

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Florence County

Honorable William H. Seals, Circuit Court Judge

GEORGIA WOODBERRY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-001474

APPENDIX

JOANNA DELANY
Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

LINDSEY MCCALLISTER
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

RECEIVED
Aug 14 2020
SC Court of Appeals

INDEX

INDEX	i
TRANSCRIPT OF GUILTY PLEA HEARING HELD JULY 30, 2013.....	1
<i>DIRECT APPEAL DOCUMENTS</i>	
NOTICE OF APPEAL.....	54
LETTER TO CLIENT (Guilty Plea Explanation)	57
ORDER DISMISSING APPEAL	58
REMITTITUR	59
<i>POST-CONVICTION RELIEF DOCUMENTS</i>	
APPLICATION FOR POST-CONVICTION RELIEF	60
STATE’S RETURN.....	68
TRANSCRIPT OF POST-CONVICTION RELIEF HEARING HELD AUGUST 9, 2016.....	75
ORDER OF DISMISSAL	125
INDICTMENT.....	142
SENTENCING SHEETS.....	145

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF FLORENCE	)	2013-GS-21-411
	)	
	)	
	)	
State Of South Carolina	)	)
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
Georgia Gurley Woodberry	)	)
<u>DEFENDANT</u>	)	July 30, 2013
		Florence, South Carolina

B E F O R E:

THE HONORABLE D. CRAIG BROWN, JUDGE.

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

ED CLEMENTS, SOLICITOR
Attorney for the State

SCOTT P. FLOYD, CHIEF PUBLIC DEFENDER
Attorney for the Defendant

KESHIA REED
Official Court Reporter

I N D E X

(WHEREUPON, there were no witnesses called.)

1 THE COURT: Mr. Clements, the State ready to
2 proceed?

3 MR. CLEMENTS: We are, Your Honor. May we
4 approach the bench.

5 THE COURT: Yes, sir.

6 (WHEREUPON, a bench conference was held.)

7 THE COURT: All right.

8 MR. CLEMENTS: Your Honor, if it please the
9 Court, I think we have a resolution of this trial. Mr.
10 Floyd tells me at this time that Ms. Woodberry is going to
11 plead guilty as charged, as indicted and I have all the
12 sentencing sheets that have been signed.

13 THE COURT: All right. Mr. Floyd, you represent
14 Georgia Woodberry?

15 MR. FLOYD: Yes, sir, Your Honor, I do.

16 THE COURT: You explain to her the charges
17 contained in the indictment, the possible punishment and
18 her Constitutional Rights?

19 MR. FLOYD: Yes, Your Honor.

20 THE COURT: In your opinion, does she understand
21 the charges against her, the possible punishment and her
22 Constitutional Rights?

23 MR. FLOYD: Yes, Your Honor.

24 THE COURT: Does she indicate to you a desire to
25 plead guilty or not guilty to each of these charges?

1 MR. FLOYD: Guilty, Your Honor.

2 THE COURT: Do you agree with her decision to
3 plead guilty as to each of these charges?

4 MR. FLOYD: I do.

5 THE COURT: From your investigation of the facts
6 and circumstances of this case, do you believe the State
7 could produce sufficient evidence to convince a jury of
8 her guilt beyond a reasonable doubt and that if she were
9 to stand trial, her conviction as to each of these charges
10 would be probable?

11 MR. FLOYD: Yes, Your Honor.

12 THE COURT: Has she been ordered to submit to a
13 psychological or mental evaluation?

14 MR. FLOYD: She was, Your Honor. We had a court
15 order evaluation of her as part of this legal proceeding.

16 THE COURT: Any question in your mind about her
17 competency?

18 MR. FLOYD: No, Your Honor.

19 THE COURT: All right. Madame clerk, would you
20 place the defendant under oath please.

21 THE CLERK: If you will, ma'am, raise your right
22 hand. Do you swear to tell the truth, the whole truth,
23 and nothing but the truth so help you God?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Ma'am, you are Georgia Gurley

1 Woodberry?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Certain questions that I must ask
4 you to ensure that you're entering into this plea
5 knowingly, intelligently, freely and voluntarily and that
6 you have a full understanding of the nature of the
7 proceedings or the offenses that you're pleading guilty to
8 here today. If at any point in time you need to speak
9 your attorney, Mr. Floyd, you let me know and I'll be
10 happy to let you talk to him, okay?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: How old are you, ma'am?

13 THE DEFENDANT: Thirty.

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

15 THE DEFENDANT: Eleventh grade.

16 THE COURT: You ever worked anywhere?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Where is the last place you worked?

19 THE DEFENDANT: T.J. Max.

20 THE COURT: How long did you work there?

21 THE DEFENDANT: About six months.

22 THE COURT: Do you have any children?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: How many?

25 THE DEFENDANT: I have four girls and one son.

1 THE COURT: You ever been treated for alcohol
2 abuse, drug abuse or mental illness?

3 THE DEFENDANT: No, sir.

4 THE COURT: Within the last 24 hours, have you
5 taken any medication drugs or alcohol?

6 THE DEFENDANT: No, sir.

7 THE COURT: Are you aware of any physical,
8 emotional or nervous problem that would prevent you or
9 keep you from understanding what's going on here today?

10 THE DEFENDANT: No, sir.

11 THE COURT: Now, the State indicates that you
12 are pleading guilty to the offense of murder; is that
13 correct?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: The State also indicates that you're
16 pleading guilty to two counts of attempted murder; is that
17 correct?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: As well as pleading guilty to the
20 offense of stalking and discharging a firearm into a
21 vehicle; is that correct?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Now, with regards to the murder
24 charge, you understand that this particular offense
25 carries a mandatory minimum sentence of 30 years. You

1 understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And a maximum penalty of life
4 imprisonment. Do you understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you also understand that the
7 offense of murder is considered to be a no parole offense?
8 Do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: In other words, you can count on
11 doing day for day of any sentence handed down by this
12 court. Do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you also understand that this is
15 considered to be a most serious offense under South
16 Carolina law? Do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Mr. Floyd, you've explained to her
19 the consequences of a most serious offense?

20 MR. FLOYD: Yes, Your Honor.

21 THE COURT: You believe she understands that?

22 MR. FLOYD: I do.

23 THE COURT: With regards to the two counts of
24 attempted murder, Ms. Woodberry, you understand that each
25 of those counts, each of those counts carries a penalty of

1 up to 30 years? Do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you also understand that each of
4 those counts are considered to be most serious offenses?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Now, you understand that the
7 stalking offense carries a penalty of up to five years?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And that the discharging a firearm
10 into a vehicle while occupied carries a penalty of up to
11 five years as well, do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Now, it's my understanding that
14 these pleas are being entered into without a
15 recommendation or negotiation; is that correct, Mr.
16 Clements?

17 MR. CLEMENTS: That's correct, Your Honor.

18 THE COURT: Is that your understanding,
19 Mr. Floyd?

20 MR. FLOYD: Yes.

21 THE COURT: Is that understanding,
22 Ms. Woodberry?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Ms. Woodberry, you understand that
25 the Court could sentence you to life plus 70 years today?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Understanding that, you still wish
5 to go forward and plead guilty to these offenses here
6 today?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Now, you understand, Ms. Woodberry,
9 that when you plead guilty, you give up certain important
10 Constitutional Rights?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: In this particular case, we have
13 already begun the trial of your case, but I'm going to go
14 through these Constitutional Rights with you. You have a
15 right to a jury trial. You have to continue with this
16 jury trial that we have started here, that we started
17 yesterday. And you have a right to allow this case to go
18 to that jury and let them deliberate on your guilt or
19 innocence and let them decide whether or not you are
20 guilty or not guilty as to each of these offenses that
21 you're pleading guilty to here today, do you understand
22 that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And you understand that I will
25 instruct -- I would -- if we went forward with this trial,

1 I would instruct this jury and I've already told the jury
2 this, that the State bears the burden they have to prove
3 your guilty beyond a reasonable doubt as to each of these
4 offenses. Do you understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And that you have absolutely -- I
7 would further tell them and I've already told them that
8 you have no burden whatsoever to prove your innocence.
9 The burden remains on the State throughout the trial of
10 your case. Do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: If you go forward with this plea
13 however, if you go forward with this plea however, the
14 process is going to end here. And there is -- this case
15 will not continue in trial and the jury will not decide
16 your guilt or innocence. Do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: You understand that before you can
19 plead guilty, you have to tell me you're guilty. You
20 understand that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: If we were to going forward with
23 your trial, you would have every right to remain silent.
24 You would have every right to remain silent. And I will
25 tell this jury that they could not, could not hold that

1 fact against you. Do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Now, do you understand that you have
4 every right to continue with this case and let a jury make
5 a decision on this case?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you understand that if you plead
10 guilty here, if you go forward with your guilty plea, that
11 you will give up your right to a jury trial. Do you
12 understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Understanding that, is
15 it your desire to give up your right to a jury trial and
16 proceed with this guilty plea here today?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Okay. Let me explain something else
19 to you, if we were to go forward with your trial, again
20 you would have the right to remain silent, but you could
21 put up any defense that you might to these charges. Do
22 you understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And you also understand that by
25 pleading guilty here today, you're not going to get to put

1 up a defense to these charges, do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: In the process again, the process
4 ends, you understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you understand, Ms. Gurley excuse
7 me -- Ms. Woodberry, your Constitutional Rights?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And do you understand that when you
10 plead guilty, you give up those Constitutional Rights?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Mr. Floyd, you've explain those to
13 her?

14 MR. FLOYD: Yes, sir, Your Honor.

15 THE COURT: And you're confident she understands
16 that?

17 MR. FLOYD: I am.

18 THE COURT: All right. Understanding your
19 rights, Ms. Woodberry, and understanding that when you
20 plead guilty you give up those rights, how do you plead to
21 each of these charges here today guilty or not guilty?

22 THE DEFENDANT: Guilty.

23 THE COURT: All right. Now, Ms. Woodberry, you
24 are represented by Mr. Floyd?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Are you satisfied with how your
2 lawyer's advised you and represented you in this case?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Have you talk with him as often and
5 for as long as you felt necessary for him to represent
6 you?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you need any more time to talk to
9 him?

10 THE DEFENDANT: No, sir.

11 THE COURT: Have you understood your talks with
12 him?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Has he done everything you believe
15 he could have done or should have done for you?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Has he done anything that you think
18 he shouldn't have done?

19 THE DEFENDANT: No, sir.

20 THE COURT: Are you completely satisfied with
21 his services?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you have any complaints
24 whatsoever?

25 THE DEFENDANT: No, sir.

1 THE COURT: Has anybody promised you anything or
2 held out any hope of reward to get you to plead guilty to
3 these charges?

4 THE DEFENDANT: No, sir.

5 THE COURT: Has anybody used any threats, force,
6 pressure or intimidation to get you to plead guilty to
7 these charges?

8 THE DEFENDANT: No, sir.

9 THE COURT: Has anybody mistreated you in any
10 way whether it be law enforcement or Solicitor's office?

11 THE DEFENDANT: No, sir.

12 THE COURT: Have you had enough time,
13 Ms. Woodberry, to think about or to make up your mind as
14 to whether or not you want to plead guilty or go to trial
15 on these charges?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And what do you wish to do?

18 THE DEFENDANT: Go forward.

19 THE COURT: Do you want to plead guilty to these
20 charges or do you want to continue with the trial of your
21 case?

22 THE DEFENDANT: Plead guilty.

23 THE COURT: As to each of these charges?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Are you pleading guilty as to each

1 of these charges of your own free will?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Have you understood each of my
4 questions?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Is there anything that you would
7 like to ask me about what we just gone over?

8 THE DEFENDANT: No, sir.

9 THE COURT: Has anyone, has anyone suggested to
10 you how to answer my questions?

11 THE DEFENDANT: No, sir.

12 THE COURT: Have you been absolutely truthful to
13 me in each and every answer that you have given this
14 court?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right, Mr. Clements.

17 MR. CLEMENTS: If it please the Court, Your
18 Honor. You heard most all of the facts not in great
19 detail, but as far as the murder of Lori Pruett, it was --
20 she died and we have the pathologist here today. She died
21 from injuries sustained in the car wreck. The reason she
22 was in the car wreck is because of the actions of
23 Ms. Woodberry chasing Ms. Gray's vehicle and shooting at
24 the vehicle and chasing them all the way through a red
25 light where they collided with Mrs. Lori Pruett. And Mrs.

1 Pruett died as a result thereof and under legal theory
2 transferred intent. Your Honor, we submit that it was
3 murder of Mrs. Lori Pruett.

4 You've heard the facts also, Your Honor. You
5 heard the 9-1-1 as it actually was occurring, that
6 Ms. Woodberry was shooting into the car. Ms. Gray and Mr.
7 Askins where Ms. Woodberry attempting to shoot both of
8 them. She actually did shoot through the door and shot
9 Ms. Gray in the leg. As you listen to the 9-1-1, you
10 could hear them screaming and then the engine goes woon as
11 they speed away to try to get away. She was attempting to
12 kill them with a .45 caliber pistol. You heard about the
13 .45 caliber pistol being bought by her about a month and a
14 day before this occurred. You heard about it being found
15 in her apartment and that it was her gun.

16 You have not heard from the SLED people that
17 match the slug not exclusively because of the damage to
18 the slug didn't permit a exclusive match to the .45, that
19 it was owned by Ms. Woodberry. But it was determined that
20 that .45 could have shot that projectile, but it was so
21 damaged that it couldn't be exclusive to that one high
22 point .45. It would have been the SLED expert testimony.
23 The other SLED agent was here. Scientist was going to
24 talk about GSR and that there was a positive match for GSR
25 on Ms. Woodberry. Those were our three out of first four

1 witnesses today. Today, our first witness would have been
2 Corporal Andrew Clendenin that would have talked about the
3 gathering of evidence and taking of the photographs. In
4 relation to the firing a weapon into the occupied vehicle,
5 we believe that all those elements been met.

6 Also, Your Honor, you've not heard testimony
7 from the victims. We're going to talk about the stalking.
8 They gone on for several days. You did hear one 9-1-1
9 call or actually two that Ms. Woodberry was hanging around
10 outside the apartment of Ms. Carolina Gray. Mr. Askins'
11 truck being there and she brought it to and that happen on
12 several occasions. Ms. Gray had to make several phone
13 calls to law enforcement. They would come in Village
14 Creek and my assumption is when they would come in Village
15 Creek she'd leave out of the entrance to Hickory --
16 whatever Hickory Ridge or whatever the name of that
17 apartment complex is where she come in and come across a
18 little stretch of woods and that stalking was going on.

19 There had been bad blood between Ms. Gray and
20 Ms. Woodberry for quite a long time. I had several
21 incident reports and also recordings of harassing obscene
22 telephone calls made to Ms. Gray and voice mails that were
23 left to her by Ms. Woodberry. Mr. Askins had a child with
24 her, but he didn't want be involved any more. He felt
25 very threatened by her and told me and parties testimony

1 is going be that he had told her it was just over and she
2 was said it's not going to be over until she said it was
3 over. And so she was stalking both of them. We feel like
4 all those elements have been met, Your Honor. And if
5 there's any further -- there other details, other facts I
6 could recite, but, Your Honor, I feel like we said all we
7 need to say and you've have heard on the record what we
8 need to substantiate this plea. If there's anything else
9 you wish for me to add, I could add further details.

10 THE COURT: All right. Ms. Woodberry, you've
11 heard the facts as stated by the Solicitor as it pertains
12 to each of these charges murder, two counts of attempted
13 murder, stalking, and discharging a firearm into a vehicle
14 while occupied. Do you agree with those facts?

15 THE DEFENDANT: Your Honor, I don't agree with
16 some of the things Mr. Askins says, but the underlying
17 facts, they are true.

18 THE COURT: And are you in fact guilty of
19 murder, two counts of attempted murder, stalking and
20 discharging a firearm into a vehicle while occupied?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Ma'am.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. I find that there is a
25 substantial factual basis for this defendant's plea as to

1 each of these charges based upon what I have heard here
2 today. I find the defendant's decision to plead guilty as
3 to each of these charges has been entered into freely,
4 voluntarily, knowingly and intelligently and that she's
5 had the advise and counsel of an attorney with whom she's
6 indicated she is completely satisfied with. I will accept
7 her plea as to each of these charges and what we're going
8 to do at this time since I accept the plea as to each of
9 these charges, I'm going to stand down on this. I'm going
10 release this jury. They been here since ten o'clock when
11 I asked them to be here. I'm going to relieve them for
12 the balance of today and then we will proceed with
13 sentencing shortly thereafter.

14 MR. CLEMENTS: Thank you, Your Honor.

15 THE COURT: You may stand down for a minute.

16 (WHEREUPON, a break was taken.)

17 THE COURT: Anything from the State before I
18 bring the jury in?

19 MR. CLEMENTS: No, your Honor.

20 THE COURT: From defense counsel?

21 MR. FLOYD: No, Your Honor.

22 THE COURT: I'm just going to bring the jury in
23 and release them at this time. And we will resume with
24 sentencing here shortly.
25

1 (WHEREUPON, the jury came into open court.)

2 THE COURT: Ladies and gentlemen, I want to
3 thank you for being here this morning when I asked you to
4 be here. I apologize for you all having to sit back there
5 and wait for a period of time. I hope you did recognize
6 and notice that when you came in here into this building
7 this morning, it was a lot more comfortable from a
8 temperature standpoint. But I want to apologize for
9 having kept you back there. I do not like to make juries
10 wait as I recognized that you have lives outside of this
11 courtroom. But sometimes it happens where you all have to
12 wait, okay. But I want to apologize for you all having to
13 sit back there and wait for a little while. What I want
14 to advise you at this time, if you will notice that
15 defense counsel's table Ms. Woodberry is not present with
16 her lawyer. Ms. Woodberry decided that she wanted to
17 plead guilty this morning. She has pled guilty to these
18 charges that she was on trial for and I am going to later
19 here this morning I am going to proceed with sentencing,
20 with sentencing.

21 I hope that you all do not feel that your time
22 was wasted yesterday or that your time was wasted this
23 morning. I can tell you that it's not out of the ordinary
24 that things like this happen. Juries are picked, trials
25 are started and individuals then decide that they want to

1 plead guilty. Sometimes that's what it takes for a case
2 to get moved. Sometimes it's simply seeing a jury panel
3 sitting out in a courtroom and a defendant recognizing
4 that it's -- their day has come -- their day in court to
5 come and then come to the conclusion that they would
6 rather plead guilty than go forward with a trial and let
7 12 individuals decide the case.

8 Now, that Ms. Woodberry has pled guilty to this
9 charge, sentencing will take place and it will be done by
10 me, that is my responsibility as a judge. What I'm going
11 to do at this time is I'm going to release you all for the
12 balance of today. We're not selecting -- they're
13 selecting a jury downstairs right now. They started at
14 ten o'clock for a trial that's going to be tried
15 downstairs. I am going to release you all for the balance
16 of today. There will be a telephone number that you can
17 call back tonight after six o'clock. And it will give you
18 instructions as to what you need to do as far as tomorrow
19 and maybe the remainder of the week, okay. But I want to
20 personally thank you for your service up here yesterday
21 and for being back here when I asked you to be here today.
22 I can tell you and I hope you all learned from being up
23 here over the last day and a half, this is not and nothing
24 against TV, but this is not television. This is real life
25 and it's not easy being a juror and sitting in judgment

1 and making a decision on the guilt or innocence of an
2 individual. This is real life and it's something that our
3 jury system is not perfect, but I can tell you it is the
4 best in the civilized world. It is the best in society
5 and our jury system in this country is what I believe
6 makes a lot of people from other parts of this world that
7 want come to this country because it's not that situation
8 in other countries. I can tell you where individuals are
9 tried by peers by individuals in their community. I want
10 again to thank you for being here. Thank you for your
11 service. Anything from the State before I release the
12 jury, Mr. Clements?

13 MR. CLEMENTS: Your Honor, we would just add to
14 your appreciation. Our appreciation for the jury and
15 their service as well. Our system could not move forward
16 without jurors being ready to hear a case and ready to
17 make a decision, that's what got us to this point we are
18 this morning. Thank you.

19 THE COURT: Anything from defense counsel?

20 MR. FLOYD: Nothing further, Your Honor.

21 THE COURT: Ladies and gentlemen, I told you
22 yesterday when I qualified you, I understand that jury
23 service never comes at a convenient time. But anything
24 worth having, I can promise you takes commitment, takes
25 people like you willing to serve even when you may not

1 want to, okay. Because I can promise you if you were in
2 this courtroom whether as a defendant in a criminal case
3 or plaintiff or a defendant in a civil case, you would
4 want individuals such as yourself sitting on a jury. You
5 wouldn't want me or any other judge sending law
6 enforcement out picking up the first 12 or 13 people they
7 can find on the street to come in here and decide a case.
8 So again, thank you for your service. You all are
9 released have a good rest of the day and week. Thank you.
10 Make sure you call that number back tonight after six.

11 (WHEREUPON, the jury was dismissed.)

12 (WHEREUPON, a break was taken.)

13 THE COURT: Mr. Floyd, if you will come back
14 around with your client. I have accepted the plea.
15 Before I hear from you, Mr. Floyd, and your client and
16 whoever wishes to speak on her behalf, I ask that whoever
17 wishes to speak on behalf of the State, I will turn it
18 over to you, Mr. Clements.

19 MR. CLEMENTS: Thank you, Your Honor. First,
20 Your Honor, let me tell you we calculated as of this
21 morning Ms. Woodberry has been in jail 482 days. Your
22 Honor, we have all three victims in the case here and
23 several friends of the Pruett family. Your Honor, I'm
24 going to ask them to raise their hand as I identify who
25 they are. We have Dan Pruett the husband of Lori Pruett,

1 Your Honor, who's seated here. We also have Ms. Carol
2 Woodberry excuse me -- I mean, Carolyn Gray and excuse me
3 for that misspeak and Jimmy Askins. Also friends and
4 family of Lori Pruett, Michael Comstock (sic), Catherine
5 Comstock. She's not here, okay. Fred Bernette, Randy
6 Peterson, Chris Taylor and Sally Ann Taylor. Your Honor,
7 I know Mr. Pruett has prepared a statement he wishes to
8 make to the Court, Your Honor. And also, Your Honor, I
9 passed up -- I gave a copy to Mr. Floyd of some pictures
10 and Facebook comments from friends and family of
11 Mrs. Pruett most of their family is I believe in Indiana
12 and were not able to be here, but there are several that
13 wish they could be here that are not, Your Honor. But,
14 Your Honor, I ask Mr. Pruett to stand and address the
15 Court if he can. He's prepared a statement. If he can't
16 finish it, Your Honor, I'll finish it for him.

17 THE COURT: Sir, state your full name for the
18 record.

19 DANIEL PRUETT: Daniel Gene Pruett.

20 THE COURT: Yes, sir, Mr. Pruett.

21 DANIEL PRUETT: Your Honor, I just like to read
22 basically my story of how I got here and what happened.
23 Lori Marie Pruett was and will always be the best thing
24 and greatest part that ever -- person who has ever crossed
25 my path. She was a wonderful wife, stepmother, daughter,

1 sister, friend and mother to her five dogs. She loved her
2 dogs. We started with one and now I'm caring for five
3 that she picked out. She never had any children of her
4 own but loved her dogs like nothing I've ever seen or
5 anyone else loved before.

6 I knew from the start that this was most the
7 amazing girl that I ever met. We moved into a small
8 apartment and got a Basset Hound, of course. She love the
9 breed. They were so much like her laid back and so
10 loving. She decided or we decided to move back to our
11 hometown 30 minutes from where we worked where we both
12 grew up in a house that I grew up in. It was no mansion,
13 but she created it like one or she treated it like one.
14 The place was spotless daily with five days inside the
15 house. She never rested. She got up every morning at
16 5:00 a.m. and moped every floor on her hands and knees to
17 keep up with the dogs. She loved those dogs more than
18 life itself. And being a dog lover myself, I know I had
19 found the right girl. I worried every day that she left
20 the driveway alone, that I might not see her again. I
21 never dreamed that some day that day would come.

22 We were both getting tired of the cold and the
23 Indiana winters being a nurse and me working with Otis
24 Elevator. With offices all around the world, we knew we
25 could pretty much live anywhere and we were looking. And

1 around that time Otis announced they were relocating in
2 Florence and we were ecstatic. We accepted the first
3 offer before people were even considering it. I told my
4 boss that I would drive the bus and bring people here. We
5 were all in. Both of our families were in Bedford,
6 Indiana, but we are ready start a new start. We moved
7 here and Lori and I were so excited about it. She talked
8 about how lucky we were to have this opportunity.

9 We pulled into the Country Club of South
10 Carolina in a U-haul with five dogs, cages, and a blow-up
11 mattress and yet we were so excited. Lori hit it off with
12 everyone she met immediately. And we had more friends
13 here in a month than we left back home. She was the life
14 of every conversation and had a laugh that was out there
15 and so sincere or it was unique in that she could hang out
16 with a bunch of guys on ATV's or she could dress in a
17 ballroom dance fit in either place. She loved to camp and
18 we always had to take all the dogs even though they were a
19 pain.

20 She was a R.N. and started working a Carolinas
21 Hospital about a month after we moved into our house
22 February 1st 2012. She was so proud of our house and our
23 new neighborhood. She told me multiple times we have it
24 made here. I agreed completely and we were so happy that
25 it scared me.

1 Then on April 5th 7:05 I got a call asking if I
2 was Lori Pruett's husband. I said, yes, and a man
3 explained that she had been in a serious accident on the
4 way to work on Freedom Highway. I asked how she was and
5 he said I will pray for you brother. I knew that was
6 wasn't good. I drove myself to the hospital and had to
7 drive by the accident her car was so badly damaged that I
8 prepared myself for the worse. When I got there, they
9 explained that she was bleeding internally and the chances
10 were not good. My world melted. I didn't want to call
11 anyone until there was no hope. Forty-five minutes later,
12 they told me that she was gone. It changed my life
13 forever. She's gone and I have no family here.

14 This one and only girl killed by -- pure
15 stupidity is just very hard even to this day for me to
16 stay in this area. My three daughter's from a previous
17 marriage wanted to move here because they worry about me,
18 that I'm worried about bringing them here. I love the
19 community that live in, but I try not to drive in town
20 unless I have to. I have anxiety a lot and that causes me
21 to shake to the point I can't hide it from friends. I had
22 medical issues since then, blood pressure issues. I don't
23 wish this kind of lost in such a terrible way on anyone.

24 The world lost a wonderful person that day. I
25 mean, peoples' lives will never be the same all because of

1 one person jealousy and rage, traits that Lori never had.
2 This killer should never get out of jail ever. A death
3 sentence was carelessly handed to my wife Lori by no
4 action of her own just doing her part to contribute to
5 society by being a nurse and driving to work to earn an
6 honest living. There's no taking back one person's
7 jealous rage and selfish violent actions where saying I'm
8 sorry is going to bring her back to me. She can never be
9 brought back to me. I will never see the smile on her
10 face or the twinkle in her eyes, the fill of her touch.
11 We should not be here today, just trying to get through
12 every day without her.

13 She was a genuine gift to those lucky enough to
14 have crossed her path. Lori gave to the world and she did
15 not take away. She did not bring harm or pain into -- her
16 chosen profession spoke volumes about her. She was
17 selfless, nurturing, carrying towards everybody. I hope
18 that the Court finds the selfish acts portrayed by the
19 defendant too inexcusable. In our society consequences
20 seem to have been lost. Lori's life was taken on her way
21 to work as a nurse saving other peoples' lives. Please
22 remember that she was an upstanding citizen, daughter,
23 sister, friend and a wife. She deserves justice to be
24 served. I ask that you take this take into consideration
25 today when handing down the sentence and sending the

1 message that this type of behavior will not be tolerated
2 and that Florence can be a safe place to live and relocate
3 to.

4 THE COURT: Thank you, sir.

5 MR. CLEMENTS: Anyone else on behalf of Mrs.
6 Pruett family stand and state your name please?

7 FRED BURNETTE: Fred Brent.

8 THE COURT: Yes, sir.

9 FRED BURNETTE: I'm the general manager of the
10 Country Club of South Carolina been out there for quite a
11 few years. And Dan and Lori came to me when they came to
12 town to go to work for Otis and everything that Dan has
13 stated is a 100 percent accurate. They were a loving
14 couple. As soon as they joined the club and got to know
15 the members, they blended in. They became as part of our
16 family and all the activities that we would have with
17 whether it be for children or playing in golf tournaments
18 or having socials or brunches or no matter what they were
19 involved and everybody loved them and invited them to
20 their homes. And when this happened, the club stepped in
21 and tried to help do what we could because we're a loving
22 neighborhood out there, but it was something very hard for
23 us to adapt to. Everybody there all knew Lori and knew
24 Danny very well and in that short period of time. Then
25 all of sudden Lori's gone and the members they didn't

1 know how to accept it. They embraced them and stayed with
2 them, gave them guidance and support, prayed with them.
3 Everybody did everything that was feasible. But it kind
4 of put a damper on Florence on the Country Club of South
5 Carolina and on Florence that something like this takes
6 place. And Otis is a great company. I have very many
7 members that are from Otis. They're all wonderful great
8 people. They are down to earth. They're honest and
9 they're dedicated. And I just want to ask the Court I
10 know that judgments are tough, but I feel like that in
11 this case this was something that was just so shameless
12 and it was -- it should have never never happened, never
13 happened. And I just ask you, Your Honor, if you would
14 please take that into consideration when you're making
15 your decision and I pray for you. And I hope that
16 everything comes out very well for everyone.

17 THE COURT: Thank you, sir.

18 MR. CLEMENTS: Your Honor, this is Carolina
19 Gray.

20 THE COURT: Yes, ma'am, please state your name
21 for the record.

22 CAROLINA GRAY: My name is Carolina Gray.

23 THE COURT: Yes, ma'am, Ms. Gray.

24 CAROLINA GRAY: I just like to say my world has
25 been turned -- my whole life has been turned upside down

1 by what happened. I have never been so scared in my life.
2 Even after the accident after the shooting, I was
3 terrified. My family had to relocate me to a secluded
4 area because I was scared that somebody still was going to
5 come get me.

6 Georgia Woodberry has haunted me for years. I
7 today don't know what I ever done to her. My kids has
8 been traumatize from this. All of us had to take
9 counseling for this crazy act of hers. I don't understand
10 why. I have nightmares about somebody I never even seen.
11 I never seen Mrs. Pruett, but I have nightmares. I have
12 nightmares every day. It's been over a year and I still
13 have nightmares about somebody that I have never seen. I
14 cried for Mr. Pruett because I couldn't imagine living
15 without somebody I love.

16 My kids they scared for me to leave the house by
17 myself. I don't know how nobody ever else feel, but my
18 kids sometimes bring me back to reality. When I'm sitting
19 out doing something stupid or attempting to do something
20 stupid, I think about my kids, my family, and the
21 consequences that they maybe without me or consequences
22 what they may have to face from what I do. I don't think
23 Ms. Woodberry did that. I don't think she considered her
24 kids or the consequences that was going to happen from her
25 doing what she did, sitting outside my apartment stalking

1 me for no reason. Her purchasing a gun with intent to do
2 harm. And when you consider her sentencing, Judge, I hope
3 you give her the fullest of everything that she can get
4 for not considering the consequences or thinking about
5 what would happen. We talked about gun laws in South
6 Carolina, this is a perfect for example right here why
7 some people don't need to be able to get guns. Thank you,
8 Your Honor.

9 THE COURT: Thank you, ma'am.

10 State your name for the record?

11 JIMMY ASKINS: Jimmy Askins.

12 THE COURT: Yes, sir, Mr. Atkins.

13 JIMMY ASKINS: First of all, I want to surrender
14 my deepest sympathy to Mr. Pruett and the Pruett family.
15 You know, the incident that happened has truly changed my
16 life mentally and physically. I know it change Mr. Pruett
17 and his family life forever. And I want to say that to
18 Mrs. Pruett, if I when -- when I leave this earth one day
19 and I have a chance to go to heaven and see her, I want to
20 be able to tell her I'm sorry for the horrific way that
21 she lost her life. And I want to be able to ask her
22 forgiveness and tell her that I apologize in any way that
23 she live -- left this earth. That's all I have to say.

24 MR. CLEMENTS: Your Honor, Investigator McFadden
25 from the Florence County Sheriff's Office was the chief

1 investigator on this case.

2 THE COURT: Yes, sir.

3 INVESTIGATOR THOMAS MCFADDEN: Yes, Your Honor,
4 this case was bad actually. It started a while back. And
5 to Ms. Gray's account she did make several calls. This --
6 and Ms. Woodberry -- I guess, if somebody don't want you,
7 I guess it's best to leave them alone, to let it go if a
8 person don't want you. I think she actually saw them
9 together or realized that he was dealing with Ms. Gray.
10 At that point in time, they did have a kid. So at some
11 point in time, you still got to say, well, I'll deal with
12 you but just with the child situation. So they were
13 actually even in Darlington at some point. I thought it
14 was the County, but it end up being in the City. They
15 were going out on a date at a club somewhere. And they
16 were attacked by Ms. Woodberry at that point in time. A
17 report was filed.

18 So I had to do the homework on that to go track
19 that back. And in Darlington in the City of actually of
20 Hartsville. It was a club called The Hut and they were in
21 line and they were shoved from behind. They thought it
22 was probably a crowd of people, but it end up being Ms.
23 Woodberry at that particular time. She was in night
24 clothes and she attacked them at that particular time.
25 But they couldn't get a warrant for her arrest because I

1 think they had China Berry Road address, which is on some
2 of her paperwork. She wasn't living there, so they
3 weren't able to obtain a warrant for that incident over
4 the fight that took place. And people had to break it up
5 at that particular time, which eventually ended up leading
6 to this where she called several times with her being in
7 the parking lot. And the City did respond, but like you
8 said once they got to the location, she wasn't able to be
9 located. She would like park down a hill, but she had a
10 new address on National Cemetery Road.

11 So on that particular morning when we got the
12 call saying it was a shooting. It was kind of confusing
13 that somebody was being shot at and then there was a
14 wreck. We didn't know was all tied connected together
15 until I got a call back from the lieutenant, so I
16 responded to McLeod where I met Mr. Askins. And like he
17 said in the statement -- he was say -- I'm going to say he
18 was in shock, but his arm was actually ripped off his
19 body. But it was probably hanging by the skin, so he was
20 actually able to talk, so he probably was just in shock.
21 Jimmy Askins was actually explain who did this, what she
22 was driving, where she worked, where she lived, gave me a
23 telephone number. And I in turned I called her and she
24 explained on the phone briefly what happened. She said
25 she was just blowing the horn, but then I told her, well,

1 I'll come out and get a statement from you. That's when
2 you probably heard -- it would have been a played
3 statement where I gave her Miranda warnings and advised
4 her of her rights and explain to her why we were there and
5 about the consistent form. And she actually told where
6 the gun was. She said, yeah, the gun is in the closet.
7 So when we did the search, it wasn't hard to find the
8 weapon. She actually explained where she had the weapon,
9 which was in the closet. And then she gave a statement
10 where she got to the office as well volunteered and gave a
11 statement saying she shot into the vehicle. She shot at
12 least twice and she chased them down until they got to the
13 intersection where the impact took place with Mrs. Pruett
14 where she was hit at the intersection.

15 I did go through there, so that was the bad part
16 like I told him when something like that happen she was an
17 innocent person heading to work minding their own
18 business, that could have been any of us in this
19 courtroom. So now when I go to an intersection, I hate to
20 say it, I slow down because I don't know if somebody
21 chasing somebody or something bad happening even I got a
22 radio, but it still make you cautious when you driving
23 through intersection because she never saw that coming.
24 And the highway patrol would have testified they would
25 have told you how fast the vehicles were going. I think

1 she may be going her regular speed maybe 50. And they was
2 traveling about a speed about 80 miles an hour when the
3 impact happened, probably faster than that. But when they
4 got to the intersection -- on the tape you would have
5 heard Jimmy telling Carolina to get to the hospital. He
6 was telling her to make the turn here the wrong turn, so
7 when she actually saw the car probably just a split second
8 before impact.

9 Also, in her statement, if you listen to the
10 statement, we didn't get to what she said, you know,
11 secretly she was hoping that Jimmy was hurt that he was.
12 It told her, yeah, well, he was, but the wrong person was
13 hurt. The wrong person was killed somebody had nothing to
14 do with this whole incident lost their life, died behind
15 that madness of what all took place. So at some point in
16 time, I was hoping that would have came through your head
17 to say, hey, let me leave this alone. Jimmy ain't worth
18 it. He want to go on with his life. He want to do what
19 he want to do and you gone on with yours. Yeah, she said
20 they had possible domestics or whatever in the past or had
21 law enforcement called out, but my point was you brought a
22 weapon a month before that to track him down, to chase him
23 down. So I couldn't understand what her defense would be
24 if you following him. He was trying to go to work. You
25 knew he was going to work. One statement you said you

1 waited on him because you knew he would have to come that
2 way. You know the route they would have to take, so that
3 whole morning was at some point I wish in her head she
4 would have clicked and thought I need to leave this alone,
5 back off but even to that point when you cut them off and
6 shot from the vehicle, shot Ms. Gray in the leg, which she
7 was driving. I think she had two broken legs, if I'm
8 correct. I know a shot broke one, but I think maybe the
9 accident probably broke the other leg. She had two broken
10 legs and she was in rehab. And we had to go see them
11 every day and they were afraid because they was hoping she
12 wouldn't get out or come try to get them again or finish
13 them off. So both of them was in fear if you would heard
14 them testify and listen to their statements. So it was a
15 lot of trauma and a lot of traumatic stuff happening in
16 those statements and during this whole event what took
17 place.

18 MR. CLEMENTS: Your Honor, also they in the
19 chase, she tried to pull up beside them and cars were
20 coming in the opposite direction. She had to back off and
21 get behind them. And you could hear -- I know as you
22 heard on the 9-1-1, you could hear Jimmy say Carolina
23 don't let her get up beside us, don't let her get back up
24 besides us. And it's one of the most horrific things.
25 One of the most senseless things I've ever seen and I've

1 seen a lot in the time I been Solicitor. And this is just
2 unbelievable total disregard for anyone else, shooting at
3 two people, chasing them. And then someone who's
4 completely and totally innocent, as Investigator McFadden
5 said, just going to work, minding their own business. If
6 they had been two seconds earlier or two seconds later, we
7 wouldn't be here for a murder. We just be here for two
8 attempted murders, but we're very very lucky we're not
9 here, Your Honor, for three murders. If you look at the
10 pictures of those cars and how they impacted, it's amazing
11 that any of them walked away alive. But Mrs. Pruett never
12 had a chance. It hit her square in the driver's door.

13 INVESTIGATOR THOMAS MCFADDEN: And there are
14 some heros, Your Honor. If you heard, the guys actually
15 saved the people from the car. They lift the car up. It
16 was a deputy and a few other people. I think you heard
17 the guy saying lift the car up. And at the end you could
18 hear them saying I can get you. They didn't realize
19 Carolyn was in the car. She was stuck in the seatbelt.
20 The car was burning. He almost left her. He had to give
21 her a knife to cut herself out. So I would probably have
22 to go back and find out who that was, but he was brave
23 because he was putting himself at risk. At the end, you
24 would hear him say I can't get you out. He was about to
25 leave her. Jimmy was actually telling somebody else in

1 the car. So the whole time it's on fire, they didn't
2 realize that she was inside the car. And then you would
3 hear somebody walk up to Ms. Pruett's car and recognize
4 her and see her but going to tell him this after he said
5 he got that call, to sit in his house him explain to me
6 that they need one more table to complete this house that
7 they was working on, the look he was giving me, like he
8 wasn't even there because I think the first time I talk to
9 him he don't even remember me explaining to him the whole
10 process. We had to go back because nobody came out and I
11 already went out and talk to him for a while. But it was
12 just that bad to actually go explain to him and they just
13 getting here two months and this just happen. That was
14 just a bad situation and I wish a lot of people made some
15 different decisions before all that took place.

16 MR. CLEMENTS: The car as it rolled and Mr.
17 Askins was thrown from the car ended up laying on his left
18 arm. And they lifted that to get him out and they thought
19 he was the only one in the car. And then he was hollering
20 to them no, get her out, she's in the car and the car's on
21 fire. And somebody got a knife because they couldn't get
22 her out. Somebody got a knife and Ms. Gray was able to
23 cut the seatbelt and then they were able to get her out of
24 the car, but she could have very easily been burned alive
25 in that car.

1 THE COURT: Mr. Askins was he shot?

2 MR. CLEMENTS: No, sir, but he was -- he had
3 laid his seat down, so he could look and laid his reclined
4 seat. And there is a bullet that came -- it's in one of
5 these pictures that hit on the driver's back passenger
6 door and it hit the frame. And I think it ricocheted, but
7 if it had been, you know, just an inch higher, it gone
8 through that glass, it would have been right where Mr.
9 Askins head was.

10 THE COURT: How many shots were fired?

11 INVESTIGATOR THOMAS MCFADDEN: She said at least
12 two. It might have been more than that.

13 MR. CLEMENTS: Two hit the car that we know of
14 -- were actually three because there was one in the
15 driver's door and it ran through -- if you looked at the
16 picture with a rod in it, it goes through that whole in
17 the door goes right where Ms. Gray's legs would have been
18 and then hit her leg. There's another shot that hit on
19 the back glass frame, and then there is a hole of glass in
20 the back windshield of the car where she was chased and
21 shot them. And it went through the glass of the back
22 window. And they're probably driving and shooting at the
23 same time. You're shooting out a window and you're trying
24 to drive, I imagine there were more than three shots
25 fired, but there were three that made impact. The clip in

1 the gun was empty, if that tells you anything.

2 THE COURT: Anything else from the State?

3 MR. CLEMENTS: No, Your Honor.

4 THE COURT: Mr. Floyd, be happy to hear from
5 you, sir.

6 MR. FLOYD: Thank you, Your Honor. May it
7 please the Court, Your Honor, I believe Mr. Clements gave
8 you earlier the number days.

9 MR. CLEMENTS: 482.

10 MR. FLOYD: Right. That's I did check those
11 numbers, Your Honor, that seems to be correct as far as I
12 can tell. Your Honor, prior to this, Ms. Woodberry hadn't
13 had a prior record other than maybe magistrate's court
14 offense for some type of alcohol infraction. I believe
15 that all was all that I saw, if I recall looking through
16 her NCIC report. Your Honor, Georgia lived over in Marion
17 County for most of her life. Her parents live over there,
18 it's Mr. and Mrs. Gurley are standing up here with her
19 today.

20 Your Honor, in 2009, she enter into a
21 relationship Mr. Jimmy Askins and it was a toxic type of
22 relationship. And it's one of those relationships of
23 looking and back and charting the progression of it. You
24 could just tell it's going to end badly and unfortunately
25 it did.

1 Your Honor, certainly there were numerous
2 reports of CDV's that Mr. Askins committed against her. I
3 think he was actually charged with CDV hand at some point
4 although I know the Solicitor dismissed that charge I
5 think in May of last year according to the clerk of
6 court's records. But there were other reports of CDV's
7 some of which were not too far removed from this incident.
8 And I mean, like within maybe a couple of weeks of those.
9 I think Investigator Cooper responded to those calls and
10 went and interviewed Ms. Woodberry about those. I think
11 those were like towards the end of March maybe of 2012.
12 Certainly there was -- it was just a chaotic, bad
13 relationship. Ms. Woodberry and Mr. Askins had a child
14 together, he's very young. I think at the time maybe the
15 child was about a year old. And frankly, Your Honor, I
16 think she was being lied to and being sent mixed signals.

17 On March the 8th of 2012, Mr. Askins signed a
18 lease agreement with her as a couple to live in that house
19 on National Cemetery Road. His name is on the lease. So
20 to say that he was telling her he didn't want her any more
21 is just not completely accurate, Your Honor. She was
22 being played and she was being lied to and his actions
23 towards her were not morally correct, Your Honor. Now, is
24 that a defense for what happened. No, it's not.
25 Certainly, it's not a legal defense, but, Your Honor, in

1 matters of the heart in relationships and children and
2 cheating and that sort of thing, I mean peoples' minds
3 get tangled up and often times we know from seeing people
4 in this courtroom, they don't act rationally in those
5 situations. People in family court going through the same
6 thing don't act rationally many times. It happens.

7 And unfortunately, this ended up a terrible
8 terrible tragedy. And I know Ms. Woodberry has remorse
9 for what happened, Your Honor. I know she does. She's
10 expressed it to me many times, and I met with her many
11 times in the last year or so since I started representing
12 her, Your Honor.

13 There were a lot of legal issues in this case,
14 Your Honor, certainly. You know the issue of battered
15 woman syndrome came up and we discussed that fully. And,
16 of course, battered woman syndrome is not a separate
17 defense in this state. It's used in conjunction with self
18 defense. And, of course, the facts of this case, Your
19 Honor, there was no way you could get self defense in this
20 case. I mean, the facts and the evidence was not there to
21 support that.

22 Certainly, Your Honor, the evidence that the
23 State had in this case was overwhelming to say the least.
24 I always believe that. Certainly, when we discussed
25 issues such as, you know, heat of passion and sufficient

1 legal provocation and whether or not voluntary
2 manslaughter could even extend to an innocent third party.
3 I think that's a novel issue in this state. I don't think
4 the Supreme Court has ever said that it can. I think
5 there's been some case law on it, but there's never been a
6 decision reached. So certainly there were all kinds of
7 issues floating around in this case, Your Honor, but the
8 bottom line is the evidence in this case was overwhelming.
9 And certainly that's been discussed and hashed out.

10 Ms. Woodberry is fully aware of the sentences
11 that she is facing on the murder 30 years to life, that
12 time has to be done day for day. If she got 30 years, she
13 have to do every day of it and she understands that. She
14 understands that life means exactly what it says life.
15 She gets a life sentence no parole. She knows that. Your
16 Honor, she also knows that the two attempted murder
17 charges are no parole offenses that are subject to the
18 85 percent rule. We went over that. She knows her most
19 serious offense is subject to the two strike rule. We
20 went over that. I think she completely understands
21 sentences involved and consequences of her plea are.

22 Your Honor, certainly this is a -- it is just
23 awful tragedy. There is no other way to say it. It
24 certainly is having consequences for the victim's family.
25 Ms. Woodberry has children. In the best of circumstances

1 for her, those children are going grow up without her and
2 she knows that. Her parents are here today with her.
3 Obviously, in a way, they're losing a daughter today.
4 Your Honor, I would ask that you be merciful as possible
5 to Ms. Woodberry as you think you can. Certainly, I would
6 ask that you consider a 30 year sentence for her that she
7 do the minimum that you can give her. Run her sentences
8 concurrent, but if not, Your Honor, just be as merciful as
9 possible as you can to Ms. Woodberry. And I believe that
10 she did want to speak at the appropriate time, Your Honor.

11 THE COURT: All right. Thank you, Mr. Floyd.

12 MR. FLOYD: Thank you, Your Honor.

13 THE COURT: Ms. Woodberry, be happy to hear from
14 you?

15 THE DEFENDANT: Your Honor, I would like to
16 address you and address the families of the victims to let
17 them know that I am sorry. It was nothing about that day
18 was planned. If I could take it back, then I would. I am
19 not a violent person as I was portrayed as. It's nothing
20 in my character that -- of my actions that day never
21 portrayed what I am. I'm not that type of person if they
22 were listening to what I have to say they can find it
23 there hearts to forgive me one day.

24 Three year ago, me and Mr. Askins was in --
25 entered into a relationship and throughout those years I

1 suffered physical, mental, verbal and emotional abuse.
2 And my three kids, my three daughters they lived in the
3 house with us. And they had suffer too and this was not
4 some ex-girlfriend couldn't get over him. We were
5 involved in a relationship 2009 until April of this
6 incident we lived together. We lived on China Berry Road.
7 And we had just moved on National Cemetery Road. We was
8 together. We were not separated. But throughout this
9 time, I found out that he was having an affair. And later
10 on she found out about me. She knew about me and I did
11 call her on several occasions, but she also called me.
12 And she would taunted me and brag about her affair. And a
13 couple of months prior to this incident, I temporary lost
14 my kids because of the violence in the house. They said
15 the kids couldn't be in the house no more. And then right
16 before that, I walked in my house with Jimmy Askins and
17 Ms. Gray. I caught them in our bed with our daughter.
18 And I didn't do nothing. I just took the baby and I left.

19 I was just so depressed and I was up under so
20 much emotional distress. And I'm not justifying my
21 actions, but my heart was broken. But I can assure you
22 nothing was plan that day. I had that gun for self
23 defense purposes. The only reason I purchased that it
24 seen close because I had just got my income tax, that's
25 the only way I could afford to get a gun. He has threaten

1 me several times to kill me. I mean, it's report on file
2 at the Florence County Sheriff's Office. I've tried to
3 get out. Every time I would leave he would lie and he
4 knew where I were. And, I mean, he would convince me and
5 I would always go back, always go back.

6 Your Honor, I been in jail for 480 days. Every
7 day I been punished for the guilt and remorse that I feel
8 for knowing my actions causes that accident even though
9 it wasn't intentional. Every day I sat in that jail and
10 every second and minute and hour that I'm being taken away
11 from my kids. I have a three year old that I only been in
12 her life one year.

13 Your Honor, I just ask you that you be merciful
14 to me. I know I was wrong, but I've never been any
15 trouble. You can ask anybody I've always been a quite
16 person. If I could help you, I could. I've never -- I've
17 always obeyed the laws of the land. The only reason I'm
18 having problem being involved with a man. I just under so
19 much emotional distress that day and I just -- I don't
20 know what happened but that was not my intention that day,
21 Your Honor. It was not. I just ask you to be merciful,
22 lenient as possible. It's not going to take me life in
23 prison to know that I was wrong and learn my lesson, Your
24 Honor. I just ask you to give me a chance to see my kids.
25 These are my girls. Your Honor, the only reason that help

1 me go on every day in jail is to know that I could have a
2 chance to see my kids one day outside of prison. I know
3 they going to be older, but it doesn't matter. I just ask
4 you to be merciful to me and give me an opportunity to see
5 my children one day outside of prison.

6 THE COURT: Anybody else, Mr. Floyd?

7 MR. FLOYD: Your Honor, this is her mother Ms.
8 Gurley.

9 THE COURT: Please state your full name for the
10 record.

11 EVONE GURLEY: Evon Hamlet Gurley. I'm her
12 mother. I don't want to make excuses. I want to
13 apologize. I would have fee the same way if my daughter
14 got killed cause Georgia has to pay for her actions. And
15 it is only fair, but I been trying to tell my baby about
16 the situation. It's three victims in here Mrs. Pruett,
17 Ms. Carolina. And it's my daughter because the man is a
18 womanizer, he's a liar. When I first him, he abused her,
19 was pregnant with their baby and beat her up all the time.
20 I say Georgia don't go back, leave that man alone. He'll
21 come and get her. He is the cause all of this stuff. And
22 I'm sorry about your daughter. I'm sorry about
23 everything. And Lord know she have to face whatever she
24 gets because this is a mess. It is a mess. This is a
25 mess. That's all I got to say. Lord, help me get over

1 this. Judge, you got to do what you led to do because it
2 is not fair that his wife is gone, you know. I still got
3 my daughter. I can still see her. She in jail I can go
4 see her. He can't see his wife. I can call her. I just
5 got to abide by what you say and help him feel good about
6 the situation. So my daughter still living, so whatever
7 you give her. She still living.

8 THE COURT: Okay. Anybody else, Floyd?

9 MR. FLOYD: Your Honor, I don't believe so.
10 Thank you, Your Honor.

11 THE COURT: Anything else from the State?

12 MR. CLEMENTS: No, Your Honor.

13 THE COURT: Let me see those photographs right
14 there please, sir. These were the photographs that would
15 have been introduced?

16 MR. CLEMENTS: Yes, Your Honor.

17 (WHEREUPON, a pause in the proceedings.)

18 MR. CLEMENTS: Your Honor, I do want to say one
19 thing just for the record -- benefit of the record. You
20 asked Mr. Floyd about this and my notations here is that
21 we had a Blair hearing on January the 8th 2013, before,
22 Your Honor, and submitted the reports and you found her to
23 be competent and criminally responsible.

24 THE COURT: All right. Mr. Pruett handed up
25 something and I've seen some of it. I'm going to take

1 step off and review the rest of it and fill out the
2 sentence sheets. I'll stand down for a few minutes.

3 (WHEREUPON, a break was taken.)

4 THE COURT: All right. Anything else from the
5 State?

6 MR. CLEMENTS: No, Your Honor.

7 THE COURT: Okay. Those of us who deal day in
8 and day out in the criminal justice system see day in and
9 day out the most heinous and senseless acts carried out by
10 individuals. Ninety plus percent of what we see up here
11 is a result of drugs or alcohol. The other things that we
12 see are acts that are carried out in anger, the loss of
13 tempers, anger is cruel and it's fury is overwhelming.
14 The individuals who quickly anger tend to do foolish
15 things.

16 I told my children many of times there are a
17 number of people in the department of corrections that
18 acted out of anger as a result of drugs or alcohol. I
19 tell my children quite often life's about choices and
20 consequences. Who we associate with, they can build you
21 up or bring you down, who we marry. The consequences of
22 domestic disputes unfortunately in a lot of situations
23 affect innocent third parties. I would venture to say
24 that law enforcement will tell you that if not the most,
25 it is certainly one of the most volatile situations for

1 law enforcement to walk into when a call for domestic
2 dispute. Regardless of what you, Ms. Woodberry, has said
3 here today about your relationship with Mr. Askins. I
4 don't understand that type of relationship but studies
5 will show for whatever reason that people that are
6 involved in relationships with each other that are violent
7 or carry out acts of violence against each other one day
8 and will be right back together the next day. I wasn't
9 raise in that kind of environment. Don't understand that
10 kind of environment, how somebody could become so
11 dependent upon another to carry out acts of violence one
12 day and turn around the next and be right back together.

13 I read the information that was given to me
14 regarding Mrs. Pruett and everything that I have heard in
15 here over the last day and a half regarding her is what a
16 fine upstanding lady she was. None of us know the day or
17 time that we depart this earth as human beings, but with
18 certainty each of us will meet our demise one day very few
19 of which unless they choose to take their own life choose
20 how they will depart this earth.

21 Regardless of what type of relationship,
22 Ms. Woodberry, you were in with Mr. Askins, there were
23 multiple opportunities for you to walk away from this.
24 And for whatever reason, you choose not to do so. Most
25 people that come into this courtroom at your age have a

1 criminal record as long as from me to you. You are
2 certainly an exception to that, that does not excuse what
3 has happened here.

4 On indictment 2013-GS-21-411 as to the stalking
5 charge, the defendant's committed to the state department
6 of corrections for a period of five years.

7 The discharging a firearm into a vehicle while
8 occupied, the defendant is committed to the state
9 department of corrections for a period of five years.

10 On the offense of attempted murder -- hand me
11 the indictment, Doris. The offense of attempted murder as
12 to Count 2 defendant is committed to the state department
13 of corrections for a period of 25 years. As to Count 3 of
14 attempted murder, defendant committed to the state
15 department of corrections for a period of 20 years.

16 As to Count 1 the offense of murder, the
17 defendant is committed to the state department of
18 corrections for a period of 40 years, given credit for 482
19 days as to each count. They are to run concurrent.

20 MR. FLOYD: Thank you, Your Honor.

21 THE COURT: We will stand at ease until 2:15.

22 END OF REQUESTED TRANSCRIPT

23

24

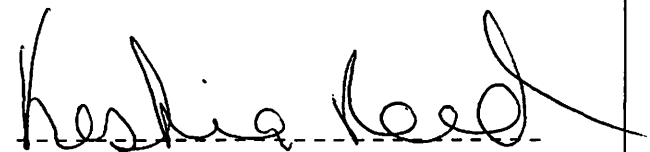
25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

I, Keshia Reed, Court Reporter and Notary Public
in and for the State of South Carolina At Large, do hereby
certify that the above-entitled cause was heard as
hereinafter set out; that I was authorized to and did
transcribe the said proceedings; and that the foregoing
and annexed paged, numbered 1 through 53, inclusive,
constitute a true and accurate transcription of my
stenographic report of the said cause taken during the
said hearing. In the Court of General Sessions for
Florence County, South Carolina, on the 30th day of July
2013.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto. In witness
whereof, I have hereunto affixed my signature this 23rd
day of May 2014.

A handwritten signature in cursive script, reading "Keshia Reed", written over a dashed horizontal line.

Keshia Reed, Court Reporter

NOTICE OF INTENT TO APPEAL
THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM FLORENCE COUNTY

THE HONORABLE DAVID CRAIG BROWN, PRESIDING JUDGE

NO. 2013-GS-21-411

The State of South Carolina,

Respondent.

against

Georgia Gurley Woodberry,

Appellant.

NOTICE OF INTENT TO APPEAL

Georgia Gurley Woodberry appeals from her pleas of guilty to Murder, Attempted Murder (2cts), Discharging Firearm Into Vehicle, and Stalking, the sentences imposed on July 30, 2013 in the Court of General Sessions for Florence County, South Carolina.

This appeal is filed at the Request of the Appellant. There is no issue under Rule 203 (B) (IV), SCACR which counsel can identify as a basis for the appeal.



Scott P. Floyd
Twelfth Circuit Public Defender
Box N, City-County Complex
Florence, South Carolina 29501
(843) 665-3055

Attorney for Appellant

August 9, 2013

Other Counsel of Record

E. L. Clements, III
Solicitor
Twelfth Judicial Circuit
Box Q, City-County Complex
Florence, South Carolina 29501
(843) 665-3091

RECEIVED

AUG 12 2013

SC Court of Appeals

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
 COUNTY OF FLORENCE)
)

The State of South Carolina,)

Versus)

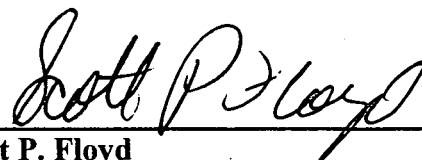
Georgia Gurley Wooberry,)

Appellant.)
 _____)

CERTIFICATE OF SERVICE

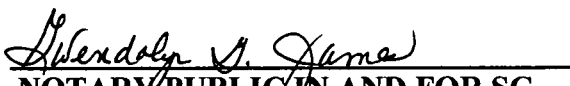
The undersigned hereby certifies that on the 9th of August, 2013, he caused to serve a copy of the Notice of Intent to Appeal by hand delivering a copy of same, addressed as follows:

E. L. Clements, III, Esquire
 Office of Solicitor
 Box Q, City-County Complex
 180 N. Irby Street
 Florence, South Carolina 29501



Scott P. Floyd
 Twelfth Circuit Public Defender
 Twelfth Judicial Circuit

SWORN TO and subscribed before me
 This 9th day of August, 2013.


 NOTARY PUBLIC IN AND FOR SC
 My Commission Expires: 4/15/2018

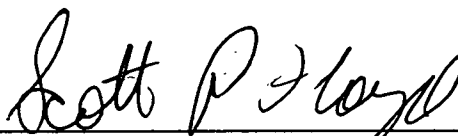
RECEIVED
 AUG 12 2013
 SC Court of Appeals

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	INDICTMENT NO.: 2013-GS-21-411
COUNTY OF FLORENCE	)	
The State of South Carolina,	)	
	)	
vs.	)	AFFIDAVIT OF SERVICE
	)	
	)	
Georgia Gurley Woodberry,	)	
	)	
Appellant.	)	
_____	)	

PERSONALLY APPEARED before me SCOTT P. FLOYD, who being first duly sworn, states that

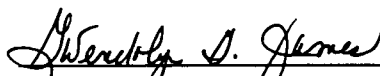
1. I am the attorney representing the Appellant in the above-captioned action.
2. I have previously served a copy of the Notice of Intent to Appeal in the above-captioned matter on the following person by delivering a copy of the same to his office on the 9th day of August, 2013.

E. L. Clements, III
Solicitor
Twelfth Judicial Circuit
Box Q, City-County Complex
Florence, South Carolina 29501



Scott P. Floyd
Twelfth Circuit Public Defender
Attorney for Appellant

SWORN TO before me this
9th of August, 2013.



(L.S)
Notary Public for South Carolina
My Commission Expires: 4/15/2018

RECEIVED

AUG 12 2013

SC Court of Appeals

57

OFFICE OF

TWELFTH CIRCUIT PUBLIC DEFENDER

SCOTT P. FLOYD
12th CIRCUIT PUBLIC DEFENDER

MICHAEL S. BELL
CHIEF PUBLIC DEFENDER
FOR FLORENCE COUNTY
PHONE: (843) 665-3055
FAX: (843) 665-4041

CITY-COUNTY COMPLEX, ROOM 703
180 NORTH IRBY STREET, MSC-N
FLORENCE, SOUTH CAROLINA 29501



August 23, 2013

Georgia C. Woodberry #356361
Graham Correctional Institution
4450 Broad River Road
Columbia, SC 29210

Re: The State vs. Georgia C. Woodberry
Appellate Case No. 2013- 001702

Dear Ms. Woodberry:

I recently filed a Notice of Appeal in your case with The South Carolina Court of Appeals. When I filed your Notice of Appeal, I informed the Court that I filed it because you had requested an appeal but that I could not identify any basis for the appeal.

I am writing to inform you that you have twenty (20) days from the date of this letter to inform the Court in writing of any arguable basis that there are issues preserved for appeal in your case. You should send your correspondence to the Court at the following address:

South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

If you have any questions, please contact me without delay.

Yours Truly,

Scott P. Floyd
Scott P. Floyd

RECEIVED

AUG 26 2013

SC COURT OF APPEALS

The South Carolina Court of Appeals

The State, Respondent,

v.

Georgia Courley Woodberry, Appellant.

Appellate Case No. 2013-001702

The Honorable D. Craig Brown
Florence County
Trial Court Case No. 2013GS2100411

ORDER

Appellant has failed to provide a sufficient guilty plea explanation, as required by Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc:

Salley W. Elliott

Robert Michael Dudek

Scott Poston Floyd

Edgar Lewis Clements, III

Georgia Courley Woodberry

FILED
9/17/13



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

October 08, 2013

The Honorable Connie Reel-Shearin
180 N Irby St MSC-E Rm B11
Florence SC 29501-3456

REMITTITUR

Re: The State v. Georgia C. Woodberry
Lower Court Case No. 2013GS2100411
Appellate Case No. 2013-001702

Dear Clerk of Court:

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

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Georgia Courley Woodberry, 356361
Robert Michael Dudek
Scott Poston Floyd
Donald J. Zelenka

FORM 5

STATE OF SOUTH CAROLINA

County of FlorenceGeorgia Woodberry # 356361

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2013 CP-21-2969APPLICATION FOR
POST-CONVICTION RELIEF2013 NOV 11 PM 1:07
CORRIE REEL-SHEARIN
CLERK OF COURT & G.S.
FLORENCE COUNTY, SC

FILED

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 CAMILLE GRAHAM Correctional Institution -
4450 Broad River Road - Columbia, SC 29210
2. Name and location of Court which imposed sentence FLORENCE County General
Sessions - 180 N. Try Street - FLORENCE, SC 29501
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) 2013-GS-21-00411 - MURDER
 - (b) 2013-GS-21-00411 - Attempted Murder

CERTIFIED: A TRUE COPY
Clerk of Court
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

- (c) 2013-GS-21-00411-Attempted Murder see attached
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) July 30, 2013 - 40 years Concurrent
- (b) July 30, 2013 - 20 years Concurrent
- (c) July 30, 2013 - 25 years Concurrent see attached
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?
YES
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. S.C. COURT OF APPEALS
- ii. N/A
- iii. N/A
- (b) the result in each such Court to which you appealed:
- i. Dismissed
- ii. N/A
- iii. N/A
- (c) the date of each such result:
- i. SEPTEMBER 17, 2013
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. RULE 203(d)(1)(B)(iv)
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) _____

- (b) _____
 (c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of Counsel
 (b) Evidence not seen and heard
 (c) Judge was prejudiced and biased

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) I was intimidated, scared and pressured to take the plea ^{see attached}
 (b) Certain documents to aid my defense was not presented
 (c) My court proceedings were continued with some counsel even though ^{see attached}

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? Yes
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
 (d) any other petitions, motions or applications in this or any other Court? No

13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 i. Direct Appeal
 ii. _____
 iii. _____
 iv. _____
 (b) the name and location of the Court in which each was filed:
 i. S. C. Court of Appeals - Columbia, SC
 ii. _____
 iii. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

- i. September 17, 2013
- ii. _____
- iii. _____
- iv. _____

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

- i. RULE 203 (d)(1)(B)(iv)
- ii. _____
- iii. _____
- iv. _____

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

No

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

(a) which grounds have been presented:

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

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

- i. _____
- 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) _____
 (b) _____
 (c) _____

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

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

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

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

i. Scott Poston Floyd, 180 N. Irby St. Florence, SC 29501

ii. _____
 iii. _____

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

i. ARRAIGNMENT, PLEA, SENTENCING, APPEAL, Trial

ii. _____
 iii. _____

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

Reconsideration of sentence, Reduction of sentence
and/or reducing charge to manslaughter, change of ^{Sentencing} Code,
New trial

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

NONE

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Florence)

VERIFICATION

I, Georgia Woodberry, 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.

Georgia Woodberry

SWORN to and subscribed before me this 6th
 day of November, 2013.

Kathryn R. Barnes (L.S.)
 Notary Public

My Commission Expires: My Commission Expires August 12, 2015

FILED
 2013 NOV 11 PM 1:07
 CONNIE REEL-SHEARIN
 C.C.P. & G.S.
 FLORENCE COUNTY, SC

CERTIFIED: A TRUE COPY
Connie Reel Shearin
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

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

I, Georgia Woodberry, 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.

Georgia Woodberry
Applicant

SWORN or affirmed to and subscribed before me this
6th day of November, 2013.

Kathy R. Barner
Notary Public

My Commission Expires: My Commission Expires August 12, 2015

FILED
2013 NOV 11 PM 1:07
CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

CERTIFIED: A TRUE COPY
Connie Reel Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

4. (d) 2013-GS-21-00411 - Weapon /discharging Firearm
(e) 2013-GS-21-00411 - Stalking

5. (d) July 30, 2013 - 5 years Concurrent
(E) July 30, 2013 - 5 years Concurrent

11. (A) I was not informed of certain options and certain protocol involved in a criminal case.

(C) I requested and stated reasons why I was not satisfied with attorney prior to my guilty plea.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE	)	FOR THE TWELFTH JUDICIAL CIRCUIT
Georgia Woodberry, #356361	)	Case No. 2013-CP-21-2969
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

The Respondent, making its Return to the Application for Post-Conviction Relief filed November 11, 2013, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Florence County Clerk of Court. In April 2013, the Florence County Grand Jury indicted Applicant for murder, two (2) counts of attempted murder, discharging a firearm into a vehicle, and stalking (2013-GS-21-411). Scott P. Floyd, Esquire, represented Applicant. On July 30, 2013, Applicant pled guilty as indicted. The Honorable D. Craig Brown sentenced Applicant to concurrent terms of forty (40) years for murder, twenty (20) years for one attempted murder, twenty-five (25) years for the second attempted murder count, five (5) years for discharging a firearm into a vehicle, and five (5) years for stalking.

Applicant filed a timely notice of appeal, but the South Carolina Court of Appeals dismissed the appeal pursuant to Rule 203(d)(1)(B)(iv), SCACR, on September 17, 2013. The remittitur was returned to the circuit court on October 8, 2013.

II.

In her current Application, Applicant alleges she is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
 - a. "I was intimidated, scared and pressured to take the plea."
 - b. "I was not informed of certain options and certain protocol involved in a criminal case."
2. "Evidence not seen and heard"
 - a. "Certain documents to aid my defense was not presented"
3. "Judge was prejudiced and biased"
 - a. "My court proceedings were continued with the same counsel even though I requested and stated reasons why I was not satisfied with my attorney prior to my guilty plea."

Any claims not specifically enumerated in the Application or amendments thereto will be opposed by Respondent at the evidentiary hearing. All amendments should be made well in advance of hearing and should be filed in compliance with Rule 11, SCRPC.

Attached to this return and incorporated herein are the records of the Florence County Clerk of Court regarding the subject conviction(s), Applicant's records from the South Carolina Department of Corrections, the trial transcript, and Applicant's appellate records. Any records not attached will be forwarded upon receipt. Respondent reserves the right to amend this return upon receipt of any relevant materials.

III.

Respondent submits Applicant's allegation of ineffective assistance of counsel is without merit. In a post-conviction relief action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v.

Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove "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." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The court strongly presumes that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove trial counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, trial counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, 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.

Respondent submits Applicant's allegation regarding evidence not presented should be dismissed. Post-conviction relief "is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of direct review of the sentence or conviction." S.C. Code Ann. § 17-27-20(b); see also Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1975) ("It is uniformly held that an application for post-conviction relief is not a substitute for an appeal."). Applicant's allegation regarding evidence not presented is an inappropriate challenge to the sufficiency of the evidence. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1975) ("[T]he Uniform Post-conviction Procedure Act 'shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.'" (citing Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973))). Furthermore, a knowing and voluntary guilty plea waives any non-jurisdictional defects and defenses, including challenges to the sufficiency of the evidence. See Whetsell v. State, 276 S.C. 295, 297, 277 S.E.2d 891, 892 (1981) (citing Rivers v. Strickland, 264 S.C. 121, 213 S.E.2d 97 (1975); State v. Fuller, 254 S.C. 260, 174 S.E.2d 774 (1970)). Because Applicant admitted her guilt at the plea hearing, she cannot now challenge the sufficiency of the evidence against her. See Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) ("A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed." (citing Blackledge v. Allison, 431 U.S. 63 (1977))). Therefore, Respondent request this allegation be dismissed pursuant to Rule 12(b)(6), SCRPC.

V.

Respondent submits Applicant's allegation regarding judicial bias is wholly without merit

and should be dismissed. An allegation of judicial bias must be supported by evidence of bias. State v. Howard, 384 S.C. 212, 218, 682 S.E.2d 42, 45 (Ct. App. 2009) (quoting State v. Cheatham, 349 S.C. 101, 561 S.E.2d 618 (Ct. App. 2002)). However, the alleged bias “must be personal, as distinguished from judicial, in nature.” Id. Allegations of judicial bias based on a trial judge’s adverse ruling are wholly frivolous and are not grounds for relief. See Reading v. Ball, 291 S.C. 492, 495, 354 S.E.2d 397, 399 (Ct. App. 1987) (“The fact a judge rules against a litigant is not proof of prejudice by the judge[.] We find Reading’s argument clearly frivolous[.]”).

Furthermore, PCR “is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of direct review of the sentence or conviction.” S.C. Code Ann. § 17-27-20(b); see also Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1975) (“It is uniformly held that an application for post-conviction relief is not a substitute for an appeal.”). Applicant’s allegations regarding judicial bias could have been raised at trial or on appeal. His failure to do so has waived these allegations as grounds for relief. Therefore, Respondent requests these allegations be dismissed pursuant to Rule 12(b)(6), SCRCP.

VI.

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

VII.

WHEREFORE, having made its Return, Respondent requests an evidentiary hearing be held on those issues so requiring one.

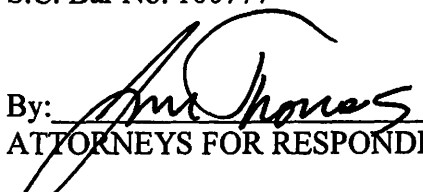
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

JOSHUA L. THOMAS
Assistant Attorney General
S.C. Bar No. 100777

By: 
ATTORNEYS FOR RESPONDENT

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

April 23, 2014

STATE OF SOUTH CAROLINA)

COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS

2013-CP-21-2969

GEORGIA WOODBERY, #356361)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

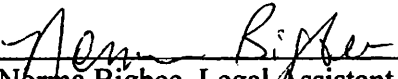
STATE OF SOUTH CAROLINA,)

Respondent.)

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

Tristan M. Shaffer, Esquire
120 Gantt St.
Lexington, SC 29072

DATED this 23rd day of April, 2014.


 Norma Bigbee, Legal Assistant

State of South Carolina	)	Court of Common Pleas
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2013-CP-21-02969
	)	
Georgia Woodberry,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
State of South Carolina,	)	
	)	
Defendant.	)	
	)	

August 9, 2016
Florence, South Carolina

B E F O R E:

The Honorable William H. Seals Jr., Judge

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

Tristan Shaffer, Esquire
Attorney for the Plaintiff

Alicia Olive, Esquire
Attorney for the Defendant

Krystal J. Smith
Circuit Court Reporter

I N D E X

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NUMBER</u>
Scott Floyd	
Direct by Mr. Shaffer.....	7
Cross by Ms. Olive.....	16
Redirect by Mr. Shaffer.....	28
Georgia Woodberry	
Direct by Mr. Shaffer.....	30
Cross by Ms. Olive.....	32
Redirect by Mr. Shaffer.....	36
Applicant Rests.....	37
Arguments of Counsel.....	37
Court Reporter Certification.....	50

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
------------	--------------------	------------	------------

(No Exhibits Presented)

COURT REPORTER LEGEND

dashes -- intentional or purposeful interruption

 or change in thought

ellipses . . . trailing off

[ph] phonetically written

[sic] written as said

1 AUGUST 9, 2016

2 (WHEREUPON, the proceedings began at 10:03 a.m. The
3 applicant was present, along with her counsel of
4 record.)

5 MS. OLIVE: Your Honor, this is Georgia Woodberry v. the
6 State. This is Case Number 2013-CP-21-2969.

7 Ms. Woodberry was indicted for murder. Excuse me. Ms.
8 Woodberry in April of 2013 was indicted for murder, two
9 counts of attempted murder, discharging a firearm into a
10 vehicle, and stalking. She was represented by Mr. Scott
11 Floyd.

12 On July 30, 2013, Ms. Woodberry pleaded guilty as
13 indicted before the Honorable Craig Brown. He sentenced her
14 to concurrent terms of 40 years for murder, 25 years for one
15 count of attempted murder, 20 years for the second count of
16 attempted murder, five years for discharging a firearm into a
17 vehicle, and five years for stalking.

18 She filed a timely notice of appeal, but the South
19 Carolina Court of Appeals dismissed the appeal pursuant to
20 Rule 203(d)(1)(B)(4) of the South Carolina Rules of Appellate
21 Court on September 17, 2013. The remittitur was returned on
22 October 8, 2013.

23 She filed this application for post-conviction relief on
24 November 11, 2013, alleging several grounds of ineffective
25 assistance of counsel. She also alleged under -- under

1 ineffective assistance of counsel, she alleged she was
2 intimidated, scared, and pressured into taking the plea. She
3 was not informed of certain options and certain protocol
4 involved in a criminal case.

5 The second allegation is evidence not seen and heard.
6 Certain documents to aid her defense were not presented. She
7 also alleged that the judge was prejudiced and biased.

8 Your Honor, we filed a return moving to dismiss all
9 claims except for the ineffective assistance of counsel claim
10 and, Your Honor, Mr. Shaffer also provided me with some
11 additional allegations in advance of this hearing. Mr.
12 Shaffer -- Tristan Shaffer is representing Ms. Woodberry. He
13 is present in the courtroom and Ms. Woodberry is present in
14 the courtroom. I'll turn it over to Mr. Shaffer at this
15 time.

16 THE COURT: All right. Mr. Shaffer?

17 MR. SHAFFER: Thank you, Your Honor.

18 THE COURT: Yes, sir.

19 MR. SHAFFER: There are six additional grounds that I
20 was going to orally amend the application to include.

21 One is that counsel was ineffective for failing to move
22 to quash the murder indictment.

23 The second one is counsel was ineffective for failing to
24 advise client that she could not be found guilty of murder
25 with the death resulting from an automobile accident that she

1 -- essentially that she was not involved in.

2 The third one being ineffective assistance of counsel
3 for failing to advise the applicant of the law involving the
4 felony murder rule in South Carolina.

5 The fourth one being ineffective assistance of counsel
6 for failing to advise the applicant she could not be found
7 guilty when she was not the proximate cause of the decedent's
8 death.

9 The fifth cause -- the fifth amendment would be
10 ineffective assistance of counsel for failing to argue that
11 her sentence for attempted murder of Jimmy Askins would be
12 subject to 16-25-90, which is the parole eligibility for
13 domestic violence.

14 And the sixth claim would be ineffective assistance of
15 counsel for failing to argue that all of her other sentences
16 would also -- should also be subject to 16-25-90.

17 THE COURT: All right. If you'll call your first
18 witness.

19 MR. SHAFFER: Thank you, Your Honor. The applicant
20 would call Scott Floyd.

21 THE CLERK: Raise your right hand. Do you swear or
22 affirm that the testimony you give in this case will be the
23 truth, the whole truth, and nothing but the truth, so help
24 you God?

25 THE WITNESS: I do.

SCOTT FLOYD - DIRECT BY MR. SHAFFER

1 THE CLERK: Thank you.

2 SCOTT FLOYD, being first duly sworn,
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MR. SHAFFER:

6 Q: Good morning, Mr. Floyd.

7 A: Good morning.

8 Q: You represented Georgia Woodberry on the charges, the
9 murder charge and the attempted murder and the other charges
10 she had related to her incarceration; is that correct?

11 A: I did.

12 Q: Okay. She was appointed to you; is that correct?

13 A: Yes.

14 Q: Okay. Tell us a little bit about the allegations just
15 for the record so the judge knows?

16 A: Well, she was indicted for one count of murder, two
17 counts of attempted murder, and I think a count of stalking,
18 if I recall.

19 Q: Okay. What is the factual basis of those or what did
20 the State allege to be the factual basis?

21 A: They alleged that she fired on the occupants of a moving
22 vehicle and that that vehicle in turn collided with a third
23 vehicle, and the death of the occupant of the third vehicle
24 resulted from that collision.

25 Q: Okay.

SCOTT FLOYD - DIRECT BY MR. SHAFFER

1 A: And the stalking I think was -- occurred before the
2 actual event on the highway.

3 Q: There was some indication that -- or at least the State
4 presented some allegation that she had been following her
5 boyfriend around; correct? Is that fair to say?

6 A: Correct. And if I recall, there was a 9-1-1 call made
7 by the female occupant of the vehicle that was being fired on
8 that morning and, basically, she was recounting to the
9 dispatcher that they were being followed.

10 Q: Okay. And the motor vehicle collision -- is it fair to
11 say that it occurred while -- or the State alleged that it
12 occurred while the two occupants of the vehicle, the two
13 other victims, were trying to flee from the gunfire?

14 A: That was the allegation. Correct.

15 Q: How far prior to her eventual plea did you first meet
16 with her?

17 A: I don't remember. She was appointed. I don't even
18 remember when she was appointed to our office, but I'm sure
19 it was shortly after the event. You know, I don't have the
20 file sitting here in front of me, but --

21 Q: Okay.

22 A: I mean I would have met with her the first time probably
23 within a month of the file actually being assigned to the
24 Public Defender's Office, whenever that was.

25 Q: And what did you discuss as a possible strategy in this

SCOTT FLOYD - DIRECT BY MR. SHAFFER

1 case?

2 A: Well, in the beginning, we discussed Battered Woman
3 Syndrome. I do remember discussing that. You know, I did
4 investigate the probable cause. I mean not probable cause,
5 the proximate cause aspect of the -- of the situation. You
6 know, her -- it seems like her allegation to me was -- and
7 when I say her, I mean Ms. Woodberry.

8 Q: Uh-huh.

9 A: Was that the driver of the vehicle that was being fired
10 on separated from her and actually got all the way out of her
11 sight at some point. Okay? And that the accident occurred I
12 guess far enough removed to take it from, you know, being the
13 proximate cause of the death of the third party. You know,
14 of course, their allegation was that that was not the case
15 and my understanding was that the testimony of those folks
16 would be that she was still within their view when the
17 accident happened. So . . .

18 Q: Okay.

19 A: But I mean that was essentially, you know, what I
20 thought the strategy would be.

21 Q: All right. Did she ever deny firing on them or the
22 stalking charge?

23 A: No.

24 Q: Okay. So if you would have gone to trial, you never --
25 you wouldn't have really contested those other offenses;

SCOTT FLOYD - DIRECT BY MR. SHAFFER

1 right?

2 A: No. I mean she -- I mean she admitted to firing on
3 them, yes.

4 Q: And now, with the -- you said that you had done some
5 research regarding the proximate cause. What was your
6 understanding of it at that point, you know, the -- whether
7 or not she would be the proximate cause? What -- what did
8 you convey to her as your understanding of -- of your
9 research?

10 A: Well, I searched for, you know, cases like this fact
11 pattern and I couldn't find any. I mean I looked, you know.
12 You know, certainly not only in our state, but in other state
13 databases on -- Lexis I think is what we use in our office.

14 You know, I just came up empty on that score as far as
15 any cases that pretty much matched this fact pattern. You
16 know, we did -- I mean certainly, you know, her version of
17 facts -- I mean if they, you know, separated themselves and
18 got out of sight and I mean I thought you could make the
19 argument certainly that -- that enough time or space had
20 elapsed where you could make the argument that she was no
21 longer the -- the cause of it.

22 So I mean, like I said, their version was going to be
23 something entirely different, but I mean that would just be a
24 question of fact for the jury to decide. I mean I don't
25 really know what else to say about that. I mean, you know,

SCOTT FLOYD - DIRECT BY MR. SHAFFER

1 we did talk about the -- you know, I guess the felony murder
2 rule.

3 Q: Uh-huh.

4 A: You know, which -- which my understanding in a nutshell
5 was that if you commit a felony that involves some inherently
6 dangerous activity and a homicide -- unintended homicide
7 results as a -- you know, from that, that the malice can be I
8 guess inferred from the commission of the underlying felony.
9 And certainly, I thought, you know, attempted murder was --
10 would certainly fit into that category as a -- as a felony
11 that was inherently dangerous. I thought we might have
12 problems with that rule.

13 Q: Okay. Now, you had -- there was some allegation in this
14 case that Jimmy Askins had previously abused her; is that
15 correct?

16 A: Correct.

17 Q: Do you recall what sort of evidence you had to support
18 that?

19 A: I discussed that with Ms. Woodberry. It seems like he
20 had one -- and I may be wrong about this, but I'm just going
21 on my recall. It seems like he had one magistrate's level
22 CDV on his record --

23 Q: Uh-huh.

24 A: -- prior to this incident. And I did talk to her about
25 if there was any medical treatment to her as a result of

SCOTT FLOYD - DIRECT BY MR. SHAFFER

1 that. My recollection is she indicated that, you know, there
2 were no emergency room visits and that sort of thing.

3 I do recall asking her, you know, if there were any
4 witnesses that, you know, saw her being struck by him on
5 different occasions and that sort of thing. My recollection
6 is there was nobody. You know, I just didn't -- as I recall,
7 there was really no documentation of there being a pattern of
8 that or anything.

9 Q: Okay. Did you ever consider arguing the parole
10 eligibility statute?

11 A: You know, I really don't remember. I just don't
12 remember doing that, no.

13 Q: Okay.

14 A: It seems like when I was discussing that with her, it
15 was in the context of the Batter -- Battered Woman's --

16 Q: Syndrome?

17 A: -- Syndrome. I don't -- I don't specifically recall
18 discussing it in the context of that statute.

19 Q: Okay.

20 A: I mean . . .

21 Q: Did you -- but you had -- you had actually requested an
22 expert in Battered Woman Syndrome; right? Or requested
23 funding for one?

24 A: You know, I can't remember if I did or not.

25 Q: Okay.

SCOTT FLOYD - DIRECT BY MR. SHAFFER

1 A: I don't know.

2 Q: Did you ever make any sort of argument prior to the
3 guilty plea concerning quashing the murder indictment?

4 A: No, I did not.

5 Q: Do you recall if you ever showed up at a prelim for the
6 murder indictment or anything? Or do you think she was
7 directly indicted?

8 A: I don't remember. I can't remember --

9 Q: Okay.

10 A: -- if we had a prelim or not.

11 Q: Whenever the -- well, prior to you actually starting the
12 trial -- and you started the trial in this case; correct?

13 A: That's correct.

14 Q: Okay. Prior to that, had she had any plea offers in the
15 case?

16 A: No. There were no plea offers.

17 Q: Did -- whenever she did decide to plea, what was your
18 advice to her about pleading guilty?

19 A: Well, you know, obviously, it would be a straight-up
20 plea since there was no offer, and I certainly explained the
21 sentencing range on a murder, which is 30 to life. My
22 understanding is, you know, a 30-year sentence would be day
23 for day 30 years and, of course, a life sentence would be
24 until you're dead and -- you know, and I explained the range,
25 you know, that it didn't have to be 30 or life, but certainly

SCOTT FLOYD - DIRECT BY MR. SHAFFER

1 it could be a number higher than 30 or -- or life.

2 I mean I went through the sentencing range. Certainly,
3 the fact that you, you know, waive your right to a jury trial
4 and right to remain silent and right to cross-examine
5 witnesses and right to present evidence of your own and, you
6 know, all that thing that I normally do during a plea. So I
7 mean I would've discussed all of that.

8 Q: Okay. Did you think that it was a good strategy given
9 the facts against her?

10 A: Excuse me?

11 Q: Did you think it was a good strategy given the facts
12 against her?

13 A: Did I think what was a good strategy?

14 Q: Pleading guilty straight up.

15 A: Well, I mean I didn't think it was a bad decision at the
16 time on her part. I mean, you know, the -- like I said,
17 certainly they were going to present evidence that -- you
18 know, that she was, like I said, right up on them when the
19 accident with the third party happened.

20 Q: Uh-huh.

21 A: She was a very sympathetic figure. I mean she was a
22 nurse going to work in the morning. I mean certainly I
23 thought that the jury might feel for her, obviously.

24 I mean, you know, but hey, I never tell my clients that
25 they don't have a chance because we all know if you have a

SCOTT FLOYD - DIRECT BY MR. SHAFFER

1 jury trial, you don't ever know what will happen. And so I
2 would certainly never tell a client you don't have a chance,
3 but . . .

4 Q: Do you think that -- or did you ever advise her that it
5 would -- you thought it would be a good idea to actually --
6 or to essentially ask the Court for mercy or ask the Court
7 for leniency in not going through a trial? Did you give her
8 any advice related to that?

9 A: Well, what I normally tell a client is, if you plead,
10 certainly you need to show the appropriate amount of remorse
11 and there's certainly a possibility that if you enter a plea
12 and ask for mercy, you may get it. That's no guarantee when
13 you plead straight up.

14 Q: Uh-huh.

15 A: I mean -- and that was the case here. If you plead, you
16 plead straight up. And so I mean I never would have said
17 just because you plead guilty you're going to get 30 years or
18 the minimum or whatever.

19 Q: Okay.

20 A: I mean . . .

21 MR. SHAFFER: No further questions.

22 THE COURT: All right. Cross-examination?

23 MS. OLIVE: Thank you, Your Honor. May it please the
24 Court.

25 THE COURT: Sure.

SCOTT FLOYD - CROSS BY MS. OLIVE

CROSS-EXAMINATION

1

2 BY MS. OLIVE:

3 Q: Good morning, Mr. Floyd. Thank you for being with us
4 today.

5 A: Yes, ma'am.

6 Q: Mr. Floyd, how long have you been practicing law?

7 A: Since 1988. I'm not sure how many years that is. Close
8 to 30 I guess.

9 Q: And what portion of your practice has been criminal?

10 A: Well, for the last I guess close to 10 years, pretty
11 much all of it.12 Q: Prior to being appointed to represent Ms. Woodberry, had
13 you represented clients on murder charges before? v

14 A: Yes.

15 Q: Do you -- how many would you say?

16 A: I don't know. I mean I -- I really don't know.

17 Q: It's a large number or a small number?

18 A: On murder charges, probably -- I mean I'm just guessing.
19 Ten? Fifteen? I mean I -- maybe more.20 Q: Do you recall how many times you met with Ms. Woodberry
21 prior to the start of the trial?22 A: I don't remember exactly, but as a general rule when I
23 have clients in the detention center, I generally try to see
24 them at least once every 30 to 45 days or so. So however
25 long it was between the time I got the file and the time of

SCOTT FLOYD - CROSS BY MS. OLIVE

1 her trial, you can say once every month or six weeks or so.

2 Q: Mr. Floyd, did you file Rule 5 or Brady motions in this
3 case?

4 A: Yes.

5 Q: Did you review the discovery with Ms. Woodberry?

6 A: Oh, yes.

7 Q: Did you discuss with her what the State would have to
8 prove at trial?

9 A: Yes.

10 Q: Do you feel she understood those discussions?

11 A: I feel like she did.

12 Q: Did she discuss with you her version of the facts?

13 A: Yes.

14 Q: And again, you testified she never denied shooting at
15 the car?

16 A: No.

17 Q: Did you discuss any possible defenses with Ms.
18 Woodberry?

19 A: Yes.

20 Q: Do you feel she understood those discussions?

21 A: I think so.

22 Q: And I know we've already discussed this a bit, but can
23 you briefly describe the evidence that the State had against
24 Ms. Woodberry in this case?

25 A: Well, primarily, it was the two occupants of the vehicle

SCOTT FLOYD - CROSS BY MS. OLIVE

1 that was fired on, and the evidence that they were going to
2 give was that they got in a motor vehicle, got on the
3 highway. I think the female actually alleged that she had
4 seen Ms. Woodberry before they actually got out onto the
5 highway when they were leaving their residence that morning.
6 And that during the drive, she pulled up and started firing a
7 gun at the vehicle and then, of course, they sped off trying
8 to flee and then the accident with the other party resulted.

9 Q: Were there also allegations that Ms. Woodberry had been
10 stalking these occupants of the vehicle prior to this
11 accident?

12 A: Yes.

13 Q: Do you recall the length of time she was alleged to have
14 been stalking them?

15 A: Well, I don't remember exactly. I do know there was --
16 there was an allegation of an incident of it that morning or
17 before the shooting actually took place, immediately prior to
18 that.

19 Q: Is it your understanding that -- or do you know whether
20 Ms. Woodberry and Mr. Atkins -- I believe his name was --

21 A: Askins.

22 Q: Askins. I apologize. Do you recall whether they were
23 residing together at any point in time prior to this
24 incident?

25 A: My understanding at one point, yes.

SCOTT FLOYD - CROSS BY MS. OLIVE

1 Q: Do you know how long they had been living apart prior to
2 this incident?

3 A: I can't remember.

4 Q: But he had a new girlfriend and that's why she --

5 A: That was my understanding.

6 Q: Do you -- this incident with Mr. Askins regarding the
7 prior magistrate level domestic violence conviction that he
8 had, do you recall how soon that occurred prior to this
9 incident?

10 A: I want to say that it -- I think it was in 2011, but I'm
11 not sure about that.

12 Q: So would you say it was not close in time to this
13 incident?

14 MR. SHAFFER: Objection.

15 A: Well, I mean it was --

16 THE COURT: What grounds?

17 MR. SHAFFER: I'll withdraw the objection.

18 BY MS. OLIVE:

19 A: I mean it was I guess over a year. I mean --

20 Q: This was -- she pleaded guilty in July of 2013; correct?

21 A: Correct.

22 Q: Are you aware of any evidence that Ms. Woodberry had
23 been involved in any sort of domestic altercation with Mr.
24 Askins on the day of this event?

25 A: No.

SCOTT FLOYD - CROSS BY MS. OLIVE

1 Q: Okay. Any evidence that she felt threatened by him on
2 the day of this event?

3 A: No.

4 Q: Okay. Mr. Floyd, what -- what sort of investigation did
5 you do in Ms. -- Ms. Woodberry's case?

6 A: Well, I spoke obviously to her and we discussed the
7 facts. We went through all the -- you know, the Rule 5
8 materials that the solicitor sent me. I'm -- I can't
9 remember who the investigator -- lead investigator was in
10 this case, but I'm sure I had conversations with him. For
11 some reason, I want to say it was -- it was Thomas McFadden,
12 but I -- but I could be wrong about that. I'm not positive,
13 but normally in a case like this I would talk, you know, to
14 the investigator. I mean that's, you know, essentially what
15 I did.

16 Q: And you also testified earlier that you did some legal
17 research --

18 A: Right.

19 Q: -- in this case as well? Did Ms. Woodberry ever tell
20 you she didn't understand something? Excuse me. I withdraw
21 that question. You testified earlier that you discussed with
22 Ms. Woodberry her constitutional rights?

23 A: Yes.

24 Q: And those that she would be waiving by pleading guilty?

25 A: Sure.

SCOTT FLOYD - CROSS BY MS. OLIVE

1 Q: And again, this -- y'all had actually started the trial
2 in this case; is that correct?

3 A: Yes, we did.

4 Q: And how did the -- how did Ms. Woodberry decide to plead
5 guilty?

6 A: I can't remember what -- what stage we were in, to tell
7 you -- I just don't recall exactly. I do remember the 9-1-1
8 tape being played in the courtroom. I can't remember if that
9 was as part of a pretrial motion or if it was actually played
10 for the jury. I can't recall, but I do remember it being
11 played. I think it was shortly after that that she told me
12 she wanted to enter the plea.

13 Q: Did you make a suggestion to her prior to that that she
14 should enter a guilty plea?

15 A: I mean I just told her what her options were. I didn't
16 -- I mean I didn't -- you know --

17 Q: Prior to trial --

18 A: Right.

19 Q: -- you made those discussions?

20 A: Sure.

21 Q: But immediately prior to her decision to plead guilty,
22 had you suggested to her that she needed to plead guilty?

23 A: No. Not immediately prior. I mean she -- she told me
24 she wanted to.

25 Q: So it was her decision to plead guilty?

SCOTT FLOYD - CROSS BY MS. OLIVE

1 A: Correct.

2 Q: Mr. Shaffer asked you earlier if you thought that was a
3 good strategy. Would you consider that to be a strategy?

4 A: Well, I guess in a sense it could be a strategy if you
5 want leniency. I mean if you enter a plea and beg for mercy,
6 I guess that's a strategy to reduce your sentence I suppose.

7 Q: But you -- but Ms. Woodberry had a right to a jury
8 trial, which she had invoked?

9 A: Certainly.

10 Q: And she chose to plead guilty instead?

11 A: That's correct.

12 Q: As is also her right to do?

13 A: Absolutely.

14 Q: And you testified earlier that you never made any
15 promise to her regarding --

16 A: No, ma'am.

17 Q: -- leniency?

18 A: That's correct.

19 Q: And I apologize. I'm jumping around a bit here. You
20 testified earlier as well that there were no plea offers made
21 in this case?

22 A: That's correct.

23 Q: Did you feel that the -- you testified that you and Ms.
24 Woodberry discussed the possible defense of Battered Woman's
25 Syndrome. Did you feel that that would be a successful

SCOTT FLOYD - CROSS BY MS. OLIVE

1 defense at trial?

2 A: No. I mean I just don't recall there being, you know,
3 any documentation of it that I could uncover, other than the
4 one magistrate's level CDV that I can recall.

5 Q: And you testified there was no -- there were no
6 witnesses?

7 A: No.

8 Q: That she did not seek medical treatment for that and
9 there were no witnesses that could testify?

10 A: That was my understanding.

11 Q: And you discussed -- you stated that you also discussed
12 the felony murder rule with Ms. Woodberry?

13 A: Correct.

14 Q: Were you prepared to address that at trial?

15 A: Yes.

16 Q: And you discussed with her the argument that she may not
17 have been the proximate cause of the vehicular death?

18 A: Correct.

19 Q: And you stated that that would have been for the jury to
20 decide?

21 A: Yes.

22 Q: So that's not really a defense? I mean it -- withdrawn.
23 You were prepared to -- to present that at the trial?

24 A: Correct.

25 Q: Is it -- do you -- is it your understanding that the

SCOTT FLOYD - CROSS BY MS. OLIVE

1 parole eligibility statute that Mr. Shaffer referenced
2 earlier -- which is South Carolina Code 16-25-90. Is it your
3 understanding that that would have been applicable in Ms.
4 Woodberry's case?

5 A: Well, with one instance of a magistrate's level CDV, I
6 don't know, but certainly I mean I guess you could make that
7 argument, at least as to the household member. But, of
8 course, you know, the other two people involved weren't
9 household members. So the -- the victim in the count of
10 murder obviously was never her household member, nor was the
11 female who was in the vehicle that was being fired on. So
12 reading it that way, I wouldn't think that they were -- or
13 the statute was applicable to them.

14 Q: Is it true that Mr. Askins was not her household member
15 at the time either?

16 MR. SHAFFER: Objection, Your Honor. I think that calls
17 for a legal conclusion.

18 THE COURT: Your response to that?

19 MS. OLIVE: Your Honor, I can rephrase.

20 THE COURT: Rephrase it.

21 BY MS. OLIVE:

22 Q: Did you testify earlier that Ms. -- Ms. Woodberry and
23 Mr. Askins were no longer living together as of the date of
24 this event?

25 A: That -- that's my understanding that they weren't living

SCOTT FLOYD - CROSS BY MS. OLIVE

1 together. Now, I think household member is defined by the
2 statute.

3 Q: So based on your understanding of the statute, would you
4 consider -- based on your understanding of the statute and
5 the facts of this case, would that statute have been
6 applicable in Ms. Woodberry's case with respect to Mr.
7 Askins?

8 A: As far -- I mean I didn't think so, but certainly, I
9 mean you can argue about that.

10 Q: Did you feel that you had grounds to move to quash the
11 murder indictment?

12 A: Move to quash the murder indictment? No.

13 Q: And why is that?

14 A: Well, my understanding of the indictment is a -- you
15 know, it's a notice document. It sets forth the charge. I
16 mean it set forth the charge for murder. The theory of the
17 murder obviously was the -- was the felony murder rule. I
18 mean -- I mean it set forth the elements of a murder. So no,
19 I didn't think that --

20 Q: Ms. Woodberry was firing on the vehicle that Mr. Askins
21 and his girlfriend were driving; correct?

22 A: Correct.

23 Q: And she never denied that she was intentionally firing
24 on their vehicle?

25 A: That's correct.

SCOTT FLOYD - CROSS BY MS. OLIVE

1 Q: Okay. And in an attempt to flee from Ms. Woodberry,
2 they collided with another vehicle; correct?

3 A: That's correct. Or that was the allegation.

4 Q: And you testified they were also sympathetic -- that the
5 victims in this case would have been sympathetic?

6 A: That was my opinion, particularly concerning the
7 deceased, yes.

8 Q: Was it Ms. Woodberry's decision to plead guilty?

9 A: Yes.

10 Q: Do you feel that she understood that she was waiving her
11 right to a jury trial, her right to remain silent, and her
12 right to confront her accusers?

13 A: Yes.

14 Q: And you were prepared to try this case; correct?

15 A: Yes.

16 MS. OLIVE: I beg the Court's indulgence, Your Honor.

17 BY MS. OLIVE:

18 Q: One more question, Mr. -- Mr. Floyd. Was Ms. Woodberry
19 -- did she undergo a competency evaluation in this case?

20 A: I don't think so. I don't recall, but you know what?
21 She may have. I can't remember. I don't have the file in
22 front of me.

23 MS. OLIVE: I beg the Court's indulgence, Your Honor.

24 THE COURT: Sure.

25 BY MS. OLIVE:

SCOTT FLOYD - CROSS BY MS. OLIVE

1 Q: Mr. Floyd, if I showed you the transcript, would that
2 refresh your memory?

3 A: Yes, it should.

4 MS. OLIVE: Your Honor, permission to approach the
5 witness?

6 THE COURT: Yes, ma'am.

7 THE WITNESS: I don't have my glasses; so I may not be
8 able to read it.

9 THE COURT: There you go.

10 THE WITNESS: Thank you.

11 THE COURT: There's an extra pair I leave up here in
12 case I forget mine.

13 THE WITNESS: I appreciate it. Thank you.

14 BY MS. OLIVE:

15 Q: This is page 4 of the plea transcript, starting at line
16 12.

17 A: Okay. Okay. So we did have an evaluation.

18 Q: Thank you. Is it your understanding that she was found
19 competent to stand trial?

20 A: Yes.

21 MS. OLIVE: Thank you, Mr. Floyd. That's all the
22 questions I have.

23 THE WITNESS: Thank you.

24 THE COURT: Redirect?

25 MR. SHAFFER: Yes. Just a couple questions.

SCOTT FLOYD - REDIRECT BY MR. SHAFFER

REDIRECT EXAMINATION

1

2 BY MR. SHAFFER:

3 Q: Mr. Floyd, you don't have a copy of the transcript with
4 you, do you?

5 A: No, I don't.

6 Q: Okay. Do you recall some other allegations, like a
7 history of several incident reports about CDVs involving it?

8 A: No.

9 Q: If I showed you page 42, lines 1 through 8, of the
10 transcript, would that refresh your recollection?

11 A: Okay.

12 Q: It's fair to say that you had some evidence? I'm
13 assuming you had some evidence of that; correct?

14 A: I would think so, yes.

15 Q: Okay. I don't think you would just say it --

16 A: No.

17 Q: -- just to say it?

18 A: Absolutely.

19 Q: Now, you said that you -- you had explained to Ms.
20 Woodberry what the State would have to prove in the case.
21 What -- what did you explain to her?22 A: Well, I mean certainly I would have gone over the
23 elements of what a murder is, which is an unlawful killing
24 with malice aforethought. Of course, the felony murder rule,
25 which I've -- you and I discussed earlier --

SCOTT FLOYD - REDIRECT BY MR. SHAFFER

1 Q: Uh-huh.

2 A: The malice would have to be supplied by the commission
3 of the attempted murders; right? And, of course, an
4 attempted murder is essentially the same as a murder without
5 the actual death of the person.

6 Q: Uh-huh.

7 A: So we would have gone over the -- the elements that they
8 would have to prove.

9 Q: And you said that you had to -- that you explained the
10 attempted murder rule and you were prepared to address that
11 at trial. How were you -- what were you planning on doing to
12 address that at trial?

13 A: Are you talking about the felony murder rule?

14 Q: That's correct.

15 A: Well, I mean certainly my argument was going to be, had
16 we proceeded all the way to the trial, was essentially the
17 proximate cause issue removed it from that rule.

18 Q: Okay.

19 A: But I mean --

20 Q: Okay.

21 A: I mean that was going to be essentially my argument.

22 Q: Were you planning on making that argument in a directed
23 verdict?

24 A: Yes. I mean that was the plan.

25 MR. SHAFFER: That's all the questions I have.

GEORGIA WOODBERRY - DIRECT BY MR. SHAFFER

1 THE WITNESS: All right.

2 MR. SHAFFER: Thank you.

3 THE WITNESS: You're welcome.

4 THE COURT: Any recross?

5 MS. OLIVE: No further questions, Your Honor.

6 THE COURT: Thank you. You may step down.

7 THE WITNESS: Thank you, Your Honor.

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

9 MR. SHAFFER: The applicant would call Georgia
10 Woodberry.

11 THE CLERK: Raise your right hand as much as you can.
12 Do you swear to tell the truth, the whole truth, and nothing
13 but the truth, so help you God?

14 THE APPLICANT: Yes, ma'am.

15 THE CLERK: Thank you.

16 GEORGIA WOODBERRY, being first
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. SHAFFER:

20 Q: Ms. Woodberry, you ended up pleading guilty; correct?

21 A: Yes.

22 Q: Okay. Outside of what Mr. Floyd just said about the
23 proximate cause, if Mr. Floyd had said that the felony murder
24 rule does not apply to your case, would you have pled guilty?

25 A: No, sir.

GEORGIA WOODBERRY - DIRECT BY MR. SHAFFER

1 Q: Would you have gone to trial at that point?

2 A: Yes, sir.

3 Q: Okay. Now, I'm going to ask you a little bit -- if you
4 can tell the Court about past incidents where Mr. Askins
5 abused you?

6 A: Okay. Well, I met him in the year 2009 and from the
7 beginning until -- up until the incident, we've been in
8 several CDV incidents. I've called it in. I've never went
9 to court on them because he would always convince me to turn
10 around, but there's several documented incidents at the
11 Florence Sheriff's Department of us being in CDV incidents up
12 until the accident, which was March 30. That was the last
13 CDV call that I made at the Sheriff's Department right before
14 the accident. So there were several incidents.

15 Q: You made a call right before the accident?

16 A: Well, March 30. That was, like, a week before we got
17 into the accident.

18 Q: Okay.

19 A: Yes.

20 Q: And as you stated, there's -- there was no -- you never
21 went to court on any of them; right?

22 A: No, sir.

23 Q: But there were police reports; right?

24 A: Yes, sir.

25 Q: And your attorney talked to you about the police

GEORGIA WOODBERRY - DIRECT BY MR. SHAFFER

1 reports; correct?

2 A: Yes, sir.

3 Q: Did he ever talk to you about parole eligibility related
4 to that?

5 A: Not that I recall.

6 MR. SHAFFER: That's all the questions I have, Your
7 Honor.

8 THE COURT: All right. Any cross?

9 MS. OLIVE: Yes. Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MS. OLIVE:

12 Q: Good morning, Ms. Woodberry.

13 A: Good morning.

14 Q: I believe you just testified that you made a call right
15 before the accident; is that right?

16 A: Not right before. It was, like, a week prior.

17 Q: A week before?

18 A: Yes.

19 Q: And you testified that, although there may have been
20 past incidents of domestic violence, you never went to court
21 on any of those?

22 A: No, ma'am.

23 Q: Mr. Floyd did go over all of the discovery with you;
24 correct?

25 A: Yes, ma'am.

GEORGIA WOODBERRY - CROSS BY MS. OLIVE

1 Q: And you told him your version of what happened?

2 A: Yes.

3 Q: And he discussed with you the elements of murder and
4 attempted murder?

5 A: Yes.

6 Q: And he discussed with you any possible defenses you
7 might have?

8 A: Yes.

9 Q: Including the Battered Wife Syndrome?

10 A: We didn't really go into much detail about it.

11 Q: But he discussed it with you?

12 A: Yes, ma'am.

13 Q: And there was no -- there was never a plea offer in this
14 case?

15 A: No.

16 Q: And you decided to plea? You decided to change your
17 plea from not guilty to guilty during trial; correct?

18 A: Yes.

19 Q: And Mr. Floyd went over the constitutional rights that
20 you would be waiving by pleading guilty?

21 A: Yes.

22 Q: And you agreed with the facts that were presented by the
23 solicitor at your guilty plea?

24 A: I didn't agree, but yeah.

25 Q: You don't recall agreeing to the facts?

GEORGIA WOODBERRY - CROSS BY MS. OLIVE

1 A: I don't recall it. Certain facts that I -- that was
2 presented I know were not true.

3 Q: But you did agree with the underlying facts as they were
4 presented; right?

5 A: Yes, ma'am.

6 Q: And you told the judge that you were satisfied with your
7 attorney?

8 A: No. I asked for another attorney.

9 Q: You asked for another attorney at your guilty plea?

10 A: No. Before. Prior to my guilty plea, but it was
11 denied.

12 Q: How far prior to your guilty plea?

13 A: I don't recall.

14 Q: Days? Months?

15 A: Maybe a couple of months. I'm not sure.

16 Q: So you actually went in front of a judge --

17 A: Yes, ma'am.

18 Q: -- and asked to have counsel relieved?

19 A: Yes, ma'am.

20 Q: And he denied that?

21 A: Yes, ma'am.

22 Q: But then on the day of your guilty plea, you told the
23 judge that you were satisfied with counsel?

24 A: Yes.

25 Q: Okay. You were satisfied with how he advised you and

GEORGIA WOODBERRY - CROSS BY MS. OLIVE

1 represented you in your case?

2 A: Yes.

3 Q: And you said that you had talked to him for as long as
4 -- as often and as long as you felt necessary?

5 A: Yes.

6 Q: And you said that you did not need any more time to talk
7 to him?

8 A: Yes.

9 Q: And you said that you understood your discussions with
10 him?

11 A: Yes.

12 Q: And you said that he had done everything you believed he
13 could have done or should have done for you?

14 A: Yes.

15 Q: Was that a yes?

16 A: Yes.

17 Q: And you said you were completely satisfied with his
18 services?

19 A: Yes.

20 Q: And you said that you did not have any complaints
21 whatsoever?

22 A: Yes.

23 Q: Okay. And ultimately, it was your decision to plead
24 guilty; correct?

25 A: Yes.

GEORGIA WOODBERRY - CROSS BY MS. OLIVE

1 MS. OLIVE: I beg the Court's indulgence a moment, Your
2 Honor.

3 BY MS. OLIVE:

4 Q: Ms. Woodberry, you understood when you pleaded guilty
5 that you were pleading -- that -- the judge -- excuse me.
6 The judge explained to you that he could sentence you up to
7 life plus 70 years?

8 A: Yes.

9 Q: Okay. And you understood that you were entering that
10 guilty plea without negotiation or recommendation?

11 A: Yes.

12 Q: At any time, did you tell the judge you wished to
13 withdraw your guilty plea?

14 A: No.

15 MS. OLIVE: Thank you. That's all the questions I have.

16 THE COURT: All right. Any redirect?

17 REDIRECT EXAMINATION

18 BY MR. SHAFFER:

19 Q: Ms. Woodberry, your attorney told you about the felony
20 murder rule; correct?

21 A: Yes.

22 Q: Okay. And based -- and the advice he gave you -- and
23 you heard him testify just a little while ago -- was
24 essentially the same advice he testified to on the stand;
25 right?

GEORGIA WOODBERRY - REDIRECT BY MR. SHAFFER

1 A: Yes.

2 Q: And did that advice play a role in you pleading guilty
3 to the murder charge?

4 A: Yes.

5 MR. SHAFFER: No further questions.

6 THE COURT: All right. Any recross?

7 MS. OLIVE: No, Your Honor. Thank you.

8 THE COURT: All right. You may step down. Thank you.
9 All right. Any other witnesses?

10 MR. SHAFFER: None, Your Honor. I would like brief
11 argument, if possible, unless the State has any witnesses.

12 MS. OLIVE: I have no witnesses, Your Honor.

13 THE COURT: All right. Go ahead, Mr. Shaffer.

14 MR. SHAFFER: Thank you, Your Honor. Related to this, I
15 think this is a little bit of an unusual case for a guilty
16 plea because it mainly attacks whether or not she
17 intelligently pled guilty.

18 My belief and based off the case law is that the felony
19 murder rule does not apply to the facts of this case. She
20 pled guilty based off the felony murder rule and I don't
21 think it applies to it and there's a couple different reasons
22 for that.

23 The felony murder rule is very rarely referenced in
24 South Carolina cases. There's a couple cases from the 70s
25 that reference it and -- but outside of that, it doesn't get

1 a whole lot of treatment in South Carolina opinions.

2 There are actually two different felony murder rules in
3 the country. There's an agency felony murder theory and then
4 there's a proximate cause felony murder theory.

5 The agency is actually the majority rule in the country
6 and the case that it's based off of is a case called Redline
7 or Commonwealth v. Redline, which is a Pennsylvania case, and
8 it's probably not the case it's based off of, but it's the
9 case everyone cites to regarding it. And essentially, this
10 case -- most of the courts cite to it and it sort of lays out
11 a couple of different things and one thing that -- one of the
12 requirements of it -- and I apologize that's not highlighted,
13 Your Honor. I did not highlight these.

14 One of the requirements of -- of the felony murder rule
15 is that -- under the Redline, under this agency theory, is
16 that it has -- the death has to occur by an action of either
17 the principal or a co-defendant, co-felon. Okay? So it's
18 either you or an accomplice do something that causes the
19 murder. Okay? And that's -- it can't -- the murder can't --
20 or the death cannot be caused by some third party.

21 And Redline basically is a case involving a robbery.
22 Cops show up. Cops start shooting. One of the other guys
23 get killed by the cop's bullet and they say, well, one felon
24 is not responsible for the death of his co-felon in part --
25 and there's several different reasons that Redline outlines,

1 but one -- one primary reason is that the death was not
2 caused by the felony or was not caused by -- I guess was not
3 caused by the felony. The death had this intervening act
4 that -- that eventually caused the death.

5 Now, that's the majority rule as far as I can tell.
6 Okay? And the reason I say as far as I can tell is because I
7 did find an Illinois case that said it's the majority rule.
8 It's State -- it's People v. Lowery, which I'll hand up as
9 well. And this case is actually finding in Illinois it's a
10 minority rule, which is proximate cause, and it outlines the
11 minority rule. And it also states that, you know, the
12 majority of states follow this agency theory. Illinois
13 adopts this proximate cause theory.

14 Now, under the proximate cause theory, I guess the
15 felony murder rule is broader because all it has -- all that
16 has to happen is the felony has to be the proximate cause of
17 it. And it cites back to -- I believe it cites back to -- or
18 essentially, a lot of these cases cite back to Palsgraf,
19 which is a famous U.S. Supreme Court case that I learned
20 about in law school and haven't read since, but essentially,
21 if it's a proximate cause under the minority role, it would
22 be -- she would actually -- or the person would actually be
23 guilty of it if the felony was the proximate cause.

24 Some of the other states that adopt the majority rule
25 include North Carolina and Virginia, which are, you know, two

1 cases -- two local, reasonably similar states that also adopt
2 it. I think our case law is more similar to them than some
3 of the other states. So I do have two cases showing that.
4 There's State v. Bonner out of North Carolina and
5 Commonwealth v. King out of Virginia.

6 State v. Bonner is a similar situation where a robbery
7 happened. An officer shot -- shot the person who ended up
8 dying and they said that, you know, that would not fall under
9 the felony murder rule. Now, King v. Commonwealth is a very
10 different case that involves drug trafficking in an airplane,
11 but it says that Virginia adopts the minority rule and that's
12 the reason that I presented it.

13 I think that -- and I'm not necessarily conceding that
14 the minority rule would -- would find that she was
15 responsible for the death. I think it certainly gets the
16 State closer to that, but I think that the felony murder rule
17 as stated by counsel as to what he told her was essentially
18 the minority rule, which is this proximate cause theory.

19 And obviously he planned on challenging the proximate
20 cause theory, which may create a factual issue. I think that
21 he probably could've addressed it pretrial as a matter of
22 law. I also think he might have been -- he might have been
23 able to address the other one as well as a matter of law.

24 But I think clearly if there was this argument about how
25 the felony murder rule wouldn't have applied, I think that

1 you can credibly say -- or you can say that she credibly
2 testified that she wouldn't have pled guilty had she known
3 that there was a -- that the felony murder rule didn't apply.
4 I think that pretty much anyone would agree with that, given
5 her situation. I think that that's a very plausible
6 statement and a very credible statement that she made. That,
7 you know, but for being told about the felony murder rule,
8 she wouldn't have pled guilty.

9 I don't think that the facts are necessarily heavily
10 disputed in this case. I think that, essentially, it's a
11 legal issue of whether or not the proper law was actually
12 given to her or the proper advice concerning the felony
13 murder rule was actually given to her.

14 And briefly, even though this did not come up, there was
15 some talk I think in the transcript about transferred intent.
16 I don't really see how transferred intent would have anything
17 to do with the facts in this case. You know, transferred
18 intent -- some people say -- you know, obviously, the Court
19 has heard that, you know, the intent follows the bullet.
20 Well, the bullet is not what killed her in this case.

21 I don't think it necessarily applies in this case, but
22 there was some comment about it in a transcript. So I just
23 wanted to at least bring that up in front of the Court.

24 THE COURT: Did you find any South Carolina law on
25 point?

1 MR. SHAFFER: No, Your Honor. Well, I apologize, Your
2 Honor. There is. That brings me to another part of the
3 argument that I forgot.

4 South Carolina law -- there are several cases that
5 address the felony murder rule in South Carolina. It does
6 not delineate whether we adopt a majority or minority view,
7 but the analysis is closer to the majority view because,
8 essentially, they are accomplice liability cases, Your Honor.

9 There is -- I brought two of them. There's about four
10 cases from the 70s that all deal with the same thing and,
11 essentially, their -- their finding is more or less
12 accomplice liability, saying that, you know, two people do
13 something, you're responsible for your co-defendant whenever
14 he goes and shoots somebody and they -- they talk about the
15 felony murder rule and use that as justification for it.

16 That's very similar to the majority rule and it does not
17 seem to even touch on the proximate cause issue. That's the
18 reason I say that more than likely or my belief is that South
19 Carolina follows the majority rule on this, and I'm handing
20 up Gore v. Leeke and State v. Yates, which are two cases.

21 I think both of them have been -- or at least one of
22 them have been overruled on other grounds, but they do
23 discuss the felony murder rule. But when they discuss it,
24 they discuss accomplice liability in acts that the accomplice
25 did in saying, well, you know, two guys go to rob a store,

1 one guy shoots someone on the way out. You know, even though
2 the guy who didn't shoot someone is still responsible, which,
3 you know, is very similar to our hand of one/hand of all and
4 accomplice liability theory that we adopt in this state as
5 well.

6 But I think that based off of that, you can say that
7 South Carolina would have followed the -- the majority rule
8 on this, which would be, you know, essentially agency felony
9 murder rule. Thank you.

10 THE COURT: All right. Would the State like to respond?

11 MS. OLIVE: Yes, Your Honor. Your Honor, first, in
12 order to show that she did not -- that her guilty plea was
13 not knowingly and intelligently entered, she would -- Ms.
14 Woodberry would have to show -- basically, she would have to
15 show ineffective assistance of counsel. She would have to
16 prove deficiency and prejudice.

17 Your Honor, it's the State's position that Ms. Woodberry
18 has shown no deficiency or prejudice in this case, although
19 she did testify that she did not feel that Mr. Floyd's advice
20 regarding the felony murder rule was correct and that, as a
21 result of that advice, she pleaded guilty.

22 Your Honor, the State would also -- the State argues
23 that there was overwhelming evidence in this case. Ms.
24 Woodberry never denied that she fired on the car. Both of
25 the occupants of the vehicle that was fired on were planning

1 to testify at the trial. They were going to testify that,
2 basically, she was never out of their sight. There was no
3 point in time that they got away from her, in the sense that
4 they independently caused this accident. Your Honor, they
5 were also going to testify that she had been stalking them
6 for a period of time prior to this incident taking place.

7 Your Honor, Ms. Woodberry got in her car, had a loaded
8 gun, started chasing the occupants of this vehicle at a high
9 rate of speed through an area where there were stoplights.
10 They were fleeing from her, from these shots that were being
11 fired on them. Again, she never -- she -- she -- her
12 testimony is consistent today with the fact that she has
13 never stated that she was not intentionally firing on their
14 vehicle.

15 The argument that the death of the victim was not
16 proximately caused by her actions I don't think holds any
17 water. As Mr. Floyd testified, he discussed with her the
18 proximate cause issue. He discussed with her the felony in
19 the context of -- we're talking about the felony murder rule.

20 The felony murder rule or -- well, the concept of felony
21 murder is included in the general sessions instructions in
22 the state of South Carolina as an instruction that the Court
23 can give. It is an inference of malice that arises and
24 there's no -- and the -- I believe that Mr. Floyd testified
25 -- his testimony is consistent with an understanding of that

1 concept. That he had considered that prior to trial and had
2 discussed that with her. That the malice that was present or
3 the -- her actions in firing on the occupants of the vehicle
4 were -- I think -- and, Your Honor, with the fact that they
5 did not proceed to trial, we don't know what instructions
6 would have been given with regard to malice aforethought with
7 respect to the murder. However, again, Mr. Floyd did testify
8 that he was obviously anticipating that there was going to be
9 a felony murder intent instruction given.

10 I disagree with -- with Mr. Shaffer in that I do believe
11 that transferred intent would apply. Mr. Floyd stated that
12 he was going to make both of these arguments at a directed
13 verdict motion. The fact is Ms. Woodberry pleaded guilty.
14 We don't know the outcome of that directed verdict motion.

15 And he discussed the elements of these crimes with Ms.
16 Woodberry. He discussed the constitutional rights that she
17 was waiving by pleading guilty. It was her decision to plead
18 guilty. He testified he's not even sure why she decided to
19 plead guilty. She just told him during trial that she wanted
20 to enter a plea.

21 So, Your Honor, it's the State's position that it's
22 clear from Mr. Floyd's testimony he's practiced law. He said
23 at least for the last 10 years has been all criminal. He's
24 handled -- he had handled approximately 10 murder cases prior
25 to representing Ms. Woodberry. He has extensive experience.

1 Your Honor, he testified that he researched these concepts
2 prior to trial.

3 It's the State's position that he is thoroughly
4 competent in his representation of Ms. Woodberry in this case
5 and it's also the State's position that Ms. Woodberry has
6 failed to show prejudice in that she's not shown that she
7 would not have pleaded guilty but for the alleged deficiency
8 of counsel, given the fact that the case against her was
9 substantial and if she had gone to trial likely would have
10 been convicted. And that would be the State's position.

11 THE COURT: All right.

12 MR. SHAFFER: Your Honor, if I may address one or two
13 things?

14 First, I think that the -- the -- I think Ms. Olive has
15 stated that Mr. Floyd claimed that he would raise both of the
16 issues at directed verdict. My recollection of the testimony
17 was that he planned on raising proximate cause issue at
18 directed verdict and make that his legal argument. I don't
19 think he ever -- essentially, what he was saying is I'm going
20 to say she wasn't the proximate cause. Therefore, felony
21 murder rule wouldn't apply. You know, once again, that's
22 based off of a minority view of it.

23 THE COURT: Yeah, but you're guessing that we're taking
24 the majority approach. Simply a guess.

25 MR. SHAFFER: Yes, Your Honor.

1 THE COURT: There's no law on point to that effect today
2 in this state.

3 MR. SHAFFER: Well, I'm not --

4 THE COURT: So that's a risk that they take at trial.
5 She decided to forego that risk and plead guilty.

6 MR. SHAFFER: Well -- and, Your Honor, I think that the
7 problem is is that there wasn't even -- and I'm not saying
8 that -- that we are taking that because actually I think that
9 the majority rule is the -- essentially the common law that
10 was adopted by South Carolina and I think that that's the
11 state of the law in South Carolina based off the cases cited
12 in the felony murder rule and the fact that the common law
13 came from -- essentially relates to that.

14 I'm also saying that, you know, she never was advised of
15 the risk. You know, if Mr. Floyd is saying, well, this is my
16 idea of what the felony murder rule was and that's what I
17 told her, he didn't tell her anything about the majority
18 viewpoint of the felony murder rule.

19 He didn't say anything about the agency viewpoint. He
20 only talked about the proximate cause viewpoint of the felony
21 murder rule, which is essentially what he had testified to
22 that he advised her on the proximate cause theory of the
23 felony murder rule because that's essentially what his
24 description of what he thought the felony murder rule was.

25 If you're advising someone on the wrong law, she's not

1 going to know the risk. You know, she can't intelligently
2 make a decision on saying, okay, well, if we went to trial,
3 he would -- he would raise this. In the majority of
4 jurisdictions in the country, this wouldn't be a felony
5 murder rule.

6 You know, she can't make that -- that guess. She's just
7 saying, well, he said that the felony murder rule is this and
8 I don't think that there's really any factual dispute about,
9 you know, what he said to her and I think that at least
10 there's no factual dispute that he said he was planning on
11 raising this and saying she wasn't the proximate cause, but
12 he didn't mention anything about this other viewpoint and,
13 you know, I think that if he had -- he had done that,
14 certainly she would have been in a better position to
15 actually make that intelligent choice of whether or not she
16 wanted to plead guilty.

17 One thing I wanted to address is that, you know, the
18 amendments that we have made -- you know, four of them only
19 address issues related to whether or not she's -- the acts
20 that the State allege are murder. Okay? Only four of them
21 -- the four -- the first four address that and they're only
22 related to the murder indictment. They're not related to any
23 of these other charges that the State is saying that they had
24 overwhelming evidence of guilt of.

25 I'm not disputing that there was overwhelming evidence

1 of guilt of those other charges. Okay? I don't think we're
2 here -- here to say that she wasn't -- you know, he
3 misadvised her related to any of the other charges except
4 murder and the only way that he misadvised her related -- or
5 I think was deficient related to the other charges and the
6 only reason I didn't amend those out of the PCR application
7 is five and six, which relates to whether or not she had
8 abuse. And that's the only reason that those are still
9 there.

10 So I don't think that the State's argument that there is
11 overwhelming evidence of guilt really carries any water here
12 because really it boils down to a question of whether or not
13 -- you know, whether or not the advice that he gave her
14 regarding the felony murder rule was correct or not. Because
15 if it wasn't, then I don't think that she can -- you can say
16 she intelligently pled, you know, or that she was --properly
17 had her Sixth Amendment rights to counsel.

18 THE COURT: All right. I'll take the matter under
19 advisement. I'll study it, think about it, research it, and
20 let you know something by the end of the week.

21 MR. SHAFFER: Thank you, Your Honor.

22 MS. OLIVE: Thank you, Your Honor.

23 THE COURT: Thank you.

24 (WHEREUPON, the proceedings ended at 11:15 a.m.)

25

1	State of South Carolina	)	
2		)	Certificate
3	County of Florence	)	

I, the undersigned, Krystal J. Smith, Notary Public and Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing pages, numbered 1 through 49, constitute a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of Common Pleas for Florence County, South Carolina, on the 9th day of August, 2016.

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

17 s/Krystal J. Smith

18	Court Reporter
----	----------------

20	Florence, South Carolina
----	--------------------------

21	October 16, 2017
----	------------------

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE	)	FOR THE TWELFTH JUDICIAL CIRCUIT
Georgia Woodberry, #356361	)	Case No. 2013-CP-21-2969
Applicant,	)	
v.	)	ORDER OF DISMISSAL
State of South Carolina,	)	
Respondent.	)	

FILED
 2017 MAY 30 PM 3:33
 DONALD P. OTTENA
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

This matter comes before the Court by way of an Application for Post-Conviction Relief filed November 11, 2013. Respondent made a Return on April 23, 2014. The Court convened an evidentiary hearing into the matter on August 9, 2016, at the Florence County Courthouse. Applicant was present at the hearing and represented by Tristan M. Shaffer, Esquire. Alicia A. Olive, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

Applicant testified on her own behalf at the evidentiary hearing. Applicant's plea counsel, Scott P. Floyd, Esquire, also testified. The Court had before it a copy of the plea transcript, the records of the Florence County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the pleadings, and the return. The Court finds as follows:

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Florence County Clerk of Court. In April 2013, the Florence County Grand Jury indicted Applicant for murder (2013-GS-21-0411, Count One), two counts of attempted murder (-0411, Counts Two and Three), discharging a firearm into a vehicle (-0411, Count Four), and stalking (-0411, Count Five). Scott P. Floyd, Esquire, represented Applicant.

CERTIFIED: A TRUE COPY
Donna P. Ottena
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

On July 30, 2013, Applicant appeared before the Honorable D. Craig Brown and pleaded guilty as indicted to all charges. Judge Brown sentenced Applicant to incarceration for concurrent terms of 40 years for murder, 25 years for one count of attempted murder, 20 years for the other count, five years for discharging a firearm into a vehicle, and five years for stalking.

Applicant filed a timely notice of appeal. The South Carolina Court of Appeals dismissed the appeal pursuant to Rule 203(d)(1)(B)(iv), SCACR, on September 17, 2013. The Remittitur was returned to the Circuit Court on October 8, 2013.

II. ALLEGATIONS

In her application, Applicant alleged she is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
 - a. "I was intimidated, scared and pressured to take the plea."
 - b. "I was not informed of certain options and certain protocol involved in a criminal case."
2. "Evidence not seen and heard"
 - a. "Certain documents to aid my defense was not presented"
3. "Judge was prejudiced and biased"
 - a. "My court proceedings were continued with the same counsel even though I requested and stated reasons why I was not satisfied with my attorney prior to my guilty plea."

At the evidentiary hearing, Applicant orally amended her Application and alleged the following:

4. Ineffective Assistance of Counsel, in that:
 - a. Counsel failed to move to quash the murder indictment;
 - b. Counsel failed to advise Applicant that she could not be found guilty of murder when the death resulted from an automobile accident;
 - c. Counsel failed to advise Applicant on the S.C. law involving the felony murder rule;
 - d. Counsel failed to advise Applicant that she cannot be found guilty when she was not the proximate cause of the decedent's death;
 - e. Counsel failed to argue that her sentence for attempted murder of Jimmy Askins should be subject to 16-25-90.
 - f. Counsel failed to argue her other sentences should be subject to 16-25-90.

At the evidentiary hearing, Applicant proceeded only on allegations "a" through "f" listed in paragraph 4. Applicant waived her allegations in paragraphs 1-3 by presenting no evidence at the hearing as to those allegations.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court has reviewed the record in its entirety and has heard the testimony and arguments presented at the evidentiary hearing. The Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon his or her credibility. The Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80.

A. Summary of Testimony

Applicant testified that if she had been advised the "felony murder rule" did not apply, she would have gone to trial. Applicant agreed Counsel went over discovery with her, went over the elements of the offenses with her, and discussed possible defenses. Applicant admitted she agreed with the facts forming the basis of her plea.

Counsel testified he has been practicing since 1988 and has tried approximately ten murder cases. Counsel testified he met with Applicant about once every 30-45 days. He testified he discussed the availability of battered woman's syndrome and investigated the issue as to whether Applicant was the proximate cause of the victim's death. Counsel testified Applicant's version of the facts was that the driver of the vehicle separated from her and was out of her sight at some point. Counsel testified the State, however, was alleging that was not the case, and the testimony of the victims would have been that she was still in their view when the accident occurred. Counsel testified Applicant never denied firing at the victims. Counsel testified if Applicant had proceeded to trial, he would not have contested any offenses other than murder.

Counsel testified that in researching proximate causation, he searched for cases with this fact pattern in South Carolina and other states, but could find nothing with a similar factual scenario. Counsel thought he could argue that enough space and time had elapsed that Applicant did not proximately cause the death of the victim. However, Counsel stated this would be a question for the jury to decide. Counsel testified he discussed with Applicant her claims that the victim had previously abused her. Counsel testified according to Applicant, the victim had a prior magistrate-level criminal domestic violence offense. Counsel testified there were no witnesses who could testify to this and no records that Applicant had been treated for any injuries resulting from any such abuse. Counsel testified he could not recall if he considered arguing the parole eligibility statute. He testified he discussed battered woman's syndrome with Applicant, but could not recall if it was specifically discussed in the context of parole eligibility. Counsel could not recall whether he discussed battered woman's syndrome with an expert, but he did discuss with Applicant the possibility of raising the defense. Counsel testified he did not have grounds to move to quash the indictment. Counsel testified there were no plea offers in place when the trial started. Counsel testified that when Applicant decided to plead guilty, he explained to her that the sentencing range for murder was thirty years to life and the sentence would have to be served day-for-day. Counsel testified he went through the sentencing ranges on the other charges as well and discussed with Applicant her constitutional rights to a jury trial, to remain silent, and to confront witnesses against her.

Counsel testified the victim was very sympathetic because she was a nurse and was on the way to work when she was killed. Counsel testified he never tells clients they do not have a chance at trial. Counsel testified in a guilty plea a defendant needs to show the appropriate amount of remorse and ask for mercy to have a chance of being sentenced less harshly. Counsel

testified he discussed with Applicant that the commission of attempted murder is the same as murder without an actual death. He testified he would have gone over the elements of the charges with her. Counsel testified he would have addressed the proximate cause issue at trial.

B. Ineffective Assistance of Plea Counsel

In this post-conviction relief action, Applicant bears the burden of proving the allegations in her application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)).

An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing (1) counsel was deficient and (2) there is a reasonable probability that but for counsel's errors, the applicant would not have pleaded guilty but would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001); Hill v. Lockhart, 474 U.S. 52, 59 (1985). An applicant alleging her guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the competence demanded of attorneys in criminal cases." Lockhart, 474 U.S. at 56. The Court presumes counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 664, 690 (1984). Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A knowing and voluntary guilty plea waives any non-jurisdictional defects and defenses, including challenges to the sufficiency of the evidence. See Whetsell v. State, 276 S.C. 295, 297; 277 S.E.2d 891, 892 (1981) (citing Rivers v. Strickland, 264 S.C. 121, 213 S.E.2d 97 (1975); State v. Fuller, 254 S.C. 260, 174 S.E.2d 774 (1970)). "In considering an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the

information conveyed at the plea hearing.” *Id.* at 138–39, 654 S.E.2d at 874 (citing Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997)). In addition, statements “made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements.” Dalton v. State, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)).

As a matter of general impression, this Court finds Counsel’s testimony credible and gives it great weight. The Court finds Applicant’s testimony neither credible nor legally relevant. The Court further finds Counsel conducted a proper investigation, adequately conferred with Applicant, and was thoroughly competent in his representation.

1. Failure to Move to Quash Murder Indictment

This Court finds Applicant has failed to show either deficiency or prejudice with respect to this allegation. An indictment is purely a notice document. S.C. Code Ann. § 17-19-20 (2012) (“Every indictment shall be deemed and judged sufficient and good in law which . . . charges the crime . . . so plainly that the nature of the offense charged may be easily understood.”). “The primary purpose of an indictment is to put the defendant on notice of what he [charged with], by apprising him of the elements of the offense, and to allow him to decide whether to plead guilty or stand trial, and to enable the circuit court to know what judgement to pronounce if the defendant is convicted.” State v. Smalls, 364 S.C. 343, 346-47, 613 S.E.2d 754, 756 (2005). See also State v. Tumbleston, 376 S.C. 90, 97-98, 654 S.E.2d 849, 853 (2007) (citing Evans v. State, 363 S.C. 495, 508, 611 S.E.2d 510, 517 (2005)) (noting all of the surrounding circumstances must be weighed to make an accurate determination of whether defendant was prejudiced by lack of notice and insufficient indictment).

The indictment sets forth the elements of the offenses and is sufficient on its face. Counsel testified he did not have grounds to move to quash the indictment. This Court finds Applicant has failed to satisfy her burden of showing Counsel was deficient for failing to move to quash the indictment. Further, this Court finds Applicant has failed to show that a challenge to the indictment would have been successful. Thus, it did not affect her decision to plead guilty rather than proceed to trial. Accordingly, this allegation is denied and dismissed.

2. Failure to Properly Advise as to Liability for Murder

Applicant alleges Counsel misadvised her concerning her criminal liability for murder. Specifically, Applicant alleges counsel was ineffective for: (1) failing to advise Applicant that she could not be found guilty of murder when the death resulted from an automobile accident; (2) failing to properly advise Applicant on the South Carolina law involving the “felony murder rule”; (3) failing to properly advise Applicant she could not be found guilty when she was not the proximate cause of the decedent’s death, and (4) failing to properly advise Applicant regarding the elements of murder. This Court finds Counsel properly advised Applicant regarding the elements of murder and her criminal liability for the death of the decedent.

Applicant was charged with murder for causing the death of Lori Pruett. (Tr. at 15). Applicant chased a vehicle occupied by Jimmy Askins and Carolina Gray, and fired on the vehicle while chasing it. (Tr. at 15). Applicant chased them all the way through a red light where they collided with Pruett when she was passing through the intersection. (Tr. at 15). Pruett died as a result of the crash. (Tr. at 16).

Applicant and Askins previously had an intimate relationship and had a child together. (Tr. at 17). Gray and Askins would have testified at trial that Applicant began stalking them several days before the incident. (Tr. at 17). The State was also prepared to introduce incident

reports and recordings of harassing, obscene telephone calls Applicant made to Gray. (Tr. at 17). Applicant agreed with and admitted the underlying facts at her guilty plea. (Tr. at 18). Applicant also gave a statement in which she admitted she shot into the vehicle occupied by Askins and Gray. (Tr. at 35). She explained where she had the gun hidden. (Tr. at 35). The State was prepared to present expert testimony that Applicant tested positively for gunshot residue and that the slugs recovered from the scene could not be exclusively matched to the .45 caliber pistol, which Applicant led authorities to, but that the expert would have testified the .45 could have shot the projectile. (Tr. at 16). In addition, the evidence would have shown Applicant purchased the weapon about a month prior to the incident. (Tr. at 16). Notably, Applicant's PCR counsel did not dispute at the evidentiary hearing that the evidence pertaining to her charges for attempted murder of Gray and Askins was overwhelming.

Counsel testified he advised Applicant of the elements of the charges against her, including the elements of murder. The plea judge confirmed this at the plea hearing. (Tr. at 4). Counsel also testified he has been practicing law since 1988 and has tried many murder cases.

i. Elements of Murder

Applicant has failed to show Counsel's advice as to Applicant's liability for murder fell below an objective standard of reasonableness. This Court finds Counsel properly advised Applicant as to the elements of murder and her liability for the crime of murder.

Murder is defined as: "the killing of any person with malice aforethought, either express or implied." S.C. Code Ann. § 16-3-10. Murder is a general intent crime in South Carolina, requiring no specific intent to kill. Malice can be inferred from conduct which is so reckless and wanton as to indicate a depravity of mind and general disregard for human life. In re Tracy B.,

391 S.C. 51, 69, 704 S.E.2d 71, 80 (Ct. App. 2010) (citing State v. Mouzon, 231 S.C. 655, 662, 99 S.E.2d 672, 675 (1957)). South Carolina long ago recognized:

If one were to fire a loaded gun into a crowd, . . . **the law would infer malice** from the wickedness of the act: so also the law will imply that the prisoner **intended the natural and probable consequences of his own act**, as in the case of shooting a gun into a crowd, the law will imply, from the **wantonness** of the act, **that he intended to kill someone**

State v. Smith, 33 S.C.L. 77, 80–81, 2 Strob. 77 (S.C. App. L. 1847) (emphasis added). See also State v. Heyward, 197 S.C. 371, 15 S.E.2d 669, 671 (1941) (stating malice does not necessarily imply ill-will, “but signifies rather a general malignant recklessness of the lives and safety of others, or a condition of the mind which shows a heart regardless of social duty and fatally bent on mischief.”). In a murder case, the *corpus delicti* consists of two elements: the death of a human being, and the criminal act of another in causing that death. State v. Weston, 367 S.C. 279, 293, 625 S.E.2d 641, 648 (2006) (citing State v. Martin, 47 S.C. 67, 25 S.E. 113 (1896)).

In the instant case, Applicant’s conduct of driving at a high rate of speed on a public roadway while firing a deadly weapon into another moving vehicle demonstrated “a general malignant recklessness of the lives and safety of others” as well as “conduct which is so reckless and wanton as to indicate a depravity of mind and general disregard for human life.” It matters not that Pruett was not the intended victim or that she died by vehicle impact rather than bullet. “It is a well-settled principle of law that where a slayer designs or intends to kill one person but, through mistake, kills another, ‘his crime is the same as if he had executed his intended purpose.’” Heyward, 197 S.C. at 371, 15 S.E.2d at 672 (citations omitted). “This result is sometimes described as being a function of the doctrine of ‘transferred intent’ All that is required for murder is the mental state of malice, provided by the intent to kill a human being,

coupled with an act which caused the death of a human being.” State v. Horne, 282 S.C. 444, 446, 319 S.E.2d 703, 704 (1984).

Furthermore, this Court finds Applicant’s assertion that she would have gone to trial instead of pleading guilty but for the alleged erroneous advice is insufficient to establish prejudice in light of Counsel’s testimony and the record of Applicant’s plea. Applicant pleaded guilty the day trial began on her case. Counsel testified Applicant decided to plead guilty after hearing the 9-1-1 call in court. Counsel testified he felt she would be convicted if she went to trial. Further, Applicant does not dispute that the evidence against her on the attempted murder charges was overwhelming. See Smith v. State, 386 S.C. 562, 566, 689 S.E.2d 629, 631 (2010) (holding “no prejudice occurs, despite trial counsel’s deficient performance, where there is otherwise overwhelming evidence of the defendant’s guilt.” (citing Rosemond v. Catoe, 383 S.C. 320, 325, 680 S.E.2d 5, 8 (2009))). Applicant also admitted to owning the firearm and firing into a vehicle. Had Applicant proceeded to trial on the attempted murder charges *alone*, she could have been sentenced up to 60 years if sentenced to consecutive maximum sentences. Accordingly, this Court finds Applicant has failed to demonstrate there is a reasonable probability that but for the alleged deficiency of counsel, she would have proceeded to trial rather than pleading guilty.

ii. *Felony-Murder Rule*

This Court finds Applicant has not shown Counsel misadvised her concerning the felony-murder rule. South Carolina has not codified the “felony-murder doctrine.”¹ “South Carolina follows the common law rule of murder and makes no distinction between murder and

¹ PCR counsel provided the Court with the following persuasive authority in support of his argument on felony murder: People v. Lowery, 687 N.E.2d 973 (Ill. Sup. Ct. 1997); Commonwealth v. Redline, 137 A.2d 472 (Pa. Sup. Ct. 1958); King v. Commonwealth, 368 S.E.2d 704 (Va. Ct. App. 1988); State v. Bonner, 411 S.E.2d 598 (N.C. Sup. Ct. 1992). This Court finds these cases are not relevant to the question of whether Counsel was deficient.

felony-murder.” State v. Norris, 285 S.C. 86, 92, 328 S.E.2d 339, 343 (1985) overruled on other grounds by State v. Torrence, 305 S.C. 45, 406 S.E.2d 315 (1991) and State v. Belcher, 385 S.C. 597, 685 S.E.2d 802 (2009). However, in Gore v. Leeke, the Court discussed the doctrine and recognized its establishment in common law. 261 S.C. 308, 199 S.E.2d 755 (1973) (holding appellant’s conviction of murder under the felony-murder doctrine was fully justified under the circumstances of the case). Applicant was charged with discharging a firearm into a vehicle in violation of S.C. Code Ann. § 16-23-440(B), which provides:

(B) It is unlawful for a person to discharge or cause to be discharged unlawfully firearms at or into any vehicle, . . . while it is occupied. A person who violates the provisions of this subsection *is guilty of a felony*

S.C. Code Ann. § 16-23-440(B) (emphasis added).

Counsel testified he explained to Applicant the elements of murder and what the State would have to prove to prove her guilty at trial. Counsel did not specifically advise her concerning the felony-murder rule. Nevertheless, that South Carolina has not specifically codified the rule does not specifically preclude a trial court from giving such an instruction in circumstances such as these. Therefore, even if Counsel had advised Applicant that she could potentially be convicted under the felony-murder doctrine, Applicant has failed to show that advice was deficient. Regardless of the applicability of the felony murder doctrine, Counsel properly advised Applicant that under the circumstances of the case, she could be found guilty of murder if she proceeded to trial.

Further, this Court finds Applicant’s mere claim she would have proceeded to trial but for the alleged deficiency of Counsel’s advice is not credible and is not sufficient to prove prejudice. Applicant did not dispute the evidence of attempted murder as to Gray and Askins was overwhelming. As to the murder, Counsel testified he discussed with Applicant the possibility of

asserting a battered woman's syndrome defense and the proximate-cause issue, but correctly observed that those issues would have been questions of fact for the jury. See State v. Hill, 287 S.C. 398, 339 S.E.2d 121 (1986) (holding expert testimony regarding battered woman's syndrome is relevant to proving defense of self-defense, but failing to recognize as a separate defense); see also S.C. Code Ann. § 17-23-170 (A) ("Evidence that the actor was suffering from the battered spouse syndrome is admissible in a criminal action on the issue of whether the actor lawfully acted in self-defense, defense of another, defense of necessity, or defense of duress."). See also Hill v. Lockhart, 474 U.S. 52, 59 (1985) ("[W]here the alleged error of counsel is a failure to advise the defendant of a potential affirmative defense to the crime charged, the resolution of the 'prejudice' inquiry will depend largely on whether the affirmative defense likely would have succeeded at trial." (citation omitted)).

iii. *Proximate Cause*

This Court further finds Counsel properly advised Applicant concerning proximate cause. Proximate causation becomes an issue when there is evidence of an intervening superseding cause of death, often arising in situations where complications resulting from an injury hasten a victim's death. See, e.g., State v. Foote, 58 S.C. 218, 36 S.E. 551, 552 (1900) (holding the trial court properly instructed the jury that "if the death of the deceased was produced by a cause independent of the gunshot wound, the defendant could not be convicted, but that he was liable if the death was from a disease brought on by the wound."). See also State v. Riley, 219 S.C. 112, 118, 64 S.E.2d 127, 130 (1951) ("One who inflicts an injury on another is deemed by law to be guilty of homicide where the injury contributes mediately or immediately to the death of the other. The fact that other causes also contribute to the death does not relieve the actor from responsibility."). Counsel testified he considered proximate causation and discussed it with

Applicant, but that it ultimately would have been a question of fact for the jury. Counsel testified Applicant's version of the facts was that during the chase, Gray and Askins separated from her and she could no longer see them, at which point the accident occurred. However, Counsel testified that Gray and Askins would have testified at trial that Applicant was in their view the entire time, including when the accident occurred. Applicant has made no showing that she did not proximately cause the death of Lori Pruett as a matter of law, and has failed to demonstrate that Counsel gave deficient advice concerning proximate cause. Given the evidence the State was prepared to present at trial, the issue of whether Applicant proximately caused the death of Applicant would have been a question of fact for the jury. See State v. Cherry, 361 S.C. 588, 593, 606 S.E.2d 475, 477–78 (2004) (“When ruling on motion for a directed verdict, the trial court is concerned with the existence or nonexistence of evidence, not its weight.”) (citing State v. Gaster, 349 S.C. 545, 555, 564 S.E.2d 87, 92 (2002))). See also State v. Weston, 367 S.C. 279, 292–93, 625 S.E.2d 641, 648 (2006) (citing Cherry, 361 S.C. at 593, 606 S.E.2d at 477–78) (“If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, [the reviewing court] must find the case was properly submitted to the jury.”). Accordingly, Applicant has failed to demonstrate deficiency with respect to this allegation. Applicant has also failed to demonstrate prejudice resulting from the alleged deficiency. See Hill v. Lockhart, 474 U.S. 52, 59 (1985) (“[W]here the alleged error of counsel is a failure to advise the defendant of a potential affirmative defense to the crime charged, the resolution of the ‘prejudice’ inquiry will depend largely on whether the affirmative defense likely would have succeeded at trial.” (citation omitted)). Therefore, this allegation is denied and dismissed.

iv. Automobile Death

That Lori Pruett's death resulted from an automobile accident does not negate Applicant's criminal liability for murder. See State v. Mouzon, 231 S.C. 655, 662, 99 S.E.2d 672, 675-76 (1957) (holding evidence was sufficient to sustain a verdict of murder where death resulted from a vehicular accident because "[t]he conduct of the driver was such as to imperil human life[,] regardless of "actual intent to kill or injure another, [where] there is evidence of such recklessness and wantonness as to indicate a depravity of mind and disregard of human life, from which a jury could infer malice.").

Applicant's conduct consisted of driving at a high rate of speed on a public roadway while firing a deadly weapon on another moving vehicle. A vehicular accident occurred as a consequence of Applicant's actions. Applicant admitted she chased and fired on Gray and Askins as they were driving. While fleeing from Applicant, Askins ran a red light and struck Pruett while she was driving through the intersection, fatally injuring her. This Court finds Counsel's advice to Applicant that she could be found guilty of murder if she proceeded to trial did not fall below an objective standard of reasonableness. See Palacio v. State, 333 S.C. 506, 514, 511 S.E.2d 62, 67 (1999) (finding no deficiency where "it would have been futile for Attorney to have made such arguments").

Additionally, Applicant has failed to prove that but for the alleged deficient advice, there is a reasonable probability she would have proceeded to trial rather than pleading guilty because she has made no showing that this would have been a viable defense at trial. See Lockhart, 474 U.S. at 59; Arnette v. State, 306 S.C. 556, 557, 413 S.E.2d 803, 804 (1992) (finding counsel not ineffective for failing to advise of potential defense where no evidence exists to support the defense). Therefore, this allegation is denied and dismissed.

3. *Failure to argue Applicant's sentences should have been subject to section 16-25-90*

Lastly, Applicant argues Counsel was ineffective for failing to argue Applicant's sentence for attempted murder of Askins, as well as her other sentences, should have been subject to section 16-25-90 of the South Carolina Code of Laws. Section 16-25-90 provides:

Notwithstanding any provision of Chapters 13 and 21 of Title 24, and notwithstanding any other provision of law, an inmate who was convicted of, or pled guilty or nolo contendere to, an offense against a household member is eligible for parole after serving one-fourth of his prison term when the inmate at the time he pled guilty to, . . . an offense against the household member, *or in post-conviction proceedings pertaining to the plea or conviction, presented credible evidence of a history of criminal domestic violence, as provided in Section 16-25-20, suffered at the hands of the household member.* This section shall not affect the provisions of Section 17-27-45.

S.C. Code Ann. § 16-25-90 (emphasis added). Persons who have a child in common are household members within the meaning of this section. S.C. Code Ann. § 16-25-10 to -20. Section 16-25-90 requires Applicant "to do more than produce evidence of a history of criminal domestic violence which she believes is credible." State v. Grooms, 343 S.C. 248, 253, 540 S.E.2d 99, 101 (2000). The use of the term "credible evidence" means Applicant's evidence must be "trustworthy, not simply plausible." Id. In other words, Applicant must "do more than simply present evidence; she must persuade the trial judge her evidence is reliable." Id. "Mere production of evidence does not automatically result in earlier parole eligibility; instead, the defendant must persuade the judge by presenting proof which leads the trier of fact to find that the existence of the contested fact is more probable than its nonexistence." State v. Blackwell-Selim, 392 S.C. 1, 4, 707 S.E.2d 426, 428 (2011). Importantly, the Supreme Court noted the following in State v. Hawes: "The legislative history of section 16-25-90 indicates that the statute was intended to confer early parole eligibility *only to long-term victims of repeated abuse at the hands of a household member.*" State v. Hawes, 411 S.C. 188, 190, 767 S.E.2d 707, 708

(2015) (citing Act No. 7, 1995 S.C. Acts 58–59 (indicating that section 16-25-90 was first enacted alongside the defense of battered spouse syndrome)).

Applicant has framed this issue as an allegation of ineffective assistance of Counsel. This Court finds Applicant has not satisfied her burden of producing credible evidence as to this allegation. First, as a matter of law, Applicant would not have been entitled to early parole for the offenses against Gray or Pruett under this statute because the statute only contemplates offenses against a household member. See Rowe v. Hyatt, 321 S.C. 366, 369, 468 S.E.2d 649, 650 (1996) (“In interpreting a statute, words must be given their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand the statute’s operation.” (citing Gilstrap v. S.C. Budget & Control Bd., 310 S.C. 210, 423 S.E.2d 101 (1992))).

With respect to Askins, Applicant presented no evidence other than vague testimony that she had been the victim of domestic violence. Counsel testified he discussed with Applicant her claims that the victim had previously abused her. Counsel testified according to Applicant, the victim had a prior magistrate-level criminal domestic violence offense. Counsel testified there were no witnesses who could testify to this and no records Applicant had been treated for any injuries resulting from any such abuse. Though Counsel testified Applicant alleged Askins had a magistrate level conviction for domestic violence, no further details or evidence of a history of domestic violence at the hands of Askins was presented to this Court. Furthermore, during sentencing, Officer McFadden indicated Applicant had an outstanding warrant for her arrest in connection with a previous incident in which Applicant attacked Gray and Askins while the two were on a date. (Tr. at 33-34). Given the legislative intent behind this statute, Applicant has failed to show she was entitled to early parole eligibility for the offense of attempted murder of

Jimmy Askins. Accordingly, she has failed to satisfy her burden of proving deficiency or prejudice with respect to this allegation, and it is therefore denied and dismissed.

IV. 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 her 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 30 days from PCR 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, PCR 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.

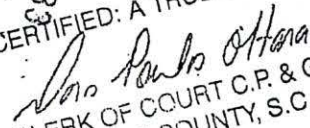
IT IS THEREFORE ORDERED THAT:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of the Department of Corrections to complete service of her sentence.

AND IT IS SO ORDERED this 17 day of May, 2017.


THE HONORABLE WILLIAM H. SEAL, JR.
Presiding Judge
Twelfth Judicial Circuit


_____, South Carolina

FILED
2017 MAY 30 PM 3:35
DORIS POULOS O'HARA
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.
CERTIFIED: A TRUE COPY


CERTIFIED: A TRUE COPY
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.
Make up of Special

FILED

2013 MAR 28 PM 1:07

CONNIE REEL-SHEARIN
 CCCP & GS
 FLORENCE COUNTY, SC

DOCKET NO. 2013-GS-21-00411

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

APRIL TERM 2013

THE STATE

vs.

GEORGIA GURLEY WOODBERRY

Indictment for

MURDER,
 ATTEMPTED MURDER
 (TWO COUNTS),

DISCHARGING FIREARM AT OR
 INTO A VEHICLE,

AND

STALKING

WITNESSES

Thomas Mcfadden Florence County Sheriff

Lindsay Hubbell Florence Police Department

E. L Clements, III

ARREST WARRANT NUMBER

M274918 M274915 M274916

M274917 M379682

ACTION OF GRAND JURY

TRUE BILL

Counting Murphy
 Foreperson of Grand Jury
 Date: 3/28/13

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF FLORENCE)

MURDER, ATTEMPTED MURDER (TWO COUNTS),
DISCHARGING FIREARM AT OR INTO A VEHICLE,
AND STALKING

At a Court of General Sessions, convened on MARCH 28, 2013 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- MURDER

CDR: 0116 16-03-0010, 0020, 16-01-0060

That GEORGIA GURLEY WOODBERRY did in Florence County on or about April 05, 2012, feloniously, willfully and with malice aforethought kill one Lori M. Pruett, in that while chasing another vehicle, and shooting into it with a handgun, she caused a wreck involving Lori M. Pruett, and that the said Lori M. Pruett did die as a proximate result thereof; in violation of Sections 16-03-0010, 0020, and 16-01-0060, S.C. Code of Laws, 1976, as amended.

COUNT TWO- ATTEMPTED MURDER

CDR: 3410 16-03-0029

That GEORGIA GURLEY WOODBERRY did in Florence County on or about April 05, 2012, with malice aforethought attempt to murder one Carolyn Gray, in that while chasing her in another vehicle, did fire several times with a handgun into the vehicle she was driving, causing great bodily injury and substantial risk of death; in violation of Section 16-03-0029, S.C. Code of Laws, 1976, as amended.

COUNT THREE - ATTEMPTED MURDER

CDR: 3410 16-03-0029

That GEORGIA GURLEY WOODBERRY did in Florence County on or about April 05, 2012, with malice aforethought attempt to murder one Jimmy D. Askins, in that while chasing him in another vehicle, did fire several times with a handgun into the vehicle he was occupying, causing great bodily injury and substantial risk of death; in violation of Section 16-03-0029, S.C. Code of Laws, 1976, as amended.

ATTACHED TO AND BECOMING A PART OF THE ORIGINAL INDICTMENT FOR MURDER, ATTEMPTED MURDER (TWO COUNTS), DISCHARGING FIREARM AT OR INTO VEHICLE, AND STALKING, WITH THE AFORESAID NAME(S) OF GEORGIA GURLEY WOODBERRY SHOWN THEREON:

COUNT FOUR- DISCHARGING FIREARM AT OR INTO A VEHICLE

CDR: 2907

16-23-0440(B)

That GEORGIA GURLEY WOODBERRY did in Florence County on or about April 05, 2012, willfully and unlawfully discharge, or cause to be discharged, a firearm at or into a vehicle, aircraft, watercraft, or other conveyance, device or equipment, to wit: a vehicle occupied by Carolyn Gray and/or Jimmy D. Askins; in violation of Section 16-23-0440(B), S.C. Code of Laws, 1976, as amended.

COUNT FIVE- STALKING

CDR: 2406

16-03-1700(C), 16-03-1730(A)

That GEORGIA GURLEY WOODBERRY did in Florence County on or about April 04-05, 2012, willfully, maliciously, and repeatedly use a pattern of words, conduct, written or electronic, follow or harass Carolyn Gray and/or Jimmy D. Askins, and did make a credible threat with the intent to place the said Carolyn Gray and/or Jimmy D. Askins in reasonable fear of death, assault, bodily injury, criminal sexual contact, kidnapping or damage to property or to their person, or to that of a family member, accompanied by an act of violence, in that she did come to Carolyn Gray's apartment, and by following Carolyn Gray and/or Jimmy D. Askins in a vehicle; in violation of Sections 16-03-1700(C) and 16-03-1730(A), S.C. Code of Laws, 1976, as amended.

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



E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

CERTIFIED: A TRUE COPY
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

COUNTY OF Florence
 STATE VS.
Georgia Woodberry
 AKA: _____
 Race: B Sex: _____ Age: 30
 DOB: _____ SS#: _____
 Address: National Cemetary Rd.
 City, State, Zip: Florence, SC 29501
 DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Murder / Attempted Murder

INDICTMENT/CASE#: 2013-GS-21-00411

A/W#: M274915

Date of Offense: 4/5/2012

S.C. Code § : 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] 15295 [Signature] Scott P. Lloyd 12061
 Clements, III, E. L. 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 20 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: M274917 M274918
M274916 M379682

☒ 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. 482 days

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$
TOTAL		\$ <u>105.00</u>

Clerk of Court/ Deputy Clerk [Signature]

Court Reporter: [Signature]

SCCA/217 (03/2011)

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,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge [Signature]

Judge Code: 210

Sentence Date: 7-30-13

CERTIFIED TRUE COPY
 Clerk of Court C.P. & G.S.
 FLORENCE COUNTY, S.C.

COUNTY OF
STATE

Florence

VS.

Georgia Woodberry

AKA:

Race: B Sex: F Age: 30

DOB: SS#:

Address: National Cemetery Rd.

City, State, Zip: Florence, SC 29501

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder / Attempted Murder

in violation of § 16-03-0029

of the S.C. Code of Laws, bearing CDR Code #

3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Clements, III, E. L. 15295 SC Bar# Defendant Attorney for Defendant 12061 SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 482 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$
TOTAL		\$ <u>108.00</u>

Clerk of Court/ Deputy Clerk

Court Reporter: TC Allen

SCCA/217 (03/2011)

INDICTMENT/CASE#: 2013-GS-21-00411

A/W#: M274916

Date of Offense: 4/5/2012

S.C. Code § : 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

M377682 M274918
M274915 M274917

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,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code: 2160Sentence Date: 7-30-13

CERTIFIED - A TRUE COPY
 CLERK OF COURT, CP & GS
 FLORENCE COUNTY, S.C.

COUNTY OF Florence
 STATE VS.
Georgia Woodberry
 AKA: _____
 Race: B Sex: _____ Age: 30
 DOB: _____ SS#: _____
 Address: National Cemetary Rd.
 City, State, Zip: Florence, SC 29501
 DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
 In disposition of the said indictment comes now the Defendant who was
 TO: Murder / Murder

INDICTMENT/CASE#: 2013-GS-21-00411A/W#: M274918Date of Offense: 4/5/2012S.C. Code § : 16-03-0010; 16-03-0020CDR Code #: 0116

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

EST 8/1/13

in violation of § 16-03-0010; 16-03-0020 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) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Clements, III, E. L. 15295 Defendant Scott P. Floyd 12061
 SC Bar# _____ Attorney for Defendant SC Bar# _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 40 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: m274915 m274917
m379682 m274916
☒ 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. 482 days

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114(BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

Proviso 90.5 (SCCA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$

TOTAL \$ 105.00

Clerk of Court/ Deputy Clerk [Signature]

Court Reporter: [Signature]

SCCA/217 (03/2011)

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,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge [Signature]

Judge Code: 2160

Sentence Date: 7-30-13

CERTIFIED TRUE COPY
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Florence

VS.

Georgia Woodberry

AKA:

Race: B Sex: F Age: 30

DOB: SS#:

Address: National Cemetery Rd.

City, State, Zip: Florence, SC 29501

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Weapons / Discharging firearm into vehicle, aircraft, etc. while occupied

in violation of § 16-23-0440(B) of the S.C. Code of Laws, bearing CDR Code # 2907

☒ 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: [Signature]
Clements, III, E. L.15295
SC Bar# Defendant[Signature] 1206
Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: m 274916 m 274918
m 274915 m 379682☒ 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. 482 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$ <u>105.00</u>

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013-GS-21-00411

A/W#: M274917

Date of Offense: 4/5/2012

S.C. Code § : 16-23-0440(B)

CDR Code #: 2907

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

Presiding Judge

Judge Code: 260Sentence Date: 7-30-13

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

149

COUNTY OF Florence
 STATE VS.
Georgia Gurley Woodberry

AKA:

Race: B Sex: F Age: 30DOB: SS#:Address: National CemeteryCity, State, Zip: Florence, SC 29501DL#: 007954188 SID#: *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Stalking / Stalking

INDICTMENT/CASE#: 2013-GS-21-00411A/W#: M379682Date of Offense: 4/5/2012S.C. Code § : 16-03-1730(A)CDR Code #: 2406

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSin violation of § 16-03-1730(A) of the S.C. Code of Laws, bearing CDR Code # 2406

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] 15295 [Signature] [Signature]
 Clements, III, E. L. SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: m274915 m274917
m274918 m274916
☒ 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. 482 days

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$
TOTAL		\$ <u>105.00</u>

Clerk of Court/ Deputy Clerk [Signature]Court Reporter: [Signature]

SCCA/217 (03/2011)

PTUP days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther:

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge [Signature]Judge Code: 2180Sentence Date: 7-30-13