halloween

1 murder and things like that. There's been a lot of cases, but
2 this one ranks up there, and I'll always remember the fact
3 that he took her cell phone and continued to use it and gave
4 it out to people and would give the number and say, "Hey, when
5 you call me you talk first," just spending her money, riding
6 around in her vehicle after that knowing it. When we
7 interviewed and talked, you know, he'd even mentioned when he
8 was trying to put the blame on some of the other, others about
9 him being involved in a situation similar in the past and, you
10 know, somebody had identified him and just wanting to -- he
11 got scared, so he left the residence, but just that, you know,
12 the history and this. I don't think he learned from his, his,
13 his first stay in DJJ, and then this, and then what I hear --
14 continue -- yeah.

15 MR. MURPHY: Your Honor, I'm going to object to opinions.

16 THE COURT: Sustained.

17 MR. FINNEY: All right.

18 BY MR. FINNEY:

19 Q Let me, let me ask you this. The circumstances of the
20 homicide involving Ms. Hunter, did you believe that he was --
21 did you learn anything from your investigation that led you to
22 believe that he acted with anybody else in the death of Ms.
23 Hunter?

24 A No. He acted alone.

25 Q All right. And did -- can you tell -- was there any

Irene Culsek - Direct by Mr. Finney

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1 evidence brought to your attention that he acted under the
2 influence of anyone else?

3 A No.

4 Q All right. Now, so there wasn't any family pressure from
5 his brothers to do this crime, there wasn't any peer pressure
6 that you became aware of to do this?

7 A No. His, his brother talked to us. He, he stated that
8 he never told him to do anything like that. His brother was
9 off with other friends at the time hanging out with some
10 others. Tervin had a job at McDonald's and would work. So
11 there was times that he would, you know, get off work and his
12 brothers would be gone and he'd say, "Come get me. Come get
13 me," and his brother felt bad, you know, that they didn't,
14 they weren't able to just come get him right away and stuff
15 that he indicated, but no, he didn't state that.

16 Q Let, let me ask you this, from the standpoint, one of the
17 factors that the Judge has to deal with today is whether or
18 not Mr. Goodman had the ability to deal with police once he
19 was brought into the system and, and, and interrogated and
20 made a suspect. Did you ever notice any defects or
21 deficiencies that Mr. Goodman had as far as not being able to
22 understand you, not being able to appreciate the situation
23 that he was in?

24 A No. I think he understood. He was able to talk to us.
25 He was able to answer questions appropriately. He responded

1 when spoken to. He, he didn't give us any problems. He
2 didn't tell us that he couldn't understand or that he was
3 having any difficulties. He was, he was just calm like he is
4 now, talked to us, talked about his family, talked about where
5 he lived, talked about his past, things like that. So, no, no
6 problem with dealing or interacting with us.

7 Q And during all of these times when you'd have official
8 interaction with him, you would have to explain to him his
9 rights under the Miranda case?

10 A That's correct.

11 Q Did he have to sign documents, initial documents to say
12 he understood those rights and that he waived those rights?

13 A He did. He signed those waivers and those rights, and
14 stated he understood them. He had gone through this before in
15 '04 with some of my coworkers, and I noted looking back at
16 that time he also signed waivers back then and, and understood
17 the process back then.

18 Q All right. You were never led to believe by anybody in
19 the family that you interviewed, mom, stepfather, brother,
20 that he had any defects or, or deficiencies, he wasn't on any
21 medication, any kind of special treatment that was being given
22 to him at this time?

23 A No. Not as far as any type of medications, things like
24 that. We look for that when we take someone into custody so
25 we can get it for them and take it to the correctional center

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1 with them. Nothing was indicated that, that he had any type of
2 disability or that he was on any type of medicines or any kind
3 of mental health treatment, nothing like that was indicated.

4 Q All right. And just a couple of more questions, one of
5 the factors that the Judge must weigh is the chronological age
6 of the Defendant. At the time you met him regarding this
7 murder investigation, he was 17 years old.

8 A That's correct.

9 Q Did you have any understanding or come to appreciate that
10 he had a chronological or let's say a mental, mature age that
11 was less than 17? Did he act silly, unresponsive, any kind of
12 way that was not consistent with a 17 year old?

13 A No. He, he acted appropriate. He acted like a lot of
14 the Defendants that I've dealt with, and that is to shift
15 blame. Initially he gave the name of another individual
16 Michael, I believe a Michael Williams when he was first
17 interviewed by Detective Hodge as far as the incident went,
18 and then as it went on then he -- then it was like, "Okay.
19 They've got me. They've got me in the house. So I'm going to
20 say I wasn't alone. I was just in there. Somebody else could
21 have done it," things like that. So I think the fact that he
22 could think through all of that and, and come up with that and
23 just his dealings with us. I didn't give him any kind of
24 math, history, English test, but as far as street sense he,
25 he's -- he was smart.

1 Q How about the other fact of the family and the home
2 environment that surrounded Mr. Goodman at the time, did you
3 find any significant defects in who was home, he didn't have
4 to cook his meals or raise himself or steal money to keep the
5 lights on as far as you could tell at the house?

6 A Well, I knew that he lived there with his mother and his
7 stepfather, and I believe his brother stayed there on and off,
8 but not that I was aware of.

9 Q You, you -- none of that -- no information to that effect
10 that there were problems at the house, that there was a poor
11 living environment at the house?

12 A Not that I'm aware of. No, sir.

13 MR. FINNEY: Beg the Court's indulgence. Thank you.

14 Answer any questions the Defense may have.

15 CROSS EXAMINATION

16 BY MR. MURPHY:

17 Q Detective Culsek, outside from this incident, have you
18 ever interviewed Tervin Goodman? You ever had any interaction
19 with him outside the circumstances surrounding this murder?

20 A No. I haven't.

21 Q You ever have him, you know, review the test scores or
22 anything like that that was conducted at DJJ during the time
23 he was there?

24 A No, sir.

25 Q Were you the investigator for the DJJ incidents?

Irene Culsek - Cross by Mr. Murphy

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- 1 A No, sir.
- 2 Q So you didn't interview him when he -- when the DJJ
3 incidents occurred that sent him to DJJ, the first incidents?
- 4 A Back in '04?
- 5 Q Yes.
- 6 A No. That was Detective Sims, and I believe Detective
7 Foxworth was involved in that.
- 8 Q So all your information regarding those incidents are
9 based on just reading the report that occurred at that time?
10 You were not personally involved; correct?
- 11 A Correct. It is -- it -- I reviewed those cases. I
12 reviewed the victim statements, his at the time, the waivers,
13 just spoke with the detectives, and I was back there in the
14 detective division at that time and knew about the case but
15 was assigned to a different area at that time.
- 16 Q And subsequent to that you didn't review the DJJ records
17 where they interviewed him concerning these incidents? Have
18 you?
- 19 A Say that --
- 20 Q Have you, have you reviewed the DJJ records where they
21 talk to him about what he did and all that kind of stuff?
- 22 A No.
- 23 Q All right.
- 24 A You mean when he was housed in Columbia?
- 25 Q Yeah.

- 1 A Okay. No.
- 2 Q All right. During the interview, did you advise him that
- 3 his brothers had indicated, had indicated to you, had given
- 4 statements to you that he was involved?
- 5 A Yes.
- 6 Q And it was after that he started shifting blame to his
- 7 brothers; correct?
- 8 A His brother and the other two, correct.
- 9 Q Right. Was that accurate? Had they implicated him?
- 10 A Yes.
- 11 Q And in fact, the -- his one brother was actually charged;
- 12 correct?
- 13 A That's correct.
- 14 Q With murder?
- 15 A Initially, until we could figure everything out. Yes.
- 16 He's also the one that we ended up polygraphing.
- 17 Q I remember that well. He didn't -- you mentioned earlier
- 18 that he was driving around town with car and money and cell
- 19 phone; correct?
- 20 A That's correct.
- 21 Q Okay. You've investigated lots of murders; correct?
- 22 A Yes.
- 23 Q Lots of crimes?
- 24 A Yes.
- 25 Q Lots of folks that engage in armed robberies and stealing

Irene Culsek - Cross by Mr. Murphy

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1 things and, you know, lots, lots of those kind of things?

2 A That's correct.

3 Q Is that -- that, that's rather unusual that an individual
4 wouldn't try to hide the, the fact that he's driving around in
5 a murdered woman's car, and is that -- did that strike you as
6 odd?

7 A Well, it struck me as odd that he would continue to use
8 it and his brother, but in the course of the interviews with
9 some of the others and some of the females that rode in the
10 car, he basically told them that it was hot, which his brother
11 knew that he had done what's called a lick, so it was stolen.
12 The others that they told there was drugs in the car, run from
13 it, if the police come just run. So there was a, there was a
14 story behind, okay, "This is what we'll use."

15 Q All right. And, and it was -- so it did strike you as
16 rather odd?

17 A For me I would not want to ride around if I had, if I had
18 killed somebody in, in the deceased person's car.

19 Q All right. I have no further questions.

20 THE COURT: All right. Anything further from the State?

21 MR. FINNEY: Nothing, Your Honor.

22 THE COURT: All right. You may step down. Thank you.

23 A Thank you.

24 THE COURT: Call your next witness.

25 MR. FINNEY: Thank you. We'd call Ms. Gayle Wenzel.

1 WHEREUPON, Gayle Wenzel is called to the stand, duly
2 sworn by the clerk and testified as follows:

3 THE CLERK: You may be seated and state your name for the
4 record.

5 MS. WENZEL: My name is Gayle Wenzel, and the last name
6 is W-E-N-Z-E-L.

7 DIRECT EXAMINATION

8 BY MR. FINNEY:

9 Q Ms. Wenzel, where do you live, please, ma'am?

10 A Lexington, South Carolina.

11 Q And where did you grow up, go to school?

12 A Sumter, South Carolina.

13 Q Tell the Judge a little bit about you -- your background.

14 What do you do for a living?

15 A I'm a self-employed CPA. I have a CPA firm in Lexington.
16 I grew up in Sumter, went to Millwood Elementary, Alice Drive
17 Middle and Sumter High School, and then the University of
18 South Carolina.

19 Q And your mother was Mary Hunter?

20 A Yes, sir.

21 Q And tell us a little bit about the family background.

22 You had -- your dad, what did he do?

23 A He was the branch manager of Commercial Credit in Sumter,
24 and my mother was a stay-at-home mom while she raised us, and
25 then she did go to work for some loan companies in Sumter and

Gayle Wenzel - Direct by Mr. Finney

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1 she was very active in the community.

2 Q All right. At the time of her death she was 67 years
3 old?

4 A Yes, sir.

5 Q And she had three children?

6 A Yes, sir.

7 Q And so where were you in the three?

8 A I'm the middle.

9 Q All right. And so you have an older --

10 A I have an older sister, Linda, and a younger brother,
11 Randy, and Randy is here.

12 Q Okay. Randy, could you stand up, please.

13 (Complies with request.)

14 Q All right. And so the three children grew up in Sumter,
15 went to school in Sumter.

16 A Yes, sir.

17 Q All right. Ms. Wenzel, at the time that this case was
18 made and the police charged Mr. Goodman, when the, the case
19 came before the Judge in 2011 you testified at the plea
20 hearing and I wanted you on behalf of the family to give us a
21 little bit of the impact that this loss had on you.

22 A On the impact on the family one of them is that I have an
23 older sister that we've all lost contact with. She -- my
24 mother was the glue that held her together, and if you look at
25 the transcript from the original hearing, my sister stated

1 that she talked to her several times a week and usually daily,
2 and now that that's gone my sister has effectively removed
3 herself from the family. So I have no -- we have no
4 relationship with my sister.

5 My children lost their last remaining grandmother. So
6 she has not -- she gave my oldest son his first guitar. She
7 has not seen that he is now musically inclined and is
8 actually, you know, done some work with a band and written
9 some music. My younger one was five years old at the time,
10 and he is now in high school, and he told me just last week
11 that a teacher made the comment that sometimes there are
12 things that happen in your life that make you grow up faster,
13 and he came home and he said, "Momma, I think Grandmommy being
14 killed made me grow up faster."

15 I've lost my confidant. I've lost the only person that I
16 can say anything to, talk about anything and not judge me.
17 We've -- we had adjusted somewhat to the new normal, and this
18 has just taken us all back.

19 Q I understand. Tell us a little bit about in, in the last
20 -- in that year, 2008, what was your relationship with your
21 mom? Were you living in Lexington then?

22 A Yes, sir.

23 Q All right. How often would you see each other? How
24 often would you talk?

25 A We talked I'd say at least three times a week on the

Gayle Wenzel - Direct by Mr. Finney

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1 phone. She would come up to Lexington or we would go to
2 Sumter maybe once a month. It varied. She -- on my birthday
3 she would come to Lexington and we would spend the day
4 together and I still have the gift that she gave me for my
5 last birthday that I won't use for fear of wearing it out. We
6 had a very good relationship, very loving relationship.

7 Q Tell us a little bit about what you know about your
8 mother's role in the community. You said she was active.

9 A She was. She had recently retired as a property manager
10 with Creech Holding Corporation. So she worked with the
11 former mayor and his brother or worked for them. She was a
12 volunteer at Tuomey Hospital. She was very active at St.
13 Marks United Methodist Church. She helped organize, for years
14 helped organize the senior citizens group, the Happy Makers.
15 She was a mall walker. She walked around the neighborhood.
16 She was just very active.

17 Q Would you give just a little bit of the feeling that you
18 have, your opinion about the reason we're here today on the
19 resentencing on the murder charge and ask -- tell the Judge
20 whatever you'd like to tell him about the sentence.

21 A Well, I'm very upset and angry that we're here. I
22 understand that, that this, you know, that nobody here is -- I
23 don't even know how to say what I'm trying to say. We had
24 learned to live with the new normal. We had learned -- we had
25 put, put it behind us as much as you can put, put something

1 like this behind us. I'm upset that there's no such thing as
2 closure. Even when this is done we now notice it and just
3 wait for the other shoe to drop. There's, you know, victims'
4 rights, that's, that's -- there's no such thing in, in our
5 experience. This has been extremely hard. You know, I, I
6 make my living by hourly charges. Since this has come up my
7 productivity has taken a downfall, and I'm just, I'm way
8 behind in my goals and in my billing. It has affected me and
9 my family financially. It has just -- it, it has just turned
10 us upside down and taken us back years.

11 Q Are you in favor of the sentence that was given in 2011
12 staying in place?

13 A Absolutely 100 percent.

14 Q Nothing further, Your Honor. Thank you.

15 THE COURT: All right. Anything further?

16 MR. MURPHY: No questions.

17 THE COURT: All right. You may step down.

18 A Oh, I'm sorry. Thank you.

19 THE COURT: If you'll call your next witness.

20 MR. FINNEY: We'd call Mr. Joseph Horger.

21 WHEREUPON, Joseph Horger is called to the stand, duly
22 sworn by the clerk and testified as follows:

23 THE CLERK: You may be seated and state your name for the
24 record.

25 MR. HORGER: Joseph, J-O-S-E-P-H, Horger, H-O-R-G-E-R.

Joseph Horger - Direct by Mr. Finney

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1 DIRECT EXAMINATION

2 BY MR. FINNEY:

3 Q Mr. Horger, tell the Judge where you live, sir.

4 A I live in Orangeburg, South Carolina.

5 Q And have you been there a long time?

6 A Yes, sir. I've lived in the Orangeburg area my entire
7 life.

8 Q All right, sir. And tell us what you do for a living.

9 A I'm a retired farmer.

10 Q All right. You are the youngest of Ms. Mary's three
11 children?

12 A There's four of us.

13 Q I'm sorry.

14 A And I am, I am, I am the baby of the family.

15 Q Okay. So Ms. Mary Hunter was your sister?

16 A Yes, sir.

17 Q And there were four children in that family?

18 A Yes, sir.

19 Q You're the youngest of the four?

20 A I am.

21 Q All right, sir. And you all grew up in what community?

22 A There's a, a small community called Jamison.

23 Q In Orangeburg County?

24 A Orangeburg County.

25 Q All right, sir. And could you tell the Judge a little

1 bit about watching your sister grow up, just not all the way
2 through life, but maybe as you all got to be adults and, and
3 went and did your own thing, what did, what did you and your
4 sister, how did you all interact?

5 A Well, Mary, my sister, Mary, and I was extremely close.
6 We were the closest in age and we shared a lot together and,
7 you know, it -- if I did anything wrong, she'd tell on me.
8 She'd tell momma. I mean, I, I guess that's what sisters do
9 because we, we were the closest in age together, and we, we
10 were very close together, and after I come out of the service
11 and resettled back around Orangeburg and she had gotten
12 married and started raising her family in Sumter, they, they
13 built a house on the lake, and I love to hunt and fish and
14 became very good friends with her husband, and we'd go down
15 there several times a month and spend the weekend and fish and
16 hunt together and we became very close and we interacted, our
17 two families interacted quite a bit together, and this, this
18 has been quite a, quite an ordeal, and I, I was very heart-
19 stricken when, when this ordeal happened, and, and I still am
20 because she -- I loved her very much, and it's, it's, it's
21 been a very trying experience.

22 Q Would you tell the Judge if you are in favor of a change
23 in the sentence that was handed out in 2011?

24 A I am not, Your Honor.

25 Q And tell the judge why.

Charles Horger - Direct by Mr. Finney

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1 A Because if, if, if you take a life you should have to pay
2 for it with your life whether it's incarceration or whatever.
3 You, you don't deserve to be back in society.

4 Q Is there anything else you'd like to tell the Judge?

5 A No.

6 Q Thank you very much for coming today.

7 A Yes, sir.

8 THE COURT: Thank you. Any other witnesses?

9 MR. FINNEY: One more, Your Honor. Mr. Charles Horger.

10 WHEREUPON, Charles Horger is called to the stand, duly
11 sworn by the clerk and testified as follows:

12 THE CLERK: You may be seated and state your name for the
13 record.

14 MR. HORGER: Charles Horger.

15 DIRECT EXAMINATION

16 BY MR. FINNEY:

17 Q Mr. Horger, tell the Judge where you live, please, sir.

18 A I live in Orangeburg.

19 Q All right, sir. And tell us what your business -- what
20 your profession was.

21 A I'm a retired farmer.

22 Q All right, sir. And Ms. Mary Hunter was your sister?

23 A Yes.

24 Q And there were four, we understand, four children in the
25 family. Are you the oldest?

1 A I'm the oldest son.

2 Q All right. So there was one daughter --

3 A Older.

4 Q -- older than you?

5 A Yeah.

6 Q All right. And would you tell the Judge a little bit --

7 I believe in 2011 when this case went before a judge over in
8 Sumter County you testified at that time about the impact Ms.
9 Mary had on losing her in your family. Could you tell the
10 Judge a little bit about that?

11 A I certainly would like to. Can I stand?

12 Q If, if the Judge says it's okay.

13 THE COURT: It's fine with me.

14 A Judge, Your Honor, I'm the oldest brother of Mary. Mary
15 was a fine Christian lady. She'd just gotten home from church
16 that Sunday when some, somehow this person overpowered her and
17 gained entry into her house. This is a helpless widow, when
18 she did everything she could to bargain for her life. She
19 even opened the family safe that was well hidden, and she gave
20 him money trying to buy her life, but this didn't keep him
21 from violently killing her. I ask that you give him the
22 maximum penalty provided by law and keep him from killing
23 someone else's loved ones. I thank you.

24 Q Thank you, sir, for coming.

25 THE COURT: All right. Cross. Any other witnesses?

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1 MR. FINNEY: No, Your Honor. That's the State's case.

2 THE COURT: Anything left from the Defense?

3 MR. MURPHY: Yes, Your Honor. My client wanted to make a
4 statement.

5 THE COURT: All right. Be glad to hear from him.

6 MR. MURPHY: He's not going to be sworn, Your Honor.

7 THE COURT: All right. He can stand right there at the
8 podium if he wants to.

9 MR. MURPHY: You can stand at the podium.

10 MR. GOODMAN: First off, I would to say that I know that
11 there's no words that can amount to what I did, but I would
12 like everybody to understand that I was real younger then. I
13 was -- that was nine years ago. I was 17. I'm not making no,
14 making no complaints about what I did, but I know I committed
15 a crime. It was, it was wrong. I take full responsibility
16 for it where I was a whole lot younger then. When I was 13 I
17 was even younger. Like people change, and like I ain't -- I'm
18 not still that same person. In prison, I caught, I caught
19 some charges and whatnot, but like that right there it was
20 some small stuff that some people didn't take they charges and
21 they just charged everybody with it. So but, but not with
22 that right there, but with this murder I'm, I'm sincerely
23 sorry about what I did. I can't change that. I can't take
24 that back. The only thing I can do is sit here and listen,
25 but I do want the family to know that I'm sorry. I can't take

1 that day back, but I just ask that you all see change and know
2 that people can change because this ain't something that I'm
3 just going to go around my life killing people like this --
4 that was nine years ago. I'm a different person, and I
5 understand what I did it was harsh and people might not want
6 to see me home. I, I, I understand that, but I'm just asking
7 for not the harshest punishment. I know I ain't going home.
8 I know I'm not going to be free today or next year. I just
9 ask for not the harshest punishment. I just ask that I be
10 able to see light again, and again, I want to apologize to Ms.
11 Hunter's family. I want to apologize to my family because I
12 got my family blaming theirselves for what I did, and I, I took
13 my own actions and did what I did but I want to apologize to
14 everyone about what I did and now I can move forward
15 regardless of the verdict, but that's what I wanted to tell
16 you.

17 THE COURT: All right. Thank you. Anything else?

18 MR. MURPHY: Your Honor, we would just ask that Mr.
19 Goodman's handwritten statement which he wrote, wrote himself
20 be made an exhibit.

21 THE COURT: Any objections from the State?

22 MR. FINNEY: No objections.

23 THE COURT: All right. Give it to the court reporter.

24 (Defense Exhibit One [State of Defendant] admitted into
25 evidence and appropriately marked.)

State v. Goodman

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1 THE COURT: All right. Do you have the sentencing sheets
2 ready?

3 MR. FINNEY: I do, Your Honor.

4 THE COURT: All right.

5 MR. FINNEY: Also, Your Honor, for the record I'd like to
6 hand up several exhibits for the Court to review. You may
7 already have them but there is a copy of the original
8 indictment from Sumter County.

9 THE COURT: Okay.

10 MR. FINNEY: And I don't know how you want to mark them,
11 if, if -- I have them in a file. I have the original
12 sentencing sheets. I have a copy of the guilty plea
13 transcript. I have a detailed report from the Department of
14 Corrections from Ms. Goodman's --

15 THE COURT: Why don't you just mark the whole file?

16 MR. FINNEY: And that would be just State's Exhibit
17 Number One.

18 THE COURT: All right.

19 (State's Exhibit Number One [File] entered into evidence
20 and appropriately marked.)

21 MR. FINNEY: We have copies, Your Honor, for the burglary
22 and the murder.

23 THE COURT: All right. Well, let me take a few minutes,
24 and get my thoughts together and I'll come back, and if you'd
25 like to put your thoughts on the record, I'll be glad to let

1 the two of you all do that. All right. Thank you. All
2 right. We'll be in a short recess.

3 MR. FINNEY: Thank you, Your Honor.

4 OFF THE RECORD

5 (On the record.)

6 THE COURT: Thank you. Everybody be seated.

7 All right. Before I sentence the Defendant in this case,
8 I'll give the Defense an opportunity to summarize the factors
9 as they would like, if you want to.

10 MR. FINNEY: Your Honor, please, the State would elect to
11 go first because Mr. --

12 THE COURT: That'll be fine.

13 MR. FINNEY: -- Murphy has the burden.

14 THE COURT: Go ahead.

15 MR. FINNEY: May it please the Court. First of all, Your
16 Honor, I want to thank the family of Mary Hunter for coming
17 this afternoon and supporting our efforts to have this hearing
18 fully explored by a new judge who didn't get to hear a lot of
19 the case, but thank you for giving us the time to explore it.

20 THE COURT: It's been a pleasure.

21 MR. FINNEY: Also want to thank Sumter Law Enforcement,
22 several of our prior solicitors, Jackson was here who was in
23 charge of the case back in that time.

24 Your Honor, the five factors that are set out in Aiken
25 versus Byars I believe were substantially covered by the trial

Closing Remarks

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1 judge, Judge King, in 2011. A review of the transcript, which
2 we've put into evidence, shows that he had a full hearing on
3 the matter and that he considered all of the factors. I think
4 it's very clear that when you look at the age of Mr. Goodman
5 at the time and the actions of Mr. Goodman in terms of the
6 residential break-in and the taking of a life of a lady who
7 really couldn't defend herself, taking of her car and her
8 money, and kind of bragging on it in the community afterwards,
9 Judge, Judge had a very good handle on what kind of young man
10 he had. The factors of environment, as far as he came up, as
11 far as I can tell, a better -- he had a better chance than
12 most with two supportive parents, and a, and a good home
13 environment in the Sumter area.

14 The circumstance of the crime was he was not pressured by
15 other people. He was not pressured by peers. He did this on
16 in his own, and it was something he was familiar with because
17 he had done it before.

18 He had the ability to deal with law enforcement and court
19 officials. There was no finding anywhere that he was
20 pressured or coerced. He seemed to know what he was doing,
21 and obviously the investigation was done in such a manner that
22 he didn't have any room to go and hide. You had numerous
23 things, fingerprints, DNA, statements from witnesses in the
24 community all pointed to him and it just reluctantly, after
25 dodging as long as he could, he had to, to fess up.

1 The question of rehabilitation, I don't think it was
2 covered in substantial means because when the Judge says he
3 waived the aggravating and the mitigating, he found very
4 little mitigating and not enough to give him any reason to
5 believe that a shorter sentence in, in, in jail would do this
6 man any good. For the benefit of society and maybe even for
7 the benefit of himself, Mr. Goodman is in the right place and
8 he's doing the right thing by serving a life sentence. We
9 respectfully ask the Court to keep the life sentence in place
10 on the murder charge, and we would respectfully ask the Court
11 to consider a 30-year sentence in the discretion of the Court
12 on the burglary charge to be imposed today.

13 THE COURT: All right.

14 MR. FINNEY: Thank you very much.

15 THE COURT: Thank you. All right. The Defense.

16 MR. MURPHY: Thank you, Your Honor.

17 Very briefly I'm going to basically summarize the same
18 factors.

19 Your Honor, I, I would submit to the Court that if
20 there's ever a situation where the 17 year old Tervin Goodman
21 demonstrates and, and his actions were immature, impetuous and
22 failure to appreciate the risk and consequences, the evidence
23 that, that we produced regarding his conduct from the time he
24 first started getting involved with the justice system until
25 this incidence [sic] demonstrates that. I mean, you have an

Closing Remarks

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1 individual who -- I mean, and, and obviously on paper the --
2 both juvenile crimes and obviously this crime they're, they're
3 horrible. I mean, you know, there's no getting around that,
4 and, and he understands that, but I mean, part of what the,
5 the Miller and the, and the factors look at are, are not, not
6 just his chronological age, but his level of maturity, and an
7 individual who, who -- and I would submit to the Court that
8 what, what his conduct in specific regard to these, these
9 actions demonstrates is a lack of appreciation for the
10 consequences, and I, and I believe Mr. Manning certainly
11 addressed that in, in his testimony, an individual who lives
12 in the moment and doesn't think about the follow-up, doesn't
13 think about situations. One of the things Mr. -- and I would
14 also submit that that, that's demonstrated in the facts and
15 circumstances surrounding the offense. I mean, one of the
16 things Mr. Finney mentioned is, is a guy driving around in a
17 vehicle showing, showing his brothers who, who are an
18 influence on him. Now, they -- you know, his brothers didn't
19 set this thing up for him or anything like, but you know,
20 obviously his brothers were mature and this bragging, showing
21 them the money and everything, that is an, that is a -- that
22 is evidence of an individual who is impetuous, who's not
23 getting the consequences. I, I would submit that it's almost
24 the -- it's not the evidence of an individual who's deceitful
25 and uncaring, and it, it is all the hallmarks of an immature

1 individual.

2 Ms. Culsek indicated that, that the -- those actions were
3 odd to her, and, and I would hope so. She's a mature woman.
4 We are mature individuals. We understand consequences. The
5 Tervin Goodman that it -- that, that, that did that didn't.
6 The Tervin Goodman wasn't thinking about that kind of stuff,
7 and, and I would submit that the testimony of Mr. Manning
8 brings that -- demonstrates that, but the one benefit you have
9 that Judge King didn't have is that there's another Tervin
10 Goodman. I mean, Tervin Goodman is not just an evil bad apple
11 that is worthy of being discarded. You know, when in a
12 structure environment he's responded. I -- his family has
13 been supportive. I mean, there were some influences up here
14 in Sumter that didn't exist in Florida, but while he was in
15 DJJ over time he did respond to the, to the treatment they
16 gave him and the counseling they gave him. He did progress in
17 his grades to the point where he's able to graduate. He did
18 actively participate in JROTC, which, which is a -- really
19 it's a, it's a, a bene for the individuals that are in, in
20 DJJ. He was able to hold a job, and he, he was able to, to
21 discipline himself and he was on a good track, and then this,
22 this occurs. You know, every life is precious. The victim's
23 life was precious, and there, there's nothing that can be said
24 or done that will alleviate that. In talking to Mr. Goodman I
25 know the one thing he hoped for from this more than anything

Ruling and Sentencing

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1 else was an opportunity to apologize and to know -- because he
2 didn't have, he didn't say anything in the last hearing. He,
3 he's done that. He, he, he did any -- as he said to the Court
4 he does understand that he's not leaving today and he told, he
5 told you that.

6 Your Honor, we would -- I would reiterate what my client
7 asks for. I would submit to you that because he's not the
8 same person he was, because there is demonstrable evidence
9 that he, he, he was maturing during this time and he has
10 continued to mature, he asks for an opportunity to see the
11 light, whatever that is. Obviously the minimum we would ask
12 for is 30, but an opportunity to someday see the light, and I,
13 and I would respectfully request that he be provided some
14 opportunity some day to, to leave the prison system.

15 THE COURT: All right. Thank you.

16 MR. MURPHY: Thank you, Your Honor.

17 THE COURT: All right. I'm just going to give you my
18 view from my perspective as I've heard it today and how I feel
19 about it and what my sentence is.

20 And in regard to factor number one, which talks about the
21 age and the immaturity and failure to appreciate risks and
22 consequences and so forth, this is the way I see it, at the
23 time of the crime the Defendant was 17 years old. That is one
24 year from being an adult that could enter into a contract,
25 that could be drafted into the military. So as far as I'm

1 concerned at that point in time he pretty much was a grown
2 man. It wasn't like he was at the tender age of 14 or 15,
3 very, very young. He was one step away from manhood.

4 As far as immaturity, he had plenty of time to grow up
5 and mature while at DJJ in a structured environment whereby he
6 was there for three years. Also while at DJJ he had the
7 opportunity to participate in JROTC, and thus the opportunity
8 to learn the discipline and consequences of his behavior
9 through that program.

10 Also, it's this Court's opinion that he had to appreciate
11 the risks and consequences on his experiences with the
12 multiple crimes that he has committed in the past. He's
13 committed the crimes. He's been arrested. He's been put in
14 DJJ and he's gone to jail. So he had to have known what was
15 going to happen. I don't think I need to say anymore in
16 regards to factor number one.

17 In regard to number two, talking about the family and
18 home environment surrounding the offender, it's this Court's
19 opinion that his home environment was relatively stable, in
20 fact, much better than many other Defendants that I have come
21 in contact with that don't go so far as to do what he did. In
22 this regard he had a mother. He had a stepfather, and he had
23 siblings. Both of his parents were at the house, in the
24 house. They had jobs. They made money, and they provided for
25 him. Also, his siblings may have had some run-ins with the

1 law as juveniles. However, they grew up and didn't commit --
2 continue to do those crimes and commit those crimes, but this
3 one individual continued to do it even after being arrested
4 over and over again, and committing crimes while in jail.
5 Doesn't seem like he's even trying to learn that there are
6 consequences for what he does. I think his home life and
7 environment was way better than average. I don't think that's
8 an excuse.

9 Furthermore, in regard to number three, the extent of his
10 participation, this was a solo crime. He acted alone. He did
11 it all. Nobody was with him. There was no mention of any
12 gangs. There was no mention of any peer pressure. He simply
13 did a horrendous act by himself, and I think that's all I need
14 to say about that.

15 In regard to number four, talking about the
16 incompetencies associated with youth, his inability to deal
17 with the police and his lawyer, this Court sees it this way,
18 there's been testimony that his IQ was average. It may have
19 been on the low end of average but mine may be, too, but we're
20 all in average. He obtained a GED at DJJ. So he had some
21 education. When he was questioned by the police, the officer
22 that testified said that there was no indication of any mental
23 health issues or drug and alcohol impairment. She further
24 said that he was verbal and carried on a conversation like a
25 normal understanding person would. He acted maturely she said

1 on the stand and was smart enough to try to give a false
2 statement implicating other people, trying to save himself.
3 So he had some savvy. He definitely had some intelligence,
4 and I, I think he was more than capable of assisting himself
5 and his lawyer and dealing with the police, certainly he had
6 plenty of opportunity to learn.

7 Furthermore, in regard to number five, the possibility of
8 rehabilitation, this Defendant has had multiple run-ins with
9 the law, essentially all of his life, including many crimes
10 very similar to this one. He has been arrested and he has
11 been housed at a secure facility in hopes that he would learn
12 something, maybe correct himself. That's why they call jail
13 the department of corrections. We hope that people will be
14 corrected. It obviously hasn't worked. In this Court's
15 opinion the best thing that we can do at this time is to
16 protect society. So in regard to the murder, the sentence of
17 the Court is life. I will run it consecutive to a 30 year
18 sentence in regards to the burglary. Thank you very much. I
19 appreciate you all being here and doing such a good job.

20 MR. FINNEY: Thank you, Your Honor.

21 THE COURT: Thank you.

22 (Adjourned.)

23

24

1 C E R T I F I C A T E

2

3 I, the undersigned, Grace L. Hurley, Official Court
4 Reporter for the State of South Carolina, do hereby certify
5 that the foregoing is a true, accurate and complete Transcript
6 of Record of the Hearing held in the case of The State versus
7 Tervin Goodman, held in the Court of General Sessions for
8 Sumter County, Florence County Courthouse, Florence, South
9 Carolina, on October 5, 2017.

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

12

13

14

15

16

Grace L. Hurley, CVR-CM-M

17

Official Reporter

18

19

20

21

22 October 8, 2018

23

24

25

FORM 5

STATE OF SOUTH CAROLINA)

County of Sumter)Tervin Goodman #329973)

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

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2018-CP-43-1440

APPLICATION FOR
 CERTIFIED TRUE COPY
 OF ORIGINAL FILE
 POST-CONVICTION RELIEF
Barbara Schaefer
 DEPUTY CLERK OF COURT
 SUMTER COUNTY
 SOUTH CAROLINA

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Broad River Correction Institution
2. Name and location of Court which imposed sentence Florence County Courtthouse, Florence, SC
3. Name(s) of co-defendant(s) (if any) None
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2012-CP-43-00922 Murder ; Burglary 1st
 - (b) _____

RECEIVED

AUG 10 2018

Referred to

Answered

PCR/PB
Green

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) October 5, 2017 Murder, Life sentence / Burglary, 30 years
- (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 "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) My attorney Timothy Murphy told me that we couldn't appeal, when I asked him.
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffect assistance of counseling
- (b) Aiken vs. Byars
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) *attach paper
- (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? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____

I'm answering page 3.)

11.) (a) My attorney presented documents in court stating that he gave me tests but he really presented old files from 2004

(b.) My attorney failed to object on several occasions. Det. Culich, who is not a Detective on my case was allowed to get on stand and blatantly lie on me. My lawyer failed to object when I asked could he, during her testimony. I

(c.) She painted (Det. Irene Culich) a picture of the crime and testified in court what I did but don't have any evidence to prove.

(d.) Aiken vs. Byars clearly states that children are capable of reform. Sentencing us to LWOP sentences is symbolic to giving us ~~to~~ a slow death sentence, being that we're never given another chance at society, even after serving the many years.

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

No

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

(a) which grounds have been presented:

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

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

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

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

(a) My attorney told me we couldn't appeal
 (b) _____
 (c) _____

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? yes
 (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 "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:
 i. Timothy Murphy 107 N. Main St. Sumter SC
29150
 ii. _____
 iii. _____
 (b) the proceedings at which each such attorney represented you:
 i. _____
 ii. _____
 iii. _____

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

I feel that I deserved and still do deserve a
chance to be free.

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

No

STATE OF SOUTH CAROLINA)

County of _____)

VERIFICATION

I, Tevin Gordon, 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.

[Signature]

SWORN to and subscribed before me this 11th
 day of August, 2018.
Sabrina J. Buttle (L.S.)
 Notary Public

My Commission Expires: March 29, 2020

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

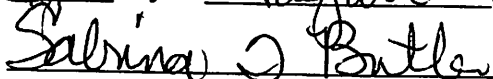
I, Tevin Goodman, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.


Applicant

SWORN or affirmed to and subscribed before me this

4th day of August, 2018.


Notary Public

My Commission Expires: March 29, 2028

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

Tervin Goodman, #329973,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
IN THE THIRD JUDICIAL CIRCUIT

Case No.: 2018-CP-43-1440

**RETURN AND PARTIAL
MOTION TO DISMISS**

The State (Respondent), making its Return to the application for Post-Conviction Relief filed on August 6, 2018 would respectfully show this Court:

I.

Tervin Goodman (“Applicant”) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. In October 2009, the Sumter County Grand Jury indicted Applicant for murder, first-degree burglary, and grand larceny (2009-GS-43-1120). The charges resulted from an incident occurring on June 8, 2008, when Applicant came into the victim’s home to commit a robbery. The evidence suggests that while he was looking around the house, the victim appeared, and Applicant killed her by hitting her over the head with a ceramic vase. The victim’s blood was found in various places around the house, and her body was found downstairs with severe head injury and a broken vase nearby. Applicant then continued his robbery, taking a large amount of cash from a safe, her cell phone, and the victim’s credit card, then leaving in the victim’s car. Applicant essentially admitted his guilt to his friends and family, and his fingerprints were found on the murder weapon, the stolen credit card, and the stolen vehicle. Applicant freely used the victim’s stolen car and cell phone after the murder. Guilty Plea Tr. 12-26.

Applicant was seventeen years old at the time the crime was committed. Charles T. Brooks, III, Esquire, represented Applicant on the charges. Assistant Solicitor John P. Meadors, Esquire, prosecuted the case. On September 19, 2011, Applicant pled guilty to murder and first-degree burglary before the Honorable Howard P. King. The grand larceny charge was dismissed in exchange for Applicant's guilty plea. Judge King sentenced Applicant to life imprisonment. Applicant did not appeal his guilty plea or his sentence.

2012-CP-43-922

Applicant filed an application for post-conviction relief on May 16, 2012, alleging he was being held in custody unlawfully based on the following allegations:

1. Ineffective Assistance of Counsel
 - a. "Conflict of interest do to ineffective counseling."
 - b. "Failed to Consult with Defendant."

Respondent filed its Return on August 2, 2012. An evidentiary hearing was convened at the Sumter County Courthouse on March 17, 2016 before the Honorable Brooks P. Goldsmith. At the hearing, Applicant challenged the constitutionality of his life sentence for first-degree burglary and waived all other allegations for relief. He specifically argued that his life sentence for first-degree burglary was unconstitutional pursuant to Graham v. Florida,¹ and that he was entitled to a new sentencing proceeding where a life sentence was prohibited. Respondent consented to the relief sought, and Judge Goldsmith vacated Applicant's sentence for first-degree burglary and granted him a new sentencing proceeding. The Order Granting Post-Conviction Relief was filed on April 7, 2016.

On October 5, 2017, Applicant appeared at the Florence County Courthouse before the Honorable William H. Seals, Jr., for his resentencing hearing. Timothy Murphy, Esquire,

¹ 560 U.S. 48 (2010) (holding the Eighth Amendment prohibits the imposition of a life without parole sentence on juvenile offenders who did not commit homicide).

(hereinafter “Resentencing Counsel”) of the Third Circuit Public Defender’s Office, represented him at the hearing. Solicitor Ernest Finney, III, and Lisa Beharry, Esquires, represented the State. At the hearing, Applicant requested the resentencing he was granted for the first-degree burglary charge, as well as an Aiken v. Byars² hearing for his murder charge.

At the resentencing hearing, Resentencing Counsel presented testimony from Jim Manning, a social worker and expert witness in social history and child development, who testified about Applicant’s developmental levels, family and personal background, his maturity level, and his potential for improvement over time. Resentencing Hearing Tr. 4-17. The State presented testimony from Detective Irene Culsek, who explained the circumstances of the crime and resulting investigation, as well as her interviews and interactions with Applicant. Resentencing Hearing Tr. 28-43. Resentencing Counsel objected at points to Culsek’s testimony about her personal opinion of Applicant’s thoughts and motives. Resentencing Hearing Tr. 39. The State further presented testimony from Gayle Wenzel, the victim’s daughter, Joseph Horger, the victim’s son, and Charles Horger, the victim’s brother.

After considering the testimony and arguments presented, Judge Seals sentenced Applicant to life imprisonment for murder and a consecutive thirty years’ imprisonment for first-degree burglary. Applicant did not appeal his sentence.

Attached to this Return and incorporated by reference are the records of the Sumter County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the guilty plea transcript, the records from Applicant’s prior post-conviction relief action, the resentencing hearing transcript, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

² 410 S.C. 534, 765 S.E.2d 572 (2014) (holding life without parole sentences for juveniles without individualized consideration of their youth constituted cruel and unusual punishment).

II.

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

1. Ineffective Assistance of Counsel
 - a. My attorney presented documents in court stating that he gave me tests by the really presented old filed from 2004.
 - b. My attorney failed to object on several occasions. Det. Culich, who is not a detective on my case was allowed to get on the stand and blatantly lie on me. My lawyer failed to object when I asked could he, during her testimony.
 - c. She painting (Det. Irene Culich) a picture of the crime and testified in court what I did but don't have any evidence to prove.
2. "Aiken vs. Byars"
 - a. Aiken vs. Byars clearly states that children are capable of reform. Sentencing us to LWOP sentences is symbolic to giving us a slow death sentence, being that we're never given another chance at society, even after serving the many years.

III.

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

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at

625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). 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 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.

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

IV.

Applicant's allegation challenging his sentence under Aiken v. Byars should be dismissed, as the allegation raises a direct appeal issue that is procedurally barred by S.C. Code Ann. §17-27-20(b) (2003). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). Applicant should have raised this issue at his resentencing and/or on direct appeal on his resentencing proceeding. His failure to do so has waived this allegation as a ground for relief. Therefore, the Court should summarily dismiss this allegation.

V.

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

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

VI.

Respondent therefore requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel. As to all other allegations, Respondent moves for summary dismissal pursuant to § 17-27-70 of the South Carolina Code of Laws on the basis that

there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VII.

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

VIII.

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of counsel, with the remainder of the allegations being summarily dismissed.

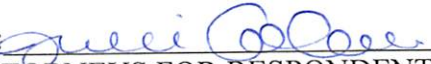
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

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Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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October 22, 2018

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER	)	
	)	2018-CP-43-1440
	)	
TERVIN GOOD, #329973,	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
_____	)	

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

Timothy L. Griffith, Esquire
Timothy L. Griffith, Attorney at Law
360 W. Wesmark Blvd., Second Floor
Sumter, South Carolina 29150

DATED this the 22nd day of October, 2018.


 Kaitlyn S. Slice, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF SUMTER	)	2018-CP-43-01440
	)	
	)	
	)	
	)	
TERVIN GOODMAN,	)	
APPLICANT,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
THE STATE,	)	
RESPONDENT.	)	
_____	)	

March 27, 2019
Sumter, South Carolina

B E F O R E:

THE HONORABLE KRISTI F. CURTIS, JUDGE.

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

TIMOTHY L. GRIFFITH, ESQ.
Attorney for the Applicant

JANELL H. GREGORY, ESQ.
Attorney for the Respondent

Proceedings Recorded by DCRP
Transcribed by Penny M. Johnson

I N D E X

(PW) - Denotes Plaintiff's Witness
(DW) - Denotes Defense Witness

Page No.(PW) TERVIN GOODMAN:

Direct Examination by Mr. Griffith..... 5

(DW) TIMOTHY MURPHY:

Direct Examination by Ms. Gregory..... 10

Cross-Examination by Mr. Griffith..... 16

E X H I B I T S

(There were no exhibits submitted)

P R O C E E D I N G S

THE COURT: You ready?

MS. GREGORY: Yes, ma'am.

THE COURT: Go right ahead.

MS. GREGORY: May it please the Court, Your Honor.

Before you is Tervin Goodman. During the October 2009 term, the Sumter County Grand Jury indicted Applicant for murder, first degree burglary and grand larceny. Applicant was 17 years old at the time of the incident. On September 19th, 2011, Applicant pled guilty to murder and first degree burglary before Judge King. The grand larceny charge was dismissed and exchanged for Applicant's guilty plea. Judge King sentenced Applicant to life imprisonment. He did not file an appeal.

On May 16th, 2012, Applicant filed his initial PCR application alleging ineffective assistance of counsel. A return was filed on August 2nd, 2012, and a hearing was convened before Judge Goldsmith at the Sumter County Courthouse on March 17th, 2016.

At that hearing, Applicant challenged the constitutionality of his life sentence for first degree burglary under Graham v. Florida and waived all other allegations. Respondent consented to the relief sought and Judge Goldsmith vacated Applicant's sentence for first degree burglary and granted him a new sentencing proceeding.

1 On October 5th, 2017, Applicant appeared at the
2 Florence County Courthouse before Judge Seals for his
3 resentencing hearing. Applicant requested an Aiken v. Byars
4 hearing on the murder charge in addition to the resentencing
5 he was granted for the first degree burglary charge. At the
6 conclusion of that sentencing hearing, Judge Seals sentenced
7 Applicant to life imprisonment for the murder and a
8 consecutive 30 years imprisonment for first degree burglary.
9 Applicant did not appeal the sentence.

10 He filed this PCR on August 6th, 2018, alleging
11 ineffective assistance of counsel and an Aiken v. Byars
12 claim. We filed a return and partial motion to dismiss.
13 Applicant is present today and represented by Mr. Griffith.

14 Your Honor, at this time, we would renew our motion to
15 dismiss Applicant's Aiken v. Byars claims as they are direct
16 appeal issues and ask Mr. Griffith to put on record the
17 ineffective assistance of counsel claims he is going forward
18 on today.

19 THE COURT: Mr. Griffith.

20 MR. GRIFFITH: Thank you, Your Honor. My client had
21 filed several issues on his PCR, some of which, of course,
22 were answered by the appeals court. And in the return, they
23 had asked that some of those be dismissed. He and I have
24 discussed many of those and he understands that we cannot
25 address some of the things that were denied by the appeals

1 court. However, we wish to go forward on the PCR under the
2 ineffective assistance of counsel in that his attorney
3 failed to file a timely appeal and his attorney
4 misrepresented documents to the court at the sentencing. We
5 would like to go forward with that on those issues only.

6 THE COURT: Okay.

7 MR. GRIFFITH: We would call at this time Mr. Tervin
8 Goodman.

9 TERVIN GOODMAN,

10 after being duly sworn, testified as follows:

11 THE BAILIFF: State your name and spell your last name
12 for the record.

13 THE APPLICANT: Tervin Goodman, G-O-O-D-M-A-N.

14 DIRECT EXAMINATION

15 BY MR. GRIFFITH:

16 Q Mr. Goodman, where are you incarcerated, sir?

17 A Broad River Correctional Institution.

18 Q And how long have you been -- when were you first
19 incarcerated?

20 A Eleven years, since 2008.

21 Q 2008. So how old were you when you were incarcerated?

22 A Seventeen.

23 Q Seventeen years old. So you remember your first PCR
24 hearing? You had a previous PCR where you were granted a
25 new sentencing hearing, you remember?

1 A Yes.

2 Q And now, we're here today to talk about the PCR you
3 filed that concerned that sentencing hearing, you
4 understand?

5 A Correct.

6 Q And you and I have talked about this at the prison, you
7 remember that?

8 A Yeah.

9 Q So why don't you tell us -- one of the complaints that
10 you have in your PCR is called ineffective assistance of
11 counsel. In other words, you believe your attorney didn't
12 do certain things or did do certain things that are wrong.
13 So why don't you explain to the Court how he was ineffective
14 in your representation.

15 A I feel he never objected to some of the things that the
16 detective was saying because, like, my whole case, they got
17 me locked up and the detective and the prosecution is
18 putting a whole prediction on my whole case. They not
19 saying what I did, they're predicting that I did this and
20 did that. And they painting my crime out to be the
21 terribliest [sic] crime in the world. My lawyer never
22 objected to that. Every lawyer I got, they never object to
23 the things that the prosecution get on the stand on say when
24 they predicting and it's not true. They making me out to be
25 the worstest [sic] person in the world for something. I can

1 understand it, but it's not true what they're saying about
2 me.

3 And I told my last lawyer that. I told my lawyer
4 before that. And they never object to the things that the
5 prosecution get on there -- and she can't prove nothing that
6 she's saying. She's on there just saying things and messing
7 my life up and nobody's objecting. And I don't feel that
8 that's right.

9 Q Well, in our PCR, we can't retry this case. We can't
10 go over the evidence again unless we have some new evidence.
11 But what we're trying to come up with is what your lawyer
12 could have done or should have done that they didn't do or
13 something that they did do that messed you over. And we're
14 talking particularly about the hearing where you were
15 resentenced where you were represented by Mr. Murphy. Do
16 you remember?

17 A Correct, yeah.

18 Q And so at that time, you -- in your complaint and when
19 you and I talked, you told me that no appeal was filed; is
20 that correct?

21 A Correct.

22 Q And tell me why you explained to me that no appeal was
23 filed.

24 A Because in the middle of it, when I was inside of my
25 last court hearing, I asked Timothy Murphy, I asked him can

1 I appeal and he told me no.

2 Q So he told you, you could not appeal?

3 A He said no.

4 Q So no appeal was filed; is that correct?

5 A No, sir.

6 Q And you would ask for a new sentencing hearing based on
7 the fact that you were not allowed to appeal that first
8 sentencing hearing?

9 A Yes. I was asking all my attorneys the same thing
10 every time I come to court. Like, the prosecution is
11 telling lies when she come to court and that's a big problem
12 in my case because she painting a picture on me and I can't
13 beat that picture she painting. The things she saying about
14 me, I deserve the death penalty, but it's not true. I
15 didn't do it. And I feel like somebody -- I'm in the court,
16 somebody should -- same way that I need to prove that I
17 didn't do it, she need to prove that I did the things that
18 she saying that I did. And it's not right.

19 Q I understand. So what do you think your attorney
20 should have done that they didn't do, or something that they
21 did that they should not have done?

22 A I feel like if he would have objected, any one of my
23 attorneys would have objected and stopped the prosecution
24 from saying the things she said, she couldn't have said what
25 she was saying and that picture wouldn't have got painted on

1 me because she was making up something that she think I did.
2 And I think if they would have objected to that, she
3 wouldn't have never been able to say that because she's
4 lying on me.

5 Q When you and I talked, also, you mentioned some kind of
6 tests that was entered in at your hearing?

7 A Yes, correct.

8 Q Do you remember telling me about that?

9 A Yes.

10 Q Why don't you explain why you believe something was
11 wrong with that?

12 A Because I never been tested. The tests that they
13 talking about, I never been tested since I was incarcerated.
14 I never been tested for this crime. Nobody never spoke to
15 me about this crime except when I was going to court. So I
16 never been tested. My last lawyer never tested me. None of
17 my lawyers never tested me for any kind of mental or
18 nothing. I never been tested.

19 Q Well, you've mentioned that your attorney presented
20 some kind of tests. Is that correct or --

21 A No, he -- they presented some kind of tests from when I
22 was like 14 years old, a juvenile, and I'm -- I mean, I was
23 17 when I got locked up. I'm 28 now. So the tests that
24 they presented, like as I was stating in Aiken v. Byars, I'm
25 an adult now. I'm grown. I can change. I'm able to

1 change. So they present tests when I was 14, before I even
2 committed my crime.

3 MR. GRIFFITH: I have no questions. Please answer the
4 questions the Attorney General's office has.

5 MS. GREGORY: No questions.

6 THE COURT: Thank you, sir. You can step down.

7 MR. GRIFFITH: We have no further witnesses, Your
8 Honor.

9 THE COURT: Ms. Gregory.

10 MS. GREGORY: Yes, Your Honor, we would call Timothy
11 Murphy to the stand.

12 TIMOTHY MURPHY,

13 after being duly sworn, testified as follows:

14 THE BAILIFF: State your name for the record and spell
15 your last name, please.

16 THE WITNESS: Timothy Ward Murphy, M-U-R-P-H-Y.

17 DIRECT EXAMINATION

18 BY MS. GREGORY:

19 Q Good morning, Mr. Murphy.

20 A Good morning.

21 Q How long have you been practicing law?

22 A Over 30 years, about 33 years. I spent 20 years in the
23 military. I retired as a lieutenant colonel. And then for
24 the last 12, 13 years, I've been practicing both in a
25 private capacity and also with the public defender's office.

1 Q How did you come to represent Mr. Goodman?

2 A After the Supreme Court of South Carolina came out with
3 the Aiken v. Byars decision, the Office of Indigent Defense
4 identified a number of individuals who were serving life
5 sentences without parole that under Aiken would be eligible
6 for a resentencing. Mr. Howe and I, being the more senior
7 attorneys in the public defender's office, decided to kind
8 of split them up, the Sumter ones, and Mr. Goodman was one
9 that I took. I was familiar with the case because I had
10 represented Mr. Goodman's brother, actually, during the same
11 substantive trial, so I had to get waivers from both of them
12 to represent him.

13 Q And you only represented him in the resentencing?

14 A That's correct. That's correct.

15 Q What were the facts of the case, Mr. Murphy?

16 A Generally speaking, Mr. Goodman was accused of breaking
17 into the home of a victim, who was an elderly woman, killing
18 her, and then, thereafter, stealing items. I don't know if
19 they were items taken from the home, but the one noteworthy
20 item that was taken was the victim's automobile. And that,
21 actually, is how law enforcement determined who was involved
22 because he was driving around in her car. And, also, some
23 of his codefendants at that time were seen driving around in
24 that car and that's how they got into trouble, so to speak.

25 Q And at the resentencing hearing, did Detective Kulik --

1 am I saying that correctly?

2 A Kulik, yes.

3 Q Did she testify?

4 A Yes, she did.

5 Q Do you believe her testimony was important to provide
6 the Court with background information on the facts that led
7 up to Mr. Goodman's plea?

8 A It was -- the whole of her testimony was substantially
9 consistent with what had been presented at the original plea
10 hearing. I happened to be at the original plea hearing
11 because I was representing the other Mr. Goodman at that
12 time, so I recall it and it was substantially consistent.

13 And when -- in direct response to Mr. Goodman's
14 concerns, there was an occasion where Ms. Kulik kind of went
15 off on some sort of tangent and I objected at that point
16 because I felt what she was saying was inappropriate. And
17 the Judge sustained the objection. But as far as the
18 factual summary, most of her testimony dealt with the police
19 investigation. It really wasn't the substantive crime
20 itself. And then her summary of the crime itself and the
21 findings that law enforcement made about the body and things
22 like that were substantially consistent with what he had
23 previously pled to.

24 Q And relevant to the hearing?

25 A Yeah, oh, yeah.

1 Q What did you present at the resentencing hearing on Mr.
2 Goodman's behalf?

3 A Well, I filed an initial motion for the hearing in May
4 of 2016. After that point, we got some guidance from the
5 Office of Indigent Defense about how to prepare these cases.
6 And we were advised to prepare them as if they were death
7 penalty cases. So I hired a mitigation expert, a Ms.
8 Margaret O'Shea, who has experience in building in what we
9 call a mitigation case. And what they do is she talks to
10 the client, she talks to various individuals in the family,
11 she talks to teachers. She's, basically, writing a
12 biography of the client for use and trying to find things in
13 there that are mitigating. That's why they're called a
14 mitigating expert.

15 So I hired her and then I hired a social worker, Mr.
16 Manning, a little later on in the process. Because Ms.
17 O'Shea, for all her strengths, doesn't like to testify. So
18 we hired Mr. Manning to review some of the psychological
19 tests. He's a social worker and a forensic social worker,
20 so he reviewed all of the school tests and the various
21 mental health records, if there were any. I can't recall
22 specifically if there were, but there were a bunch of tests.
23 Then he also talked to Mr. Goodman. And he was the actual
24 expert witness who testified at the hearing. So that
25 process takes a while and it took -- well, it took over a

1 year really. So that's pretty much what that amount of time
2 was.

3 I also met with Mr. Goodman twice at the prison. I met
4 with him -- I wrote him a letter right after I filed the
5 motion to kind of let him know what was going on. Then I
6 spoke to Mr. Story, who was my previous client's, Mr.
7 Goodman's new attorney and asked him to execute a waiver for
8 me, which Mr. Demetrius Goodman did. So then I went out to
9 meet Mr. Goodman, the first time, was November 3rd, 2016.
10 And then I met with him on June 8th, 2017, then I met with
11 him again in September of 2017, right before the hearing.
12 So I had three meetings with him. Then I also know that Ms.
13 O'Shea and Mr. Manning met with Mr. Goodman a couple of
14 times that I wasn't present.

15 Q Mr. Goodman has alleged that you brought up old tests
16 that he took when he was younger. Were those tests part of
17 what you presented in mitigation?

18 A Yes.

19 Q Why was that?

20 A The expert told me -- well, I mean, I kind of listen to
21 my experts what I prepare. And the experts thought those
22 tests were important.

23 Q Were they favorable?

24 A They helped explain his state of mind. I mean, I
25 think, overall, his history was pretty -- we were trying to

1 present a history of him as an individual who was capable of
2 maturity -- or maturing. And some of the tests indicated
3 some mental challenges and some learning -- I'm not going to
4 say learning disabilities, but learning issues, issues with
5 authority, those kind of things. And they were all relevant
6 to trying to paint a picture of an individual who, at the
7 time of this incident, was immature.

8 And that, obviously, is the focus and it's the focus of
9 the Supreme Court's case -- I mean -- well, it's the focus
10 of the United States Supreme Court case in Miller that
11 teenagers aren't mature adults and, therefore, shouldn't be
12 held to the same standard necessarily as an adult who
13 commits a crime. And then it was also relevant in trying to
14 show that in the Aiken v. Byars context in regard to life
15 without parole. So yeah, they were all relevant and they
16 all showed a lack of maturity on the part of Mr. Goodman.

17 Q Were there any favorable tests or reports that you
18 could have presented that you did not?

19 A No.

20 Q What was his disciplinary record like at SCDC?

21 A It was awful.

22 Q Did you discuss his right to appeal?

23 A Yes. I recall generally talking about the process with
24 him, I believe, at our first meeting, that this was a
25 resentencing. And, you know, ten days -- I do that with all

1 my clients. But not in depth.

2 And then after the judge gave his sentence, the family
3 of the victim, through Mr. Finney, approached me and asked
4 if I could give them some information about how he gained
5 access to the house. So I went up to Mr. Goodman and I told
6 him, first of all, he -- I believe I volunteered, I don't
7 think he came to -- I don't think he asked the question
8 about the appeal. I believe I volunteered, look, I don't
9 believe there are any legal issues here to appeal. So I did
10 tell him that and I specifically recall saying that to him,
11 that I don't believe there's any basis to appeal.

12 And then I asked him, I said -- I told him, I said,
13 Look, the family is looking for some sort of closure. Do I
14 have your permission to share with them what you've told me
15 about how you gained access to the house? And he said, Yes.
16 He was very sober. He was not -- obviously, he was very
17 sober. So then I took that information and I shared it with
18 the family members in a different room.

19 Q Okay. If he had asked you to appeal the case, would
20 you have appealed?

21 A Yes.

22 MS. GREGORY: No further questions, Your Honor.

23 THE COURT: Mr. Griffith.

24 CROSS-EXAMINATION

25 BY MR. GRIFFITH:

1 Q Thank you, Mr. Murphy, for coming.

2 A You're welcome. I didn't have much of a choice, I was
3 subpoenaed.

4 Q Well, we appreciate it. Mr. Murphy, when you
5 represented Mr. Goodman -- you did not represent him at the
6 initial trial. You stated you were representing him only at
7 this sentencing hearing?

8 A That is correct. I represented his brother.

9 Q Okay. But you were very familiar with the whole case?

10 A Yes.

11 Q So he claims that you told him that you could not
12 appeal when, actually, you could have appealed even though
13 there was nothing to -- on a basis for appeal; is that
14 correct?

15 A I deny I ever told him he couldn't appeal.

16 Q Okay.

17 A I do recall specifically telling him there's no legal
18 basis to appeal.

19 Q Okay. Did you have any kind of -- do you document when
20 you have people -- when you give them information as to
21 whether they will or will not be entitled to an appeal?

22 A I don't document it because I give the exact same type
23 of discussion with every client that is involved in a plea.
24 I always go over all their rights ahead of time. I go
25 through the process, what the process is going to be like.

1 Now, in his case, it's a little different because he
2 wasn't actually -- I mean, it's kind of like a truncated
3 appeal. I mean, it was just the sentencing part. But I do
4 go over the ten-day rule. And the reason I go over it is
5 because I've been PCR'd before early on when I started this
6 where I did not tell a person that he had ten days to
7 appeal. So I'm very careful about that. It was one of the
8 first -- it was within the first year of me being a public
9 defender that somebody PCR'd me for that. I mean, I
10 admitted I didn't talk to him about his appeal rights at
11 all. So I'm very careful about that ten-day thing. I would
12 never tell a client they can't appeal.

13 Now, I do tell them I don't think there's a basis for
14 appeal because, quite frankly, it's a waste of time most of
15 the time. But, you know, I inform every client. And that's
16 why I'm confident -- well, first of all, I have a specific
17 recollection of telling him that I didn't think there was a
18 basis to appeal. But I would never tell a client they can't
19 appeal, I would never do that.

20 Q Does the public defender's office have anything written
21 or a procedure that is written that the attorneys in that
22 office follow or hand to the client in order to inform the
23 client?

24 A We had a checklist that we would make part of our
25 package, but whether -- and it's in our defender data

1 system. If an attorney wants to use it, they can. It was
2 -- I'm not going to say mandatory, but it was encouraged for
3 a period of time. But, you know, we're pretty -- most of
4 the folks down there are pretty experienced, so they kind of
5 -- if they want to use it, great, if they don't -- I mean,
6 there's no requirement to use it.

7 Q Okay. And you stated that you saw no appealable --

8 A Issues.

9 Q -- issues in this case and you informed him of such?

10 A Right.

11 Q Under the South Carolina rules, this was a plea; isn't
12 that correct?

13 A Yeah, it was a resentencing on his plea, that's
14 correct.

15 Q So when you issue an appeal, you also have to provide
16 some reason in a plea -- in the appeal why they should grant
17 the appeal?

18 A That is correct. And that's part of the form to the
19 Court of Appeals. Normally, when I'm faced with a situation
20 where I tell a client there's no basis to appeal this, but
21 they insist on appealing, we're under an ethical obligation
22 to file the appeal anyway. And normally, what I do is I
23 write down I am preserving -- you know, for the reason, I
24 just put down I am preserving my client's right to appeal.
25 And usually, within a month, I get a letter back that it's

1 been dismissed because the Office of Indigent Defense don't
2 take those up. And quite frankly, I think the Court of
3 Appeals typically recognizes what I am saying is there's no
4 legal basis to appeal. I don't have a legal issue. So
5 that's usually the turnaround, it's usually pretty quick.
6 Had he had asked me to appeal, that's exactly what I would
7 have done.

8 Q So now you're -- what you're really saying then and my
9 question is did he ask you?

10 A No, he did not.

11 MR. GRIFFITH: Thank you. No further questions.

12 MS. GREGORY: No questions. That concludes the State's
13 case.

14 THE COURT: Anything further, Mr. Griffith?

15 MR. GRIFFITH: No, Your Honor.

16 THE COURT: Okay. I will take this under advisement
17 and inform y'all of my ruling.

18 MS. GREGORY: Thank you, Your Honor.

19 THE COURT: Thank you.

20 MR. GRIFFITH: Thank you, Your Honor.

21

22

23

24

25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

I, PENNY M. JOHNSON, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case, and I have no interest, financial or otherwise, in its outcome.

February 27, 2020

Penny M. Johnson

Penny M. Johnson
Official Court Reporter

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Tervin Goodman, #329973,)

2018-CP-43-1440

Applicant,)

ORDER OF DISMISSAL

v.)

State of South Carolina,)

Respondent.)

This matter comes before the Court by way of an application for post-conviction relief filed on August 6, 2018, by Tervin Goodman (Applicant). The State (Respondent) filed a Return and Partial Motion to Dismiss on October 24, 2018, requesting an evidentiary hearing. An evidentiary hearing into the matter was convened on March 27, 2019, at the Sumter County Courthouse. Applicant was present at the hearing and represented by Timothy Griffith, Esquire. Assistant Attorney General Janell H. Gregory of the South Carolina Attorney General's Office appeared on behalf of Respondent. At the hearing, Applicant testified on his own behalf. Timothy Murphy, Esquire (Counsel) also testified. After a review of the record and all evidence presented, this Court finds Applicant has failed to meet his requisite burden of proof and denies this application.

I. PROCEDURAL HISTORY

The records before this Court establish Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Sumter County Clerk of Court's order of commitment. In October 2009, the Sumter County Grand Jury indicted Applicant for murder, first-degree burglary, and grand larceny (2009-GS-43-1120). Applicant was seventeen years old at the time the crime was committed. Charles T. Brooks, III, Esquire, represented Applicant on the charges. Assistant Solicitor John P. Meadors, Esquire, prosecuted the case. On September 19, 2011,

Applicant pled guilty to murder and first-degree burglary before the Honorable Howard P. King. The grand larceny charge was dismissed in exchange for Applicant's guilty plea. Judge King sentenced Applicant to life imprisonment. Applicant did not appeal his guilty plea or his sentence.

2012-CP-43-922

Applicant filed an application for post-conviction relief on May 16, 2012, alleging he was being held in custody unlawfully based on the following allegations:

1. Ineffective Assistance of Counsel
 - a. "Conflict of interest do to ineffective counseling."
 - b. "Failed to Consult with Defendant."

Resentencing hearing
Respondent filed its Return on August 2, 2012. An evidentiary hearing was convened at the Sumter County Courthouse on March 17, 2016, before the Honorable Brooks P. Goldsmith. At the hearing, Applicant challenged the constitutionality of his life sentence for first-degree burglary and waived all other grounds for relief. He specifically argued that his life sentence for first-degree burglary was unconstitutional pursuant to Graham v. Florida,¹ and that he was entitled to a new sentencing proceeding where a life sentence was prohibited. Respondent consented to the relief sought, and Judge Goldsmith vacated Applicant's sentence for first-degree burglary and granted him a new sentencing proceeding. The order granting Post-Conviction Relief was filed on April 7, 2016.

On October 5, 2017, Applicant appeared at the Florence County Courthouse before the Honorable William H. Seals, Jr., for his resentencing hearing. Timothy Murphy, Esquire represented him at the hearing. Solicitor Ernest Finney, III, and Lisa Beharry, of the Third Circuit Solicitor's Office represented the State. At the hearing, Applicant requested resentencing for his first-degree burglary charge, as well as an Aiken v. Byars² hearing for his murder charge.

¹ 560 U.S. 48 (2010) (holding the Eighth Amendment prohibits the imposition of a life without parole sentence on juvenile offenders who did not commit homicide).

² 410 S.C. 534, 765 S.E.2d 572 (2014) (holding life without parole sentences for juveniles without individualized consideration of their youth constituted cruel and unusual punishment).

At the resentencing hearing, Counsel presented testimony from Jim Manning, a social worker and expert witness in social history and child development. Manning testified about Applicant's developmental levels, family and personal background, his maturity level, and his potential for improvement over time. (Resentencing Hearing Tr. 4-17.) The State presented testimony from Detective Irene Culick, who explained the circumstances of the crime and resulting investigation, as well as her interviews and interactions with Applicant. (Resentencing Hearing Tr. 28-43.) Counsel objected to Culick's testimony about her personal opinion of Applicant's thoughts and motives. (Resentencing Hearing Tr. 39.) The State further presented testimony from Gayle Wenzel, the victim's daughter, Joseph Horger, the victim's son, and Charles Horger, the victim's brother.

After considering the testimony and arguments presented, Judge Seals sentenced Applicant to life imprisonment for murder and a consecutive thirty years' imprisonment for first-degree burglary. Applicant did not appeal his sentence.

SUMMARY OF FACTS

Applicant entered the victim's home on June 8, 2008, to commit a robbery. The evidence suggests that while he was looking around the house, the victim appeared, and Applicant killed her by hitting her over the head with a ceramic vase. The victim's blood was found in various places around the house, and her body was found downstairs with a severe head injury and a broken vase nearby. Applicant then continued his robbery, taking a large amount of cash from a safe, her cell phone, and the victim's credit card, then leaving in the victim's car. Applicant essentially admitted his guilt to his friends and family, and his fingerprints were found on the murder weapon, the stolen credit card, and the stolen vehicle. Applicant freely used the victim's stolen car and cell phone after the murder. (GP Tr. 12-26.)

III. ALLEGATIONS RAISED

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

1. Ineffective Assistance of Counsel
 - a. "My attorney presented documents in court stating that he gave me tests but he really presented old filed from 2004."
 - b. "My attorney failed to object on several occasions. Det. Culich, who is not a detective on my case was allowed to get on the stand and blatantly lie on me. My lawyer failed to object when I asked could he, during her testimony."
 - c. "She painted (Det. Irene Culich) a picture of the crime and testified in court what I did but don't have any evidence to prove."
2. "Aiken vs. Byars"

"Aiken vs. Byars clearly states that children are capable of reform. Sentencing us to LWOP sentences is symbolic to giving us a slow death sentence, being that we're never given another chance at society, even after serving the many years."
3. Failure to Appeal

"My attorney told me we couldn't appeal."

On March 27, 2019, an evidentiary hearing was convened. Respondent renewed its motion to dismiss the Aiken v. Byars claims, which was granted. Applicant proceeded with the hearing on the allegations of ineffective assistance of counsel, and failure to file an appeal.

II. TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

Applicant's Testimony

During the evidentiary hearing, Applicant testified on his own behalf. Applicant testified he discussed the risks of proceeding with his post-conviction relief hearing with his attorney and made the decision to go forward. Applicant testified during his resentencing hearing that Counsel never objected to the testimony of Det. Culick. Applicant testified Det. Culick testified to things she predicted, but which were not true. Applicant testified that none of his lawyers objected to the things Det. Culick said in her testimony during his guilty plea or his resentencing hearing. Applicant further testified he would like a new resentencing hearing because Counsel failed to file

an appeal on his behalf. Applicant testified he asked Counsel to file an appeal during the resentencing hearing. Applicant testified the prosecutor was also lying during the resentencing hearing and he feels Counsel should have objected. Applicant testified that, at the resentencing hearing, his lawyer admitted into evidence tests results from when Applicant was fourteen. He stated neither Murphy nor his previous attorney ever had him retested but instead relied on old testing from his school records. Applicant object to the use of the "old" tests because he feels he has changed since then.

Counsel's Testimony

Counsel also testified at the post-conviction relief hearing. Counsel testified he has been practicing law for over thirty years. Counsel testified he represented Applicant's brother at the time Applicant pled guilty. Counsel testified that when Aiken v. Byars³ decision came down, the Office of Indigent Defense identified a number of individuals who were serving life without the possibility of parole and were eligible for a Byars hearing. Counsel testified he and another attorney split the list and, since he was familiar with Applicant's case, he represented Applicant. Counsel testified he obtained the necessary waivers in order to represent Applicant for the resentencing hearing. Counsel testified he met with Applicant two times at the prison.

Counsel testified Det. Culick's testimony was relevant to the resentencing hearing and was substantially consistent with what she testified to at the guilty plea. Counsel testified there was an occasion where Det. Culick "went off on a tangent" and he objected at that time. Counsel testified he prepared the mitigation for Applicant's case like a death penalty case. Counsel testified he talked to Applicant, his teachers, and family. Counsel testified he hired two different experts: a mitigation expert to review all of the pertinent records, and a social worker who would testify at

³ 410 S.C. 534, 765 S.E.2d 572 (2014).

the hearing Counsel testified the testing records from Applicant's youth help explain Applicant's state of mind, mental health challenges, and learning issues, which were all relevant to paint a picture of Applicant. Counsel testified teenagers are not as mature as adults, so the tests were relevant for the hearing.

Counsel testified he presented all of the favorable information he could on Applicant's behalf. Counsel testified Applicant's SCDC record was awful. Counsel testified he discussed Applicant's right to appeal during his representation, but told him he did not have any legal issues to appeal. Counsel testified he would have filed a notice of appeal on Applicant's behalf had he requested an appeal.

On cross-examination, Counsel testified he never told Applicant he could not appeal his case, but he did tell him he did not have a legal basis to appeal. Counsel testified he does not have any documentation indicating he told Applicant this because he gives the same speech to each of his clients. Counsel testified he is very careful about discussing this with each client because he had a previous client file a post-conviction relief application on him for failing to discuss his right to appeal. Counsel testified if Applicant had asked him to appeal, he would have filed a notice of appeal to preserve Applicant's rights. Counsel testified under South Carolina rules, Applicant's appeal would likely have been dismissed because he would have had to provide reasons for his appeal and Applicant had no meritorious grounds for his appeal.

APPLICABLE LAW

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial

cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813.

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. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 300 S.C. 115. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any 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." Id. at 117-18, 300 S.C. at 115.

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

This Court viewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the plea transcript, and Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, and the legal arguments made by the attorneys. Set forth below are the relevant findings of fact and conclusion of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

This Court finds Applicant has failed to meet his burden of proving he is entitled to post-conviction relief on any of his allegations of ineffective assistance of counsel. Applicant has failed to prove both deficiency on the part of Counsel and any prejudice therefrom. Furthermore, after observing the witnesses and passing on their credibility, this court finds Counsel's testimony to be credible. By contrast, this Court finds Applicant's testimony lacks credibility.

Counsel's alleged failure to present proper mitigation

Applicant alleges Counsel was ineffective for failing to present timely information during the resentencing hearing. Applicant alleges Counsel presented tests from 2004 when Applicant was fourteen and he has changed since then.

Counsel testified the tests were material in order to show Applicant's state of mind, mental health issues, and learning challenges. Counsel testified he hired a social worker to be an expert witness in Applicant's social history and child development. Counsel testified the expert reviewed Applicant's family history, education history, and was able to provide expert testimony at the hearing. Counsel testified he presented all favorable information to the court he could, but that Applicant's SCDC record was awful.

This Court finds credible Counsel's testimony that he prepared favorable mitigation on Applicant's behalf at his resentencing hearing, which included testing conducted with Applicant from 2004. Counsel's expert testified regarding Applicant's family history, education, and maturity, which was relevant to the resentencing proceeding. This Court finds Applicant has failed to establish how Counsel was deficient as he has failed to show any favorable mitigation that Counsel failed to present. Applicant has also failed to establish any resulting prejudice from Counsel's alleged deficiency as he has failed to show what Counsel could have presented that would have impacted the sentence imposed by the resentencing court. Based on the foregoing,

Applicant has failed to meet his burden and this allegation must be denied and dismissed with prejudice.

Counsel failed to object to Det. Culick's testimony

Applicant testified Counsel failed to object to Det. Culick's testimony during the resentencing hearing. Applicant testified Det. Culick's testimony was not true and not supported by evidence. Applicant testified Counsel should have objected.

Counsel testified most of Det. Culick's testimony was relevant to the resentencing hearing and was substantially consistent with what was presented at the guilty plea hearing. Counsel testified Det. Culick did "go off on a tangent" during her testimony and he objected at that time.

The resentencing hearing transcript shows Det. Culick's testimony was relevant to provide Judge Seals with background information on the case and her investigation. The transcript also shows Counsel did properly object when Det. Culick attempted to offer her opinion of Applicant during her testimony. Therefore, this Court finds Counsel was not deficient in his handling of Det. Culick's testimony. Applicant has also failed to establish any prejudice from Counsel's alleged deficiency. Therefore, this allegation is denied and dismissed with prejudice.

Aiken v. Byars

Applicant fails to state any grounds under Aiken v. Byars, other than a generalized statement of the holding in the case. A review of the transcript of the resentencing hearing reveals that the resentencing judge considered all of the relevant factors, including the age and maturity of Applicant at the time he committed the crime, his maturity level, his ability to perceive risks and consequences, his family and home environment, the extent of his participation in the crime, the incompetencies associated with youth, Applicant's ability to deal with the police and with his lawyer, his I.Q., and the possibility of his rehabilitation. After carefully evaluation the testimony and each of the relevant factors, the resentencing judge

sentenced Applicant to a term of imprisonment within his statutory discretion. Applicant fails to state any grounds for relief under Aiken v. Byars, and after reviewing the transcript this court finds none.

Counsel failed to file an appeal

Applicant alleges Counsel was ineffective for failing to file an appeal on his behalf. The United States Supreme Court has rejected a bright-line rule requiring Counsel to consult with the defendant regarding an appeal in every case. Roe v. Flores-Ortega, 528 U.S. 470, 480 (2000). Instead, "counsel has a constitutionally imposed duty to consult with the defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal), or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing." Id.

Here Counsel testified Applicant did not ask him to appeal, nor did Counsel believe Applicant had any meritorious claims to appeal. Counsel also testified his usual practice is to discuss his client's right to appeal during his representation. This Court finds Applicant has failed to meet his burden of proving he did not voluntarily and intelligently waive his right to appeal. This Court finds Counsel's testimony very credible, whereas Applicant's testimony is not credible. Applicant has failed to establish how Counsel was deficient or any resulting prejudice from the alleged deficiency. Therefore, this allegation is denied and dismissed with prejudice.

CONCLUSION

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

The Court notes Applicant must file and serve a notice of appeal within thirty days from post-conviction relief counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. The application for post-conviction relief is denied and dismissed with prejudice; and
2. Applicant will remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 15th day of April, 2019.

Kristi F. Curtis

KRISTI F. CURTIS
Presiding Judge
Third Judicial Circuit

Sumter, South Carolina

WITNESSES

SPD

Rabon

Hodge

ARREST WARRANT NUMBER

J303343; J303341; Direct Present

D/A: 06/16/08

ACTION OF GRAND JURY

True Bill

Def. Kelly

Foreperson of Grand Jury

Date:

29 Oct 2009

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-43- 1120

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2009

THE STATE

vs.

TEVIN A/K/A TERVIN GOODMAN

Indictment for

MURDER, BURGLARY (1st Degree),
GRAND LARCENY

C. KELLY JACKSON, SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SUMTER) INDICTMENT FOR
) MURDER, BURGLARY (1st Degree), GRAND
) LARCENY

At a Court of General Sessions, convened on October 29, 2009, the Grand
 Jurors of SUMTER County present upon their oath:

CERTIFIED TRUE COPY
 OF ORIGINAL FILE
Barbara Hager
 DEPUTY CLERK OF COURT
 SUMTER COUNTY
 SOUTH CAROLINA

COUNT ONE – MURDER

That TEVIN A/K/A TERVIN GOODMAN did in Sumter County on or about June 8, 2008, feloniously, wilfully and with malice aforethought, either expressed or implied, kill one Mary Hunter by means of beating her about the head, and that the said Mary Hunter did die as a proximate result thereof.

COUNT TWO – BURGLARY (1st Degree)

That TEVIN A/K/A TERVIN GOODMAN did in Sumter County on or about June 8, 2008, enter the dwelling of Mary Hunter at [REDACTED] without consent and with the intent to commit a crime therein and while in the dwelling the said TEVIN A/K/A TERVIN GOODMAN caused physical injury to a person who was not a participant in the crime, to wit: Mary Hunter, and said TEVIN A/K/A TERVIN GOODMAN has a prior record of two or more convictions for burglary or housebreaking or a combination of both, in violation of Section 16-11-311(A)(1)(b) & (A)(2), South Carolina Code of Laws (1976), as amended.

COUNT THREE – GRAND LARCENY

That TEVIN A/K/A TERVIN GOODMAN did in Sumter County on or about June 8, 2008, violate Section 16-13-30(B)(1) of the Code of Laws of South Carolina (1976), as amended, in that he did feloniously take and carry away the personal goods of Mary Hunter, of the value of more than \$5,000 dollars, described as follows: a 2006 Toyota Camry, with intent to deprive the owner thereof permanently of such goods.

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

C. Kelly Jackson
 SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Sumter

VS.

Tevin Goodman

AKA:

Race: [REDACTED] Sex: [REDACTED] Age: [REDACTED]

DOB: [REDACTED]

City, State, Zip: Sumter, SC 29150

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Murder

in violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ § 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Meadors, John P

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: Today☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$

§ 14-1-206 (Assessments 107.5 %) _____ \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 _____ \$

§ 14-1-211(A)(2) (DUI Surcharge) \$100 _____ \$

§ 56-5-2995 (DUI Assessment) \$12 _____ \$

§ 56-1-286 (DUI Breath Test) \$25 _____ \$

Proviso 61.6 (Public Def/Probation) \$500 _____ \$

§ 14-1-212 (Law Enforce. Funding) \$25 _____ \$

§ 14-1-213 (Drug Court Surcharge) \$150 _____ \$

§ 50-21-114 (BUI Breath Test Fee) \$50 _____ \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea _____ \$

3% to County (if paid in installments) _____ \$

TOTAL \$ _____

Clerk of Court/ Deputy Clerk

Court Reporter: E. Babin (Hawes)

SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009-GS-43-1120

A/W#: J304343

Date of Offense: 6/8/2008

S.C. Code § : 16-03-0010

CDR Code #: 0116

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code: 2157Sentence Date: Oct 5, 2017

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSION 165

COUNTY OF
STATE

Sumter

VS.

Tevin Goodman

AKA:

Race: Black

Sex: M

DOB:

City, State, Zip: Sumter, SC 29150

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Burglary (After June 20, 1985) - First degree

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ § 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Meadors, John P

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: today☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ _____

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 61.6 (Public Def/Probation) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ _____

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ca \$ _____

3% to County (if paid in installments) \$ _____

TOTAL \$ _____

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

INDICTMENT/CASE#: 2009-GS-43-1 120

A/W#: J304341

Date of Offense: 6/8/2008

S.C. Code § : 16-11-0311

CDR Code #: 0079

CERTIFIED TRUE COPY
OF ORIGINAL FILEBarbara Hager
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge

Judge Code: 2157

Sentence Date: Oct 5, 2017