

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Certiorari to Richland County

Honorable Jocelyn J. Newman, Circuit Court Judge

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DEMICHAEL SHEAVON RAZOR,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2020-000155

---

APPENDIX

---

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ATTORNEYS FOR RESPONDENT

**RECEIVED**

**Sep 11 2020**

S.C. SUPREME COURT

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1 State of South Carolina ) In the Court  
2 County of Richland ) Of General Sessions  
3 State of South Carolina, ) Indictment No.: 2015-GS-40-02923  
4 Plaintiff, )  
5 vs. ) Transcript of Record  
6 Demichael Sheavon )  
7 Razor, )  
8 Defendant. )  
9

10 February 27, 2017  
11 Columbia, South Carolina

12 BEFORE:

13 The Honorable Paul M. Burch, Judge

14  
15 APPEARANCES:

16  
17 Lamar Fyall, Assistant State Solicitor  
18 Attorney for the State

19 Ann Walker, Assistant Public Defender  
20 Tracy Pinnock, Assistant Public Defender  
21 Attorneys for the Defendant

22 ALSO PRESENT:

23 Demichael Sheavon Razor  
24  
25

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## 7 EXHIBITS

8 NO. DESCRIPTION ID EVDS.

9 NONE

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DEMICHAEL RAZOR - GUILTY PLEA

3

1 GUILTY PLEA

2 Thereupon, the following proceedings were had,

3 MR. FYALL: The State calls Demichael Razor.

4 Thereupon,

5 DEMICHAEL SHEAVON RAZOR

6 after having been first duly sworn, testified as follows,

7 THE COURT: Solicitor.

8 MR. FYALL: Thank you, Your Honor. May it please  
9 the Court. Standing before you is Demichael Razor. He  
10 is here to plead guilty to voluntary manslaughter for a  
11 negotiated 30 year sentence that has been reduced from  
12 murder. He is represented by Tracy Pinnock and Ann  
13 Walker of the Public Defender's Office. This is under  
14 indictment 2015-GS-40-02923.

15 THE COURT: Good afternoon, Mr. Razor.

16 MR. RAZOR: Good afternoon.

17 THE COURT: I have a few background questions to ask  
18 you to put on the record. First of all, I need your age.

19 MR. RAZOR: 22.

20 THE COURT: And you're from Gaston?

21 MR. RAZOR: Yes, sir.

22 THE COURT: What is your education?

23 MR. RAZOR: High school, tenth grade.

24 THE COURT: You heard the statement of the  
25 Solicitor. Let me ask you this: Now, you're

1 represented. You have discussed these charges with your  
2 attorneys?

3 MR. RAZOR: Yes, sir.

4 THE COURT: Are you satisfied with their advice?

5 MR. RAZOR: Yes, sir.

6 THE COURT: Answered all your questions.

7 MR. RAZOR: Yes, sir.

8 THE COURT: Contacted everybody you asked them to  
9 contact, if any.

10 MR. RAZOR: Yes, sir.

11 THE COURT: It's my understanding that you have  
12 entered into a negotiation to resolve this matter.

13 MR. RAZOR: Yes, sir.

14 THE COURT: Do you understand that if I accept the  
15 negotiated plea, I don't have any wiggle room? In other  
16 words, I can't vary what you have agreed to?

17 MR. RAZOR: Yes, sir.

18 THE COURT: And do you want to go forward at this  
19 time.

20 MR. RAZOR: Yes, sir.

21 THE COURT: Let's take a look at his indictment.

22 The indictment which is 2015-GS-40-02923 alleges that in  
23 Richland County on or about January the 3rd, 2015, killed  
24 victim Stuart Wilson with malice of forethought either  
25 expressed or implied by means of gunshot wound and the

DEMICHAEL RAZOR - GUILTY PLEA

5

1 victim did die as a proximate result thereof. Now,  
2 according to the statement of the Solicitor you have  
3 negotiated with them to enter a plea for the lesser  
4 included offense of voluntary manslaughter for a period  
5 of a sentence of 30 years. Voluntary manslaughter is the  
6 same basic elements as the crime of murder except malice  
7 of forethought is not required. Do you understand that?

8 MR. RAZOR: Yes, sir.

9 THE COURT: How do you plea to voluntary  
10 manslaughter?

11 MR. RAZOR: Guilty, sir.

12 THE COURT: Once again, that victim was Stuart  
13 Wilson. Do you understand that by entering this plea  
14 that you are waiving your jury trial rights.

15 MR. RAZOR: Yes, sir.

16 THE COURT: If you had a trial, the State would have  
17 to prove your guilt beyond a reasonable doubt and  
18 convince 12 jurors unanimously of your guilt.

19 MR. RAZOR: Yes, sir.

20 THE COURT: So your attorney could cross examine the  
21 State's witnesses, put up your own defense of witnesses.  
22 You could testify at your own defense but you would also  
23 have a constitutional right to remain silent. If you  
24 elected not to testify, it couldn't be held against you  
25 and I would even tell the jury that. That's your Fifth

1 Amendment Right. Do you understand that part?

2 MR. RAZOR: Yes, sir.

3 THE COURT: Do you understand that you are innocent  
4 until proven guilty? In other words, you are presumed to  
5 be innocent and that presumption will stay with you  
6 throughout any trial but only ends if a jury convicted  
7 you?

8 MR. RAZOR: Yes, sir.

9 THE COURT: If a jury did convict you, you would  
10 have a right to appeal just as you can appeal a guilty  
11 plea just as long as you file a notice of appeal within  
12 ten days after sentencing. Of course, you've got to show  
13 some error on the Court's part or some valid reason why  
14 you need to appeal. But that's your basic rights. Any  
15 questions.

16 MR. RAZOR: No, sir.

17 THE COURT: You do not want a trial?

18 MR. RAZOR: Sir?

19 THE COURT: You do not want a trial.

20 MR. RAZOR: No, sir. I do not.

21 THE COURT: Are you under the influence of any drugs  
22 or alcohol today?

23 MR. RAZOR: No, sir.

24 THE COURT: Are you fully understanding what you are  
25 doing.

## DEMICHAEL RAZOR - GUILTY PLEA

7

1 MR. RAZOR: Yes, sir.

2 THE COURT: Do you suffer from any condition that  
3 could be affecting your understanding?

4 MR. RAZOR: No, sir.

5 THE COURT: That would be mental, physical or a  
6 combination of both?

7 MR. RAZOR: ADHD but it's not affecting my decision,  
8 sir.

9 THE COURT: Do you take any prescribed medicines.

10 MR. RAZOR: No, sir.

11 THE COURT: Has anybody promised you anything or  
12 threatened you in any way in order to get you to plea?

13 MR. RAZOR: No, sir.

14 THE COURT: Once again, you understand what you are  
15 doing?

16 MR. RAZOR: Yes, sir.

17 THE COURT: And you're entering this plea of your  
18 own free will and accord?

19 MR. RAZOR: Yes, sir.

20 THE COURT: I find his plea is freely, voluntarily  
21 and intelligently entered into. He has had the service  
22 of a competent attorney with whom he says he is  
23 satisfied. The plea is therefore accepted. Now, I have  
24 noticed on the documentation up here the hand of one hand  
25 of all situation here and that looks like maybe

1 applicable to this plea so I want you to carefully listen  
2 to the facts as the Solicitor states them to the Court  
3 and then we'll talk a little further. Solicitor.

4 MR. FYALL: Thank you, Your Honor. This incident  
5 occurred January 3rd, 2015 early in the morning. The  
6 defendant along with four other individuals decided to go  
7 to a bar called Tony's Lounge. That bar is located at  
8 2412 Congaree Road. They went to the bar, went inside  
9 and there was a confrontation between an individual named  
10 Calvin over a marijuana plant that was stolen and that  
11 confrontation was not between the defendant and that  
12 individual but another individual named Nigel who was  
13 with the defendant.

14 After that confrontation they left the bar and  
15 according to one of the co-defendants in this case Mr.  
16 Jordan Myers the co-defendant handed him a pistol and he  
17 shot at that individual but missed. After he shot and  
18 missed, he then went to Nancy Wells' home just through  
19 the woodline of that bar. It's out there in sort of a  
20 rural area. According to the co-defendant and some other  
21 witnesses in the case the defendant was upset that he  
22 missed and decided to go back out.

23 The defendant, his two co-defendants along with  
24 Nigel then went back up to bar. The defendant was  
25 covering his face in some sort of mask. Then according

1 to another witness Eric Sumter who would have testified  
2 in the case, he went up to, the defendant went up to his  
3 car and asked him for a cigarette. Because his face was  
4 covered Mr. Sumter couldn't see him but he knew who he  
5 was. He could identify him by his voice, his build and  
6 his mannerism and things like that. He then said the  
7 defendant went back into the woodline and that was the  
8 direction the shots were fired from.

9 At that point according to the co-defendants and  
10 also Nigel who was with them, the defendant then got on  
11 one knee, leaned up against a tree and then tried to  
12 shoot Mr. Calvin Myers again. He missed and shot the  
13 victim in this case Mr. Stuart Wilson through the  
14 abdomen. An individual who was with Mr. Wilson,  
15 Mr. Sumter, then returned fire into the woods upwards of  
16 20 times, Your Honor. He emptied his clip and then  
17 reloaded and unloaded into the woods again. None of the  
18 co-defendants or any of the individuals were harmed  
19 during that time. Of course, law enforcement, the  
20 ambulance was called. Mr. Wilson was loaded into the  
21 ambulance and he died en route.

22 After that word started getting around the community  
23 about the fact that someone had been shot and killed.  
24 The defendant along with the co-defendants then drove to  
25 get away. They went to the defendant's mother's house.

1 While they were en route according to one of the  
2 co-defendants the defendant threw a purple pair of  
3 sweatpants out the window in order to change clothes.  
4 Those sweatpants were recovered, Your Honor, some two  
5 days later after it had rained. However, DNA was  
6 extracted from those purple sweatpants and did match the  
7 defendant.

8 Once they got to the home that they went to after  
9 the shooting, according to several witnesses in that  
10 house the defendant then admitted to shooting the gun,  
11 demonstrated how he got on one knee and shot and said,  
12 quote, based on the way he shot there was no way he could  
13 have missed because he shot like a police officer. Law  
14 enforcement got involved, talked to several individuals  
15 in that case and ended up arresting the defendant along  
16 with the two co-defendants in this case, Your Honor. His  
17 prior record, Your Honor, is a 2013 assault and battery  
18 third degree.

19 THE COURT: Thank you, sir.

20 MR. FYALL: That's all I have, Your Honor. The  
21 victims are here and I have their impact statements to  
22 put on the record at the appropriate time.

23 THE COURT: All right. Let me hear from the defense  
24 and then we'll hear from the victims.

25 MS. WALKER: Thank you, Your Honor. May it please

1 the Court. Ann Walker with the Public Defender's Office,  
2 Your Honor. Our client is pleading guilty to voluntary  
3 manslaughter in this case. He has always maintained that  
4 he was not the shooter. He still maintains that to this  
5 day. However, he admits that he was there with the four  
6 other individuals and that he knew what was going to  
7 happen and what did happen. He is pleading guilty under  
8 the hand of one hand of all theory.

9 THE COURT: I understand.

10 MS. WALKER: And that would be our position at  
11 trial, Judge. I can certainly flesh out more of the  
12 details if you are interested at this point or I can do  
13 that later during mitigation.

14 THE COURT: Yes, sir. Anything you would like to  
15 add?

16 MR. RAZOR: No, sir.

17 THE COURT: What counsel just stated about the hand  
18 of one hand of all, do you understand that principle?

19 MR. RAZOR: Yes, sir.

20 THE COURT: And you are admitting to the Court that  
21 you were there and involved with it I would assume from  
22 this plea; is that correct?

23 MR. RAZOR: Yes, sir.

24 THE COURT: I think that's all the questions I have.  
25 I may come back to some in a few minutes. Be glad to

1           hear from any family members or anyone else.

2           MR. FYALL: Thank you, Your Honor. In the courtroom  
3 as far as the victim's relatives, Your Honor, is his  
4 mother Ms. Betty Wilson, his sister Ms. Natalie Wilson  
5 and his aunt Joanne Sumter. I spoke with his mother.  
6 She only wants to relate to the Court that she's in  
7 agreement with the plea and that the defendant is missed  
8 by them and left behind two children.

9           Also in the court is Investigator Chris Trula and  
10 Investigator Maxwell who investigated this case. I have  
11 several letters from the victim's family I would like to  
12 read to Your Honor.

13          THE COURT: All right.

14          MR. FYALL: The younger sister of the now deceased  
15 Stuart Wilson the Second, he was the baby and only  
16 brother of three siblings. We are a close family. When  
17 I received the phone call that my brother was shot, my  
18 heart dropped. I prayed to God to let him be okay but as  
19 we arrived at the hospital my life was forever changed.  
20 To wait until a doctor comes in and tell you that he  
21 could not stop the bleeding and he went away fast was  
22 devastating. All I could think of is why. How am I  
23 going to tell my niece and nephew their daddy was gone?

24          My brother and I were very, very close. He would  
25 call on a daily basis two to three times to check on us.

1           We talked about it. He was my -- We talked about life.  
2           He was my protector during difficult times in my life.  
3           Now I can only talk to him in spirit. I often find  
4           myself thinking about him daily. I cry a lot wondering  
5           why him. Our family will never be the same. Yes, we'll  
6           move on with our lives but we will never forget you,  
7           Bubba. We're going to make sure that minor children  
8           (phonetic) continue to be the best they can be each and  
9           every -- I'm sorry -- at everything they do in life. He  
10          will never see them grow up, graduate, get married and go  
11          on to make their dad proud. He will never be on earth in  
12          the flesh but he will always be with us in spirit.

13                 To the boys, and I do mean boys, Demichael Razor and  
14          Calvin Myers, Junior, and all parties involved you are  
15          the most gutless, weak and faint hearted individuals.  
16          How dare you take my brother's life by shooting into a  
17          crowd thinking you're going to get your man. What if  
18          this was your mother, father, sister, brother, cousin or  
19          friend? Ask yourself how you would feel. When you find  
20          the answer, then you will see how my family feels. I  
21          pray the judge punishes you to the fullest. I will  
22          always and forever miss my brother.

23                 That was from Natalie Wilson. This is from the  
24          victim's daughter. minor child                         Since my father's  
25          death I haven't been the same lately. My grades are

1       dropping, attitude switching and mind confused. When he  
2       was currently in my life, I had him to comfort me and  
3       help me. He was the only man I felt comfortable telling  
4       someone about my personal life. He helped me with  
5       everything I needed help in. When I was younger, he was  
6       there for me every step of the way. Without him in my  
7       life it's kind of complicated and very different. When I  
8       come home from school, who is there to call me and ask  
9       how was your day? No one. Because my father did that.  
10      Who is there to help me play basketball and other sports?  
11      No one could do it like he did. Now that he's gone I'm  
12      trying to find someone to manage my stress. I feel  
13      really sad that he's gone. I needed him in my life. As  
14      I get older growing up without my dad won't be the same.  
15      I went to him for anything because there's no one like  
16      him. He had me every time. But I'm getting my act  
17      together because I know he wants me to succeed and not  
18      see me drop.

19               Finally, Your Honor, from his older sister Hope  
20      Wilson. Dear, Judge, I'm the oldest sister of the now  
21      deceased Stuart Bubba Wilson. His death has taken a toll  
22      on my life. Typing this is one of the most painful  
23      things that I had to do. To this day I am still in shock  
24      and disbelief that this has happened to my only brother.  
25      My baby brother. He's gone. This senseless act has left

1 me heart broken and lost. Every time I hear his name or  
2 see a picture of him I start crying uncontrollably. As I  
3 type my eyes water. You don't know how much my brother  
4 meant to me. I still have his obituary at my bed side.  
5 I tell him daily that I love him and often I catch myself  
6 talking to him.

7 My brother and I were very close. He turned to me  
8 when he needed someone to talk to. We talked about life,  
9 his job and his number one priority his love for his  
10 children. My brother will never get to see his children  
11 grow up, will never walk his only daughter down the aisle  
12 when she gets married. He will never see his son become  
13 a successful man. He will never get to be a proud  
14 grandfather. You and Calvin Myers and Demichael Razor  
15 took all that away from him, from his children. My  
16 brother was a kind hearted person and he did not deserve  
17 to leave this earth the way he did.

18 As I replay that night in the hospital when they  
19 told my family in neither words we're not ready to hear,  
20 I'm sorry, we did all we could do for him, I thought I  
21 was dreaming. I thought to myself this can't be. We  
22 were just together all day Friday and now he's gone. As  
23 I hear the details of the night my dear brother got  
24 murdered it sickens me that you two would be so selfish  
25 to fire a gun into a crowd of innocent bystanders.

1 Calvin, how would you feel if it was your brother or  
2 sister? Demichael, how would you feel if that was your  
3 son or daughter? My point exactly. You two don't have a  
4 clue. You took a part of me that I will never get back.  
5 I will suffer with his death for as long as I live. I  
6 will never get to see him unless I visit his grave. I  
7 will never get another phone call from him. I will never  
8 get to speak to my brother ever again. I am not a  
9 hateful person and I believe in forgiving someone who has  
10 done wrong but I hope that you two never see the light of  
11 day. I am praying that justice will be served for my  
12 brother and you two will get the maximum. Sincerely,  
13 Hope C. Wilson.

14 That's all, Your Honor.

15 THE COURT: All right. Anybody else want to be  
16 heard?

17 MS. WALKER: Your Honor, I don't believe his family  
18 wants to speak but just to make sure I'll identify them  
19 on the record at the appropriate time.

20 THE COURT: Sure.

21 MS. WALKER: Your Honor, his mother Marlana is here  
22 along with his stepfather Quinton who has basically been  
23 the father in his life for quite some time. His aunt  
24 Alisa is here and his aunt Christina is here and they are  
25 all in support of him and he also has a number of cousins

1           that he grew up with that he basically considers siblings  
2           as well. He comes from a pretty large family. They all  
3           kind of adopted each other so he does have some large  
4           family support.

5           THE COURT: Well, it sounds like things really got  
6           out of hand that night. Got a night spot, probably some  
7           arguing going on, tempers flared, then it just lead from  
8           one thing to another. Okay. It's a negotiated plea. As  
9           I said, I don't have any wiggle room but I do want to say  
10          this: I want to thank everyone involved in this in  
11          sitting down and resolving this matter. As indicated on  
12          the sentence sheet, voluntary manslaughter is classified  
13          as a violent most serious offense. I need jail time, the  
14          figure on the jail time.

15          MS. WALKER: 787 days, Your Honor. And if I could  
16          just say a few words before we close the record. Is that  
17          okay, Your Honor?

18          THE COURT: Yes.

19          MS. WALKER: Your Honor, I just wanted to say that  
20          his family has been supportive through this entire time.  
21          I know that these are just words but we would extend our  
22          deepest sympathy and condolences to the family. My  
23          client has always maintained that he was not the shooter,  
24          but to say that this is anything but stupid would be an  
25          understatement. Mr. Wilson obviously has an affectionate

1 family and was a completely innocent bystander that night  
2 and his death is completely senseless. So I do want the  
3 Court to know and the family to know that Mr. Razor has  
4 always been very remorseful about his role in this. It's  
5 just an absolutely senseless act and I don't use these  
6 words lightly in my many years of doing pleas. I don't  
7 think we'll ever know quite truthfully what happened  
8 between all the individuals that were there and that's  
9 just something that we're going to have to live with.  
10 But Mr. Razor has taken the responsibility for his role,  
11 Your Honor, and I would hope that the family gets peace  
12 at some point in their life regarding the loss of their  
13 loved one.

14 THE COURT: Okay. Once again, thank you all for  
15 resolving it. The sentence is 30 years State Department  
16 of Corrections. Credit for 787 days.

17 MS. WALKER: Thank you, Your Honor.

18 MR. FYALL: Thank you very much, Your Honor.

19 WHEREUPON, THE HEARING WAS CONCLUDED.  
20  
21  
22  
23  
24  
25

## 1 CERTIFICATE OF REPORTER

2 (STATE OF SOUTH CAROLINA)

3 (COUNTY OF LEXINGTON )

4

5 I, THE UNDERSIGNED, Steven E. LeBlanc, Sr., R.P.R.,  
6 and Official Circuit Court Reporter for the Eleventh Judicial  
7 Circuit in and for the State of South Carolina, do hereby  
8 certify that I reported the proceedings in the before  
9 captioned case in the Court of General Sessions in and for the  
10 State of South Carolina on the 27th day of February, 2017.

11 I FURTHER CERTIFY that the forgoing 18 pages  
12 constitute a true and accurate record of said proceedings.

13 I FURTHER CERTIFY that I am neither related, counsel  
14 to, nor of interest to any party hereto.

15 IN WITNESS WHEREOF, I have hereunto set my hand at  
16 Lexington County, this 25th day of September, 2017.

17

18

19

20

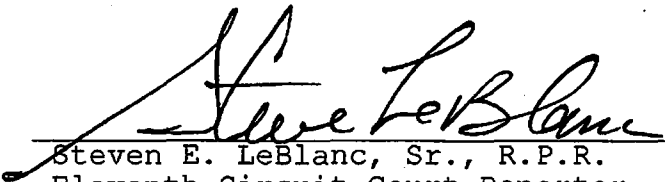
21

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24

25

  
Steven E. LeBlanc, Sr., R.P.R.  
Eleventh Circuit Court Reporter  
State of South Carolina.

## FORM 5

STATE OF SOUTH CAROLINA )

County of RICHLAND )DEMICHAEL SHEARVON RAZOR )

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

2017 CP4003776

JEANETTE W. MCGRIDE  
C.C.P. CLERK

2017 JUN 20 AM 8:55

RICHLAND COUNTY  
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 BROAD RIVER CORRECTIONAL INST.
2. Name and location of Court which imposed sentence RICHLAND COUNTY COURT  
OF GENERAL SESSIONS, 1701 MAIN ST., COLA, SC 29201
3. Name(s) of co-defendant(s) (if any) \_\_\_\_\_
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2015-GS-40-02923, S.C. Code 16-03-0010 Voluntary
  - (b) Manslaughter

- (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:  
 (a) 02/27/2017, 30yrs for Voluntary Manslaughter  
 (b) \_\_\_\_\_  
 (c) \_\_\_\_\_
6. Check whether a finding of guilty was made:  
 (a) after a plea of guilty x  
 (b) after a plea of not guilty \_\_\_\_\_  
 (c) after a plea of nolo contendere \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the imposition of sentence?  
No
8. If you answered "yes" to (7), list:  
 (a) the name of each Court to which you appealed:  
 i. N/A  
 ii. \_\_\_\_\_  
 iii. \_\_\_\_\_  
 (b) the result in each such Court to which you appealed:  
 i. \_\_\_\_\_  
 ii. N/A  
 iii. \_\_\_\_\_  
 (c) the date of each such result:  
 i. N/A  
 ii. \_\_\_\_\_  
 iii. \_\_\_\_\_  
 (d) if known, citations of any written opinion or orders entered pursuant to such results:  
 i. N/A  
 ii. \_\_\_\_\_  
 iii. \_\_\_\_\_
9. If you answered "no" to (7), state your reasons for not so appealing:  
 (a) Attorney failed to file the notice of appeal  
 (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) Due Process Violation
- (c) Subject-matter jurisdiction
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Counsel failed to adequately investigate the case
- (b) Indictment was invalid
- (c) Court did not have jurisdiction to try the case
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? \_\_\_\_\_
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. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
- i. \_\_\_\_\_
- ii. N/A
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(c) the disposition thereof:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(d) the date of each such disposition:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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

No

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

(a) which grounds have been presented:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

(a) This is applicant's first PCR  
 (b) \_\_\_\_\_  
 (c) \_\_\_\_\_

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

(a) your arraignment and plea? Tracy Pinnock; Anastasia Walker  
 (b) your trial, if any? N/A  
 (c) your sentencing? Tracy Pinnock; Anastasia Walker  
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A  
 (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. Tracy Pinnock and Anastasia Walker, Public Defenders  
Office, 1701 Main St., Columbia, SC 29201  
 ii. \_\_\_\_\_  
 iii. \_\_\_\_\_  
 (b) the proceedings at which each such attorney represented you:  
 i. Guilty plea and sentencing  
~~and sentencing~~  
 ii. \_\_\_\_\_  
 iii. \_\_\_\_\_

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

Conviction overturned and sentence vacated

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

No

STATE OF SOUTH CAROLINA )

County of Richland )

VERIFICATION

I, DeMichael Shearvon Razor, 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.

DeMichael Razor

SWORN to and subscribed before me this 28  
day of June, 2017.

[Signature] (L.S.)  
Notary Public

My Commission Expires: 9/16/2020

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

I, DeMichael Shearvon Razor, 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.

D. Porga

*Applicant*

SWORN or affirmed to and subscribed before me this

7 day of June, \_\_\_\_\_.

  
Notary Public

My Commission Expires: 9/16/2020

RICHLAND COUNTY  
 FILED  
 2017 JUN 20 AM 8:56  
 JEANETTE W. McBRIDE  
 C.C.P. & G.S.

|                           |   |                                  |
|---------------------------|---|----------------------------------|
| STATE OF SOUTH CAROLINA   | ) | IN THE COURT OF COMMON PLEAS     |
| COUNTY OF RICHLAND        | ) | FOR THE FIFTH JUDICIAL CIRCUIT   |
|                           | ) |                                  |
| DeMichael Razor, #371594, | ) | Case No.: 2017-CP-40-03776       |
|                           | ) |                                  |
| Applicant,                | ) |                                  |
|                           | ) |                                  |
| v.                        | ) | <b>RETURN, PARTIAL MOTION TO</b> |
|                           | ) | <b>DISMISS, AND MOTION FOR A</b> |
|                           | ) | <b>MORE DEFINITE STATEMENT</b>   |
| State of South Carolina,  | ) |                                  |
|                           | ) |                                  |
| Respondent.               | ) |                                  |
|                           | ) |                                  |

Respondent, making its return to the application for Post-Conviction Relief (PCR) filed on June 20, 2017, would respectfully show this Court:

### **I. Procedural History**

DeMichael Razor (Applicant) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. In July of 2015, the Richland County Grand Jury indicted Applicant for murder (2015-GS-40-02923). Assistant Public Defenders Anastasia Walker and Tracy Pinnock represented Applicant. Assistant Solicitor Lamar Fyall, Esquire, prosecuted the case.

On February 27, 2017, Applicant appeared in the Richland County Court of General Sessions before the Honorable Paul M. Burch and pled guilty to the lesser-included offense of voluntary manslaughter. Pursuant to negotiations between Applicant and the State, Judge Burch sentenced Applicant to imprisonment for thirty years for voluntary manslaughter. Applicant did not appeal his conviction or sentence.

### **II. Factual History**

On January 3, 2015, Applicant and four other individuals went to Tony's Lounge, wherein a confrontation occurred between one of these men (not the Applicant) and another

individual regarding a stolen marijuana plant. After the confrontation, the group left the bar, and a co-defendant provided Applicant with a pistol. Applicant attempted to shoot the individual with whom they were arguing, but missed. The group then went to a private home near the bar, at which time Applicant expressed frustration with the fact that he missed the shot. They returned to the bar, with Applicant wearing a mask or cover over his face. Applicant asked a witness for a cigarette, and the witness could identify Applicant by voice, build, and mannerism. Applicant retreated to the woodline, near the private home, and shots were fired from that direction. At that point, according to Applicant's co-defendants, Applicant got on one knee and attempted to shoot the individual again. Instead, he missed and shot the victim through the abdomen. The gentleman from whom Applicant had requested a cigarette returned fire until his clip was empty (approximately twenty shots). None of the co-defendants were harmed.

Law enforcement and emergency medical services became involved, and the co-defendants fled to Applicant's mother's house. According to several witnesses, Applicant demonstrated how he made the shot that ultimately killed the victim, stating that he shot like a police officer so there was no way he could have missed. There was also DNA evidence matching sweatpants that were thrown from the getaway vehicle with Applicant's DNA.

### **III. Allegations Raised and Relief Sought**

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

1. "Ineffective Assistance of Counsel," in that:
  - a. "Counsel failed to adequately investigate the case."
2. "Due Process Violation," and
  - a. "Indictm[e]nt was invalid,"
3. "Subject Matter Jurisdiction."
  - a. "Court did not have jurisdiction to try the case."

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

#### **IV. Response to Allegations of Ineffective Assistance of Counsel**

Applicant alleges ineffective assistance of counsel, but has wholly failed to set forth any facts to support this allegation. Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit.

The Sixth Amendment to the United States Constitution guarantees a defendant the right to effective assistance of counsel. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008).

In a post-conviction relief action, an applicant bears the burden of proving the allegations in his or her application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland, 466 U.S. 668. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, an applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether an

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

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

#### **V. Response as to Allegations Regarding the Plea Court's Jurisdiction**

Notwithstanding the above motion for a more definite statement, Respondent interprets Applicant's second and third allegations to be that Applicant has claimed that the trial court lacked subject matter jurisdiction due to defects in his indictment. Defects in the indictment do not affect subject matter jurisdiction. See State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005); U.S. v. Cotton, 535 U.S. 625 (2002). The indictment is a notice document, and any challenges to its sufficiency must be made in accordance with S.C. Code Ann. § 17-19-90 (2003). See also S.C. Code § 17-19-20 (2003). Subject matter jurisdiction is the power of a court to hear a

particular class of cases, and it has nothing to do with the indictment document. See Gentry, supra; Dove v. Gold Kist, Inc., 314 S.C. 235, 442 S.E.2d 598 (1994).

An applicant may still challenge the subject matter jurisdiction of the trial court, and such a claim is one that may be raised at any time. See Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001), overruled in part by Gentry, supra. However, “[c]ircuit courts obviously have subject matter jurisdiction to try criminal matters.” Gentry, supra, 610 S.E.2d at 499; See also S.C. Const. Art. V, § 7. Thus, Applicant must present evidence that his case is of some class over which the circuit court does not have the authority to preside. Applicant’s conviction involved a criminal charge in General Sessions Court. The circuit court clearly had subject matter jurisdiction and, therefore, Respondent moves for summary dismissal on these grounds.

#### **VI. Motion for a More Definite Statement**

Respondent also hereby moves for a more definite statement. Applicant has failed to set forth any facts to “support each ground” or to explain with any specificity whatsoever the facts upon which his claims are based. The Uniform Post-Conviction Procedure Act requires the Applicant to “*specifically set forth the grounds upon which the application is based.*” S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Respondent respectfully submits that it is incumbent upon Applicant, through counsel, to amend his application to set forth specific facts upon which his allegations are based so that Respondent may adequately prepare for an evidentiary hearing. Therefore, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

#### **VII. Any Future Amendments**

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed

by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCP. All claims should be made well in advance of the evidentiary hearing. Because Applicant has an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. 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), SCRCP.

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

#### **VIII. Response to Any and All Other Allegations**

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

#### **IX. Request for an Evidentiary Hearing**

Respondent therefore requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel. As to all other allegations, Respondent moves for summary dismissal pursuant to § 17-27-70 of the South Carolina Code of Laws on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that

those allegations should be dismissed as a matter of law.

Respectfully submitted,

ALAN WILSON  
Attorney General

W. JEFFREY YOUNG  
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General

By:   
ATTORNEYS FOR RESPONDENT

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

May 14, 2018

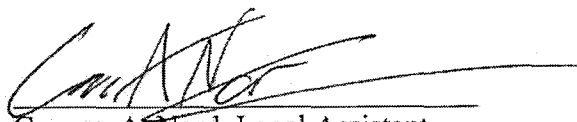
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|---------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA   | ) |                              |
|                           | ) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF RICHLAND        | ) |                              |
|                           | ) |                              |
|                           | ) | 2017-CP-40-03776             |
|                           | ) |                              |
| DEMICHAEL RAZOR, #371594, | ) |                              |
|                           | ) |                              |
| Applicant,                | ) |                              |
|                           | ) |                              |
| vs                        | ) | AFFIDAVIT OF SERVICE BY MAIL |
|                           | ) |                              |
| STATE OF SOUTH CAROLINA,  | ) |                              |
|                           | ) |                              |
| Respondent.               | ) |                              |
|                           | ) |                              |

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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, Partial Motion to Dismiss, and Motion for More Definite Statement** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Jonathan D Waller  
Waller Law Group, LLC  
1116 Blanding Street  
Suite 2B  
Columbia, South Carolina 29201

DATED this the 14<sup>th</sup> day of May, 2018.

  
Carmen A. Nord, Legal Assistant  
For Respondent

1 STATE OF SOUTH CAROLINA )  
 2 COUNTY OF SPARTANBURG ) COURT OF COMMON PLEAS NONJURY

3  
 4 DeMICHAEL SHEAVON RAZOR, ) TRANSCRIPT  
 5 APPLICANT, ) OF  
 6 VS. ) RECORD  
 7 STATE OF SOUTH CAROLINA, ) 2017-CP-40-3776  
 8 RESPONDENT. )

9  
 10 December 3<sup>rd</sup>, 2018  
 11 Columbia, South Carolina  
 12

13 B E F O R E:

14 THE HONORABLE JOCELYN J. NEWMAN, Judge.

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

16 JONATHAN D. WALLER  
 17 ESQ.  
 18 Attorney for the Applicant

19 LINDSEY A. MCCALLISTER  
 20 ESQ.  
 21 Attorney for the State

22  
 23 Transcribed by Pamela E. Green, from  
 24 DCRP, Digital Courtroom Recorder Project  
 25

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State's Exhibits

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## P R O C E E D I N G S

MS. MCCALLISTER: 76. Your Honor, Mr. Razor was indicted in July of 2015 for one count of murder. He was represented on that charge by Assistant Public Defenders Anastasia Walker and Tracy Pinnock. He -- the Assistant Solicitor Lamar Fyall prosecuted the case for the State.

On February 27<sup>th</sup>, 2017, Mr. Razor appeared in General Sessions before Judge Paul Burch, and pleaded guilty to the lesser included offense of voluntary manslaughter. Judge Burch sentenced him to a term of imprisonment of 30 years pursuant to negotiations between Mr. Razor and the State, and he did not appeal the conviction or sentence. He filed this Application for Post-Conviction Relief on June 20<sup>th</sup>, 2017, and he is represented by Mr. Waller in this action.

In response to the original Application, the State filed a partial Motion to Dismiss, and a Motion for a More Definite Statement. We moved to dismiss the allegations of a due process violation that the indictment was invalid, and that the Court lacked subject matter jurisdiction.

So, I would just renew that motion at this time to dismiss those two allegations. Mr. Waller did file an Amended Application kind of delineating the three issues that fall under the ineffective assistance umbrella. And so those three issues are the issues that, it's my

1 understanding, that we're going forward on here today.

2 MR. WALLER: That's correct, Your Honor.

3 MS. MCCALLISTER: And do you have -- do you not have a  
4 copy?

5 You have a copy of the amended---

6 THE COURT: I do.

7 MS. MCCALLISTER: Okay.

8 THE COURT: So, my question is, as to the Motion to  
9 Dismiss, does that appear to be for lack of specificity in  
10 the allegations?

11 Is there some other ground that's not cured by the  
12 amended or amendment to the Application for Post-Conviction  
13 Relief?

14 MS. MCCALLISTER: Yes, Your Honor. I guess -- and  
15 however Your Honor interprets it, if you interpret it that  
16 way, I was interpreting that the amendments clarified  
17 this -- the ineffective assistance of counsel allegation,  
18 and then the other two were still -- we would still move to  
19 dismiss.

20 THE COURT: You're right. I'm sorry.

21 Mr. Waller, what say you in response to the State's  
22 Motion to Dismiss the allegations of due process violation  
23 and lack of subject matter jurisdiction?

24 MR. WALLER: Judge, certainly the Court of General  
25 Sessions has subject matter jurisdiction to hear this case.

1 But we don't have any, we don't have any, any objection to  
2 the State's motion on that particular issues.

3 THE COURT: What about the due process violation?

4 MR. WALLER: We're not going forward on anything  
5 related to that, Your Honor.

6 THE COURT: Okay. So, the State's Motion to Dismiss  
7 those two grounds is granted. So we'll proceed on the  
8 ineffective assistance of counsel, which is more properly or  
9 pled in more specificity in the amendment --

10 MR. WALLER: Correct, Your Honor.

11 THE COURT: -- right?

12 Okay.

13 MS. MCCALLISTER: Thank you, Your Honor.

14 THE COURT: All right. Mr. Waller.

15 MR. WALLER: Thank you, Your Honor.

16 Applicant would call DeMichael Razor.

17 DeMICHAEL RAZOR, being first duly  
18 sworn, testified as follows:

19 THE CLERK: Have a seat in the witness stand.

20 (WHEREUPON, the witness complies.)

21 THE CLERK: State your name for the record.

22 THE WITNESS: DeMichael Razor.

23 DIRECT EXAMINATION

24 BY MR. WALLER:

25 Q Good morning, Mr. Razor.

DeMichael Razor - Direct examination  
by Mr. Waller

1 How are you today?

2 A I'm doing fine, sir.

3 Q Let me move this over here please.

4 All right. Mr. Razor, I want to, want to take you back  
5 to when you were originally charged.

6 Do you remember that?

7 A Yes, sir.

8 Q Okay. And what were you originally charged with?

9 A Just murder, sir.

10 Q Okay. Just murder.

11 Can you -- I want to get this microphone just a little  
12 bit closer to you just to make sure everybody can hear you.

13 All right. Mr. Razor, you were originally charged with  
14 murder.

15 Is that right?

16 A Yes, sir.

17 Q Okay. And who was your attorney on those charges or---

18 A Ms.---

19 Q ---or that charge?

20 A Tracy Pinnock and Ms. Anastasia---

21 Q Okay.

22 A ---Walker.

23 Q Ms. Anastasia Walker?

24 A Yes, sir.

25 Q Okay. Who was -- were they both your attorney for the

DeMichael Razor - Direct examination  
by Mr. Waller

1 entire time?

2 A No, sir.

3 Q Okay. Who was the -- who was your first attorney?

4 A Ms. Anastasia Walker.

5 Q Okay.

6 MS. MCCALLISTER: I'm sorry. I didn't hear that name.

7 MR. WALLER: Anastasia.

8 THE COURT: Yeah.

9 Okay. We need to push that microphone down a little  
10 further, and you probably need to sit up a little bit.

11 A Ms. Anastasia Walker.

12 Q There you go.

13 All right. How, how long after were you arrested did,  
14 did you first meet with Ms. Walker?

15 A I'd say about four to five months.

16 Q Okay. And were you -- did you make bond or were you  
17 locked up in the county the whole time?

18 A I was locked up in the county the whole time.

19 Q Okay. Did you ever have a bond hearing or anything  
20 like that?

21 A Upon requesting one, I was given a trial date.

22 Q Okay. And that was -- when did you request one?

23 A Immediately. But she didn't pass the message on till  
24 later on down the line.

25 Q Okay. And that was Ms. Walker?

DeMichael Razor - Direct examination  
by Mr. Waller

1 A Yes, sir.

2 Q Okay. When Ms. -- you and Ms. Walker first met, do you  
3 remember what y'all talked about?

4 A Yeah, she met with me and spoke and said that she was  
5 my lawyer, and that she wasn't -- she quite touched on the  
6 bases of my case yet, but she would get back to me.

7 Q Okay.

8 A And that was the first couple, two times that we met.

9 Q Okay. Do you know if she had been provided with  
10 discovery at that time?

11 A At the time she had not.

12 Q Okay.

13 A But she said she would get it.

14 Q Okay. Do you recall when she actually received that  
15 discovery?

16 A I'm not sure.

17 Q Okay. Was it -- it -- you said that you first met with  
18 her four or five months after you were arrested?

19 A Uh-huh. (Affirmative).

20 Q Is that a yes?

21 A Yes, sir.

22 Q Do you recall how long after your first meeting she  
23 might of received it?

24 A Maybe about eight months to a year.

25 Q Okay. So, another eight months to a year or---

DeMichael Razor - Direct examination  
by Mr. Waller

- 1 A Yes, sir.
- 2 Q ---eight months to a year total?
- 3 A Total.
- 4 Q Okay. You had you -- several codefendants.
- 5 Is that right?
- 6 A Yes, sir.
- 7 Q Okay. Did y'all talk about the fact that you had some
- 8 codefendants?
- 9 A Yes, sir.
- 10 Q And did y'all -- did any of your codefendants give a
- 11 statement or anything like that?
- 12 A Yes, they gave conflicting statements.
- 13 Q Okay. Did y'all talk about their statements?
- 14 A Yes, sir.
- 15 Q Okay. And you said they were conflicting statements.
- 16 Did y'all talk about that?
- 17 A Nah. Basically every time I bought (sic) it up she
- 18 just said it was circumstantial evidence, and that she
- 19 couldn't use it.
- 20 Q Okay.
- 21 A So I'd have to find something else.
- 22 Q You, you were charged and one of the theories the State
- 23 had was, was called hand of one, hand of all, or accomplice
- 24 liability.
- 25 Did y'all ever discuss that?

DeMichael Razor - Direct examination  
by Mr. Waller

1 A No, sir.

2 Q Okay. What -- what's your understanding of how you  
3 were charged then?

4 A It basically was that it was the only way that she saw  
5 that I could keep my innocence, and take a plea at the same  
6 time.

7 Q Okay. What do you mean by that?

8 A She told me that I would be keeping my innocence by  
9 taking the plea meaning that I would be not guilty, but  
10 instead I was guilty at the end of the plea. But, in the  
11 closing statements, she said that I always kept my innocence  
12 in the case.

13 Q Okay. Mr. Razor, when, when you and Ms. Walker were,  
14 were able to discuss the, the discovery that had been  
15 provided to her by the State, what was your understanding  
16 of, of what the State said took place?

17 A The State said took place that everybody was pointing  
18 the finger at me and that---

19 Q Okay.

20 A ---that was -- since I didn't have a statement, that  
21 that was just what it was.

22 Q Okay. The State said you were the shooter?

23 A Yes.

24 Q Okay. Did you and Ms. Walker or you and Ms. Pinnock  
25 ever discuss how, if the State said you were the shooter,

DeMichael Razor - Direct examination  
by Mr. Waller

1 how hand of one, hand of all even comes into play?

2 A Because they said that it was their word against my  
3 word, and it says that, in South Carolina, that's all they  
4 needed to convict me. So, there was no need for me to go to  
5 trial cause I'll get time anyway---

6 Q Okay.

7 A ---regardless.

8 Q Did y'all ever talk about going to trial?

9 A Yeah, that's what I wanted to do my whole time.

10 Q Okay. well, let me ask you this.

11 what changed?

12 A well, on the day of my Court date, she still didn't  
13 have a defense upon -- and I had already asked to fire him,  
14 and they made me keep her with this, this statement of  
15 beggars can't be choosers. So, I had no choice, choice but  
16 to take her.

17 Q Okay. Did y'all ever discuss a defense that you might  
18 have?

19 A All the defenses that I bought (sic) to her attention  
20 she said that she couldn't use them.

21 Q Okay. what were those defenses you brought to her  
22 attention?

23 A Of the fact that she could of hired investigator  
24 properly. The way she did it was an investigator came and  
25 see me, and I didn't know he was coming to see me. He came

DeMichael Razor - Direct examination  
by Mr. Waller

1 and seed (sic) me over the visitation monitor, and---

2 Q Okay.

3 A ---it wasn't a secure visitation monitor. So,  
4 everything that I said to the investigator could be used  
5 against me in a Court of Law. So, I didn't feel  
6 comfortable, and neither did he feel comfortable, speaking  
7 with me. So, we didn't speak and that was the last time  
8 that I seen him.

9 Q Okay. So, it was the -- you talked to, to the Public  
10 Defender's Office investigator on the, the monitors at --  
11 down at the jail?

12 A Yes.

13 Q The, the, the place where people do family  
14 visitation---

15 A Yes.

16 Q ---and things like that?

17 Okay. Y'all weren't in a room---

18 A No, sir.

19 Q ---privately or anything like that?

20 A No, sir.

21 Q Okay. And you said you -- y'all weren't able to talk  
22 freely because of that?

23 A No, sir.

24 Q Okay. Were there people sitting next to you or him?

25 A Nah, it's just over a recording monitor.

DeMichael Razor - Direct examination  
by Mr. Waller

1 Q Right.

2 But there -- were there people, you know, in -- down  
3 the line next to you?

4 A Yes, sir, the CO was sitting behind me.

5 Q Okay. All right. Your codefendants, had, had your  
6 codefendants -- you said they'd given statements.

7 Had they pled guilty or anything like that prior to  
8 your plea?

9 A I -- no, sir.

10 Q They had not?

11 A No, sir.

12 Q Okay. All right.

13 A As of now?

14 Q Prior to you pleading guilty, had they pled guilty?

15 A I'm not sure, but they're at home now.

16 Q Okay. And you testified that you wanted to go to  
17 trial.

18 well, was a trial date set in your case?

19 A Yes, sir.

20 Q Okay. When was it set for?

21 A Immediately after I requested a bond hearing.

22 Q Okay. In relation to your plea, when was it set?

23 A I'm not quite sure. It was pushed back, I want to say,  
24 one or two times.

25 Q Okay. Did you plead maybe the day before you were

DeMichael Razor - Direct examination  
by Mr. Waller

1 scheduled to go to trial?

2 A No, the day of.

3 Q The day of.

4 Okay. So, you would of started the trial that, that  
5 day if you hadn't---

6 A Yes, sir.

7 Q ---pled guilty?

8 Okay. All right. Did you give Ms. Walker or Ms.  
9 Pinnock any, any information you wanted them to investigate?

10 A Yes, sir, I gave them a lead on a witness that was my  
11 baby moms that gave testimony that could have spoke on my  
12 behalf.

13 Q Okay.

14 A But she didn't---

15 Q What---

16 A ---subpoena her. As she said, she couldn't get her  
17 into the courtroom.

18 Q Okay. Okay. What's the name of that person?

19 A Lavise Dove.

20 Q Okay. To your understanding, what would that person --  
21 how would that have helped you?

22 A She could of had told them that---

23 MS. MCCALLISTER: Your Honor, objection to anything Ms.  
24 Dove would of said.

25 THE COURT: Sustained.

DeMichael Razor - Direct examination  
by Mr. Waller

1 Q All right. why did you ask Ms. Walker or Ms. Pinnock  
2 to contact Ms. Dove?

3 A Because she give a different testimony than everybody  
4 else.

5 Q Okay.

6 A A testimony that if she -- they could of had --  
7 investigators could have---

8 MS. MCCALLISTER: Well, Your Honor---

9 A ---followed that lead---

10 MS. MCCALLISTER: ---objection again.

11 THE COURT: I would say---

12 A It was the only statement speaking on my behalf.

13 Q Hang on, Mr.---

14 THE COURT: No, he can go ahead. I, I do -- the Court  
15 needs to know why he wanted that person subpoenaed. So,  
16 it's not exactly for the truth of the matter asserted. It's  
17 his belief.

18 MS. MCCALLISTER: Okay. Thank you, Your Honor.

19 Q All right. Continue and let me---

20 A Ms. Dove placed a weapon in my codefendant hands, and  
21 she also gave a, a statement of how the whole situation --  
22 the ordeal went of after I was said to be off the, off the  
23 scene.

24 Q Okay. And you testified that Ms. Dove is, is the  
25 mother of your child.

DeMichael Razor - Direct examination  
by Mr. Waller

1 Is that right?

2 A Yes, sir.

3 Q Okay. Based on your -- is Ms. Dove here today?

4 A No, sir.

5 Q Okay. Based on your previous experience in dealing  
6 with Ms. Dove, is she easy -- an easy person to find if  
7 you're -- if you don't know -- already know where she is?

8 A She's fairly easy.

9 Q Okay. Okay. All right. Did you and Ms. Walker or Ms.  
10 Pinnock ever discuss the sentence you ever -- received?

11 A Excuse me?

12 Q Did y'all ever discuss your sentence?

13 A As, as what aspect?

14 Q Was it---

15 A That has---

16 Q ---ever explained to you?

17 A No, sir.

18 Q Okay. What did you -- what was your understanding?

19 A My understanding was that it would be the only way that  
20 she would be able to assist me in my case since she didn't  
21 have no defense on the day of trial date, and that I would  
22 be able to keep my innocence if I agreed to take the plea.

23 Q Okay. Okay. So, two things with that.

24 So, it's your testimony that you pled guilty because,  
25 the day of your trial, your lawyer didn't have a defense.

DeMichael Razor - Direct examination  
by Mr. Waller

1 Is that right?

2 A Yes, sir.

3 Q Okay. What did you understand about what sentence you  
4 were gonna receive?

5 A I understand that the sentence was -- my last hope in  
6 that maybe, if I went to prison, I would be able to find  
7 a -- some type of other way to appeal.

8 Q Okay.

9 A But she said that it would be no appeal, and that --  
10 when I got to prison, I was finding out about this PCR. So,  
11 I signed up for the PCR. She didn't inform me of an appeal.  
12 She said I wouldn't be able to come back on an appeal.

13 Q Okay. All right. But did you understand that -- the  
14 amount of time you were gonna receive if you plead guilty?

15 A No, sir. I thought it would be 85 percent. She didn't  
16 explain the 85 percent things. She just told me it would be  
17 half of a -- 85 with 22 years or something like that. So, I  
18 was trying to okay, well, maybe I can, you know, work on my  
19 case from prison.

20 Q Okay. Okay. Did you think you could still challenge  
21 your conviction?

22 A I knew it had to been some type of way. I wasn't sure  
23 of the way since she said there would be no appeal process,  
24 and I wasn't quite -- I'm new to the appeal thing.

25 Q Okay.

DeMichael Razor - Direct examination  
by Mr. Waller

1 A The law of (indiscernible) --.

2 Q All right. How did Ms. Pinnock come to be your lawyer?

3 A She was assigned to my case out of the blue.

4 Q Okay. Did you ever meet with her by yourself?

5 A Yes, I did. I had some words with her, and we had a  
6 verbal altercation because I felt like she wasn't doing what  
7 she could have done to help me and support me in my case,  
8 and I asked to get her fired, and I -- they made me keep  
9 her.

10 Q Okay. So, you asked to have both, both your lawyers  
11 fired?

12 A No, at the time just Ms. Pinnock was on my case. I was  
13 asking to get her fired cause, since then had removed  
14 Anastasia off my case, and placed her in another division, I  
15 was -- so.

16 Q Okay.

17 A But at the end of my trial they put her and another  
18 attorney on my case to help Ms. Pinnock --

19 Q Okay.

20 A -- I guess.

21 Q So, Ms., Ms. Walker was your lawyer and then you said  
22 she was transferred to another division?

23 A Yes, sir.

24 Q And so then you got -- who, who was your lawyer?

25 A Ms. Pinnock.

DeMichael Razor - Direct examination  
by Mr. Waller

1 Q Just Ms. Pinnock?

2 A Yes, sir.

3 Q Okay. And then, ultimately, it was Ms. Walker again.

4 Is that right?

5 A Yes, sir.

6 Q Okay. How many times you think you met with

7 Ms. Walker?

8 A Like four.

9 Q Okay. How many times you think you met with

10 Ms. Pinnock?

11 A Maybe eight.

12 Q Okay. All right. All right. Mr. Razor, what do you

13 think Ms. Walker and Ms. Pinnock did wrong in your case?

14 A Everything.

15 Q Okay. You testified earlier that you wanted to go to

16 trial.

17 A Yes, sir.

18 Q Okay. You ultimately ended up pleading guilty.

19 What changed?

20 Why did you plead guilty?

21 A She didn't have a defense. She didn't -- she failed to

22 have a defense for me. She didn't have any legal advice

23 that she could say and the best advice that she could give

24 was take a plea.

25 Q Okay.

DeMichael Razor - Direct examination  
by Mr. Waller

1 A She also gave the solicitor another way to convict me  
2 with the hands of one, hands of all. That was her plea  
3 deal.

4 Q Okay. You testified earlier that you wanted to go to  
5 trial.

6 A I wanted to go to trial.

7 Q Okay. Based on what you just said, is that the reason  
8 you pled guilty?

9 A Yes, sir.

10 Q Okay. If you had felt Ms. Pinnock or Ms. Walker had  
11 been prepared with a defense and everything, would you have  
12 still pled guilty?

13 A No, sir.

14 Q Okay. You would of gone to trial?

15 A Yes, sir.

16 Q Okay. Mr. Razor, I don't have any more questions for  
17 you.

18 Is there anything you think I've left out or that the  
19 Court needs to be aware of Ms. Walker or Ms. Pinnock's  
20 representation of you?

21 A No, sir, just that if she had of used that, if she had  
22 properly hired an investigator, she would of found out that  
23 the witness that testified to get the, the leading arrest  
24 warrant had actually lied and came back, and said that she  
25 really did not---

DeMichael Razor - Cross-examination  
By Ms. McCallister

1 MS. MCCALLISTER: Your Honor, again---

2 A ---see again.

3 MS. MCCALLISTER: ---objection to hearsay.

4 THE COURT: Overruled.

5 Q All right. Thank you, Mr. Razor. Please answer any  
6 questions Ms. McCallister has for you.

7 A Yes, sir.

8 CROSS-EXAMINATION

9 BY MS. MCCALLISTER:

10 Q Mr. Razor, do you recall going into the courtroom and  
11 speaking with the judge that took your plea?

12 A Yes, ma'am.

13 Q Okay. Do you remember the judge going through and  
14 asking you some questions about what was going on that day?

15 A Yes, ma'am.

16 Q Do you remember him asking you whether you were  
17 satisfied with your attorneys in this case?

18 A I remember hesitating on the question.

19 Q Okay.

20 A Yes, ma'am.

21 Q Okay. Did you ultimately answer him that you were  
22 satisfied?

23 A I'm not sure.

24 MS. MCCALLISTER: Okay. May I approach the witness,  
25 Your Honor?

DeMichael Razor - Cross-examination  
By Ms. McCallister

1 I'm gonna hand you that. If you could read that, just  
2 kind of the first couple lines on that page there, and see  
3 if that refreshes your memory?

4 A Yes, ma'am.

5 Q Okay. So, ultimately, you did tell the judge that you  
6 were satisfied with the services of your attorneys, correct?

7 A As satisfied as I could be---

8 Q Okay.

9 A ---seeing on how beggars can't be choosers.

10 Q Okay. You---

11 A That's what the State originally told me.

12 Q Okay. You agree with me that the judge asked you  
13 about, about their representation and whether they had  
14 talked to you and you said ultimately you were satisfied?

15 A Yes, ma'am.

16 Q Okay. You also told the judge that they had answered  
17 all of your questions, and done everything that, that you  
18 had asked them to do?

19 A Yes, ma'am.

20 Q Okay.

21 A Yes, ma'am.

22 Q Okay. You also -- the judge also asked you whether you  
23 wanted a trial, and you told the judge that you did not want  
24 a trial.

25 A I told my lawyer I wanted a trial.

DeMichael Razor - Cross-examination  
By Ms. McCallister

1 Q Okay. But on the day of the plea, the judge asked you  
2 and you told him you didn't want one.

3 A Yes, ma'am.

4 Q Okay. Okay. Do you recall also telling the judge that  
5 no one had threatened you or made you any promises to get  
6 you to take the plea, but that's what you wanted to do?

7 A Yes, ma'am.

8 Q Okay. And ultimately, ultimately, at the plea, both  
9 Ms. Pinnock and Ms. Walker were there representing you that  
10 day, correct?

11 A Yes, ma'am.

12 Q Okay. And you talked with both of them before you went  
13 in to take this plea agreement, correct?

14 A Yes, ma'am.

15 Q Okay. And you -- do you recall going over an Advice of  
16 Rights Form or a plea agreement form?

17 A No, ma'am.

18 Q You don't remember?

19 A No, ma'am.

20 MS. MCCALLISTER: May I approach again, Your Honor?

21 THE COURT: Yes, ma'am.

22 Q Hand you that.

23 A Excuse me?

24 Q Do you recall going over that document with your  
25 attorneys?

DeMichael Razor - Cross-examination  
By Ms. McCallister

1 A No, ma'am.

2 Q Is that your signature on the back?

3 A Yes, ma'am.

4 Q Okay. So, you don't remember doing that, but you agree  
5 that you did sign that document?

6 A Yes, ma'am.

7 Q Okay.

8 MS. MCCALLISTER: Your Honor, I would just ask to admit  
9 the Plea Agreement as, as State's Exhibit 1.

10 THE COURT: Any objection?

11 MR. WALLER: Judge, it -- it's, it's not filed. It's  
12 not referenced in the plea. I, I --.

13 MS. MCCALLISTER: I think it is referenced in the plea.  
14 Is that right?

15 I think it is.

16 MR. WALLER: If it is referenced, I---

17 MS. MCCALLISTER: May I have one moment, Your Honor?

18 I, I think it is referenced in the plea. But I could  
19 be getting it mixed up with a different case.

20 MR. WALLER: Judge, obviously if it is referenced in  
21 the plea, then, then that will change my answer.

22 MS. MCCALLISTER: Okay.

23 MR. WALLER: But I don't know that foundation's been  
24 laid for it yet.

25 THE COURT: I'm not seeing where it's referenced in the

DeMichael Razor - Cross-examination  
By Ms. McCallister

1 plea. That doesn't mean it's not.

2 MS. MCCALLISTER: I maybe missed---

3 THE COURT: But --.

4 MS. MCCALLISTER: Okay. That's fine. I'll leave it  
5 for now, Your Honor---

6 THE COURT: Okay.

7 MS. MCCALLISTER: ---and see if I can find that -- in  
8 that. But otherwise, I think that's all the questions I  
9 have.

10 THE COURT: Okay. Mr. Waller.

11 REDIRECT EXAMINATION

12 BY MR. WALLER:

13 Q Mr. Razor, when did you -- did you have a hearing to  
14 try to relieve the lawyers?

15 A Yes, sir.

16 Q And you, you said you had one for each one.

17 Is that right?

18 A Excuse me?

19 Q You, you had one hearing to try to relieve Ms. Walker,  
20 and the one to try to relieve Ms. Pinnock?

21 A No, sir, just Ms. Pinnock.

22 Q Just, just one for Ms. Pinnock?

23 A Yes, sir.

24 Q When was that?

25 A I'm not sure on the particular date.

DeMichael Razor - Redirect examination  
by Mr. Waller

1 Q Okay. What -- in relation to the day you pled guilty,  
2 was it close?

3 Was it---

4 A It was substantially close.

5 Q The week before, the day before?

6 A Maybe about five months before.

7 Q Five months before.

8 Okay. All right. Nothing further. Thank you,  
9 Mr. Razor.

10 THE COURT: Okay. Anything further, Ms. McCallister,  
11 from this witness?

12 MS. MCCALLISTER: No, Your Honor.

13 THE COURT: Okay. You can go sit back next to your  
14 lawyer.

15 Any other witnesses, Mr. Waller?

16 MR. WALLER: Nothing from the Applicant, Your Honor.

17 THE COURT: Okay. Ms. McCallister.

18 MS. MCCALLISTER: Thank you, Your Honor.

19 Just do call Tracy Pinnock please.

20 THE COURT: Ms. Pinnock. I know everybody's kind of  
21 whispering.

22 MS. MCCALLISTER: I'll speak up.

23 THE COURT: No, it's across the board. I don't know  
24 what's going on.

25 MS. MCCALLISTER: Thank you.

Tracy Pinnock - Direct examination  
by Ms. McCallister

1 TRACY PINNOCK, being first duly  
2 sworn, testified as follows:

3 THE CLERK: Thank you. Have a seat in the witness  
4 stand.

5 (WHEREUPON, the witness complies.)

6 THE CLERK: And state your name for the record.

7 THE WITNESS: Tracy Pinnock.

8 DIRECT EXAMINATION

9 BY MS. MCCALLISTER:

10 Q Ms. Pinnock, did you represent Mr. Razor on the charges  
11 that we're here about today?

12 A I did.

13 Q Okay. And how did you come to be involved in this case  
14 with him?

15 A Mr. Razor was arrested in January of 2015, and his case  
16 was transferred to me in February of 2016.

17 Q Okay. And was it transferred to you from Ms. Walker?

18 A Yes.

19 Q Okay. Okay. When you got the case in February of  
20 2016, was there discovery in the file at that point?

21 A Yes, there was.

22 Q Okay. Did you have a chance to discuss that with Mr.  
23 Razor?

24 A Yes, I initially met with him, just introduced myself  
25 February 9<sup>th</sup> of 2016, and, according to my notes, I went

Tracy Pinnock - Direct examination  
by Ms. McCallister

1 back with the discovery, reviewed it with him on  
2 March 7<sup>th</sup> of 2016.

3 Q Okay. That -- at that time, March 7<sup>th</sup>, 2016, did you  
4 have all of the discovery?

5 was it complete at that point?

6 A It was not.

7 Q Okay.

8 A We were missing, if, if memory serves me correctly,  
9 forensics, ballistics, DNA, maybe some of the crime scene  
10 investigation stuff.

11 Q Okay.

12 A What -- I reviewed with him what I had at that point.

13 Q Okay. Did you ultimately get that missing  
14 information---

15 A Yes---

16 Q ---from the State?

17 A ---we did.

18 Q Okay. And did you review that with him as well?

19 A I did.

20 Q Okay. How many times would you say you met with  
21 Mr. Razor in total?

22 A My notes indicate approximately 22 times.

23 Q Okay. And during, during the course of those meetings,  
24 you reviewed discovery.

25 Did you talk to him about developing any potential

Tracy Pinnock - Direct examination  
by Ms. McCallister

1 defenses?

2 A Yes. So, by the time I took over Mr. Razor's case,  
3 like I said, it was transferred to me from Ms. Walker. They  
4 had already had the initial conversations that I could tell  
5 about what his intentions were.

6 Q Okay.

7 A So, when I came in, he told me, from the very  
8 beginning, that we were proceeding to trial. So, we  
9 continued to prepare his case for trial from the day I took  
10 over.

11 Q Did you use an investigator?

12 A Yes, I had an -- Investigator Eric Devan was assigned  
13 to his case.

14 Q And what did he do?

15 A The bulk of what Investigator Devan did was try to  
16 track down and interview witnesses. We met with  
17 Investigator Devan a, a number of times in my office. We  
18 spoke over the phone, go through email, just trying to track  
19 down and interview the list of people that we were given to  
20 try to interview.

21 Q Okay. And you got that list of people from --?

22 A From Mr. Razor and---

23 Q From---

24 A ---his mother.

25 Q Okay. And was one of those people the woman that he

Tracy Pinnock - Direct examination  
by Ms. McCallister

1 mentioned, Ms. Dove?

2 A Yes.

3 Q Did you speak with her?

4 A I did. Investigator Devan was not able to get in touch  
5 with her. She did not have a cell phone. So, Ms. --  
6 Mr. Razor's mother was attempting to help us get in touch  
7 with her by using her phone. What ultimately happened is I  
8 was able to gain contact with Ms. Dove over Facebook, and my  
9 notes indicate that I sat down personally and interviewed  
10 her with Cheslyne Brighthop. She was the third attorney  
11 working on Mr. Razor's case along with Mr. Harper, who was  
12 one of our clerks at the time, as an independent witness.  
13 And we met with her out in Eastover. I can give you the  
14 exact date if you give me a minute.

15 Q Okay.

16 A It looks like that was January 11<sup>th</sup> that we went out  
17 and met with her at the library in Eastover.

18 Q Okay. And ultimately---

19 A Oh, I'm sorry. Not the library. We met at the  
20 Magistrate Office.

21 Q Okay. You interviewed her personally that day?

22 A Yes.

23 Q Okay. Ultimately was her information helpful to your  
24 defense or a defense?

25 A So, parts of it we were able to -- we would of been

Tracy Pinnock - Direct examination  
by Ms. McCallister

1 able to use in a -- to a certain degree. Our theory was  
2 kind of evolving and changing as the, the months went on  
3 based on the information we were discovering through our own  
4 investigation. So, by the -- by the time Mr. Razor's trial  
5 date came, I mean we had the theory and Ms. Dove was part of  
6 that theory.

7 Q Okay. And did you -- the -- this evolving theory --  
8 what was your theory at the, at the time of---

9 A Honestly---

10 Q ---trial?

11 Do you remember?

12 A I could not tell you---

13 Q Okay.

14 A ---exactly what it was. It's been so many years I  
15 couldn't tell you exactly what it was.

16 Q Okay. Throughout this process of contacting people and  
17 changing your theory, did you, did you keep Mr. Razor  
18 updated on those issues?

19 A Yes.

20 Q Okay.

21 A Because we, we went back and forth for a while about  
22 whether or not Mr. Razor would be testifying himself --

23 Q Okay.

24 A -- because that was going to, you know, potentially  
25 affect our theory that we'd be presenting to the jury. And

Tracy Pinnock - Direct examination  
by Ms. McCallister

1 then, when looking at the statements that we were able to  
2 get from other witnesses, some of whom we knew were being  
3 called to testify, some of whom we were, you know,  
4 considering calling for our defense, that's why I say it was  
5 kind of an evolving thing, but Mr. -- he was involved in all  
6 of it.

7 Q Okay. And so had the case actually gone to a trial,  
8 you did have a defense prepared and witnesses to support  
9 that defense?

10 A Yes.

11 Q Okay.

12 A And we had Ms. Dove under subpoena. We put her under  
13 subpoena the day that we met her.

14 Q Okay. Did your investigator do anything else or was it  
15 just the witnesses?

16 A He went out to the scene. He took some aerial  
17 pictures. Because it was a little unclear, just based on  
18 the witness statements and how law enforcement had  
19 everything written up where everyone was when, so he went  
20 out, took some -- you know, from the ground pictures, some  
21 aerial pictures. Other than that, the, the biggest thing  
22 that we had him working on was trying to locate and  
23 interview all the witnesses.

24 Q Okay. Ultimately do you recall, at the plea hearing,  
25 some discussion that, that the State maybe was pursuing a

Tracy Pinnock - Direct examination  
by Ms. McCallister

1 hand of one hand of all theory?

2 A That had come up in conversation. I can't tell you  
3 when or with who cause, if I, if I recall correctly, there  
4 were three prosecutors. Mr. Campbell was the lead  
5 prosecutor, and she was working I believe with Ms. Walker  
6 and Mr. Fyall. I know it came up. I can't tell you who we  
7 were talking to, and when we were talking. But their  
8 theory, for the most part, was that Mr. Razor was the  
9 shooter.

10 Q Okay. Do you recall talking to him about the hand of  
11 one, hand of all?

12 A Yes.

13 Q Okay. You -- did you explain that concept to him?

14 A Yes, we did.

15 Q Okay. And did you explain how it could potentially  
16 apply to his case?

17 A Yes, we did.

18 Q Okay. So, was it fair to say that there was almost --  
19 it's like an alternative theory, the State was arguing that  
20 he was the shooter, but potentially he could of been  
21 convicted under hand of one, hand of all --

22 A Yes.

23 Q -- as well?

24 A Yep.

25 Q Okay. And you feel that all of that was explained to

Tracy Pinnock - Direct examination  
by Ms. McCallister

1 him?

2 A Yes, it was.

3 Q Okay. And you -- do you specifically recall those  
4 conversations?

5 A The best I can say, I don't have anything in detail  
6 written down with my conversation with Mr. Razor. The best  
7 I can say is I know we talked about it.

8 Q Okay.

9 A I can't tell you an exact date.

10 Q Okay. Did -- in terms of taking this plea agreement,  
11 how did that come about?

12 If you were preparing for trial, and he wanted a trial,  
13 how did you get to a plea?

14 A So, my notes indicate we went back and forward a few  
15 times with some offers, offers that the Solicitor had made  
16 to him leading up to his trial date.

17 I recall that we went to jury qualifications that  
18 morning. There was some conversation that happened after we  
19 got done with qualifications, and that's when we went back  
20 and discussed the 30 year sentence on voluntary with Mr.  
21 Razor. It was after qualifications, before jury selections.

22 Q Okay. And did -- was Mr. Razor able to talk to you --  
23 you were able to have a private conversation with Mr. Razor  
24 about taking that plea -- the plea that he ultimately took?

25 A Yes, ma'am, we spoke to him and then we had a jury room

Tracy Pinnock - Direct examination  
by Ms. McCallister

1 available to us that we sat down and met with him and his  
2 family about it prior to him telling us if he was going to  
3 accept the deal.

4 Q Okay. And you -- you're saying we.

5 who, who -- so that would be yourself and Ms. Walker or  
6 who else?

7 A Myself, Ms. Walker, Ms. Brighthop, and then we brought  
8 in his mother and stepfather according to my notes.

9 Q Did you, did you fill out an advice of rights form  
10 regarding the plea agreement with Mr. Razor?

11 A I did not personally fill this one out. I think Ms.  
12 Walker was filling out the answers as we went through.

13 Q Okay.

14 A So, I, I didn't fill this one out.

15 Q Okay. Mr. Razor testified about trying to have you  
16 relieved as his attorney.

17 A Yes.

18 Q Do you recall when that was?

19 A Yes. That motion happened -- that was June -- May  
20 23<sup>rd</sup> of 2016.

21 Q Okay. And that motion ultimately was not granted?

22 A Yes, that motion was denied.

23 Q Okay. And after that -- between that date of May, May  
24 23<sup>rd</sup> and the date of the plea, were you able to have a  
25 working relationship with Mr. Razor?

Tracy Pinnock - Direct examination  
by Ms. McCallister

1 A Yes.

2 Q Okay. And, at that point, was Mr. Walker back involved  
3 in the case at that point?

4 A So, what, what happened with Ms. Walker is she was  
5 never not involved.

6 Q Okay.

7 A We had some shifting around in our office which is why  
8 Mr. Razor's case was transferred, but was always agreed --  
9 you know, was already -- always known that she was going to  
10 remain on the case because she represented Mr. Razor  
11 originally. So, instead of bringing in somebody who knew  
12 absolutely nothing about his case, even though she was not  
13 the attorney of record anymore, she was still involved with  
14 this case.

15 Q Okay. All right. On the day that Mr. Razor pled  
16 guilty, did you have any reason to believe that he didn't  
17 understand what he was doing?

18 A No.

19 Q Was it his decision to plead guilty?

20 A Yes, it was.

21 MS. MCCALLISTER: Okay. That's all the questions I  
22 have, Your Honor.

23 THE COURT: Cross-examination.

24 MR. WALLER: Thank you, Your Honor.

25 CROSS-EXAMINATION

Tracy Pinnock - Cross-examination  
by Mr. Waller

1 BY MR. WALLER:

2 Q Ms. Pinnock, what were the allegation -- the State's  
3 allegations against Mr. Razor?

4 A I have not gone back and reviewed the full discovery.

5 Q Okay.

6 A So, I can tell you what I recall from just what I saw  
7 in the plea and the -- from memory.

8 Q Perfect.

9 A Okay. So, the -- I can't tell you the exact date. But  
10 there was a shooting at Tony's Lounge in Eastover. It was  
11 alleged that Mr. Razor shot from the wood line trying to hit  
12 one person, and then the bullet accidentally hit a second  
13 person hitting him in the abdomen area and he ultimately  
14 bled out.

15 Q Okay.

16 A There were a number of people they spoke to. There's a  
17 number of people on scene. There were two people who were  
18 charged as codefendants. I want to say there was three  
19 other individuals that gave statements indicating that they  
20 were there. All of those witnesses pointed at Mr. Razor as  
21 being the shooter, and that's kind of the gist of it.

22 Q Okay. As y'all were talking to Mr., Mr. Razor, what  
23 was his response to the allegations?

24 A He indicated to me that he was not -- he, he denied  
25 being the shooter.

Tracy Pinnock - Cross-examination  
by Mr. Waller

1 Q Okay.

2 A We went -- we discussed it a lot. We discussed it a  
3 lot and, and some of the details changed as we were  
4 discussing things. But he maintained the entire time that  
5 he was not the shooter.

6 Q Okay. Did he maintain that he was there, but just  
7 wasn't the shooter or --?

8 A Sometimes he told me that he was not there, and other  
9 times he indicated that he was there.

10 Q Okay. But the State, in all of the witnesses  
11 statements, indicated that he was the shooter?

12 A Yes.

13 Q Is that correct?

14 Did the State ever float the idea of hand of one, hand  
15 of all?

16 A They never indicated to me, as best as I can recall,  
17 that they were ever going to go forward and present evidence  
18 that he was not the shooter.

19 Q How did it -- how did it come up in y'all's  
20 conversation then?

21 A With who?

22 Q Mr. Razor and the State. I mean there's two separate  
23 questions, but in, in talking to Mr. Razor, the State  
24 alleges he's the shooter.

25 A Uh-huh. (Affirmative).

Tracy Pinnock - Cross-examination  
by Mr. Waller

1 Q Then what led to y'all discussing hand of one, hand of  
2 all?

3 A Best that I can recall, a number of the witnesses gave  
4 conflicting -- there was, there was some inconsistencies in  
5 the statements. So, I can only assume that it came up when  
6 we were discussing their inconsistencies, and discussing  
7 with him, you know, if we could convince a jury that he  
8 wasn't the shooter. If they then, you know, turned around  
9 and believed that he was there and involved, they could  
10 still potentially try to wrap him up under hand of one, hand  
11 of all. That's the best I can come up with. I, I don't  
12 really remember exactly how it came up.

13 Q Okay. Did, did you have those conversations before or  
14 after y'all talked to the witnesses including Ms. Dove?

15 A We -- months and months and months of tracking people  
16 down. I can't, I can't tell you exactly when that  
17 conversation happened.

18 Q Okay. The other two codefendants, were there  
19 allegations that they knew what was gonna take place or were  
20 they just bystanders or, or how, how did the State  
21 characterize their involvement?

22 A Well, their -- if I recall correctly, their statements  
23 were that they all went up there together. One of them -- I  
24 would have to look at the statement. I'm sorry.

25 Q Okay. When they say they all went up there together,

Tracy Pinnock - Cross-examination  
by Mr. Waller

1 did they know it was gonna take place to your -- to the best  
2 of your recollection?

3 A Best of my recollection is nobody said that they knew  
4 there was gonna be a shooting.

5 Q Okay.

6 A That's the best -- that's the best of my memory.

7 Q Okay. So, they said that Mr., Mr. Razor shot and they  
8 didn't know he was going to shoot but they were there?

9 A Best of my recollection, yes.

10 Q Okay. How did the hand of one, hand of all come up  
11 with -- in your conversations with the State?

12 A I don't recall that at all.

13 Q Okay.

14 MR. WALLER: Beg the Court's indulgence please.

15 THE COURT: Yes, sir.

16 (Pause.)

17 Q Thank you, Ms. Pinnock. No further questions.

18 THE COURT: Anything further, Ms. McCallister?

19 MS. MCCALLISTER: No, Your Honor.

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

21 Call your next witness.

22 MS. MCCALLISTER: Anastasia Walker, Your Honor.

23 ANASTASIA WALKER, being first duly  
24 sworn, testified as follows:

25 THE CLERK: Thank you. Have a seat in the witness

Anastasia walker - Direct examination  
by Ms. McCallister

1 stand.

2 (WHEREUPON, the witness complies.)

3 THE CLERK: And state your name for the record.

4 THE WITNESS: Anastasia walker.

5 DIRECT EXAMINATION

6 BY MS. MCCALLISTER:

7 Q Ms. walker, were you appointed to represent Mr. Razor  
8 on the charges that we're here about today?

9 A Yes, I was.

10 Q Okay. And how long were you involved in his case for?

11 A Since his arrest.

12 Q Okay.

13 A Well, I'd say I -- we were appointed after his arrest.

14 Q Okay. And so you had some help from Ms. Pinnock and  
15 maybe another attorney as well, correct?

16 A So, Ms. Pinnock ultimately ended up being the attorney  
17 of record, being lead counsel, cause the file was  
18 transferred to her. But I was always involved in the case  
19 after it. So, I was lead counsel for about a year, and then  
20 the file was transferred to her, and then I continued to  
21 work on the case with her.

22 Q Okay. And you were present on the day of the guilty  
23 plea, correct?

24 A I was.

25 Q Okay. Did you go over an Advice of Rights Form with

Anastasia Walker - Direct examination  
by Ms. McCallister

1 Mr. Razor?

2 A I did.

3 MS. MCCALLISTER: May I approach, Your Honor?

4 THE COURT: Yes.

5 Q Can you identify that document that I've just handed  
6 you?

7 A This is the Advice of Rights Form that I always fill  
8 out for any plea that I do.

9 Q Okay. Did you sign it?

10 A I did not sign it. No, I did sign it. I take that  
11 back. I'm sorry.

12 Q Okay. And did you go over that form with Mr. Razor?

13 A I did.

14 Q And did you mark off the answers on that form?

15 A I did.

16 Q You did.

17 A It looks like Ms. Pinnock filled in some of the blanks  
18 at the beginning. But I, I believe what happened is she had  
19 filled out just the information on it, and then I filled out  
20 the answers.

21 Q Okay. So, you actually went over the substance of the  
22 form with her?

23 A Yes, cause then---

24 Q Okay.

25 A ---I signed as the attorney.

Anastasia Walker - Direct examination  
by Ms. McCallister

1 Q Okay. And did he sign that form?

2 A He did.

3 Q Okay. And when was that done?

4 Do you recall?

5 A That was done the day of the plea.

6 Q Okay. And was that handed up to the judge at the plea  
7 or what was done with that form?

8 Do you recall?

9 A We turned it in with a -- with the plea paperwork, the  
10 sentencing sheet, the indictment. Everything that the  
11 client fills out --

12 Q Okay.

13 A -- we turn, we turn that into the Court.

14 Q So, it would of been made part of the record in the  
15 General Sessions file?

16 A It should have been. It was---

17 Q Okay.

18 A It was turned in with the plea paperwork. Judge Birch  
19 may or may not have made reference to it in the plea. I'm  
20 not sure.

21 Q Okay. Do you recall, do you recall, during, during the  
22 plea, talking about this issue of the hand of one, hand of  
23 all theory, and your discussion with Mr. Razor about that?

24 A Yes.

25 Q Okay. Is it your recollection that he, he kind of

Anastasia Walker - Direct examination  
by Ms. McCallister

1 admitted that he was involved under the hand of one, hand of  
2 all theory, even if he didn't necessarily call it that, but  
3 --?

4 A If my memory serves me correctly, I believe that his --  
5 one of his main issues with accepting the offer from the  
6 State was admitting that he was the shooter.

7 Q Okay.

8 A I can't remember if I informed the State of this or how  
9 we exactly went about it. But I informed Mr. Razor that he  
10 could plead guilty and not be the, the shooter under the  
11 theory of hand of one, hand of all.

12 Q Okay.

13 A And that way he wouldn't have to tell the Court yes,  
14 I'm the shooter. But then he could still have a factual  
15 basis for the guilty plea.

16 Q Okay. And did you believe that there was a factual  
17 basis for the guilty plea under that theory?

18 A Yes.

19 Q Okay. And so when he talks about maintaining his  
20 innocence in the plea, is it your understanding that, by  
21 that, he meant that he wasn't the shooter, but he was  
22 involved?

23 A So, to my recollection, it wasn't an Alford plea. It  
24 was---

25 Q Okay.

Anastasia Walker - Direct examination  
by Ms. McCallister

1 A It was a guilty plea to voluntary manslaughter. But  
2 that he pled guilty under the theory of hand of one, hand of  
3 all, and that he would not have to tell the Court that yes,  
4 I am the shooter in order to accept the guilty plea.

5 MS. MCCALLISTER: Okay. Beg the Court's indulgence.

6 THE COURT: Yes, ma'am.

7 MS. MCCALLISTER: Oh, I didn't. I'm sorry. I did not  
8 move to enter that Advice of Rights Form, and I would renew  
9 my motion to enter that into evidence at this time.

10 MR. WALLER: No objection.

11 THE COURT: Okay. It's admitted without objection.

12 MS. MCCALLISTER: Thank you.

13 (WHEREUPON, the Advice of Rights Form was marked as  
14 State's Exhibit No. 1, and received into evidence at this  
15 time.)

16 Q When Mr., when Mr. Razor ultimately decided to plead  
17 guilty, based on your conversation with him that day, and  
18 leading up to that day, did he understand what he was doing  
19 in entering a guilty plea?

20 A Yes, he did not make the decision to plead guilty until  
21 the day of trial.

22 Q Okay. Did he understand the sentence that he would  
23 receive by pleading guilty?

24 A I don't have the plea sheets in front of me. But, if I  
25 recall, it was a negotiated sentence. So, he would of and

Anastasia Walker - Direct examination  
by Ms. McCallister

1 this Advice of Rights Forms goes over the specifics to do  
2 with violent, strikes, 85 percent, et cetera.

3 Q Okay. And the fact that it would be 30 years, and  
4 that's what you get when it's negotiated?

5 would you have explained that to him?

6 A Yes.

7 MS. MCCALLISTER: Okay. I think that's all the  
8 questions I have, Your Honor.

9 THE COURT: Okay. Cross-examination.

10 MR. WALLER: Thank you, Your Honor.

11 May it please the Court.

12 CROSS-EXAMINATION

13 BY MR. WALLER:

14 Q Ms. Walker, the, the factual basis presented to the  
15 Court from the State was that Mr. Razor was the shooter.

16 Is that your understanding, your recollection?

17 A I, I don't recall if that's what the facts of -- the  
18 State presented. That sounds correct.

19 Q Okay. And he has to admit that he's guilty or plead  
20 guilty?

21 A Yes.

22 Q Okay. How does, how does it help him to plead under  
23 the hand of one, hand of all?

24 A It's doesn't. That doesn't change anything other than  
25 in his telling of the version of events to the Court. In

Anastasia Walker - Cross-examination  
by Mr. Waller

1 order for there to be a factual basis and him to tell the  
2 Court, look, I wasn't the shooter, it would have to be under  
3 the hand of one, hand of all theory.

4 Q Okay. After the Court had already accepted his plea,  
5 what, what was your reasoning for telling the Court that he  
6 was pleading under hand of one, hand of all?

7 A I believe that Mr. Razor wanted that specifically on  
8 the record.

9 Q Okay. Do you recall how many codefendants were  
10 charged?

11 Do you recall that?

12 A I know Calvin Myers was charged. I know Jordan Myers  
13 was charged. I mean I, I can't remember if there was a  
14 third one or not.

15 Q Okay. Do you recall any of the details of their, their  
16 statements or anything like that?

17 A Vaguely.

18 Q Okay.

19 A Just from my own recollection, I can---

20 Q Okay. Did they---

21 A ---remember it somewhat.

22 Q Did they -- did their statements implicate themselves,  
23 that they knew what was gonna take place?

24 A I know Calvin -- I'd be -- I'm, I'm just trying to go  
25 from memory. I know Calvin put himself in the vicinity, and

Anastasia Walker - Cross-examination  
by Mr. Waller

1 Jordan may have, and I could be incorrect, Jordan may have  
2 said there was some intention to go there and do  
3 something---

4 Q Okay.

5 A ---when the -- cause there were -- there were two  
6 separate times when they went to the bar. There was one  
7 time they went, and then they left, and then they went back,  
8 and that's when the shooting her -- occurred.

9 Q Okay.

10 A So, I can't remember when Jordan said he knew something  
11 was gonna happen or not.

12 Q Okay. Do you recall -- did you have any conversations  
13 with the State regarding the hand of one, hand of all  
14 theory?

15 A I don't recall. I, I know that it was something that  
16 was brought up frequently. So, it could of occurred. But  
17 it was, it was an underlying issue with the case that it  
18 could of come up. So --.

19 Q Was it brought up frequently with the State or, or with  
20 Mr. Razor?

21 A I believe more frequently with Mr. Razor because,  
22 initially, Mr. Razor's position, which hand of one, hand of  
23 all is kind of a hard thing to explain to clients and  
24 people, because if I didn't do the action, how am I held  
25 responsible. So, I, I think that is something that we

Anastasia Walker - Cross-examination  
by Mr. Waller

1 discussed frequently regarding that his position was I  
2 wasn't the shooter, and how they could still operate under  
3 that theory should they go forward, but -- in that  
4 direction. But he could be found guilty as well.

5 Q Okay. Do you recall how it came up with the State?

6 A I don't.

7 Q Okay. Do you recall if the State ever changed their  
8 position from where they allege he was the shooter?

9 A I believe it was always their position that he was the  
10 shooter. I can't remember if any evidence came up where  
11 they would have kind of reined that in and gone more towards  
12 the hand of one, hand of all theory. I can't recall.

13 MR. WALLER: Beg the Court's indulgence please.

14 THE COURT: Yes, sir.

15 (Pause.)

16 Q Thank you, Ms. Walker.

17 No further questions.

18 THE COURT: Anything further?

19 MS. MCCALLISTER: Nothing. Thank you, Your Honor.

20 THE COURT: Okay. At this time you may step down  
21 unless you want to stay up there. Probably not.

22 Okay. Would you -- again, this is State's 1.

23 Any additional witnesses?

24 MS. MCCALLISTER: No, Your Honor.

25 THE COURT: All right. Mr. Waller, let me hear from

1 you.

2 MR. WALLER: Judge, the, the, the testimony from, from,  
3 from Mr. Razor is -- I think it's pretty clear that he  
4 believes that pleading under hand of one, hand of all meant  
5 that he's maintaining his innocence. I don't know -- the  
6 State maintained that he was the shooter, and they seemed to  
7 always maintain that he was the shooter. So, I don't even  
8 know why that would come up. It doesn't make sense that it  
9 would come up, and it certainly doesn't make sense that it  
10 would be presented to the Court after the Court had already  
11 accepted the plea.

12 Clearly, there is a disconnect in what Mr. Razor  
13 understood, and, and what was taking place. And that --  
14 that's certainly -- I believe that that's the role of  
15 counsel is to make sure that, when a person's pleading  
16 guilty, particularly to very serious offenses, that he's  
17 gonna receive 30 days or, excuse me, 30 years in prison, to  
18 make sure that he understands what he's doing. The plea has  
19 to be knowing and intelligently entered into.

20 Your Honor, Mr. Razor has maintained that he wanted to  
21 go to trial, and I think that -- that's clear from his  
22 attorney's, his attorney's testimony as well that he  
23 intended to go to trial, had always intended to go to trial,  
24 and then, at the last minute, he, he decides to plead  
25 guilty, and, Your Honor, I think it's, it's clear from the

1 evidence that, that he didn't understand what he was  
2 pleading guilty to.

3       So, Your Honor, I, I think that they're -- I think that  
4 the hand of one, hand of all was not made clear to him. I  
5 think that that made his plea involuntary and unknowingly  
6 entered into.

7       Thank you.

8       THE COURT: I think it's clear, from his colloquy with  
9 the Court, and particularly aided by Ms. Walker's  
10 explanation here today, that Mr. Razor did, in fact,  
11 understand the hand of one, hand of all, and it appears to  
12 have been offered to the Court by way of explanation for a  
13 guilty plea, and probably, to some extent, in mitigation  
14 perhaps because it was offered after the Court had accepted  
15 the plea. But the Court goes on, during the plea, to engage  
16 in a colloquy with Mr. Razor about the hand of one, hand of  
17 all, and his understanding of that principle, and what he  
18 admits and what he denies with respect to the facts.

19       I mentioned mitigation only because certainly, you  
20 know, a, a, a person died. And so, by way of explaining  
21 yes, he's dead and I admit being there, and part of it was  
22 maybe I -- it wasn't Michael that killed him sort of sounds  
23 in the mitigation sort of theory. I don't find that there's  
24 any evidence that Mr. Razor's plea was not knowingly,  
25 voluntarily, and intelligently made. I know he, he claims

1 that now in his Application, and I -- but there's no  
2 competent evidence to show the Court that it was not  
3 knowingly, voluntarily, and intelligently made, or that plea  
4 counsel's performance was deficient in any way. Their  
5 testimony contradicts that allegation or that he suffered  
6 any prejudice as a result of it being alleged deficiencies.

7 He may have always wanted to go to trial, but he always  
8 did until he didn't. Maybe until he got the offer, an offer  
9 that he could live with, and that -- and I say that  
10 explanation of Ms. Walker, that is her explaining what it  
11 would mean in that context to maintain his innocence while  
12 still pleading guilty, that is sort of the explanation of  
13 the hand of one, hand of all theory. It's not maybe  
14 technically legally correct. But, but her offering that  
15 explanation as to how she explained it to her client, I mean  
16 certainly you can't say I'm guilty and, and mean that you're  
17 innocent. But, but it does serve as an explanation in this  
18 context particularly having mentioned the hand of one, hand  
19 of all theory.

20 So, for those reasons, the Application for  
21 Post-Conviction Relief is denied.

22 MR. WALLER: Thank you, Your Honor.

23 THE COURT: Thank you.

24 MS. MCCALLISTER: Thank you, Your Honor.

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\* \* \*END OF REQUESTED TRANSCRIPT OF RECORD\* \* \*

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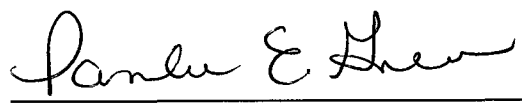
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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Richland County, South Carolina, on the 3<sup>rd</sup> day of December, 2018.

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

April 6<sup>th</sup>, 2020



PAMELA E. GREEN, Court Reporter

CTS 787  
**RICHLAND COUNTY GENERAL SESSIONS COURT**  
**ADVICE OF RIGHTS FORM**

THE STATE v. D. Raze SOLICITOR Campbell  
 INDICTMENT #(s) 15-02923 DEFENSE ATTY. Pinnock

The Defendant declares that the Defendant wishes to enter a plea of **GUILTY** to the following charge(s): Voluntary manslaughter, and also certifies to the Court that the answers to the following are true:

1. The penalty(ies) for your charge(s) is/are: 2-30 yrs / felony
2. The maximum sentence you could get is: 30 yrs
3. Has anyone threatened you or put any pressure on you to get you to plead guilty? YES ☐ NO ☒  
 If so, who and what? \_\_\_\_\_
4. Has the State agreed to recommend negotiate a sentence to the Judge? YES ☐ NO ☐  
 (a) If YES, what is the entirety of the recommendation/negotiation? 30 yrs CTS 787  
 (b) If YES, has anyone promised you anything else to get you to plead guilty or assured you as to a particular sentence? YES ☒ NO ☐  
 (c) If NOT, has anyone promised you anything to get you to plead guilty? YES ☐ NO ☐
5. Are you under the influence of any drugs or alcohol today? YES ☐ NO ☒  
 If YES, explain: \_\_\_\_\_
6. Have you ever been evaluated for your mental health? YES ☒ NO ☐  
 If YES, explain: ADHD
7. If your charge(s) has/have NOT been presented to the Grand Jury, do you understand that you give up that right when you plead guilty? YES ☐ NO ☐ N/A ☒ Furthermore, has your lawyer explained how a grand jury operates? YES ☐ NO ☐
8. Do you understand that if you plead **NOT GUILTY**, you have the right to have the assistance of a lawyer at all stages of the proceedings, and that if you cannot afford to employ a lawyer, a lawyer will be appointed to represent you? YES ☒ NO ☐
9. Do you understand that when you plead **NOT GUILTY**, you will be presumed innocent until the State, who has the burden, has proven you guilty beyond a reasonable doubt and all jurors agree unanimously that you are guilty? YES ☒ NO ☐
10. Do you understand that if you plead **NOT GUILTY**, you have the right to see and hear all witnesses called to testify against you and to confront, cross-examine, and question them? YES ☒ NO ☐



**CERTIFIED TRUE COPY  
 OF ORIGINAL FILED,  
 Jeannette W. McBride  
 C.C.C.P.&G.S.  
 RICHLAND COUNTY  
 SOUTH CAROLINA**

11. Do you understand that if you plead **NOT GUILTY**, you have the right to use the subpoena power of the Court to require the attendance of any witnesses on your behalf, whether they want to come or not?  
YES ☒ NO ☐
12. Do you understand that if you plead **NOT GUILTY**, you have the right to take the witness stand and testify or not take the witness stand as you choose, and that you cannot be required to take the witness stand?  
YES ☒ NO ☐
13. Do you understand that if you plead **NOT GUILTY** and you do **NOT** take the witness stand, the finder of fact cannot take that as evidence against you? YES ☒ NO ☐
14. Do you understand that if you plead **GUILTY**, you are also giving up the right to present any defense(s)?  
YES ☒ NO ☐
15. Do you understand that if you plead **GUILTY**, you will be found guilty without a trial and you are giving up all rights mentioned in questions (7) through (14), as well as your constitutional right to remain silent?  
YES ☒ NO ☐
16. Do you further understand whether or not your charge(s) is/are **CLASSIFIED** as:
- ☐ a. Violent YES ☒ NO ☐
  - ☐ b. Non-violent YES ☐ NO ☒
  - ☐ c. Serious YES ☐ NO ☒
  - ☐ d. Most serious YES ☒ NO ☐
17. Has your lawyer advised you as to whether or not a plea to this charge is considered a **STRIKE** on your record? YES ☒ NO ☐ N/A ☐
18. Have you made any statements in which you admitted all or any part of the crime(s) to which you want to plead guilty? YES ☐ NO ☒ If YES, do you understand you are giving up the right to challenge the voluntariness of that statement? YES ☐ NO ☐

**OTHER RIGHTS, ISSUES, AND CIRCUMSTANCES (MAY OR MAY NOT APPLY):**

1. If you are currently on **PAROLE** or **PROBATION**, do you understand that this plea could result in a revocation? YES ☐ NO ☐ N/A ☐
2. If this is a plea under **NORTH CAROLINA V. ALFORD** or a plea of **NO CONTEST**, do you understand that it will have the same effect as a guilty plea, it will appear on your record as a conviction, and that all the aforementioned rights have still been waived? YES ☐ NO ☐ N/A ☐ Furthermore, if this is a **NORTH CAROLINA V. ALFORD** plea, do you agree that there is a substantial likelihood that you would be convicted at trial and that you are receiving a benefit in exchange for pleading guilty?  
YES ☐ NO ☐

CERTIFIED TRUE COPY  
OF ORIGINAL FILED,  
*Janette W. B. B. 2*  
C.C.C.P.&G.S.  
RICHLAND COUNTY  
SOUTH CAROLINA

3. Has your attorney explained whether or not pleading guilty to this charge could result in a **DRIVER'S LICENSE SUSPENSION**, subject to the authority and discretion of the South Carolina Department of Motor vehicles? YES \_\_\_\_\_ NO \_\_\_\_\_ N/A ☒
4. Has your attorney explained whether or not the **LIFE WITHOUT PAROLE** statute relates to your case and its effects regarding prior or future convictions? YES ☒ NO \_\_\_\_\_ N/A \_\_\_\_\_
5. Has your attorney explained whether or not this charge subjects you to the possibility of the **SEX OFFENDER REGISTRY**? YES \_\_\_\_\_ NO \_\_\_\_\_ N/A ☒
6. Has your attorney explained whether or not this charge subjects you to the possibility of being evaluated as a **SEXUALLY VIOLENT PREDATOR** and the result of such evaluation? YES \_\_\_\_\_ NO \_\_\_\_\_ N/A ☒
7. Has your attorney explained whether or not this charge would prevent you from being able to **OWN** or **CARRY** a **FIREARM**? YES ☒ NO \_\_\_\_\_ N/A \_\_\_\_\_
8. Has your attorney explained whether or not this charge subjects you to the possibility of being placed in a **DNA DATABASE**? YES ☒ NO \_\_\_\_\_ N/A \_\_\_\_\_
9. Has your attorney explained whether or not this charge is subject to an **ENHANCEMENT STATUTE** that may cause future convictions for a similar charge to be greater? YES \_\_\_\_\_ NO \_\_\_\_\_ N/A ☒
- SUCH AS:**
- a. **DRUG** convictions? YES \_\_\_\_\_ NO \_\_\_\_\_
- b. **PROPERTY OFFENSE** convictions? YES \_\_\_\_\_ NO \_\_\_\_\_
- c. **CRIMINAL DOMESTIC VIOLENCE** convictions? YES \_\_\_\_\_ NO \_\_\_\_\_
10. If your plea **MAY** result in a **PROBATIONARY SENTENCE**, has your lawyer properly counseled you as to the responsibilities involved in probation? YES \_\_\_\_\_ NO \_\_\_\_\_ N/A ☒
11. If your offense is **NON-SUSPENDABLE** and/or subject to the **COMMUNITY SUPERVISION** statute, has your lawyer advised as to what that entails? YES ☒ NO \_\_\_\_\_ N/A \_\_\_\_\_

### OVERVIEW:

1. Has your lawyer gone over all your rights and all circumstances of the charge(s) with you, including the nature/elements of your charge(s)? YES ☒ NO \_\_\_\_\_
2. Do you understand what you are doing and all the rights that you are giving up? YES ☒ NO \_\_\_\_\_
3. Are you pleading guilty freely and voluntarily? YES ☒ NO \_\_\_\_\_
4. Are you pleading guilty because you are guilty? YES ☒ NO \_\_\_\_\_

*hands of one, hands of all*

**CERTIFIED TRUE COPY**  
OF ORIGINAL FILED,  
*Jeannette Williams*  
C.C.C.P.&G.S.  
RICHLAND COUNTY  
SOUTH CAROLINA

5. Do you understand you have the ability to appeal this guilty plea within ten (10) days?

YES ☒ NO ☐ Do you further understand that in order to appeal a guilty plea, pursuant to South Carolina Appellate Court Rule 203(d)(1)(B)(iv), a detailed written explanation of the issue(s) sought to be appealed and the factual basis for such appeal must also be filed, in addition to how that issue was raised and ruled upon by the General Sessions Court? YES ☒ NO ☐ Additionally, do you understand that if the required written showing for the appeal is found to be insufficient, the notice of appeal is likely to be dismissed? YES ☒ NO ☐

6. Are you satisfied with your attorney? YES ☒ NO ☐ Do you further understand that you have the right to file a Post Conviction Relief (PCR) application within one (1) year of this plea regarding your attorney's representation? YES ☒ NO ☐

Demichael ROZOR

Defendant's Signature

Demichael RAZOR

Date:

2/27/17

Anastasia Walker

Attorney Signature

Anastasia Walker

CERTIFIED TRUE COPY  
OF ORIGINAL FILED  
Xena W. W. W. W. W.  
G.C.C.P. & C.S.  
RICHLAND COUNTY  
SOUTH CAROLINA

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

DeMichael Sheavon Razor (SCDC #371594),

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

Civil Action No. 2017CP4003776

ORDER OF DISMISSAL

JAN 21 2020  
C.C.P., G.S., & F.C.

2020 JAN 21 PM 3:12

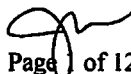
RICHLAND COUNTY  
FILED

This matter came before the Court upon Application for Post-Conviction Relief ("PCR") filed by Applicant DeMichael Razor ("Applicant") on June 20, 2017. Respondent filed its Return on May 14, 2018. An evidentiary hearing was conducted at the Richland County Judicial Center on December 3, 2018. Applicant was present along with his counsel, Jonathan D. Waller, Esquire; and the State of South Carolina was represented by Assistant Attorney General Lindsey A. McCallister, Esquire.

For the reasons set forth below, the Application for Post-Conviction Relief is DENIED, and this matter is DISMISSED WITH PREJUDICE.

#### FINDINGS OF FACT

Applicant is currently confined in the South Carolina Department of Corrections ("SCDC") pursuant to orders of commitment of the Richland County Clerk of Court. During the July 2015 term, the Richland County Grand Jury indicted Applicant for Murder (indictment 2015-GS-40-02923). Applicant was represented by Anastasia Walker, Esquire and Tracy Pinnock, Esquire. Assistant Solicitor Lamar Fyall, Esquire, prosecuted the case.



Page 1 of 12  
Order of Dismissal

Razor v. State, 2017CP4003776

On February 27, 2017, before the Honorable Paul M. Burch, Applicant pleaded to the lesser-included offense of Voluntary Manslaughter. Judge Burch sentenced Applicant to a negotiated sentence of thirty years' imprisonment. Applicant did not appeal his conviction or sentence.

On June 20, 2017, Applicant then filed the instant PCR Application, in which he alleges "ineffective assistance of counsel" and that he is being detained unlawfully for the following reasons:

- (a) Counsel was ineffective, failed to adequately investigate the case
- (b) Due process violation as indictment was invalid
- (c) Subject matter jurisdiction, court did not have jurisdiction to try the case

On September 7, 2018, Applicant amended his PCR Application to include the following allegations of ineffective assistance of counsel:

- (a) Counsel was ineffective, failed to properly investigate the facts and circumstances surrounding the allegations against Application, thus rendering Applicant's plea unknowingly and involuntarily entered into
- (b) Counsel was ineffective, failed to conduct adequate amount of meetings with Applicant to review discovery so that Applicant would know of the allegations against him and the potential sentences regarding those allegations thus rendering Applicant's plea unknowingly and involuntarily entered into
- (c) Counsel was ineffective, failed to interview and/or subpoena for trail witnesses in Applicant's defense, placing Applicant in a situation to accept a plea offer or proceed to trial with unprepared counsel, thus rendering Applicant's plea involuntarily entered into

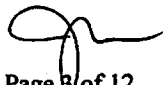
At the evidentiary hearing on December 3, 2018, Applicant withdrew his allegations regarding due process and subject matter jurisdiction. He also testified, as did Anastasia Walker, Esquire and Tracy Pinnock, Esquire, both of the Richland County Public Defender's Office. Additionally, this Court had before it a copy of the records of the Richland County Clerk of Court, the PCR Application, Respondent's Return, the plea transcript, the arrest warrant, and indictments.

## **I. Murder Charge**

On or about January 3, 2015, Applicant and four other individuals went to Tony's Lounge, where a confrontation occurred between one of these men (not Applicant) and another individual regarding a stolen marijuana plant. After the confrontation the group left the bar, and a co-defendant gave Applicant a pistol. Applicant attempted to shoot the individual with they were arguing with, but he missed.

The group then went to a private home near the bar, at which time Applicant expressed frustration with the fact that he missed the person he was trying to shoot. Applicant and other individuals returned to the bar, with Applicant wearing a mask over his face. Applicant asked a witness for a cigarette, and the witness could identify Applicant by voice, build, and mannerism. Applicant retreated to the wood line near the private home, and shots were fired from that direction. At that point, according to Applicant's co-defendants, Applicant got on one knee and attempted to shoot the individual again. Instead, he missed and shot the victim through the abdomen. The gentleman from whom Applicant had requested a cigarette returned fire until his clip was empty (approximately twenty shots). None of the co-defendants were harmed.

Law enforcement and emergency medical services became involved, and the co-defendants fled to Applicant's mother's house. According to several witnesses, Applicant demonstrated how he made the shot that ultimately killed the victim, stating that he shot like a police officer so there was no way he could have missed. Applicant's DNA was also found on a pair of sweatpants which matched the description of those thrown from the getaway vehicle. He was ultimately arrested and charged with Murder.



## II. Evidentiary Hearing Testimony

During the evidentiary hearing, Applicant testified that Anastasia Walker was appointed as his counsel. He stated that he met with Walker on several occasions, the first time being four to five months after his arrest. Applicant testified that Walker provided him with some discovery and told him she would receive additional discovery, but he did not see anything for several months. Applicant testified that he understood the State's theory of the case was to identify him as the shooter based on statements provided by his codefendants. He recalls that while they did discuss the conflicting statements given by his codefendants, they never discussed the theory of accomplice liability.

Applicant also testified that Tracy Pinnock was subsequently appointed to his case as well. He felt that Walker and Pinnock did not have a defense ready for trial, and stated that he "had words" with Pinnock. Applicant also testified that he moved to have Pinnock relieved as his counsel, but the court denied his request. Despite admitting that he spoke to counsel's private investigator about his case, Applicant disputes that his case was properly investigated. According to Applicant, he was unable to speak freely to the investigator because their meeting was not private or "secure." Nevertheless, Applicant testified he gave the investigator the name of potential witness Lavice Dove, but she was not subpoenaed for trial.

According to Applicant, he pled guilty on the day his trial was scheduled to begin because counsel was not prepared for trial, didn't have a defense for his case, and hadn't given him sufficient legal advice. He testified that if Walker and Pinnock had been properly prepared, he would have gone to trial. Instead, he believed that pleading guilty was the only way to maintain his innocence. Applicant also testified that counsel never explained to him that he would have to serve eighty-five percent of the sentence imposed.

Applicant admits that when he appeared before the Honorable Paul M. Burch ("plea judge"), he stated that he was satisfied with counsel, but he claims that he did so with great hesitation. He also admits telling the plea judge that he did not want to have a jury trial. While Applicant conceded that he signed the plea agreement in this case, he testified that counsel never explained the contents of the document to him.

Pinnock testified that she became involved in Applicant's case in February 2016 when the case was transferred from Walker to her. She met with Applicant on February 9 and March 7, 2016. During the latter meeting, she reviewed certain discovery documents with Applicant, but discovery was not complete, as she did not yet have forensic or ballistics reports. Pinnock eventually received all necessary discovery and reviewed it with Applicant over the course of approximately twenty-two meetings, which she documented in her case notes. She testified that she was able to maintain a reasonable relationship with Applicant even after he tried to terminate her representation. Pinnock also testified that Walker remained involved in Applicant's case even after Pinnock became his attorney of record.

According to Pinnock, she was able to develop some potential defenses for Applicant, the nature of which evolved over time, and they spoke about Applicant's desire to go to trial. She also engaged the services of an investigator, who went to the crime scene, took both aerial and ground photographs, and ultimately located Applicant's suggested witness, Dove. Pinnock interviewed Dove in Eastover, South Carolina, on January 11, 2017, and subpoenaed her for trial because Pinnock believed that some of her testimony could be helpful to Applicant.

Pinnock testified that throughout her representation, Applicant maintained that he was not the shooter and, at times, admitted to being present when the crime was committed (but sometimes denied being there). The State intended to argue that Applicant was the shooter but would argue,

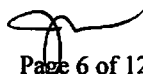
in the alternative, that Applicant was guilty under the theory of accomplice liability. Pinnock was certain that she, therefore, explained accomplice liability and the “hand of one, hand of all” theory to Applicant. According to Pinnock, the State made several plea offers to Applicant, all of which were rejected until after the jury venire was qualified (but before selection of a petit jury). At that time, she again spoke to Applicant, along with Walker, Cheslyne Brighthop (another assistant public defender), and Applicant’s mother and stepfather. After that discussion, Applicant decided to plead guilty to voluntary manslaughter.

Walker also testified, corroborating much of Pinnock’s testimony. She stated that she was present on the day of Applicant’s guilty plea and that she reviewed with Applicant the plea affidavit and “advice of rights” form. Walker testified that Applicant’s only hesitation in pleading guilty was because he didn’t want to admit being the shooter. Therefore, she also explained to him that he could instead plead guilty pursuant to his accomplice liability. Walker testified that after their discussion, Applicant decided to plead guilty knowingly and voluntarily.

### **III. Guilty Plea**

On February 27, 2017, Applicant, Walker, and Pinnock appeared before the “plea judge” on Applicant’s agreement to plead guilty to the lesser-included offense of Voluntary Manslaughter in exchange for a negotiated thirty-year sentence.

At the hearing, the State recited the facts as to Applicant’s involvement in the crime, and Applicant agreed with the facts as they were presented. The plea judge explained to Applicant the basic principles of a negotiated sentence and Applicant’s right to a jury trial. After informing Applicant of his constitutional rights, the plea judge accepted Applicant’s guilty plea and imposed the negotiated thirty-year sentence, with Applicant receiving credit for the 787 days already served during pre-trial detention.



CONCLUSIONS OF LAW

The Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. The Court has also had the opportunity to observe each witness who testified at the evidentiary hearing and to closely pass upon their credibility, weighing the testimony accordingly.

In a PCR action, “[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence.” *Frasier v. State*, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCF). Where a PCR Application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668 (1984); *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

First, the applicant must show that counsel’s performance “fell below an objective standard of reasonableness under prevailing professional norms.” *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989) (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Id.* (citing *Strickland*, 466 U.S. at 690). The applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625.

Second, counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Id.* at 117-18, 386 S.E.2d at 625; see *Strickland*, 466 U.S.

at 688, 692 (“the defendant must show that counsel’s representation fell below an objective standard of reasonableness [and] . . . any deficiencies in counsel’s performance must be prejudicial to the defense in order to constitute ineffective assistance under the Constitution.”); *see also Porter v. State*, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006) (“PCR applicant must prove: (1) that counsel failed to render reasonably effective assistance under prevailing professional norms; and (2) that the deficient performance prejudiced the applicant’s case.”).

“Where counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel.” *Watson v. State*, 370 S.C. 68, 72, 634 S.E.2d 642, 644 (2006) (citing *Stokes v. State*, 308 S.C. 546, 419 S.E.2d 778 (1992)). “Counsel’s performance is accorded a favorable presumption, and a reviewing court proceeds from the rebuttable presumption that counsel ‘rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.’” *Smith v. State*, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010) (quoting *Strickland*, 466 U.S. at 690). “Accordingly, when counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel.” *Id.* (citing *Caprood v. State*, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000)). “Courts must be wary of second-guessing counsel’s trial tactics; and where counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel.” *Whitehead v. State*, 308 S.C. 119, 417 S.E.2d 529 (1992) (citing *Goodson v. U.S.*, 564 F.2d 1071 (4th Cir. 1977)).

#### **I. Involuntary Guilty Plea**

Applicant argues that counsel failed to spend adequate time meeting with him in advance of trial. He also contends that counsel did not sufficiently review discovery with him or discuss potential sentences with him, rendering his guilty plea involuntary. The Court disagrees.

In order for the Court to find that a guilty plea is voluntarily and knowingly entered into, the record must establish that Applicant had a full understanding of the consequences of his plea and the charges against him. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Dover v. State*, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. *Harris v. Leake*, 282 S.C. 131, 318 S.E.2d 360 (1984). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, an applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. *Blackledge v. Allison*, 431 U.S. 63 (1977). 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. *Crawford v. U.S.*, 519 F.2d 347 (4th Cir. 1975).

The Court finds the testimony of Walker and Pinnock to be credible. Specifically, Pinnock testified that she made notes of at least twenty-two meetings she had with Applicant. During those meetings, they reviewed and discussed discovery as well as potential defenses. Pinnock testified that Applicant was involved in the development of his defense. In addition, both Pinnock and Walker testified that they met with Applicant on the day of his guilty plea to discuss his options. Walker talked to Applicant about his constitutional rights and completed paperwork with him. During the guilty plea, Applicant told the plea judge that he had discussed the charged with counsel, that he was satisfied with counsel's advice, and that they had answered all of his questions. The plea judge also informed Applicant that voluntary manslaughter is "classified as a violent most serious offense."

The credible evidence before the Court establishes that Applicant pled guilty with full knowledge of the consequences of that plea. Even if the Court were to accept Applicant's

contention that counsel failed to explain his constitutional rights, the allegations against him, or the potential sentence, those topics were explained by the plea judge and in the written plea paperwork. *See, e.g., Pittman v. State*, 337 S.C. 597, 599, 524 S.E.2d 623, 625 (1999). Therefore, this allegation is denied and dismissed with prejudice.

## **II. Counsel's Failure to Subpoena Witnesses and Investigate**

Applicant also contends that counsel was ineffective for failing to properly investigate his case, failing to interview potential witnesses, and being unprepared for trial. Applicant believes that this, too, rendered his guilty plea involuntary. The Court disagrees.

"[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." *Walker v. State*, 397 S.C. 226, 235, 723 S.E.2d 610, 615 (Ct. App. 2012), *rev'd on other grounds*, 407 S.C. 400, 756 S.E.2d 144 (2014). Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result. *Porter v. State*, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006), *abrogated on other grounds by Smalls v. State*, 422 S.C. 174, 810 S.E.2d 836 (2018). The South Carolina Supreme Court has repeatedly held that a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice. *See, e.g., Bannister v. State*, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998).

To establish counsel failed to adequately prepare for trial, Applicant must present evidence of what counsel could have discovered or what other defenses could have been pursued had counsel more fully prepared. *See Palacio v. State*, 333 S.C. 506, 513, 511 S.E.2d 62, 66 (1999) (finding trial counsel not ineffective for failing to timely request discovery because the contents of

the documents were not presented at the PCR hearing); *Moorehead*, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998) (holding trial counsel's failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result); *Davis v. State*, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997) (denying relief where applicant failed to present witnesses or specific testimony establishing applicant would have had a defense with additional time to prepare for trial); *Skeen v. State*, 325 S.C. 210, 217, 481 S.E.2d 129, 133 (1997) (finding applicant was not entitled to relief where no evidence was presented at the PCR hearing to show how additional preparation would have had any possible effect on the result at trial).

Again, the Court finds counsel's testimony to be credible. They testified that they collectively reviewed the State's evidence and theories of the case, potential defenses, and the plea negotiations with Applicant prior to the plea. In addition, Pinnock engaged the services of an investigator and met with Applicant's suggested witness. Both Walker and Pinnock stated that they were prepared for trial. In addition, Applicant has failed to demonstrate that he was prejudiced by any allegedly deficient conduct. Although Applicant alleges his attorneys did not adequately prepare for trial, Applicant presented no evidence of any meritorious defense which could have been presented. Therefore, this allegation is denied and dismissed with prejudice.

#### CONCLUSION

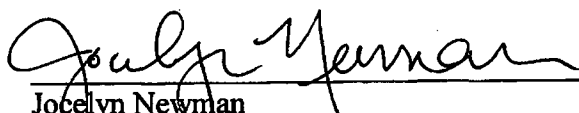
Applicant is hereby notified that he must file and serve any notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Further, 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 Rule 243, SCACR, for the appropriate procedures for appealing a judgment in a PCR action.

IT IS, THEREFORE, ORDERED that the Application for Post-Conviction relief is DENIED and DISMISSED with prejudice.

IT IS FURTHER ORDERED that Applicant DeMichael Sheavon Razor be REMANDED to the custody of the State of South Carolina.

AND IT IS SO ORDERED.

  
Jocelyn Newman  
Presiding Judge

January 16, 2020  
Columbia, South Carolina.

**WITNESSES**

(S) Cris Truluck  
 – Richland County Sheriff

**ARREST WARRANT NUMBER**

2015A4010200028

**ACTION OF GRAND JURY**

**TRUE BILL**

*Deann Gardner*  
 Foreperson of Grand Jury

Date: JUL 15 2015

**VERDICT**

Foreperson of Petit Jury  
 Date:

**DOCKET NO. 2015GS4002923**

**The State of South Carolina**

County of

Richland

**COURT OF GENERAL SESSIONS**

JULY TERM 2015

42

THE STATE  
 vs.

Demichael Sheavon Razor

Indictment for  
 MURDER / MURDER

SC Code: 16-03-0010  
 CDR Code: 0116

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

Defendant

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

Defendant

Witness:

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

CERTIFIED TRUE COPY  
 OF ORIGINAL FILED,  
*Jeanette W. McBride*  
 C.C.C.P.&G.S.  
 RICHLAND COUNTY  
 SOUTH CAROLINA

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

INDICTMENT

At a Court of General Sessions, convened on JULY 15, 2015, the  
Grand Jurors of Richland County present upon their oath:

**MURDER**

That Demichael Sheavon Razor did in Richland County, on or about  
January 3, 2015, kill the victim, Stewart Wilson, with malice aforethought,  
either express or implied, by means of a gunshot wound, and the victim did  
die as a proximate result thereof. All in violation of Section 16-03-0010, 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.



DAN JOHNSON, SOLICITOR