

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

—————
Certiorari to Orangeburg County

Honorable Edgar W. Dickson, Circuit Court Judge
—————

RECEIVED

Nov 23 2020

S.C. SUPREME COURT

ADRIENNE RANDOLPH,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2020-000788
—————

APPENDIX
—————

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ATTORNEYS FOR RESPONDENT

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WITNESS/DESCRIPTION

PAGE NO.

EXHIBITS:

No exhibits were marked to this proceeding.

Certificate of Court Reporter 16

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1 THE COURT: Thank you everyone. You may have a
2 seat.

3 MR. BELL: One moment, Your Honor. I think we're
4 getting the victim's family in.

5 THE COURT: Okay. And counsel, it's my
6 understanding the parties have reached a resolution to this
7 case?

8 MR. BELL: Yes, Your Honor.

9 MR. GRANT: Yes, Your Honor.

10 MR. BELL: It is the State's understanding that
11 the Defendant wishes to change her plea regarding the
12 indictment of murder. And we have worked out a negotiated
13 plea where she would plead guilty to voluntary manslaughter.
14 The State would -- it'd be a negotiated sentence of eighteen
15 and a half years. However, we would agree that she was to
16 get time served, all of her time served, including the jail
17 time she initially had and her house arrest up to the
18 present. She would get credit for that time served.

19 THE COURT: Do you have the amount of days that
20 would be? Has that been calculated.

21 MR. BELL: I have no -- she was -- from November
22 2nd. She was arrested that day.

23 THE COURT: Okay.

24 MR. BELL: So it would be from the date -- she was
25 arrested that day.

1 THE COURT: Is that correct, Mr. Grant?

2 MR. GRANT: That is correct, Your Honor. November
3 2nd until today's date.

4 THE COURT: All right. You ready to proceed then?

5 MR. BELL: Yes, Your Honor.

6 MR. GRANT: We are, Your Honor.

7 THE COURT: Here's the sentence sheet signed.

8 THE COURT: Okay.

9 MR. GRANT: You want us to come around right here,
10 Judge?

11 THE COURT: Yes, please.

12 MR. GRANT: Yes, ma'am. Okay.

13 THE COURT: All right. Mr. Grant, you obviously
14 represent Ms. Randolph in this matter; is that correct?

15 MR. GRANT: I do, Your Honor.

16 THE COURT: And have you explained to your client
17 the charges contained in the indictment, the possible
18 punishment and her constitutional rights?

19 MR. GRANT: I have, Your Honor.

20 THE COURT: In your opinion, does she understand
21 the charge, the punishment and her rights?

22 MR. GRANT: She does, Your Honor.

23 THE COURT: How does she indicate to you that she
24 wishes to plead?

25 MR. GRANT: Guilty to the charge of voluntary

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1 manslaughter, Your Honor.

2 THE COURT: And do you agree with your client's
3 decision to plead guilty?

4 MR. GRANT: Yes, I do, Your Honor.

5 THE COURT: Based upon your investigation of the
6 facts and circumstances of the case, do you feel the State
7 could produce sufficient evidence to convince a jury of your
8 client's guilt beyond a reasonable doubt. And if she were
9 to stand trial, her conviction would be probable?

10 MR. GRANT: Yes, ma'am. I do.

11 THE COURT: All right. Ms. Randolph, I have
12 certain questions for you to ensure that your plea is freely,
13 knowingly and intelligently made. If at any point you don't
14 understand something, please stop to ask me, okay?

15 DEFENDANT RANDOLPH: Nods head. (Affirmative
16 response.)

17 THE COURT: Okay. All right. Make sure you to
18 speak out loud. Our court reporter has to take down
19 everything that you say.

20 DEFENDANT RANDOLPH: Okay.

21 THE COURT: All right. How old are you, ma'am?

22 DEFENDANT RANDOLPH: I'm thirty.

23 THE COURT: And how far did you go in school?

24 DEFENDANT RANDOLPH: I went to college.

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

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1 DEFENDANT RANDOLPH: No.

2 THE COURT: Are you aware of any physical or
3 emotional or nervous problem that would prevent you from
4 understanding what you're doing here today?

5 DEFENDANT RANDOLPH: No.

6 THE COURT: You're pleading guilty to voluntary
7 manslaughter, a charge which carries up to thirty years,
8 between two and thirty years. Do you understand that?

9 DEFENDANT RANDOLPH: Yes.

10 THE COURT: Your attorney has negotiated with the
11 State that you receive a sentence of eighteen and a half
12 years and you get credit for the time since your arrest. Do
13 you understand that?

14 DEFENDANT RANDOLPH: Yes, ma'am.

15 THE COURT: Have you also discussed with your
16 attorney that this is considered a violent, most serious
17 offense?

18 DEFENDANT RANDOLPH: Yes, ma'am.

19 THE COURT: And you understand the collateral
20 consequences of that?

21 DEFENDANT RANDOLPH: Yes, ma'am.

22 THE COURT: Knowing all of that, you wish to
23 proceed and plead guilty here today?

24 DEFENDANT RANDOLPH: I do. Yes, ma'am.

25 THE COURT: All right. Mr. Bell.

1 MR. BELL: Your Honor, if it please the Court, I
2 think the Court's pretty much heard a lot more than a court
3 usually hears during a plea they've heard. And we would
4 incorporate all of the testimony that's been offered up to
5 this point as part of this plea. I mean, I think the basics
6 are you know, this happened on November 2nd, 2013. This
7 occurred on [REDACTED], which outside of Santee
8 in Orangeburg County. And the facts are, as you've heard,
9 that there became a dispute over the phone. And
10 unfortunately at some point the victim Tonya Lemon (sp) was
11 shot. She died as a result of being shot. It punctured her
12 lung and she died basically of bleeding to death. They
13 tried to get her to some medical attention. It was not in
14 time. And all the other facts that the Court has heard, I
15 think probably fleshes out even better for the Court. As I
16 said the family's here. They've been here. They agree with
17 this. We've talked many times, several times about this,
18 working this out. And I think they have said that none of
19 the members would like to speak. I mean, they're, of
20 course, upset that this happened, that they've lost a loved
21 one. But they understand that this kind of gives some
22 certainty and closure to the situation.

23 THE COURT: Thank you, Solicitor.

24 Ms. Randolph, you've heard the facts as recited by the
25 State along with the evidence that's been presented. Do you

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1 agree that you're, in fact, guilty of voluntary
2 manslaughter?

3 DEFENDANT RANDOLPH: Yes, ma'am.

4 THE COURT: Is that your answer?

5 DEFENDANT RANDOLPH: Yes.

6 THE COURT: You understand by pleading guilty
7 you're waiving certain constitutional rights. You're
8 waiving your right to have a trial by jury, obviously, which
9 was already started. And during the trial you have the
10 right to remain silent. And I would instruct the jury they
11 could not use the right -- if you exercised your right to
12 remain silent -- against you. You're also waiving your
13 right to challenge the State's evidence as well as cross-
14 examine the witnesses and present any defenses that you may
15 have. And you're also waiving your right to challenge any
16 potentially incriminating statements that you may have made.
17 Do you understand that you are waiving each of those rights
18 by entering a plea?

19 DEFENDANT RANDOLPH: Yes.

20 THE COURT: You've been represented by Mr. Grant
21 in this matter. Have you been satisfied with how he's
22 advised and represented you in this case?

23 DEFENDANT RANDOLPH: Yes, ma'am.

24 THE COURT: Have you spoken with him for as often
25 and far as long as you feel it's necessary for him to

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1 properly represent you?

2 DEFENDANT RANDOLPH: Yes, ma'am.

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

5 DEFENDANT RANDOLPH: Yes, ma'am.

6 THE COURT: Do you need any more time to talk to
7 your attorney?

8 DEFENDANT RANDOLPH: No, ma'am.

9 THE COURT: Has he done everything you've asked
10 him to do?

11 DEFENDANT RANDOLPH: Yes, ma'am.

12 THE COURT: Do you have any complaints against
13 your attorney?

14 DEFENDANT RANDOLPH: No, ma'am.

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

17 DEFENDANT RANDOLPH: No, ma'am.

18 THE COURT: Anyone threaten or coerce you in any
19 way to get you to plead guilty?

20 DEFENDANT RANDOLPH: No, ma'am.

21 THE COURT: Has anyone associated with your case
22 whatsoever mistreated you in any way?

23 DEFENDANT RANDOLPH: No, ma'am.

24 THE COURT: Have you had enough time to make up
25 your mind as to whether or not you want to plead guilty?

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1 DEFENDANT RANDOLPH: Yes, ma'am.

2 THE COURT: Are you pleading guilty of your own
3 free will?

4 DEFENDANT RANDOLPH: Yes, ma'am.

5 THE COURT: Have you understood all of my
6 questions?

7 DEFENDANT RANDOLPH: Yes, ma'am.

8 THE COURT: Is there anything you'd like to ask me
9 about what we've just been over?

10 DEFENDANT RANDOLPH: No, ma'am.

11 THE COURT: Is each and every answer that you've
12 given the court been completely truthful and honest?

13 DEFENDANT RANDOLPH: Yes, ma'am.

14 THE COURT: You understand that you have ten days
15 to appeal the guilty plea and the sentence of the Court.
16 And if you cannot afford an attorney, one will be appointed
17 to represent you?

18 DEFENDANT RANDOLPH: Yes, ma'am.

19 THE COURT: I do find that there is a substantial
20 factual basis for the plea, that the Defendant's decision to
21 plead guilty is freely, knowingly and intelligently made,
22 with the advice of counsel of whom she say's she satisfied.
23 With that, I'll accept the plea.

24 Mr. Grant.

25 MR. GRANT: Thank you, Your Honor. If it please

1 the Court. Your Honor, Adrienne is thirty years old. She's
2 a lifetime resident of Orangeburg. She's a member of the
3 Live Oak AME Church in Santee and she, as indicated, a
4 graduate of OW high school. She attended OC Tech. The
5 warehouse that she worked at I believe was Husqvarna. And
6 she's also worked, Judge, at the department of corrections.
7 No previous criminal record and this unfortunately is a
8 tragic situation. And I want to say first and foremost, in
9 addition to my comments that she is indeed very remorseful.
10 Our heart goes out to the family of the victim. And a
11 murder case always has a dichotomy of emotions. For the
12 criminal trial lawyer, he has a professional obligation to
13 represent his client. But obviously, if he has a heart,
14 he's merely a man, he's compassionate about the fact that
15 somebody has been killed. So our heart goes out to the
16 victim's family. Your Honor, Adrienne's family has been
17 here. They've been very supportive of her. Her mother, her
18 father is here. Her uncles, cousins, brothers, friends and
19 relatives. They've been in the courtroom and they've been
20 like a rock giving her sound advice and guidance as to this
21 decision. And ultimately the decision has been made as she
22 stood before you and she accepts responsibility. I think
23 that mama would make a comment and Aunt Dorothy who actually
24 testified, just testified in the trial on this matter. So
25 you all please stand up.

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1 THE COURT: And yes, ma'am, just for the record
2 again would you please tell me your name again?

3 MS. HUTTON: Delores Hutton.

4 THE COURT: Yes, ma'am.

5 MS. HUTTON: I just wanted to apologize to the
6 family with all the stress that we went through and I
7 thought I should. And my heart goes out to them.

8 THE COURT: Thank you, ma'am.

9 MS. SHEA: Dorothy Shea.

10 THE COURT: Yes, ma'am.

11 MS. SHEA: Yes, I'm going to be sad about what
12 happened, you know. You know, I met Tonya. She was, you
13 know -- I never really talked with her just say, hi. I
14 didn't know, you know, what was in her heart. I just, I
15 feel sad for them. And I just hope they'll be able to heal.
16 I know it's hard. We'll keep them in our prayers.

17 THE COURT: Thank you, ma'am.

18 MR. GRANT: And Adrienne has a word or two to say,
19 Judge.

20 THE COURT: Yes, ma'am.

21 DEFENDANT RANDOLPH: Yes, I wanted to apologize
22 for what happened. And I'm sincerely sorry and I apologize
23 to my family for putting them through this.

24 THE COURT: Thank you, Ms. Randolph. Anything
25 further?

1 MR. GRANT: No, ma'am. Thank you, Judge.

2 THE COURT: All right. Ms. Randolph certainly
3 it's a tragic situation for both sides. I don't think
4 there's ever a winner in a case like this. I think this is
5 a good resolution. Because of this negotiation you'll still
6 have a future ahead of you and I hope that you take that to
7 heart and hopefully when you get out you can come back and
8 be a productive member of society and contribute. So I
9 think this is a good resolution that is fair to both sides.

10 On indictment 2014-GS-38-0011, you're hereby committed
11 to the state department of corrections for a period of
12 eighteen and a half years. You are to be given credit for
13 the time that you have served since November 2nd.

14 MR. BELL: Including house arrest. We might have
15 -- normally, the department of corrections --

16 THE COURT: To include house arrest from November
17 2nd of 2013.

18 MR. BELL: You have to spell things out for them.

19 THE COURT: That's right.

20 MR. GRANT: Are you indicating that in writing,
21 Judge?

22 THE COURT: I am. I'm putting it on the
23 sentencing sheet.

24 MR. GRANT: And that little block to be checked?

25 THE COURT: Yes, sir.

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MR. GRANT: Thank you, Judge.

MR. BELL: And I think I wrote it on top as part
of the plea.

MR. GRANT: Yes, sir.

THE COURT: All right. Thank you. Good luck to
you.

MR. GRANT: Thank you, Judge.

MR. BELL: Thank you, Your Honor.

(This proceeding was concluded.)

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C-E-R-T-I-F-I-C-A-T-E

I, THE UNDERSIGNED HILDA M. JORDAN, CVR-M, OFFICIAL COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE PLEA IN THE CAPTIONED CAUSE, IN THE COURT OF GENERAL SESSIONS FOR ORANGEBURG COUNTY, SOUTH CAROLINA, ON THE 16 DAY OF DECEMBER, 2015.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

Hilda M. Jordan, CVR-M

April 8, 2017

FORM 5

STATE OF SOUTH CAROLINA)
)
County of Orangeburg)
)
Adrienne Randolph 366491)
Full name and prison number (if any) of Applicant)
)
v.)
)
State of South Carolina)
)
)
)
)

IN THE COURT OF COMMON PLEAS

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Orangeburg County Detention Center
2. Name and location of Court which imposed sentence Orangeburg County Clerk General Session
3. Name(s) of co-defendant(s) (if any) n/a

ATTEST: TRUE COPY

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 2014GS38-0011
(b) _____

Wynya B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SOUTH CAROLINA

FILED FOR RECORDED
MINOR R. O.
2016 12 15 15:15
CLERK OF COURT
ORANGEBURG COUNTY

RECEIVED

DEC 20 2016

Referred to PCR/PB
Answered _____

- (c) _____
- 5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) December 16, 2015 / sentenced to 18 1/2 years
 - (b) _____
 - (c) _____

- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty _____
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes

- 8. If you answered "yes" to (7), list:
 - (a) the name of each Court to which you appealed:
 - i. The South Carolina Court of Appeals
 - ii. Orangeburg County Court of General Sessions
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. denied and moved to lower Circuit Court
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. not available
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. _____
 - ii. _____
 - iii. _____

ATTEST: TRUE COPY
Winnaja B. Clark
 CLERK OF COURT
 ORANGEBURG COUNTY, SOUTH CAROLINA

- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) _____
 - (b) _____

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

(a) Stand my Ground

(b) Weapon Registered

(c) My Attorney told me to take plea and it was not my decision

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

(a) My Attorney also told my family same thing for me to take plea

(b) because if not I would get 30 years to life in prison.

(c) I was self defense

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

(a) any petition in a State Court under South Carolina Law? _____

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____

(d) any other petitions, motions or applications in this or any other Court? _____

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

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. _____

ii. _____

iii. _____

iv. _____

ATTEST: TRUE COPY
Winnaja B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SOUTH CAROLINA

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

n/a

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

(a) which grounds have been presented:

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

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

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

ATTEST: TRUE COPY

Winnaja B. Clark
CLERK OF COURT

ORANGEBURG COUNTY, SOUTH CAROLINA

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

I hope to have get a chance to have a new trial or sentence reduction

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

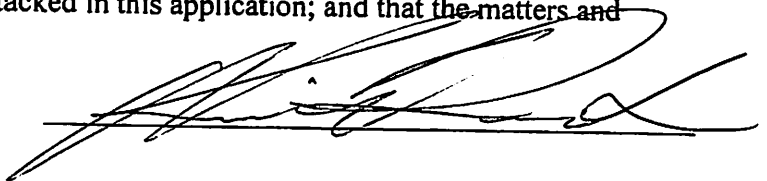
NO

STATE OF SOUTH CAROLINA)

County of Orangeburg, SC)

VERIFICATION

I, Adrienne Randolph, 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.



SWORN to and subscribed before me this _____ day of _____, _____.

Notary Public (L.S.)

My Commission Expires: _____

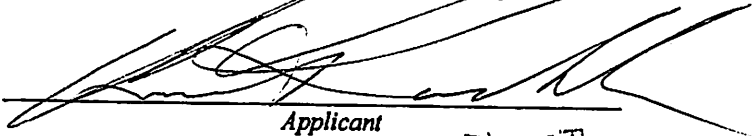
ATTEST: TRUE COPY

Winnaja B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SOUTH CAROLINA

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

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

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



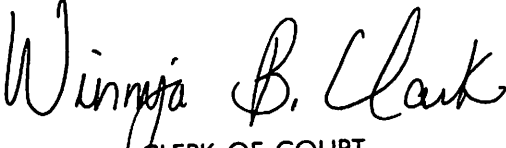
Applicant

SWORN or affirmed to and subscribed before me this _____ day of _____, _____.

Notary Public

My Commission Expires: _____

FILED FOR RECORD
WINNIEA B. CLARK
2016 OCT 17 P 2:30
CLERK OF COURT
ORANGEBURG, SC

ATTEST: TRUE COPY

CLERK OF COURT
ORANGEBURG COUNTY, SOUTH CAROLINA

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	IN THE FIRST JUDICIAL CIRCUIT
COUNTY OF ORANGEBURG)	
)	
Adrienne Randolph, #366491,)	Case No.: 2016-CP-38-1565
)	
Applicant,)	
)	RETURN AND PARTIAL
v.)	MOTION TO DISMISS
)	
State of South Carolina,)	
)	
Respondent.)	
_____)		

Respondent, making its Return to the Application for Post-Conviction Relief ("PCR") filed on December 15, 2016, would respectfully show this Court:

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Orangeburg County Clerk of Court. In January 2014, the Orangeburg County Grand Jury indicted Applicant for murder (2014-GS-38-0011). Carl Grant, Esquire, represented Applicant. Solicitor Harrison Bell, Esquire, prosecuted the case. On December 16, 2015, Applicant pleaded guilty to the lesser included offense of voluntary manslaughter before the Honorable Maite Murphy. Pursuant to a negotiated sentence, Judge Murphy sentenced Applicant to imprisonment for eighteen years and six months.

Applicant filed a timely notice of appeal. Carl Grant, Esquire perfected the appeal. After review, the South Carolina Court of Appeals dismissed Applicant's appeal on March 10, 2016 for Appellant's failure to provide a sufficient explanation for appealing. State v. Randolph, Appellate Case No. 2015-002630 (S.C. Ct. App. filed March 10, 2016). The remittitur was returned to the circuit court on April 1, 2016.

Attached to this Return and incorporated by reference are the records of the Orangeburg
1 of 6

County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the plea transcript, Applicant's appellate records, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II. ALLEGATIONS

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

1. "Stand my ground"
 - a. "It was self-defense"
2. "Weapon registered"
3. "My attorney told me to take the plea and it was not my decision"
 - a. "My family also told me the same thing, for me to take the plea because if not, I could get 30 years to life in prison."

III. MOTION TO DISMISS

Respondent moves to dismiss Applicant's first and second allegations for failure to state a claim cognizable under the Post-Conviction Procedure Act, S.C. Code Ann. §17-27-10 to -160. An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or

6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy....

S.C. Code Ann. § 17-27-20.

“Stand my ground” and “Weapon registered” are not cognizable claims under the act. Applicant is not collaterally attacking her guilty plea or sentence, but rather is raising claims that are proper for direct appeal. Applicant’s contention that such a ground is impliedly created by S.C. Code Ann. § 17-27-90 is meritless, as that section does not pertain to *what* may be raised, but *how* valid grounds must be raised.

For these reasons and pursuant to Rule 12(b)(6), SCRPC, the Court shall dismiss the Application for failing to state a cognizable claim for which relief can be granted under the Post-Conviction Relief Act.

IV. INVOLUNTARY GUILTY PLEA

Respondent interprets Applicants third allegation as a claim that her plea was made involuntarily. In PCR cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citations omitted). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). An applicant alleging 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.” Hill v. Lockhart, 474 U.S. 52, 56 (1985). Further, “[t]hat a guilty plea must be intelligently made is not a requirement that all advice offered by the defendant's lawyer withstand retrospective examination in

a post-conviction hearing.” McMann v. Richardson, 397 U.S. 759, 770 (1970). Rather, “whether a plea of guilty is unintelligent . . . depends as an initial matter, not on whether a court would retrospectively consider counsel's advice to be right or wrong, but on whether that advice was within the range of competence demanded of attorneys in criminal cases.” Id. at 771.

The record must establish the defendant had a full understanding of the consequences of her plea and the charges against him. Dalton v. State, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Boykin v. Alabama, 395 U.S. 238, 242 (1969)). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and “may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both.” Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). Further, “[a] guilty plea is a solemn, judicial admission of the truth of the charges” against the applicant; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton, at 137–38, 654 S.E.2d at 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, admissions “made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements.” Id. (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)). “In considering an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing.” Id. at 138–39, 654 S.E.2d at 874 (citing Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997)).

Respondent submits the record fully supports the knowing and voluntary nature of Applicant’s plea. However, allegations regarding the voluntariness of the plea may raise a question

of fact that is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V. AMENDMENTS

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

VI. CONCLUSION

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

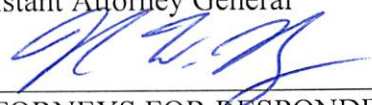
Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

RUSTON W. NEELY
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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July 25, 2017

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ORANGEBURG)
)
 ADRIENNE RANDOLPH, #366491)
)
 Applicant,)
)
 vs)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent,)
 _____)

IN THE COURT OF COMMON PLEAS


2016-CP-38-1565

AFFIDAVIT OF SERVICE BY MAIL

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

Arthur Kerr Aiken, Esquire
Aiken & Hightower
2231 Devine St. Ste. 201
Columbia, SC 29205

DATED this the 26th day of July, 2017.



Deonna Rogers, Legal Assistant
 For Respondent

1 STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
2 COUNTY OF ORANGEBURG) CASE NO. 2016-CP-38-1565

3 ADRIENNE RANDOLPH,)
4 Plaintiff,) Transcript of Record

5 vs.)

6 STATE OF SOUTH) Date: December 12, 2017
7 CAROLINA,)
8 Defendant.)

9 * * * * *

10

11 B E F O R E:

12 The Honorable Kristi Harrington

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20 Denise J. Lauder, RPR

21 Ninth Judicial Circuit

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A P P E A R A N C E S

REPRESENTING THE APPLICANT:

ARTHUR K. AIKEN, ESQUIRE
2231 Devine Street, Suite 200
Columbia, SC, 29205

REPRESENTING THE STATE OF SOUTH CAROLINA:

RUSTON NEELY, ESQUIRE
PO Box 11549
Columbia, SC 29211-1549

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INDEX OF EXHIBITS

(No exhibits were offered or
marked for identification.)

1 (The following proceedings were had
2 December 12, 2017, in re Randolph v State of South
3 Carolina.)

4 THE COURT: Are you Adrienne Randolph?

5 THE DEFENDANT: Yes.

6 THE COURT: All right. Ma'am, do you
7 understand what we're doing here today?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: And you were indicted
10 January 13th of 2014, as I understand it, for
11 murder, and you were allowed to plead to the lesser
12 included voluntary manslaughter, punishable from 2
13 to 30 years, and the judge sentenced you to
14 eighteen and a half years, credit for any time that
15 you had served.

16 Do you understand potentially that you
17 were facing a life sentence on the murder charge?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And the State allowed you
20 to plea to a lesser included voluntary manslaughter
21 and you were facing potentially 30 years, and you
22 received a little more than half of that.

23 Do you understand if I grant your
24 motion here today this doesn't go away; it simply
25 means it goes back. And I'm not sure if you were

1 indicted for murder, but potentially that was what
2 my note shows, that it had been a murder charge.

3 Do you understand it could potentially
4 go back to being a murder charge?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you still wish to go
7 forward here today?

8 THE DEFENDANT: Yes.

9 THE COURT: And, ma'am, I need you to
10 speak loudly for my court reporter, if you could do
11 that for me.

12 You may have a seat.

13 Mr. Aiken, what grounds are we going
14 forward on here today?

15 MR. AIKEN: Her application says my
16 attorney told me to take a plea and it was not my
17 decision. That's an involuntary plea allegation.

18 THE COURT: All right. Any other
19 issues?

20 MR. AIKEN: No, Your Honor.

21 THE COURT: Happy to hear from you.

22 MR. AIKEN: I call Mr. Grant --

23 THE COURT: Mr. Grant.

24 MR. AIKEN: -- to get him out of here.

25 THE CLERK: State your full name,

1 please.

2 THE WITNESS: My name is Carl B. Grant.

3 CARL B. GRANT,

4 being first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. AIKEN:

7 Q. Mr. Grant, how are you?

8 A. Fine, sir.

9 Q. We met earlier; my name is Art Aiken.

10 I represent Ms. Randolph.

11 A. Yes, sir.

12 Q. Now, in Ms. Randolph's case, she was
13 originally with murder; is that right?

14 A. That's correct.

15 Q. And I believe the case actually started
16 at the trial, on the murder charge.

17 A. Yes, sir, it did.

18 Q. How far along did it get?

19 A. Well, we went through the stand your
20 ground motion hearing, which was denied. And,
21 actually, the judge picked the jury before ruling
22 on the motion. So it was geared up for opening
23 statement, I remember us doing the opening
24 statement, and I can't remember whether or not we
25 called any witnesses.

1 We did the opening statement, so the
2 trial had already begun.

3 Q. All right. And you negotiated with the
4 government and there was a negotiated
5 eighteen-and-a-half-year sentence on the lesser
6 included offense of voluntary manslaughter?

7 A. Yes, sir, plus credit for the time
8 served to include the time on electronic
9 monitoring, which you know is optional --

10 Q. On house arrest?

11 A. Yes, sir.

12 Q. With electric monitoring?

13 A. Yes.

14 Q. Now, how much time did you spend with
15 Ms. Randolph discussing the plea?

16 A. Oh, man, a lot. Many different times
17 before we even began the trial and, of course, when
18 the trial started. Numerous discussions about the
19 plea and what the possible outcomes could be if we
20 went to trial and what the various verdicts could
21 be.

22 Q. Did you explain to her if she were
23 convicted on the murder charge that she would be
24 looking at a mandatory minimum of 30 years?

25 A. I did explain that to her.

1 Q. And that would be a day-for-day
2 sentence?

3 A. Yes, sir.

4 Q. And the maximum sentence on murder
5 would have been life?

6 A. Yes, sir.

7 Q. And that would have been natural life?

8 A. Yes, sir.

9 Q. Okay. Now, did you speak with her
10 family about the plea?

11 A. I did. She authorized me to, in the
12 process of representing her, discuss some matters
13 with her family, and I did discuss it with them as
14 well.

15 Q. Did the family ever discuss the
16 situation with her?

17 A. They did. She wanted an opportunity to
18 speak with her family to get their advice and have
19 counsel as well.

20 Q. Do you know what the family told her?

21 A. It was my understanding that ultimately
22 they sort of -- I don't know. They had different
23 kind of thoughts about it, but they eventually said
24 it is ultimately up to you, it is your call.

25 But in speaking to me, they indicated

1 that they certainly thought she needed to plea to
2 resolve the case. But I think they -- I guess, it
3 boiled down to them telling her it's your decision.

4 Q. Did you explain that to Ms. Randolph,
5 that it was her decision?

6 A. Yes, sir.

7 Q. Now, how do you respond to her
8 allegation that her plea was involuntary?

9 A. Well, I deny that because, again, I
10 always tell clients, it's up to you. And what I
11 normally do is try to let the client know that the
12 lawyer's job is to make sure that the client makes
13 an informed decision, but never tell the client to
14 plead guilty or to take the settlement in a
15 personal injury case.

16 It's up to the client, so, no, sir, I
17 didn't tell her to plead guilty or force her in any
18 way to do so.

19 Q. You advised her the advantages and
20 disadvantages of the trial?

21 A. Yes, sir, I did.

22 Q. And the advantages and disadvantages of
23 a plea?

24 A. Yes, sir.

25 Q. And then allowed her to make a

1 decision?

2 A. Yes, sir.

3 Q. Did you make a recommendation as to
4 whether she should plea or try her case?

5 A. Absolutely, I did. I recommended that
6 she take the plea bargain offer considering that
7 eighteen-and-a-half-year sentence, when you
8 consider the time served to include the house
9 arrest, it technically amounted on day one to a
10 sixteen-and-a-half-year sentence.

11 MR. AIKEN: May I have a moment, Your
12 Honor?

13 THE COURT: Take all the time you need.

14 BY MR. AIKEN:

15 Q. Did Ms. Randolph ever express the
16 desire to continue with the trial?

17 A. She did at one point, yes. She signed
18 a document at one point saying she wanted to go to
19 trial, but those decisions can be kind of moving as
20 the trial proceeds. And, of course, the
21 negotiations continue once you start the trial.

22 I'm sure the number was much higher
23 than eighteen and a half with credit for time
24 served when we initially began the discussions. As
25 they came down, she decided to take the best offer

1 that the prosecution was going to make.

2 Q. Even when she had received -- you had
3 received the offer of eighteen and a half years and
4 had taken it to her, did she at any point say she
5 wanted to continue the trial?

6 A. I don't remember her saying she didn't
7 want to take the eighteen and a half years. Again,
8 she ultimately decided to take the plea bargain;
9 that was my professional recommendation as well
10 considering the circumstances.

11 This was a horrible fact pattern,
12 Mr. Aiken. Essentially, Ms. Randolph was accused
13 of finding a cell phone in a mall, shopping plaza,
14 that belonged to someone else. She didn't turn it
15 in. She then was going to sell that cell phone to
16 her cousin.

17 And in the process of attempting to
18 sell the locked cell phone to her cousin, her
19 girlfriend became upset that the phone was locked
20 and may not be able to be functional; therefore,
21 the girlfriend inserted that we'll be able to get
22 our money back. And this woman was a nice-sized
23 woman. I think she weighed about 250 or so.

24 And then discussions began between my
25 client and the victim. And my client pretty much

1 told the lady, you need to leave me alone. I will
2 shoot you. During the process of the discussion
3 and the pushing by the victim upon Ms. Randolph,
4 Ms. Randolph, essentially, retrieved her gun from
5 her car and shot her once and killed her in the
6 presence of her first cousin.

7 The girlfriend of the victim is the
8 first cousin of Ms. Randolph, who was witness
9 number one, and the other witness there who saw
10 what happened was the aunt of Ms. Randolph. So the
11 witnesses of my client for -- the witnesses for the
12 prosecution were going to be the first cousin and
13 aunt of my client.

14 MR. AIKEN: If I could have just one
15 moment.

16 That's all I have, Mr. Grant. Answer
17 any that Mr. Neely may have.

18 THE COURT: Mr. Neely.

19 CROSS-EXAMINATION

20 BY MR. NEELY:

21 Q. Mr. Grant, was Ms. Randolph amenable as
22 a client, easy to talk to?

23 A. Say that again.

24 Q. Was she amenable to talk to, easy to
25 talk to?

1 A. Easy to talk to? Yes, she was.

2 Q. Was she invested and part of the
3 conversations when you talked to her about the
4 case?

5 A. Oh, absolutely. She understood
6 everything, understood my advice, came to see me
7 very frequently, and we talked as long as we needed
8 to talk and as often as we needed to talk.

9 We even went together to the scene of
10 the crime, if you will, and took pictures and
11 angles, and stood out there and looked at all
12 different parts of what the story was and how
13 things happened.

14 Q. And what was the reason that you
15 recommended that she take the plea as her attorney?

16 A. Very easily. I didn't want to see
17 Adrienne get life in prison without the possibility
18 of parole. And if ever there was a case where that
19 could happen, this was the one.

20 Q. Was the strength of the State's
21 evidence also considered?

22 A. Absolutely, it was a very strong case.
23 As I just indicated, they had the gun, they had the
24 witnesses there. So this wasn't a how it happened.
25 This was a question of whether it should have

1 happened and whether or not self-defense was going
2 to rule the day. The lady was not armed; there was
3 no doubt about that.

4 She didn't have a gun. She didn't have
5 a knife. She didn't have a stick or anything like
6 that, and this was a tragic situation.

7 MR. NEELY: No further questions, Your
8 Honor.

9 THE COURT: Mr. Aiken?

10 MR. AIKEN: I have nothing further.

11 THE COURT: You may step down.

12 Any objection to Mr. Grant being
13 excused?

14 MR. AIKEN: No objection.

15 MR. NEELY: None from the State.

16 THE COURT: Mr. Grant, you are excused.
17 Feel free to stay with us, but you're also free to
18 leave.

19 THE WITNESS: Thank you, Judge.

20 MR. AIKEN: The applicant calls
21 Adrienne Randolph.

22 THE CLERK: State your full name.

23 THE DEFENDANT: Adrienne Randolph.

24 ADRIENNE RANDOLPH,

25 being first duly sworn, testified as follows:

1 DIRECT EXAMINATION

2 BY MR. AIKEN:

3 Q. Ms. Randolph, the case we are here
4 about you pled guilty to voluntary manslaughter; is
5 that correct?

6 A. That's correct.

7 Q. And your contention is that plea was
8 not voluntary; is that correct?

9 A. That's correct.

10 Q. Okay. Now, you know that when you were
11 pleading guilty there was a court reporter there,
12 just like this lady right here?

13 A. Yes.

14 Q. And you know that court reporter was
15 taking down everything that got said?

16 A. Yes.

17 Q. And there was a transcript made of that
18 hearing, right?

19 A. Yes.

20 Q. And I think I sent you a copy of that
21 transcript?

22 A. Yes.

23 Q. And you've reviewed it?

24 A. Yes.

25 Q. And in that transcript, you were asked

1 by the judge whether your plea was freely and
2 voluntarily entered; is that right?

3 A. Yes.

4 Q. And you told the judge yes?

5 A. I did.

6 Q. Why did you tell the judge yes when you
7 contend that your plea was involuntary?

8 A. Because they told me that was the best
9 thing. I needed to take the plea so I wouldn't get
10 30 to life.

11 Q. Your attorney told you that?

12 A. (Nodding head)

13 Q. Okay. Now, tell me, if you would, the
14 facts supporting your claim that your plea was
15 involuntary.

16 A. Well, because it was about the second
17 or third day in the trial. We had, like, I think,
18 three of the witnesses already testified, and we
19 had one more to testify which was my cousin, the
20 one that he was talking about. She was the last to
21 testify.

22 And I was just like, since we came this
23 far, lets continue. And I remember signing the
24 paper saying that I wanted to continue on with the
25 trial. And Mr. Grant left out of the room and I

1 thought we was going to continue the trial, but my
2 family came back there and was talking about the
3 plea again. And that's when I took the plea.

4 Q. Did your family tell you that they had
5 spoken with Mr. Grant?

6 A. Yes. I didn't know he was going out
7 there to get my family after I signed this paper to
8 continue with the trial. I thought that's what we
9 was about to do. And they came back there, and
10 then we all...

11 Q. What did your family tell you?

12 A. They told me that based on what he told
13 me about taking the plea.

14 Q. They told you --

15 A. They told me what he said, that would
16 be the best thing, for me to take the plea.

17 Q. Did they tell you that they were
18 telling you to take the plea because Mr. Grant told
19 them to tell you to take the plea?

20 A. Yes, sir.

21 Q. So as you understand it, he enlisted
22 your family in order to get you to plead guilty; is
23 that right?

24 A. Pretty much, yes.

25 Q. Tell me if there is any other way in

1 which your guilty plea was involuntary.

2 A. Any other way besides --

3 Q. Besides what you have said. Any other
4 way your plea was involuntary.

5 A. No.

6 Q. Now, but for this pressure that you
7 received from Mr. Grant and from your family, by
8 way of Mr. Grant, would you have pled guilty?

9 A. No, sir.

10 Q. You would have stood by your decision
11 that you had already made at one point to finish
12 out that trial?

13 A. Yes, sir.

14 Q. And as I understand it, three witnesses
15 had testified, right?

16 A. Yes, sir.

17 Q. And there was one more left to go?

18 A. Yes.

19 Q. And then the trial would have been
20 done?

21 A. That's correct.

22 MR. AIKEN: That's all I have. Thank
23 you. If you would answer any questions that
24 Mr. Neely might have.

25

CROSS-EXAMINATION

1 BY MR. NEELY:

2 Q. Ms. Randolph, you're telling us here
3 today that because your family said to take the
4 plea and because Mr. Grant recommended that you
5 take the plea that you couldn't have said no?

6 A. My family didn't tell me to take the
7 plea. My family told me that he said they -- what
8 he told me. They was going off of what he said.

9 Q. But you could have still said, no, I
10 want to go to trial, right?

11 A. I did say that. I signed the paper and
12 everything that said I wanted to continue on with
13 the trial.

14 Q. Right. But then you said you spoke
15 with Mr. Grant and you spoke with your family,
16 correct?

17 A. And I took the plea, yes, that's
18 correct.

19 Q. After you spoke with your family and
20 Mr. Grant, you still could have continued to trial,
21 right?

22 A. After I told him I wanted to take the
23 plea?

24 Q. No. No. You didn't have to tell him
25 you wanted to take the plea, right?

1 A. That's correct.

2 Q. You could have said, after you spoke to
3 your family and they spoke to Mr. Grant, you could
4 have been like, I hear what you're saying, but I
5 still want to go forward with the trial?

6 A. Right, I could have.

7 MR. NEELY: That's all the questions I
8 have, Your Honor.

9 MR. AIKEN: I have no redirect, Your
10 Honor.

11 THE COURT: You may step down. Thank
12 you.

13 MR. AIKEN: That's the applicant's
14 case, Your Honor.

15 Your Honor, I have no closing remarks.
16 We stand on the record.

17 THE COURT: Mr. Neely, anything
18 additional?

19 MR. NEELY: Just that I think she
20 admitted from the record that it wasn't an
21 involuntary guilty plea. She said she could have
22 gone to trial if she wanted to. She could have
23 continued with the trial if she wanted to.

24 THE COURT: Anything? Any response?

25 MR. AIKEN: I have none, Your Honor.

1 THE COURT: All right. I will take the
2 matter under advisement. Send me a proposed order,
3 Counsel. Thank you.

4 (These proceedings were concluded at
5 12:57 p.m.)

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CERTIFICATE OF REPORTER

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

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

Witness my hand, I have hereunto affixed my official seal this 24th day of July, 2019 at Charleston, Charleston County, South Carolina.

S/Denise Lauder _____
Carol Denise Lauder
Registered Professional
Reporter, CP
My Commission expires
February 27, 2028

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG)	THE FIRST JUDICIAL CIRCUIT
)	
)	Case No. 2016-CP-38-1565
Adrienne Randolph, #366491)	
Applicant,)	
)	
v.)	ORDER OF DISMISSAL
)	
State of South Carolina,)	
)	
Respondent.)	
_____)	

The above-captioned matter is before the court based on a post-conviction relief (PCR) application filed by Adrienne Randolph, on December 15, 2016. This Court convened an evidentiary hearing into this matter on December 12, 2017 at the Dorchester County Courthouse. Applicant was present at the hearing and represented by Arthur Aiken, Esquire. Ruston W. Neely, Esquire, of the South Carolina Attorney General's Office, represented Respondent. Applicant's plea counsel was Carl B. Grant (Counsel), Esquire, who was present and testified. This Court had the opportunity to listen to the testimony of Applicant and Counsel. This Court had before it the records of the Orangeburg County Clerk of Court regarding the subject conviction, the guilty plea transcript, Applicant's records from the South Carolina Department of Corrections, and the pleadings in this matter.

I. PROCEDURAL HISTORY

In January 2014, the Orangeburg County Grand Jury indicted Applicant for murder (2014-GS-38-0011). Solicitor Harrison Bell, Esquire, prosecuted the case. On December 16, 2015, Applicant pleaded guilty to the lesser included offense of voluntary manslaughter before the Honorable Maite Murphy. Pursuant to a negotiated sentence, Judge Murphy sentenced Applicant to imprisonment for eighteen years and six months.

Applicant filed a timely notice of appeal. Counsel perfected the appeal. After review, the South Carolina Court of Appeals dismissed Applicant's appeal on March 10, 2016 for Appellant's failure to provide a sufficient explanation for appealing. State v. Randolph, Appellate Case No. 2015-002630 (S.C. Ct. App. filed March 10, 2016). The remittitur was returned to the circuit court on April 1, 2016.

II. ALLEGATIONS

In his PCR application, Applicant alleged she is being held unlawfully for the following reasons:

1. "Stand my ground"
 - a. "It was self-defense"
2. "Weapon registered"
3. "My attorney told me to take the plea and it was not my decision"
 - a. "My family also told me the same thing, for me to take the plea because if not, I could get 30 years to life in prison."

At the evidentiary hearing, Applicant alleged her guilty plea was involuntary because Counsel and her family advised her to take the guilty plea.

III. SUMMARY OF TESTIMONY

Applicant testified she pleaded guilty because Counsel told her she would receive 30 years' to life imprisonment if she didn't. Applicant testified she told Counsel she wanted to continue with the trial, but changed her mind after she was offered the plea deal and spoke with Counsel and her family. Applicant testified her family told her Counsel told them to tell her she should take the plea deal. On cross-examination, Applicant admitted she could have continued with the trial if she had wanted. Applicant also admitted her family and Counsel did not make her plead; it was her choice.

Counsel testified he spent a lot of time speaking with Applicant and preparing for trial. Counsel testified he explained the sentence ranges with Applicant and recommended she take the plea deal because it was a good deal and the evidence against her was overwhelming. Counsel testified that the family spoke with her about the decision to take the plea and that they told her it was ultimately her decision. Counsel testified that he explained the advantages and disadvantages of taking the plea, but that it was her decision whether or not to accept the plea.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court reviewed the record in its entirety, listened to the testimony given, and heard the arguments presented at the evidentiary hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. This Court finds Counsel's testimony was credible and persuasive. Therefore, this Court dismisses Applicant's application for the reasons set out below:

A. Ineffective Assistance of Plea Counsel

This Court finds the record fully supports the knowing and voluntary nature of Applicant's guilty plea. 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). "A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Thus, an applicant must show both error and prejudice to win relief in a PCR proceeding." Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001).

The court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. For the reasons set out below, this Court finds the record and credible testimony support Applicant had a full understanding of the charges and consequences of her guilty plea:

Involuntary Guilty Plea

Applicant asserts her guilty plea was entered involuntarily as the result of ineffective assistance of counsel. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the Applicant had a full understanding of the consequences of her plea and the charges against her. See Boykin, 395 U.S. at 243. In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. See Harris v. Leeke, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

The transcript reflects the guilty plea was knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. See Blackledge v. Allison, 431 U.S. 63, 73-74 (1977). Statements made during a guilty plea should be considered conclusively, unless an Applicant presents valid reasons why she should be allowed to depart from the truth of her statements. See Crawford v. U.S., 519 F.2d 347, 350 (4th Cir. 1975)

(overruled on other grounds by U.S. v. Whitley, 759 F.2d 327 (4th Cir.1985)). Applicant presented no reasons to show that she should be allowed to depart from the truth of the statements he made during her guilty plea hearing.

An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an objective standard of reasonableness, and there is a reasonable probability, but for trial counsel's errors, he would not have pleaded guilty, but would have insisted on going to trial instead. See Roscoe, 345 S.C. at 20, 546 S.E.2d at 419. Given the Applicant's burden of proof and the analysis to be applied to this claim, the Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it will be treated as such.

An applicant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy, 339 S.C. at 34, 528 S.E.2d at 421. "[T]he voluntariness of a guilty plea is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing." Dalton, 376 S.C. at 138, 654 S.E.2d at 874. Admissions "made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements." Id. at 137-38, 654 S.E.2d at 874.

Having reviewed the pleadings, considered the applicable law, and reflected upon the plea transcript and testimony provided at the evidentiary hearing, this Court denies Applicant's request for post-conviction relief. Applicant admitted she could have continued with the trial after her discussions with Counsel and her family. This Court finds Counsel appropriately made

a recommendation she take the plea due to the weight of evidence against her and the quality of the offered plea deal. This Court also finds Applicant's own testimony indicates her will was not overborn by Counsel's recommendation or her discussions with her family.

Based on the record, this Court also finds the evidence against Applicant was overwhelming and any error of Counsel would not have prejudiced Applicant. Therefore, Applicant cannot prove prejudice where the evidence against her was overwhelming. See Harris v. State, 377 S.C. 66, 79, 659 S.E.2d 140, 147 (2008).

This Court finds Applicant has failed to prove her plea was involuntary, unknowing, or unintelligent. Therefore, this Court finds Applicant has failed to prove Counsel was deficient or she was prejudiced by any alleged deficiency of Counsel. Accordingly, this Court denies and dismisses this allegation.

IV. CONCLUSION

Based on the foregoing, this 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.

This Court notes Applicant must file and serve a notice of appeal within thirty (30) days from 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), SCRPC, provides that if Applicant wishes to seek appellate review, her post-conviction relief attorney must serve and file a notice of appeal on Applicant's

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 his sentence.

AND IT IS SO ORDERED this 3rd day of April, 2017.



EDGAR W. DICKSON
Presiding Judge
1st Judicial Circuit

Orangeburg, South Carolina

WITNESSES

Craig Davis

Orangeburg County Sheriff

2013010397

ARREST WARRANT NUMBER

2013A3810701196

Arrested: November 4, 2013

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

TRUE BILL

[Signature]

Date JAN 13 2014

Foreperson of Petit Jury

Date:

DOCKET NO. 2014GS38-0011

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

January 13, 2014 TERM

THE STATE

vs.

Adrienne Sabrina Randolph

Indictment for

MURDER

ATTEST: TRUE COPY

Winnifia B. Clark
CLERK OF COURT
ORANGEBURG COUNTY

SC Code: 16-3-10

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED FOR RECORD
CLERK OF COURT
ORANGEBURG COUNTY
JAN 13 2014
Winnifia B. Clark
CLERK OF COURT
ORANGEBURG COUNTY

2014 JAN 14 PM 9:26

0.12 years / 62 time served / including house arrest

STATE OF SOUTH CAROLINA
COUNTY OF Orangeburg
STATE VS. Adrienne Sabrina Randolph
AKA:
Race: BLACK Sex: F Age: 30
DOB: [redacted] SS#: [redacted]
Address: [redacted]
City, State, Zip: [redacted]
DL#: [redacted] SID#: [redacted]
*CDL Yes [] No [] CMV Yes [] No [] Hazmat Yes [] No []
In disposition of the said indictment comes now the Defendant who was TO: Voluntary Manslaughter

IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE#: 2014GS38-0011
A/W#: 2013A3810701196
Date of Offense: 11/2/2013
S.C. Code § : 16-3-10
CDR Code #: 0116

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-3-50 of the S.C. Code of Laws, bearing CDR Code # 0217
 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: B. Harrison Bell, Harrison SC Bar# 7863 Defendant [Signature] Attorney for Defendant SC Bar# 2229

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 18 1/2 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. Nov 2, 2013 to include house arrest time since 11/2/13
 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: \$ _____

PTUP _____ days/hours Public Service Employment

Payment Terms: _____
 Set by SCDPPPS

Obtain GED
Attend Voc. Rehab. or Job Corp. _____

Recipient: Winnifred B. Clark
CLERK OF COURT

May serve W/E beginning _____

*Fine: ORANGEBURG COUNTY, SC

§ 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	\$ 25.00
§ 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	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.90

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

Clerk of Court/ Deputy Clerk: V. Glenn A. Valentine
Court Reporter: Heida Jordan
SCCA/217 (03/2011)

Presiding Judge: [Signature]
Judge Code: 2164
Sentence Date: 12/16/15