

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Appeal from Jasper County

D. Craig Brown, Circuit Court Judge

---

RECEIVED

MAR 27 2013

S.C. Supreme Court

ALFRED REDWINE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-212300

---

APPENDIX

---

LANELLE CANTEY DURANT  
Appellate Defender

ALAN WILSON  
Attorney General

South Carolina Commission on Indigent  
Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589

ASHLEIGH R WILSON  
Assistant Attorney General

P. O. Box 11549  
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

INDEX

INDEX.....i

GUILTY PLEA HEARING TRANSCRIPT (NOVEMBER 13, 2008) .....1

APPLICATION FOR POST-CONVICTION RELIEF .....17

RETURN .....26

POST-CONVICTION RELIEF HEARING TRANSCRIPT (APRIL 20, 2011) .....32

ORDER OF DISMISSAL .....76

STATE OF SOUTH CAROLINA ) COURT OF GENERAL SESSIONS  
COUNTY OF BEAUFORT )

State of South Carolina )  
 )  
 vs. ) TRANSCRIPT OF RECORD  
 ) (Guilty Pleas)  
 )  
 Alfred Redwine, ) 2007-GS-27-533, 687  
 )  
 Defendant. )

November 13, 2008  
Beaufort, South Carolina

BEFORE:

THE HONORABLE G. THOMAS COOPER, JR., JUDGE

APPEARANCES:

SEAN THORNTON, DEPUTY SOLICITOR  
Attorney for the State

DUDLEY RUFFALO, ATTORNEY AT LAW  
Attorney for Defendant Alfred Redwine

JENNY H. WILLIAMS  
Official Circuit Court Reporter  
(803) 576-1743

1                    Thursday, November 13, 2008

2                    **MR. THORNTON:** Your Honor, may it please the  
3 Court. Your Honor, before you on your far right,  
4 Your Honor, is Dudley Ruffalo. He is here. He  
5 represents Mr. Alfred Redwine. Mr. Redwine is  
6 charged in two indictments. These are both Jasper  
7 County cases, Your Honor. It's 2007-GS-27-533  
8 charging Mr. Redwine with the offense of murder,  
9 2007-GS-27-687 charging him with kidnapping, Your  
10 Honor. Again, Mr. Dudley Ruffalo represents him.

11                    Standing next to Mr. Redwine is Ms. Cathy  
12 Badgett, Your Honor. She represents Mr. Antwoine  
13 Perry in indictment 2007-GS-27-388. As I told you at  
14 the bar, Your Honor, the original charge was  
15 accessory after the fact to a felony. I have written  
16 in a count two of misprison of a felony.

17                    Mr. Perry has initialed the spot to waive  
18 presentment on count two to the Grand Jury. If the  
19 Court accepts the plea to count two, misprison of a  
20 felony, the State would nol pros count one, Your  
21 Honor, which is accessory. Again, Judge, both of  
22 these are Jasper County cases.

23                    If I can pass up the indictments, Judge, and  
24 sentencing sheets. And these both will be negotiated  
25 sentences, Your Honor, which I will put now on the

1 record at this time. As to Mr. Redwine, it is a  
2 guilty plea as indicted to both murder and  
3 kidnapping. Although they are pursuant to state law,  
4 Judge, it's my understanding they will be one  
5 sentence. And it is 30 years. And again that would  
6 be negotiated if the Court accepts the plea.

7 As to Mr. Perry, Your Honor, it would be a  
8 sentence of five years suspended to time served which  
9 is about a year and a half. But it would be time  
10 served, Your Honor, and then three years probation.

11 **THE COURT:** All right. Do me a favor. If  
12 you'll just switch positions --

13 **MR. RUFFALO:** Yes, sir.

14 **THE COURT:** -- because I go from one to the  
15 other. No. These two over there; you two over  
16 there.

17 **MR. RUFFALO:** I believe the judge said he would  
18 like these two over there.

19 **THE COURT:** Do I have to come down there and do  
20 it?

21 **MS. BADGETT:** No, sir.

22 **THE COURT:** Are you his client?

23 **MR. REDWINE:** Yeah.

24 **THE COURT:** Move over there.

25 **MR. RUFFALO:** Yes, sir. There we go.

1           **THE COURT:** That was hard. All right.

2           Mr. Ruffalo, you represent Alfred Redwine?

3           **MR. RUFFALO:** I do, sir.

4           **THE COURT:** Have you advised your client of the  
5 charges contained in these indictments and his right  
6 to trial by a jury?

7           **MR. RUFFALO:** I have, Your Honor.

8           **THE COURT:** How does your client indicate he  
9 wishes to plead?

10          **MR. RUFFALO:** He wishes to plead guilty.

11          **THE COURT:** To both charges?

12          **MR. RUFFALO:** Yes, sir.

13          **THE COURT:** Mr. Redwine, you are charged in two  
14 indictments, sir, first with murder, indictment  
15 number 2007-GS-27-00533. You're also charged in a  
16 second count with -- or a second indictment -- with  
17 kidnapping. That's indictment 2007-GS-27-00687. Do  
18 you understand that?

19          **MR. REDWINE:** Yes, sir.

20          **THE COURT:** All right. Do you understand that  
21 the penalty for murder is a sentence from 30 years in  
22 jail to life in jail? Do you understand that?

23          **MR. REDWINE:** Yes, sir.

24          **THE COURT:** You understand that the penalty for  
25 kidnapping is also a maximum of 30 years. Do you

1 understand that?

2 **MR. REDWINE:** Yes, sir.

3 **THE COURT:** All right. Understanding the  
4 charges you face and the punishment you could  
5 receive, how do you wish to plead? Guilty or not  
6 guilty?

7 **MR. REDWINE:** Guilty.

8 **THE COURT:** Both charges?

9 **MR. REDWINE:** Yes, sir.

10 **THE COURT:** All right. You understand that you  
11 and your attorney and the State's attorney have  
12 entered into what's known as a negotiated sentence;  
13 in other words, if I agree to accept your plea that I  
14 would sentence you to no more than 30 years on both  
15 charges.

16 **MR. REDWINE:** Yes, sir.

17 **THE COURT:** You understand that?

18 **MR. REDWINE:** (Nods head affirmatively).

19 **THE COURT:** Do you understand that?

20 **MR. REDWINE:** Yes, sir.

21 **THE COURT:** Okay. And you're still pleading  
22 guilty to both charges. Is that correct?

23 **MR. REDWINE:** Yes, sir.

24 **THE COURT:** All right. You understand by  
25 pleading guilty you're giving up your right to remain

1           silent?

2           **MR. REDWINE:** Yes, sir.

3           **THE COURT:** You understand by pleading guilty  
4           you're giving up your right to a trial by a jury?

5           **MR. REDWINE:** Yes, sir.

6           **THE COURT:** If you requested or demanded a trial  
7           by a jury, the State would give you a trial. Do you  
8           understand that?

9           **MR. REDWINE:** Yes, sir.

10          **THE COURT:** At trial you'd have the right to  
11          confront and cross examine all witnesses against you.  
12          You would have the right to present any witnesses  
13          and/or evidence in your own defense. You would have  
14          a right to testify in your own defense if you wished  
15          to do so. No one could make you testify at your own  
16          trial.

17                 If you decide to go to trial and not testify,  
18          the judge would tell the jury they could not hold  
19          your failure to testify against you. In fact, the  
20          jury could not even consider your failure testify in  
21          their deliberations on your guilt or innocence.

22                 You would be presumed innocent throughout your  
23          trial. The State would have to prove you guilty  
24          beyond a reasonable doubt to a jury of 12 people and  
25          all 12 people would have to unanimously agree that

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

you were guilty in order for you to be convicted.  
Even if you were convicted, you'd still have the  
right to appeal that conviction. Do you understand  
your rights with regard to a trial by a jury?

**MR. REDWINE:** Yes, sir.

**THE COURT:** Understanding those rights, do you  
still want to plead guilty or do you want me to set  
your case for trial?

**MR. REDWINE:** I want to plead guilty.

**THE COURT:** All right. Has anyone promised  
you -- other than the fact that the State has entered  
into this negotiated plea, has anyone promised you  
anything, held out any hope of reward or threatened  
you in any manner to make you plead guilty?

**MR. REDWINE:** No, sir.

**THE COURT:** Are you satisfied with the manner in  
which your attorney has advised and represented you  
in this case?

**MR. REDWINE:** Yes, sir.

**THE COURT:** Have you and your attorney fully  
discussed these charges against you?

**MR. REDWINE:** Yes, sir.

**THE COURT:** Has he done everything you have  
asked her to do in preparation for this plea?

**MR. REDWINE:** Yes, sir.

1           **THE COURT:** Did he share with you all the  
2 evidence that the State has available to present at  
3 trial to prove that you're guilty?

4           **MR. REDWINE:** Yes, sir.

5           **THE COURT:** In other words, that's your  
6 discovery file. Has he shared that with you?

7           **MR. REDWINE:** Yes, sir.

8           **THE COURT:** All right. You're satisfied with  
9 his advice?

10          **MR. REDWINE:** Yes, sir.

11          **THE COURT:** Are you under the influence of any  
12 alcoholic beverages, drugs or prescription  
13 medications at this time?

14          **MR. REDWINE:** No, sir.

15          **THE COURT:** Are you aware of any mental  
16 condition that would keep you from understanding what  
17 you're doing here today?

18          **MR. REDWINE:** No, sir.

19          **THE COURT:** You're pleading guilty today of your  
20 own free will and accord?

21          **MR. REDWINE:** Yes, sir.

22          **THE COURT:** All right, Solicitor. If you'll  
23 give me a factual basis for the plea.

24          **MR. THORNTON:** Yes, sir, Your Honor. Your  
25 Honor, this offense occurred April the 17th of 2007.

1 The victim in this case, Your Honor, is 29-year-old  
2 Demetria Eady. Ms. Eady was last seen about noontime  
3 on April the 17th, Your Honor, at the Star Point gas  
4 station which is in Hardeeville located in Jasper  
5 County. Your Honor, she was seen last in the company  
6 of Mr. Redwine. They arrived together in a gray  
7 Oldsmobile.

8 Upon leaving the store, there was a witness who  
9 saw them leave together. It appeared that at some  
10 point down the road there were other witnesses,  
11 Judge, that saw her try to attempt to get out of the  
12 car. Again, the last person that she was seen with  
13 was Mr. Redwine. Her body was discovered, Your  
14 Honor, the next day in Jasper County at about 7 a.m.  
15 on April the 18th of 2007.

16 There was DNA obtained belonging to the  
17 defendant on a t-shirt that was tied around her  
18 ankles, Your Honor, and other DNA evidence linking  
19 her to a vehicle known to be driven by Mr. Redwine.

20 But again, Your Honor, it was that she was  
21 kidnapped from the location of the Star Gas station  
22 in Hardeeville in Jasper County, and again her body  
23 was also discovered, Your Honor, in Jasper County the  
24 next day on April the 17th with a t-shirt again with  
25 DNA on it belonging to the defendant tied around her

1 ankles, Your Honor.

2 **THE COURT:** What was the cause of death?

3 **MR. THORNTON:** Your Honor, I believe it was  
4 blunt force trauma and a gun shot wound. I'm sorry,  
5 Judge. It was a gunshot wound to the temple.

6 **THE COURT:** All right. Mr. Redwine, is that  
7 what happened?

8 (Pause - conferring)

9 **MR. REDWINE:** Yes.

10 **THE COURT:** The facts as stated by the  
11 solicitor?

12 **MR. REDWINE:** Yes.

13 **THE COURT:** You are guilty of that?

14 **MR. REDWINE:** Yes, sir.

15 **THE COURT:** All right. I find the decision of  
16 the defendant, Alfred Redwine, to plead guilty to be  
17 freely, voluntarily and intelligently made. He's had  
18 the representation of a competent attorney in the  
19 person of Mr. Redwine -- I mean Mr. Ruffalo; excuse  
20 me -- with whom he says he is satisfied. I will  
21 accept his plea.

22 Mr. Redwine, if you disagree with the sentence I  
23 give you or the procedure we just completed, you have  
24 ten days from today's date within which to file  
25 notice of intent to appeal. Do you understand?

1           **MR. REDWINE:** Yes, sir.

2           **THE COURT:** Mr. Ruffalo.

3           **MR. RUFFALO:** Yes, sir. Just briefly. Alfred  
4 is 23 years of age. His father died when he was  
5 young. He has grown up in this area all of his life.  
6 I've spent a lot of time with Alfred. I agree with  
7 his decision. We spent some time together. I think  
8 this is a resolution to a very sad and tragic affair.  
9 It is acceptable to all. I would ask that you give  
10 him credit for time served. He has been in about a  
11 year and a half. I would ask --

12           **THE COURT:** Do you have a date, a date when he  
13 was --

14           **MR. REDWINE:** June 15th.

15           **MR. RUFFALO:** June 15th, 2007, sir.

16           **MR. THORNTON:** The State would concur, Your  
17 Honor.

18           **MR. RUFFALO:** I would ask that may I pass that  
19 up to you and make that part of the record? That is  
20 Alfred's signed statement in support of his guilty  
21 plea. I often make that part of the record.

22           **THE COURT:** That's fine. Mr. Redwine, is this  
23 your signature on this document?

24           **MR. REDWINE:** Yes, sir.

25           **THE COURT:** All right. You've read this

1 thoroughly.

2 **MR. REDWINE:** Mm-hmm (affirmative).

3 **THE COURT:** Or your lawyer has read it to you?

4 **MR. REDWINE:** Yes, sir.

5 **THE COURT:** You've discussed with him?

6 **MR. REDWINE:** (Nods head affirmatively).

7 **THE COURT:** All right.

8 **MR. RUFFALO:** Briefly, Your Honor, I spent a lot  
9 of time with Alfred. Alfred is not a soulless  
10 individual. As is the case with people in his  
11 position, very often when you reach behind those  
12 eyes, there is nothing there to grab. There is  
13 something there. He is not empty. There is some  
14 humanity back there. I have seen it. I have seen  
15 glimpses of it. It may take 30 years for it to  
16 appear but I believe it will appear. And that's all  
17 I have to say. Thank you, sir.

18 **MR. THORNTON:** At the appropriate time, Judge,  
19 I've got a statement that the family has asked me to  
20 read.

21 **THE COURT:** All right. Let me hear from -- Mr.  
22 Redwine, do you have anything you want to tell me?

23 **MR. REDWINE:** No, sir.

24 **THE COURT:** All right. All right, Solicitor.

25 **MR. THORNTON:** Thank you, Judge. Your Honor,

1           this is on behalf of the entire family, specifically  
2           Ms. Patricia Eady Green who is the mother of Demetria  
3           Eady, the victim in this case.

4                     "Dear Sir or Madam:

5                     I am still very upset at the loss of my only  
6           daughter, Demetria Eady. I do not understand the  
7           reason why he felt the right to kill my daughter,  
8           take off her clothes and leave her in the woods like  
9           she was an animal. That is completely demoralizing.

10                    "I do not understand the reason why he felt the  
11           right to kill the mother of two children, seven and  
12           nine years old, who are continuously asking questions  
13           about their mother and what happened. Each day they  
14           shed tears and miss their mother.

15                    "How do I explain to them that their mother was  
16           brutally murdered and left in the woods? How do I  
17           explain to them that there are things that they will  
18           never be able to do with their mother?

19                    "My daughter and I had a very close bond. Not  
20           only was she my first borne; was my only daughter. A  
21           guilty plea and receiving 30 years of imprisonment  
22           would never replace the friendship and bond and never  
23           erase the pain and frustration I continue to feel  
24           each day.

25                    "I know my daughter fought for her life. She

1 was a strong black woman. There were people in the  
2 community that could verify that she would not have  
3 given up easily. It is my belief that shooting her  
4 was the only way he could control her.

5 "I don't think that it is fair that Mr. Redwine  
6 is able to plead guilty to the murder of my daughter  
7 and receive 30 years. He will still have his life  
8 even after 30 years. My daughter's life will never  
9 be replaced.

10 "When my grandchildren are older 30 years from  
11 now, they will walk around in the same community and  
12 know this man, the murderer of their mother. How do  
13 you explain that? This is America, the land of the  
14 free; but how are when a person can take an incident  
15 person's life and continue to live on?

16 Patricia Eady Green, mother."

17 Your Honor, if I might, I will step to the  
18 family, make sure I have covered everything they wish  
19 me to.

20 (Pause)

21 **MR. THORNTON:** The mother of the victim in this  
22 case, Judge, indicates I have read this statement  
23 correctly and that is all that she has with regard to  
24 Mr. Redwine at this time.

25 **THE COURT:** Anything further? Excuse me.

1 Anything further from the State?

2 **MR. THORNTON:** Nothing from the State, Your  
3 Honor. He has one common law robbery conviction from  
4 2001. He has one possession conviction of possession  
5 of 28 grams or less of marijuana from 2002 and one  
6 driving conviction, Judge, that I see. And that's it  
7 on his record.

8 **THE COURT:** Anything further from the defense?

9 **MR. RUFFALO:** Nothing further, sir.

10 **THE COURT:** All right, Mr. Redwine. The  
11 sentence of the Court on your murder charge that is  
12 you be committed to the State Department of  
13 Corrections for a period of 30 years. I'll give you  
14 credit for time served from June 15th, 2007. On your  
15 kidnapping charge, that sentence is to run concurrent  
16 with your murder charge. Good luck to you, sir.

17 **MR. RUFFALO:** Thank you, Your Honor.

18 (Whereupon, the proceedings are concluded)

19

20

21

22

23

24

25



FORM 5

STATE OF SOUTH CAROLINA )  
 County of Jasper )  
~~Jasper~~ )  
 x Alfred Redwine )  
 Full name and prison number (if any) of Applicant )  
 v. )  
 State of South Carolina )

2009-CP-27-574  
 IN THE COURT OF COMMON PLEAS

BARBARET BOSTICK  
 CLERK OF COURT  
 JASPER COUNTY SOUTH CAROLINA

2009 AUG 31 AM 9:55

FILED

APPLICATION FOR  
 POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention JASPER COUNTY
2. Name and location of Court which imposed sentence Beaufort County Court house
3. Name(s) of co-defendant(s) (if any) Annie Frazier, Ashley Williams, Samelya Aiken, Cierra Redwine, Chandra Redwine, Antoinette Perry
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) (YES) Warrent #'s J-390192; J-365608
  - (b) IN, VOLUNTARY PLEAD

IN, VOLUNTARY PLEAD

RULE (59) (E) RULE 60 B

- (c) \_\_\_\_\_
- 5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) \_\_\_\_\_
  - (b) \_\_\_\_\_
  - (c) \_\_\_\_\_

- 6. Check whether a finding of guilty was made:
  - (a) after a plea of guilty YES
  - (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. N/A
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (c) the date of each such result:
    - i. \_\_\_\_\_
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (d) if known, citations of any written opinion or orders entered pursuant to such results:
    - i. N/A
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_

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

(c) N/A

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) \_\_\_\_\_

(c) \_\_\_\_\_

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

(a) INEFFECTIVE ASSISTANCE OF COUNSEL

(b) STRICKLAND V. WASHINGTON 466, U.S. 668

(c) (1984) = PLEAD GUILTY

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

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

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

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO N/A

(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. KIDNAPP AND MURDER

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

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

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. N/A

(c) the disposition thereof:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

N/A

(d) the date of each such disposition:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

NS

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

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

N/A

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

NO

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

(a) which grounds have been presented:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

N/A

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

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

N/A

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) NO TO ANSWER NO
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

- (a) your arraignment and plea? \_\_\_\_\_
- (b) your trial, if any? NO
- (c) your sentencing? 30 YEARS
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO  
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. NA
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
- (b) the proceedings at which each such attorney represented you:
  - i. Dudley Bradstreet Buffalo  
Po. Box 7911
  - ii. 2 Corpus Christie Place, Site 204  
Hilton Head S.C 29928
  - iii. t

Fitz 370 4th Cir 1977 Strickland v. Washington  
466 U.S. 668 104 S.Ct. 2052 1989

Butler v. State 286 S.C. 441

334 S.E.2d 873 1985, Hill v. Lockhart 479 U.S. 54, 106

S.Ct. 366 (1985)

---

IN STRICKLAND v. WASHINGTON SUPRA THE  
UNITED STATES SUPREME COURT HELD THAT  
A CONVICTED DEFENDANT'S CLAIM THAT  
COUNSEL(S) ASSISTANCE WAS SO DEFECTIVE  
AS TO REQUIRE A REVERSAL

AN EVIDENTIARY HEARING BE HELD IN  
ORDER TO FULLY RESOLVE THIS ISSUE  
SHARPEN v. STATE 279-S.C. 264, 303  
S.E.2d. 247) 1983

REQUEST THAT A HEARING BE HELD.

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

THAT THE PCR JUDGE OVER TURN THIS CASE

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

IM NOT  
NO. N/A

STATE OF SOUTH CAROLINA )  
County of JOCPER )

VERIFICATION

I, Alfred Redwine, 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.

x Alfred Redwine 291230

SWORN to and subscribed before me this 28 day of August, 2007.

[Signature] (L.S.)  
Notary Public

My Commission Expires: 5/1/2018

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

I, x Alfred Redwine, 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.

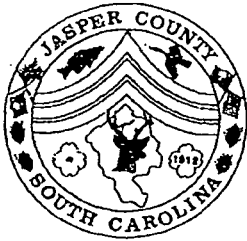
x Alfred Redwine  
Applicant

SWORN or affirmed to and subscribed before me this

28 day of August, 2009.

Dorothy B. ...  
Notary Public

My Commission Expires: 5/1/2018



Margaret Bostick  
Clerk

# Jasper County Clerk of Court

Post Office Box 248 • Ridgeland, South Carolina 29936

Phone: (843) 726-7710 • Fax: (843) 726-7782

September 1, 2009

## CERTIFICATE OF TRANSMITTAL

**TO: OFFICE OF THE ATTORNEY GENERAL**  
**FROM: JASPER COUNTY CLERK OF COURT'S OFFICE**

WE HAVE ENCLOSED A COPY OF THE PAPERWORK WHICH WAS SUBMITTED TO US IN THE BELOW LISTED CASE.

### APPLICATION FOR POST-CONVICTION RELIEF

CASE NO.: 2009-CP-27-574

Alfred Redwine (#291230) vs. State of South Carolina

RECEIPT OF THE ABOVE FILE IS HEREBY ACKNOWLEDGED THIS THE  
8 DAY OF September, 2009.

BY: Matt Friedman (AAG)  
(NAME AND TITLE)

**PLEASE RETURN THE SIGNED COPY TO THE JASPER COUNTY CLERK OF COURT AT THE ABOVE ADDRESS**

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF JASPER	)	
	)	
Alfred Redwine, #291230,	)	2009-CP-27-574
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

The Respondent, making its Return to the application for post-conviction relief (PCR) filed August 31, 2009, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Jasper County Clerk of Court. The Applicant was indicted at the December 2007 term of the Jasper County Grand Jury for murder (2007-GS-27-533) and kidnapping (2007-GS-27-687). Dudley Ruffalo, Esquire, represented the Applicant. On November 13, 2008, the Applicant pled guilty as indicted. Pursuant to a negotiated plea agreement, the Honorable G. Thomas Cooper, Jr. sentenced him to confinement for thirty (30) years. The Applicant did not appeal his conviction or sentence.

Attached herewith and incorporated herein are the records of the Jasper County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript.

## II.

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

1. Ineffective assistance of counsel.
2. Involuntary guilty plea.

## III.

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

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a

reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

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

#### IV.

The Applicant alleges that his guilty plea was not voluntarily entered. The State submits that this allegation has no merit. To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

The State submits the transcript reflects that the pleas were knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Boykin, *supra*; Dover, *supra*. Further, because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977). Therefore, statements made during a guilty plea should be considered

conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 317 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976). The State submits the Applicant should not be allowed to depart from the truth of the statements he made during his guilty plea hearing.

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993). Given the Applicant's burden of proof and the analysis to be applied to this claim, the Respondent submits that the Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it should therefore, be treated as such.

V.

The Respondent denies each allegation that is not expressly admitted, qualified, or explained.

VI.

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

Respectfully submitted,

HENRY DARGAN McMASTER  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Assistant Deputy Attorney General

MATTHEW J. FRIEDMAN  
Assistant Attorney General

By: *Matt J. P.*  
ATTORNEYS FOR RESPONDENT

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

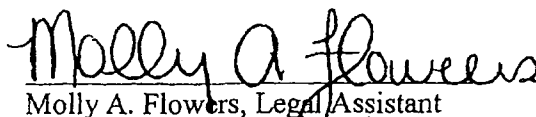
1/25, 2010.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF JASPER	)	
	)	2009-CP-27-574
	)	
ALFRED REDWINE, 291230,	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
_____		

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

**Diane P. DeWitt, Esquire**  
**P.O. Box 1402**  
**Beaufort, SC 29901**

DATED this 25<sup>th</sup> day of January, 2010.

  
Molly A. Flowers, Legal Assistant  
For Respondent

STATE OF SOUTH CAROLINA )  
 ) COURT OF COMMON PLEAS  
COUNTY OF BEAUFORT ) 09-CP-27-00574

ALFRED CLEVELAND REDWINE, JR., )

PLAINTIFF, )

vs. )

TRANSCRIPT OF RECORD

(ORIGINAL)

THE STATE OF SOUTH CAROLINA, )

DEFENDANT. )

APRIL 20, 2011  
BEAUFORT , SOUTH CAROLINA

B E F O R E:

THE HONORABLE D. CRAIG BROWN, JUDGE.

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

DIANE PIAZZA DeWITT, ESQ.,  
Attorney for the Plaintiff.

MATTHEW J. FRIEDMAN, ESQ.,  
Attorney for The State.

VIVIAN H. CROSS  
OFFICIAL COURT REPORTER

APRIL 20, 2011  
(ALFRED CLEVELAND REDWINE, JR. V. STATE OF SOUTH CAROLINA)  
(PCR HEARING)  
(09-CP-27-00574)

COLLOQUY	<u>PAGE</u> 3
 <u>ALFRED REDWINE:</u>	
DIRECT EXAMINATION BY MS. DeWITT	8
CROSS-EXAMINATION BY MR. FRIEDMAN	14
 <u>DUDLEY RUFFALO:</u>	
DIRECT EXAMINATION BY MR. FRIEDMAN	17
CROSS-EXAMINATION BY MS. DeWITT	25
 CERTIFICATE OF REPORTER	 44

E X H I B I T S

IDENTIFICATION

ENTERED

\*\*\*\*\*NO EXHIBITS OFFERED\*\*\*\*\*

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

(CASE NO.: 09-CP-27-00574)

(APRIL 20, 2011 - 9:50 A.M.)

1  
2  
3  
4 THE COURT: All right, Mr. Friedman, call your next  
5 case.

6 MR. FRIEDMAN: Thank you, Your Honor; the next case is  
7 Alfred Redwine.

8 THE COURT: All right; Mr. Redwine, if you'd come around  
9 please?

10 (WHEREUPON, MR. REDWINE CAME FORWARD.)

11 THE COURT: And you each have a seat at your table.  
12 Who -- Mr. Ruffalo, are you involved in this case?

13 MR. RUFFALO: Yes, sir, I am.

14 THE COURT: All right, if you'd move over to that side?  
15 I know you're probably accustom to sitting over there---

16 MR. RUFFALO: Oh, I'm so sorry.

17 THE COURT: ---but I want you -- well actually, you --  
18 you should be accustom to sitting at that table, should you  
19 not?

20 MR. RUFFALO: Yes, sir.

21 MS. DEWITT: And -- and, Your Honor, I do have a Motion  
22 to Continue.

23 THE COURT: All right. But I'm gonna, um, ask that you  
24 stay over there Mr. Ruffalo. Just---

25 MR. RUFFALO: I'm gonna grab all this---

1 THE COURT: ---okay.

2 MR. RUFFALO: ---stuff out of the way and I apologize,  
3 sir.

4 THE COURT: That's okay.

5 (WHEREUPON, MR. RUFFALO RELOCATED.)

6 THE COURT: (After pause) Bear with me just a minute,  
7 Ms. DeWitt.

8 MS. DEWITT: Okay.

9 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
10 CONFERENCE, OFF THE RECORD.)

11 (WHEREUPON, COURT RESUMED.)

12 THE COURT: All right, I'll be happy to hear from you,  
13 Ms. DeWitt.

14 MS. DEWITT: Um -- Your Honor, Mr. Redwine, uh, has  
15 requested that I -- I make a Motion to Continue and  
16 reschedule the hearing, um, for several reasons.

17 Uh -- Mr. Redwine has, uh -- had wanted a transcript of  
18 his Schmerber hearing in his case.

19 THE COURT: All right.

20 MS. DEWITT: And, he has been convicted of -- or, plead  
21 guilty to murder and/or kidnapping and is serving a thirty-  
22 year sentence.

23 Uh -- he tells me his, uh, trial attorney requested that  
24 transcript. Uh -- Mr. Ruffalo was not present; he had not  
25 yet been appointed at that time.

1           Uh -- anyway, that transcript was requested and the  
2 Court Reporter, uh -- and because Mr. Redwine himself had to  
3 pay for it, she sent the transcript directly to him. Um --  
4 and, of course, at this point he wasn't allowed to bring it.  
5 I have not seen it, but I did talk to the Court Reporter  
6 yesterday. Um -- after providing that transcript, which  
7 Mr. Redwine believes is very important, uh, to this P-C-R,  
8 uh, he did write her a letter and asked her to recheck her  
9 tapes, that it -- he thought it was not correct.

10           I talked to Ms. Green on the telephone, and she said  
11 that, um, there were some corrections she needed to make to  
12 the transcript, uh, but she is tied up in a trial and she has  
13 not been able to do them.

14           Uh -- Mr. Redwine wants me to review that request -- uh,  
15 corrected transcript, um, and then if necessary compare it to  
16 the Court Reporter's tape, which is -- which she will allow  
17 me to do. Uh -- (after pause) of course -- and I -- without  
18 reviewing it, I can't, uh, tell you, but my client was  
19 physically present at that hearing and believes that it's  
20 very relevant and important to his P-C-R application.

21           In addition, uh, although I met with Mr. Redwine for a  
22 substantial period of time, uh, when I met with him, all I  
23 had at that time was the transcript and some other documents,  
24 uh, from his Court file. Uh -- due to miscommunications  
25 between me and Mr. Ruffalo as trial counsel, I thought Mr.

1 Ruffalo had sent my client a copy of all the police reports  
2 and the, uh, State's file against him. Uh -- Mr. Ruffalo did  
3 not do that; my client does want to review that information  
4 with me prior to proceeding with the P-C-R hearing, Your  
5 Honor.

6 And -- and -- since he only gets one bite at the apple,  
7 I would ask Your Honor that you grant the continuance.

8 And also, of course, uh, Mr. Redwine's serving a lengthy  
9 sentence; he's certainly not going anywhere.

10 THE COURT: All right. Mr. Friedman?

11 MR. FRIEDMAN: Your Honor, The State would oppose the  
12 Motion. Um -- his two allegations are ineffective  
13 assistance of counsel and an involuntary guilty plea. Uh --  
14 it was a guilty plea to murder and kidnapping.

15 Uh -- our position would be that the Schmerber hearing  
16 is not relevant to those two allegations. The Schmerber  
17 hearing also took place before Mr. Ruffalo represented him.

18 Um -- and like I said, he ultimately plead guilty so  
19 we're -- we're suggesting that's not relevant to the -- to  
20 this P-C-R.

21 MS. DEWITT: And of course, Your Honor, that -- that may  
22 be why it's very relevant, because his trial counsel was not  
23 present. Witnesses testified at that hearing. Uh --  
24 Mr. Red- -- Redwine believes, uh, differently than -- than  
25 the report and the information that his trial lawyer had.



1 ALFRED REDWINE, DIRECT EXAMINATION BY MS. DeWITT:

2 Q Mr. Redwine, if you would, state your full name please.

3 A Ma'am?

4 Q State your name please.

5 A Alfred Redwine.

6 Q And where are you incarcerated?

7 A Broad River Correctional Institution.

8 Q All right. And, uh, did you enter a guilty plea to two  
9 charges?

10 A Yes, ma'am.

11 Q And what were those charges?

12 A Murder and kidnapping.

13 Q And what was your sentence?

14 A Thirty years.

15 Q Um -- who was your attorney?

16 A Dudley Bradstreet Ruffalo.

17 Q And, uh, if you would, uh, what was the evidence against  
18 you in the case?

19 A Um -- it was supposed to be D-N-A evidence. Um --  
20 during the course of my, um, being incarcerated, I was trying  
21 to get Mr. Ruffalo to get the, um, the transcripts from the  
22 Schmerber hearing that disputes what's (sic) the paperwork is  
23 saying, but he never got it.

24 I finally got in touch with the Court Reporter October  
25 of last year and I was able to obtain it, but I was never

1 able to go over it with you.

2 Q Now, um, did Mr. Ruffalo represent you at that hearing?

3 A No, ma'am, Carter Fleming did.

4 Q Was Mr. Fleming just a lawyer appointed in the courtroom  
5 that day?

6 A Um -- because the lawyer who was supposed to be  
7 representing me was -- was out of town so the judge just gave  
8 me someone so that I could have a lawyer for the hearing.

9 Q Did you have an opportunity to talk to him prior to that  
10 hearing?

11 A No, ma'am.

12 Q And, uh, at that hearing, uh, what was the evidence  
13 against you?

14 A Um -- it was supposed to been some D-N-A evidence.

15 Q Did, uh, one or two police officers testify?

16 A Um -- a homicide detective, Donald Hipp, testified and  
17 SLED agent Brian Bysholds (phonetic) testified that my D-N-A  
18 was tested against D-N-A from the crime scene and it was not  
19 a match.

20 Q All right; and do you understand the purpose of that  
21 Schmerber hearing was for The State to present probable cause  
22 to obtain a new D-N-A sample for testing purposes?

23 A Yes.

24 Q Okay; and in fact, did Judge Buckner grant that Motion?

25 A Yes; Judge Buckner said that if my D- -- well, at the

1 beginning of the hearing he said if my D-N-A was a match then  
2 he would-a ordered me to give D-N-A. If it was not a match,  
3 then they could not get D-N-A.

4 Q Now, uh, at what point was Mr. Ruffalo appointed to be  
5 your lawyer?

6 A Um -- some part of 2007; the later part of 2007.

7 Q And, uh, did you meet with Mr. Ruffalo?

8 A Um -- I've met with him sometime, I believe, in March --  
9 February or March of 2008.

10 Q Uh -- based on your conversations with Mr. Ruffalo, uh,  
11 what was The State's evidence against you?

12 A Um -- just some conflicting statements and some D-N-A  
13 from the crime scene.

14 Q Were you, uh -- was there any wit- -- eyewitnesses?

15 A No, ma'am; to what?

16 Q To the crime.

17 A No.

18 Q To your knowledge, were you ever identified?

19 A I was never picked out of a photo lineup. If you look  
20 at my -- my Rule 5, I'm not the suspect; my brother is. I  
21 was charged, but I'm not the suspect.

22 Q Um -- were you questioned about the crime?

23 A Um -- yes.

24 Q Um -- is it your -- you made no admissions or  
25 confessions in the case, did you?

- 1 A No, I never made no admissions or confessions.
- 2 Q Based on your conversations with Mr. Ruffalo, what  
3 evidence would The State have introduced at trial against  
4 you?
- 5 A The D-N-A evidence that I was trying to get him to get  
6 the transcripts (sic) to that would dispute what was being  
7 said.
- 8 Q Uh -- to your knowledge, was there ever a second  
9 analysis done by SLED?
- 10 A There were three analyses done. Um -- one -- I believe  
11 one was done in April; it was not a match.  
12 One was done in May; it was not a match.  
13 Judge Buckner ordered me to give my D-N-A August 9<sup>th</sup> of  
14 2007. My D-N-A was tested again October 22<sup>nd</sup> of 2007. That's  
15 when the report says it was a match.
- 16 Q Okay; so there was a fourth report?
- 17 A There was three -- it was three reports done.
- 18 Q Okay. Did Mr. Ruffalo, uh, go over all of this  
19 information with you?
- 20 A No.
- 21 Q Was anybody else charged, uh, or indicted in relation to  
22 the crime?
- 23 A Um -- it was some people who were charged with accessory  
24 before and after the fact. Five other family members.
- 25 Q Who were they?

1 A Um -- my mother; um, my kids' mothers; my brother; and,  
2 two of my sisters.

3 Q And what were they indicted for?

4 A Accessory before and after -- I mean, accessory after  
5 the fact to murder and kidnapping.

6 Q Uh -- Mr. Redwine, why did you enter a guilty plea?

7 A Because I was, um -- I was showing my lawyer things --  
8 discrepancies about my case and I felt that he wasn't working  
9 for me 'cause he never looked at it.

10 For one, I'm not even the number one suspect; my brother  
11 is. I have another brother with the same name as me and he  
12 is the suspect.

13 I was never picked out of a photo lineup; he was picked  
14 out of a photo lineup where they showed him a picture and  
15 they said that it was him. And they later showed a picture  
16 of me and they said it was me.

17 He never went over anything that I showed him. So, I  
18 felt like I didn't have a chance.

19 He came to me and told me that the Solicitor told me --  
20 told him to tell me I could either take the thirty years or I  
21 can go to trial and get life. And after he gave me life, he  
22 was gonna give everyone in my family no less than fifteen  
23 years. And, he said that I shouldn't be thinking about  
24 myself right now, I should be thinking about my family. And  
25 he say I should take the thirty years. And since I see that

1 he wasn't working for me, I figure I may as well take the  
2 thirty years instead of life to make sure my family don't go  
3 to jail.

4 Q Um -- what happened to your family members' charges  
5 after you plead guilty?

6 A Um -- four of 'em were dismissed; one was dropped to a  
7 lesser offense. I believe one was just re-indicted, because,  
8 um, in February or March one of my kids' mothers was just  
9 picked up again on the same charge.

10 Q Um -- was the dismissal of anyone else's charges part of  
11 your plea bargain?

12 A That was the whole plea bargain, for their charges to  
13 be dismissed if I, um, if I plead guilty. He -- he told me  
14 that if I -- I told him that if he -- I would plead guilty if  
15 they would drop the charges.

16 Q And you did, in fact, plead guilty?

17 A Yes.

18 Q Okay.

19 A I told him that I didn't want to plead guilty, but he  
20 told me -- I didn't, um -- when I was going in front of the  
21 Judge, I didn't want to plead guilty. But he say if I didn't  
22 plead guilty the Judge wouldn't accept my plea and everybody  
23 in my family would get time along with me. So he said, on  
24 behalf of that, I should save my family.

25 Q Mr. Redwine, would you have plead guilty if Mr. Ruffalo

1 had obtained that transcript from the Schmerber hearing?

2 A If Mr. Ruffalo would have obtained the transcript that  
3 would clearly dispute what The State was saying, no. If he  
4 would-a looked into my Rule 5 to see that the number one  
5 suspect was another brother -- my brother who has the same  
6 name as me, that has a different social, different date of  
7 birth, different address, you know, that's who they were  
8 looking for. If he would-a looked into that, no, I would not  
9 have plead guilty.

10 He didn't look into any of that. He left everything up  
11 to the private investigator. Things that the private  
12 investigator asked me, I told him to have Mr. Ruffalo look  
13 into. He told me he would tell Dudley to handle it.

14 I wrote him letters; he never wrote me back anything.  
15 He came to see me two or three times, and that was it.

16 Q Are, uh, you aware that if for some reason the Judge  
17 granted your Post-Conviction Application, you are back where  
18 you started, uh, in jail under these charges?

19 A Facing a life sentence?

20 Q Uh-huh.

21 A Yes, I'm aware of that.

22 Q Thank you; that's all the questions I have.

23 THE COURT: Mr. Friedman?

24 MR. FRIEDMAN: Thank you, Your Honor.

25 ALFRED REDWINE, CROSS-EXAMINATION BY MR. FRIEDMAN:

1 Q Mr. Redwine, you plead guilty, is that right?

2 A Uh-huh.

3 Q Do you remember telling The Court that you understood---

4 THE COURT: Hold on a second. I need a yes or no  
5 response for my Court Reporter, okay Mr. Redwine?

6 MR. REDWINE: Yes, sir.

7 THE COURT: Thank you.

8 Q Do you remember telling the Plea Court that you  
9 understood the nature of the charges and the possible  
10 punishments?

11 A Yes, sir.

12 Q All right; you also told The Court that you understood  
13 the terms of the negotiated sentence?

14 A Yes, sir.

15 Q All right. All right; in this case the negotiated  
16 sentence was for thirty years, is that right?

17 A Yes, sir.

18 Q Um -- you told The Court that you understood you were  
19 giving up your right to a jury trial, is that right?

20 A Yes, sir.

21 Q All right; you also told the Plea Court that no one had  
22 threatened you or promised you anything to get you to plead  
23 guilty?

24 A Yes, sir; I was promised that my family (sic) charges  
25 would be dropped.

1 Q But you didn't say that at the plea hearing, did you?

2 A Mr. Ruffalo informed me not to. He told me if that I  
3 was informed I was promised anything the Judge would not take  
4 my plea.

5 Q All right; you also told the Plea Court that you were  
6 satisfied with your attorney, do you recall that?

7 A He informed me that I had to or if not the Judge would  
8 not accept my plea.

9 Q Um -- you told the Plea Court that you were pleading  
10 guilty of your own freewill and accord? Do you remember  
11 that?

12 A Yes; he told me that I had to or if not the Judge would  
13 not accept my plea.

14 Q Okay. All right, you also told The Court that you were,  
15 in fact, guilty of both of these offenses?

16 A He told me that I had to. If not, the Judge would not  
17 accept my plea if I didn't say I was guilty.

18 Q Okay. Do you recall that you signed a -- something  
19 called Defendant's Statement in Support of Guilty Pleas?

20 A Yes; he came, I believe, about a week before my plea  
21 agreement for my plea date and told me that and told me that  
22 I had to sign that. That was the only way that I would get  
23 the plea and that was the only way my family would be drop --  
24 my family (sic) charges would be dropped.

25 Q Okay. And in that -- in that document it says that you

1 understand the plea negotiations; that you're gonna receive a  
2 sentence of thirty years, is that right?

3 A Uh-huh.

4 Q That doesn't mention anything about family members; is  
5 that right?

6 A Uh -- no it doesn't.

7 Q Okay.

8 MR. FRIEDMAN: I have nothing further, Your Honor.

9 THE COURT: Anything further, Ms. DeWitt?

10 MS. DeWITT: Not of Mr. Redwine.

11 THE COURT: Sir, you may step down; thank you.

12 (WITNESS STEPPED DOWN.)

13 MS. DeWITT: That's Mr. Redwine's case, Your Honor.

14 THE COURT: Mr. Friedman?

15 MR. FRIEDMAN: Your Honor, The State would call Dudley  
16 Ruffalo.

17 THE COURT: Mr. Ruffalo, come a- -- come around and be  
18 sworn please.

19 (WITNESS FORWARD.)

20 (WHEREUPON, DUDLEY RUFFALO WAS DULY SWORN AND TESTIFIED  
21 AS FOLLOWS:)

22 DUDLEY RUFFALO, DIRECT EXAMINATION BY MR. FRIEDMAN:

23 Q Good morning, Mr. Ruffalo.

24 A Good morning, sir.

25 Q How long have you been practicing law?

1 A Since 1982.

2 Q How much of your practice is in criminal law?

3 A Exclusively.

4 Q Uh -- were you appointed or retained in this case?

5 A Appointed.

6 Q Do you recall about how many times you met with the  
7 Applicant in this case?

8 A Um -- at least seven or eight or nine; somewhere  
9 along -- maybe even ten.

10 Q And were you the original attorney in this case?

11 A There was someone who was appointed, though that was  
12 never really clear; I never saw any documents on that. Then  
13 there was a Schmerber hearing, um, which Cory Femling  
14 (phonetic/sic) -- Fleming was the -- I think he was kind-a  
15 drafted the day before just to represent him on the Schmerber  
16 hearing and then I was appointed.

17 Q Did you speak with Mr. Fleming at all about the  
18 Schmerber hearing?

19 A Yes.

20 Q And what was that discussion about?

21 A Just what happened, what was it, and I got a copy of the  
22 original Motion. And part of the original Motion states that  
23 they had, uh, taken Alfred's, uh, D-N-A from his, uh,  
24 previous incarceration profile. Came up with kind of an  
25 ad hoc match to what was found at some of the crime scenes.

1           That's kind-a standard what they do. When they get kind  
2 of a -- a little general ad hoc match, um, then they go  
3 before The Court on a regular Motion to get a full series  
4 sample it's called where they draw a lot of blood and then  
5 they -- then they redo it.

6           I think the Motion was filed on July 19<sup>th</sup>, and, uh, item  
7 number fourteen of that Motion, signed by Melissa M.  
8 Milliken, the Assistant Solicitor, says, Alfred Redwine's  
9 S-C-D-C blood sample is an apparent match to the D-N-A  
10 profile on the shirt recovered from the crime scene. And  
11 then they go forward and they get more samples.

12 Q       Do you know of any issues or problems at the Schmerber  
13 hearing?

14 A       Not that I know of. The -- the problem is that with  
15 Schmerber hearings is the level of proof to get a sample is  
16 so low that, you know, they're always granted.

17           Uh -- the -- the practice is now, um, and -- and this is  
18 often denied -- what defense lawyers do in a Schmerber  
19 hearing is they say oh, well okay, you've got some blood  
20 sample of the crime scene and you want my client's sample.  
21 Well, have you done a D-N-A profile on that thing you grabbed  
22 from the crime scene? And often times the answer is no. And  
23 what defense lawyers do now as a practice is they try to  
24 force The State to do a D-N-A profile on that sample and then  
25 say okay, you can get it from my client.

1 Q Okay.

2 A That's sort of the new twist on Schmerber hearings. It  
3 usually doesn't work.

4 Q During your meetings with the Applicant, do you recall  
5 if you discussed the elements of the charges which The State  
6 was required to prove?

7 A Yeah, I -- you know, my standard practice is to just  
8 copy the Statute out of the Statute book, go through it with  
9 them, make sure they understand. It's, you know, among a  
10 bazillion other things.

11 Q Okay. Did you discuss potential defenses?

12 A A lot, yeah. He had a lot of, uh -- I mean, I have  
13 copies of letters and things. And a lot of times folks in  
14 Alfred's position, I -- I send them the complete file, except  
15 for any, you know, grossly-displayed photographs. I don't  
16 send those to a prisoner. Um -- they go through the file,  
17 they got a lot of time. They pick out zillions of little  
18 discrepancies like well the witness said it was a -- a  
19 reddish, maroonish, grayish truck; the truck is dark red.  
20 And -- and, uh, this is kind of trial technique.

21 You kind of explain to people that look, if you pile up  
22 a thousand little tiny discrepancies and present 'em before a  
23 jury, it looks like you're grabbing at straws and it looks  
24 bad.

25 Q Did you go over all the discovery materials with him?

1 A Oh, yes. (After pause) I -- I didn't send them -- I --  
2 I took -- he was housed up in, uh, Sumter/Lee because there  
3 were so many of his relatives in Jasper County jail and so  
4 many of the victim's relatives in Jasper County jail that  
5 they originally housed him in Sumter/Lee.

6 Uh -- when I went up there -- and I think I went at  
7 least twice up there, uh -- I, of course, sent him all the  
8 Rule 5 materials -- the written stuff -- but I took him the  
9 photographs and -- and showed him the photographs. I -- I  
10 don't think I sent them to him; I think I showed them to him.

11 Q Did you know if there was another Alfred Redwine?

12 A There is; there is another Alfred Redwine the third.

13 Q Did you look into that?

14 A Yeah; we, uh, actually obtained a copy of his picture.  
15 Um -- apparently, Alfred's Dad -- and -- and I'm -- I'm kind  
16 of not really -- I don't know this for sure, but apparently  
17 had two sons and he named them both Alfred Redwine the third.  
18 And we pulled his picture out of the Jasper County, uh,  
19 records and, uh -- I mean I stood over the computer when the  
20 detention officer pulled it and we -- I've got copies of both  
21 of them. It's clearly not this Alfred Redwine.

22 And -- and you got to recall the facts of the case are  
23 that Alfred, uh, snatched this woman off the street in  
24 Hardeeville in broad daylight, and many people that knew who  
25 Alfred was, you know, they called around to his girlfriend

1 and everybody and said, you know, hey, Alfred just took  
2 Eddie. And so it -- it was clearly Alfred who was there that  
3 day on the street at the kidnapping and not his brother who  
4 is now living in Columbia I think -- his half-brother.

5 Q Did you hire anyone to help you with the case?

6 A I hired a D-N-A expert named Doctor Ostrowsky that a lot  
7 of folks use around here. He's a very interesting guy; he,  
8 um, goes over the D-N-A profiles and protocols. We actually  
9 get permission from SLED and the Solicitor. Um -- they turn  
10 over everything to him; all of their protocols, what they do,  
11 copies of everything that they've run, and he reexamines them  
12 then for their scientific validity.

13 And I also hired a -- a gentleman named Carlyle McNair  
14 who's an old experienced police officer out of Columbia who's  
15 run a, uh, private investigative agency for many years. He  
16 works on a lot of death penalty cases, and we spent a lot of  
17 time together and we met Alfred together many times. We went  
18 to the crime scenes, we talked to witnesses together.

19 Q Did the Applicant admit his guilt to you?

20 A You know, people like Alfred, when they're about to make  
21 their plea -- and -- and -- and you got to recall that Alfred  
22 was always in two positions during the entire representation.  
23 Well, if you can get me a good plea, I'll take it; no, I'm  
24 not guilty. I wasn't there, I didn't do it; but, if you can  
25 get me a good plea, I'll take it.

1           You know, you -- when you finally get down to the end  
2 where The Court's about to come up and they're on the -- on  
3 the firing line, uh, if you say to them, I cannot plead you  
4 guilty unless you tell me you are guilty, they don't like to  
5 answer that qu- -- question directly. A lot of times what  
6 you have to say with folks is -- and it's a comfortability  
7 thing -- you have to say, are you responsible for this lady's  
8 death? And the answer was, yes.

9           Is your brother any way responsible for this lady's  
10 death? No.

11           And you do go over them -- with them and say, you know,  
12 the -- the Judge is not gonna take your plea unless you say  
13 you are guilty.

14 Q       Can you describe your plea negotiation with the  
15 Solicitor?

16 A       I mean, there weren't much. The -- really, you know,  
17 there were -- you know, there wasn't much wiggle room there.  
18 Um -- pretty much thirty years was pretty much it.

19 Q       Was there anything in the negotiated plea agreement  
20 about his family members having their charges dismissed?

21 A       No. And the way that kind-a works is -- you got to  
22 remember, this occurred over a day or two and the police both  
23 in Jasper County and Beaufort were running all over the  
24 place. They were down at Alfred's Mother and his girlfriend  
25 and everything and -- and they knew that he had been there

1 and they apparently lied and said he wasn't and they arrested  
2 them for, uh, accessory and so forth.

3 And what I explained to Alfred was, look, if somebody  
4 brought your Mother to a trial -- which I doubt they would  
5 do -- nobody's gonna sentence your Mother to jail for  
6 protecting her son. I mean, that's just not gonna happen. I  
7 mean, you know, they just don't do things like that. I mean,  
8 they had good, solid cases against them, and particularly the  
9 brother. 'Cause a lot of what developed was is that, you  
10 know, if you look at all the material, it looks like his  
11 brother was assisting him in hiding the body. I mean, you  
12 know, there was culpability there. But I think, when it came  
13 to his sisters -- and certainly his Mother -- I -- I said, I  
14 can't get into you with this. This can't be a bargaining  
15 chip in your guilty plea. But, I'll -- I'll tell you what I  
16 think. I said, I think if the worst happened and somebody  
17 brought them to -- I said -- I said that would probably go  
18 badly for The State.

19 Q Did you ever tell Mr. Redwine he would get life if he  
20 decided not to plead guilty?

21 A I don't think so.

22 Q Did you explain to him what a negotiated sentence was?

23 A Yes; the difference between negotiated and recommended.

24 Q Whose decision was it to plead guilty?

25 A Well, it was always his if he, um -- you know, it -- he

1 was kind-a the, you know, two position kind of thing; I'm not  
2 guilty, but if you can get me a good plea -- you know.

3       The problem was that Alfred was young. You know, he --  
4 Alfred was a young person and, you know, if he got the thirty  
5 years he'd serve the couple years of it. I mean, he'd still  
6 have a life. I mean, that -- when you talk to fellas who are  
7 about to plead guilty to thirty years and they're young, what  
8 you try to talk to 'em about is you can still have some of a  
9 life. You know, you're not fifty pleading guilty to thirty  
10 years; you're in your twenties. You can get out, you can get  
11 a job, you can get an apartment, you can buy a car, you can  
12 have some of a life.

13       **MR. FRIEDMAN:** I have nothing further, Your Honor.

14       **THE COURT:** Cross-examination, Ms. DeWitt?

15       **DUDLEY RUFFALO, CROSS-EXAMINATION BY MS. DeWITT:**

16       **Q** Mr. Ruffalo, did Mr. Redwine ask you to get a transcript  
17 of that Schmerber hearing?

18       **A** No, ma'am.

19       **Q** He did discuss it with you, didn't he?

20       **A** Not really. I mean, barely if I recall at all. I  
21 explained to him what a Schmerber hearing was and how you  
22 basically always lose them.

23       **Q** Okay. You were aware that an officer -- or, actually  
24 two, testified at that hearing?

25       **A** Yes; Hipp and -- Bysholds (phonetic/sic)?

1 Q And, uh, also the initial SLED D-N-A report that was  
2 used at the Schmerber hearing, uh, on that report there was  
3 no indication whatsoever of a match to Mr. Red- -- Redwine,  
4 was there?

5 A Well, on the Motion to get the Schmerber hearing -- I  
6 looked it over, and item fourteen of the Solicitor's Motion  
7 says that Alfred Redwine's S-C-D-C blood sample is an  
8 apparent match to the D-N-A profile on the shirt recovered  
9 from the crime scene, which later turned out on the report to  
10 be true when they did like a -- what we call a full-scale  
11 D-N-A.

12 Q But that's not what the report attached to the Motion  
13 said, is it?

14 A (After pause) I don't know. All I have is that.

15 Q Are you aware that the, uh, initial analysis confirmed  
16 the victim's blood was someone named Perry?

17 A Antwan Perry.

18 Q And then, uni- -- identified?

19 A Right, there was a bunch of stuff there. I mean...

20 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
21 CONFERENCE, OFF THE RECORD.)

22 (WHEREUPON, PROCEEDINGS CONTINUED.)

23 A D-N-A was clearly not the deciding factor here, I  
24 believe.

25 Q Okay. And in fact, uh, what evidence was there against

1 Mr. Redwine?

2 A You know, there were a bunch of witnesses on the street  
3 that day when Alfred snatched this lady in a sort of a  
4 semi-violent manner. She was struggling with him. Um -- she  
5 had just been on videotape at a, uh, convenience store just a  
6 few moments beforehand with some a- --acquaintances.

7 She walked out on the street, Alfred apparently stopped  
8 his car, um, yelled at her, dragged her into his car,  
9 disappeared. The next time anybody saw her, she was in the  
10 woods with a hole in her head.

11 Q Did you review that videotape?

12 A Of the store?

13 Q Yes.

14 A Yeah.

15 Q And it -- and could you -- do you recall what it showed?

16 A Yeah; it just shows her buying some stuff at the -- at  
17 the, uh, convenience store. And, uh -- you know, if I  
18 recall, I think it had a section of the car she was in; like  
19 maybe the left headlight area or something like that.

20 Q Well, is it fair to say that the videotape actually  
21 didn't show anything?

22 A Naturally; yeah.

23 Q Okay. Did you talk to those witnesses at the store?

24 A I did not talk to them, no. But, I read their complete  
25 reports and what is the discovery, the interviews with the

1 police officers, and, uh, I know that Carlyle talk to them.

2 Q And Carlyle is who?

3 A Carlyle McNair; he's the private investigator that we  
4 hired for Alfred.

5 Q And, um -- but actually these witnesses just saw a woman  
6 get into a vehicle; isn't that right?

7 A Well, there was one woman there who knew Alfred and knew  
8 her. I forget her name; it's in here somewhere. She was the  
9 one who called, um, Alfred's girlfriend and said, you know,  
10 this has just happened.

11 And that -- see, Alfred was visiting this woman when her  
12 boyfriend was away from the house apparently on a regular  
13 basis. Um -- he had -- Alfred had a girlfriend and -- but he  
14 would go over there. And, you know, originally there was,  
15 uh, some suspicion of -- on Alfred's point (sic) -- part, he  
16 was trying to point me -- and he said, well maybe her  
17 boyfriend did it. You know, it kind of a grab a hold.

18 Q Mr. Ruffalo, now, are you testifying to gossip in the  
19 neighborhood or what?

20 A Who?

21 Q Are you testifying now as to gossip or actual evidence  
22 against Mr. Redwine?

23 A Gossip. (After pause) Well, I'd asked Alfred, I said  
24 why -- how do you know this person? He said well, you know,  
25 I'd go visit her. We talked a lot; we were friends.

1 Q All right. Isn't it a fact the Mr. Redwine, uh, he  
2 never made an admission or confession to the police; correct?

3 A That's my understanding, yeah.

4 Q And, uh, there's no fingerprint evidence in this case?

5 A Nope.

6 Q Okay. And, uh, was it your testimony that the, uh, the  
7 only evidence -- the only evidence against Mr. Redwine was,  
8 uh, a fourth SLED D-N-A analysis that said his D-N-A was on a  
9 shirt found at the crime scene?

10 A No; I mean, there were the witnesses who saw him take  
11 the lady off the street in broad daylight.

12 There was a area where she was found that was an old  
13 railroad culvert where people used to fish at and, uh -- um,  
14 there was, oddly enough, this railroad employee that had to  
15 check it once every couple of months to make sure some fence  
16 or barrier were still there so nobody would drive over it.  
17 And when he was in there, he noticed a truck that -- matching  
18 the description of Alfred and his brother's truck -- and two  
19 guys -- one with their shirt off -- taking something into the  
20 woods. He didn't think anything about it as he drove by.

21 The next day he was at a convenience store and all this  
22 lady's relatives were mounting a search party for her. And  
23 this man -- the father -- had stopped in the convenience  
24 store. And he said, well what are you doing? He said, well,  
25 we're all looking for this -- Alfred took my daughter and

1 we're all looking for her and we can't find her. And he  
2 said, well, and -- and you -- and he said, you know, I  
3 noticed something odd out in the woods yesterday. Well, you  
4 know, why don't you go out there? And they went out there  
5 and low and behold, they found her body.

6 Q Mr. Ruffalo, isn't it true that the railroad worker did  
7 not identify Mr. Redwine?

8 A Right; he said the back -- his back was to him. But,  
9 when -- when McNair---

10 Q And, in fact, he also---

11 A ---let me -- let---

12 THE COURT: Hold on a minute now. Let him finish his  
13 response and then you can continue, Ms. DeWitt, okay?

14 A Carlyle and I, uh, got Mr. Strobot (phonetic/sic) --  
15 Strobot, I think he name is -- and we went out to the exact  
16 scene and kind-a played it out ourselves and kind-a laid it  
17 out. And I -- I said, well look, I mean, was it a person  
18 about this age and this build and this size? And he said  
19 yeah, he would be able to testify to that but not much more.

20 Q Okay; so the railroad worker could not identify -- never  
21 identified Mr. Redwine---

22 A No, I don't think he saw---

23 Q ---my client?

24 A ---I don't think he saw his face.

25 Q And, in fact, the vehicle you're describing is not

1 registered to Mr. Redwine, but---

2 A I don't think so; I think it's to his brother, or maybe  
3 a Mother or something.

4 Q Um -- and isn't it true that, uh---

5 A It's the one with all the blood in the back of it.

6 Q ---isn't it true the railroad worker said he saw one  
7 person, not two?

8 A I think he said he saw one, but I -- I -- you know,  
9 I'm -- I haven't -- it's been a while and I've gone over this  
10 stuff in the last week or so and some of it's -- you know,  
11 I'm sure I'm missing a few little items here and there.

12 Q All right; Mr. Redwine was never identified by anyone in  
13 a photo or in-person lineup, was he?

14 A Not to my knowledge.

15 Q Did you explain to Mr. Redwine what the evidence was  
16 against him?

17 A Yeah, we spent a lot of time on that. I mean, there was  
18 just so many little things that would have connected it to  
19 it. or instance, he went over that night to his girlfriend's  
20 in Savannah and told her that he knew the police were looking  
21 for him.

22 He went to Rock Hill with some pal of his and his pal  
23 tes- -- would -- would have testified that Alfred made him  
24 stop the car over a bridge so he could throw a gun out.

25 And, uh, it was just all this stuff that would have just

1 killed him at trial.

2 Q Did you actually interview that individual?

3 A No, I did not.

4 Q So you don't know what he would have said, do you?

5 A You know, I mean, if you press the issue, I'm sure they  
6 would have brought him. That's a problem; by the time you  
7 get to that point, any deal is gone. I mean, when you get to  
8 the point where they're bring people for a trial, you lost  
9 any possibility of a deal. That's -- I mean, in my mind.

10 Q Now, it -- it is true that many, uh, members of  
11 Mr. Redwine's family were also indicted?

12 A I believe so; I think Alfred's brother was represented  
13 by Cathy Badgett. And she was at the plea that day for  
14 Mr. Redwine and he plead to -- and I didn't -- I didn't want  
15 to take too much interest in that, um, kind-a what was going  
16 on there. He plead to some sort of accessory thing and got  
17 probation or something.

18 Q Did you have any discussions with Mr. Redwine about his  
19 family members' indictments being dismissed if he plead  
20 guilty?

21 A Yeah; he kept asking me that and I kept saying, you  
22 know, ethically you -- you -- you just can't get into that.  
23 I mean, all I could tell him is that in my opinion, if  
24 somebody tried to bring up his Mother and try her for trying  
25 to help her son in a frantic situation where he's being

1 accused of a major crime, I -- you know I doubt if somebody  
2 would convict 'em, I really did. That was just my off-the-  
3 cuff opinion.

4 Q Did you have any discussions about their indictments  
5 being dismissed in exchange for his plea? Discussions with  
6 the prosecutor?

7 A I don't think so; I don't think so. I kind-a -- you  
8 know, I -- I don't think I said well, what are you guys gonna  
9 do? You know, what are you gonna do with that stuff?

10 You know, I -- I -- I told Alfred, I said, you know, my  
11 guess would be that nothing would happen to them. That would  
12 be my guess.

13 (After pause) You got to remember, Alfred had a -- a --  
14 a -- a -- there were just so many little things that would-a  
15 got him. You know, he goes over to his girlfriend's house in  
16 Savannah house that night, says he's got-a be there 'cause  
17 the police are looking for 'em. But, he's got an appointment  
18 at the local high school the next day. She was gonna testify  
19 to that. She didn't know what the appointment was.

20 I mean, there was just all this stuff that was not very  
21 -- not very good.

22 Q Did you actually talk to that witness?

23 A (Nod.)

24 Q No?

25 A (Nod.)

1 Q I need you to answer out loud.

2 A Oh; I'm so sorry. I don't think so, no.

3 Q So, uh, your -- you were getting your information from  
4 the police?

5 A And -- and from Carlyle mostly.

6 Q Now, you're aware that even in the initial D-N-A  
7 analysis that was presented at that Schmerber hearing, uh,  
8 the D-N-A -- D-N-A of, uh, Antwan Perry was what was found at  
9 the crime scene and the victim's?

10 A Also.

11 Q Only initially; is that correct?

12 A No; from the Motion of the Assistant Solicitor, she  
13 swears that, um, his -- his blood was an apparent match on  
14 the shirt that was found at the crime scene. And, uh, that  
15 later turned out to also be true when you got the kind-a  
16 main, big D-N-A test.

17 THE COURT: Hold on a minute, Mr. Ruffalo.

18 MR. RUFFALO: Yes, sir; I'm sorry.

19 THE COURT: Mr. Redwine, you can choose to be in here  
20 during this hearing and keep your voice down. I -- I'll give  
21 you a chance to talk with your lawyer if you need to, okay?  
22 But, I don't want any outburst from you during Mr. Ruffalo's  
23 testimony. Do you understand?

24 MR. REDWINE: Yes, sir.

25 THE COURT: If I hear it again, I'm gonna ask that you

1 be removed from the courtroom during this proceeding; do you  
2 understand?

3 MR. REDWINE: Yes, sir.

4 THE COURT: Okay. Thank you, Mr. Ruffalo; you may  
5 continue.

6 A I'm -- whatever your next question is; I'm sorry.

7 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
8 CONFERENCE, OFF THE RECORD.)

9 (WHEREUPON, COURT RESUMED.)

10 Q Did, um -- did you have any evidence that Mr. Redwine,  
11 uh, was not even, uh, in town, uh, at about the time the  
12 woman was killed?

13 A No. He, uh, even told me he was in and around town.  
14 And he -- he did something really odd that we -- we couldn't  
15 kind of rectify. Uh -- placed in context as it were.

16 Uh -- in and around the time that she was taken off the  
17 street by him, a little later he shows up in some really  
18 weird end of town on his motorcycle and dumps his motorcycle  
19 and -- and makes a lot of noise in front of this lady's house  
20 that knew him and leaves his motorcycle there and reaves it  
21 up a lot and leaves it.

22 And she came out and apparently must not have liked  
23 Alfred 'cause she called the police right away. And it was  
24 something I always thought was kind of a -- a rouse, so to---

25 Q Or an alibi; correct?

1 A It seemed that way. You know, there were just so many  
2 of those kind of things going on there that I think at a  
3 trial they would have all come together and hurt him.

4 Q Did you discuss in detail the lack of evidence against  
5 Mr. Redwine prior to him entering the plea?

6 A I talked to him about the pros and cons of everything.  
7 I mean, we spent a lot of time together. Um -- especially  
8 when -- after he was brought down from Sumter/Lee and brought  
9 to Jasper County Detention Center.

10 Um -- you know, I said, you got this going on, you got  
11 that going on. You got this going on, you got that going on.  
12 It was just back and forth and back and forth. I said, it is  
13 possible a jury could, um -- you know, go your way. But, it  
14 seemed to me, professionally, more likely than not they'd  
15 probably get it.

16 Q All right. Isn't it true that Mr. Redwine was not the  
17 initial suspect in this case?

18 A He was always the suspect; he really was. I mean,  
19 everybody kind-a knew it was Alfred on the street that day  
20 during the taking of her.

21 Q What about this Antwan Perry whose D-N-A was all over  
22 the vehicle?

23 A Right.

24 Q He was a suspect, wasn't he?

25 A Oh; sure. In a -- an accessory way, my understanding of

1 everything. If you'll read everything, it -- they were  
2 always looking at Alfred.

3 (After pause) He just couldn't get over that daytime  
4 taking of her in the car.

5 Q Did you discuss with Mr. Redwine the Motions you would  
6 have made had you gone to trial?

7 A Yeah; we talked about how murder trials operate and how  
8 they function organically -- the process. I kind-a go over  
9 with people what happens, what pre-trial motions are, what  
10 might be available to you as a pre-trial motion. What most  
11 likely would happen with some of those.

12 Q Well, what motions were you prepared to make?

13 A Well, I mean, we never really got to that point. I  
14 mean, uh, I talked to him about trying to exclude evidence.  
15 Uh -- um, I was hoping that the D-N-A expert would turn out  
16 that maybe there was some problem with the D-N-A analysis at  
17 SLED, which there wasn't.

18 Um -- talked to him about excluding and talking to some  
19 of the -- you know, trying to keep away from some of these  
20 witnesses who, you know, saw him on the street that day. How  
21 you're gonna deal with them.

22 Uh -- but there was, uh, you know, no one --  
23 Mr. Strobot (phonetic) didn't personally see his face. They  
24 couldn't pinpoint him other than the -- the daylight taking  
25 of that woman in the middle of the street that they couldn't

1 pinpoint him.

2 Um -- and then the other part of the case, except for  
3 some of this random stuff that was testified to.

4 Um -- that it's possible they could use his flight from  
5 the state against him. Uh -- try to suppress any testimony  
6 by his girlfriend.

7 Uh -- you know, a lot of things; I just don't recall  
8 them all right now. I mean, I didn't make a list of 'em.

9 Q Okay. And -- and Mr. Strobot (sic) who you referred  
10 to, he is the railroad worker; correct?

11 A He's the railroad worker.

12 Q And he could not identify Mr. Redwine at all?

13 A No; but, he could identify the truck and a person who  
14 was similar physical characteristics.

15 Q But much shorter than Mr. Redwine; do you recall that?

16 A Well, we talked about that at length. Carlyle and --  
17 the -- the investigator and Mr. Strobot and I, we kind-a did  
18 some positioning where we put Mr. Strobot where he was  
19 standing and then Carlyle and I walked into the woods area  
20 where the -- basically where the truck would be and kind of  
21 angles about, you know, what were you looking from and you're  
22 in your truck sitting and looking this way. And, you know,  
23 saw to those few inches of discrepancy and how they could be  
24 resolved; things like that.

25 Q And you've already testified that the -- the truck was

1 not Mr. Redwine's vehicle, was it?

2 A Uh -- I understand it was, uh, one that was his  
3 brother's or his brother used all the time. In some of the  
4 material, you know, his brother says that they both used it  
5 or the keys were kept in it all the time or something of that  
6 nature.

7 And it was probably -- probably easy to prove that it  
8 was available there for both their use.

9 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
10 CONFERENCE, OFF THE RECORD.)

11 (WHEREUPON, PROCEEDINGS CONTINUED.)

12 MS. DeWITT: May I beg The Court's indulgence---

13 THE COURT: Yes, ma'am.

14 MS. DeWITT: ---for just a moment?

15 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
16 CONFERENCE, OFF THE RECORD.)

17 (WHEREUPON, PROCEEDINGS CONTINUED.)

18 Q Um -- Mr. Ruffalo---

19 A Yes, ma'am?

20 Q ---if -- if I could just hand---

21 A Sure.

22 Q ---hand you this document? Uh -- can -- can you  
23 identify that document and SLED---

24 A I've seen it---

25 Q ---D-N-A analysis?

1 A ---you know, I've seen it.

2 Q Okay, and -- and---

3 A Let me go back to mine.

4 Q ---in your representation of Mr. Redwine, did you  
5 receive a copy of that initial D-N-A report?

6 A I sent him everything I had which would have certainly  
7 included that. I mean, I made a -- I make a real point of  
8 making sure that they get everything. Uh -- and without  
9 staples 'cause I got yelled at one time.

10 Q And was that report dated July?

11 A This one is, uh, July 2<sup>nd</sup> 2007. The other SLED report is  
12 June 24<sup>th</sup> 2008. Uh, where they definitely develop him as the  
13 D-N-A on the shirt that was left---

14 Q Um---

15 A ---by the body of the victim.

16 Q ---Mr. Ruffalo, are you aware that that initial report  
17 you have in front of you, dated July 2007, is the one that  
18 was used at the Schmerber hearing?

19 A It could be, yeah.

20 Q Okay. And, uh, that report indicates D-N-A of the  
21 victim and of an Antwan Perry---

22 A Right.

23 Q ---were found at the scene, correct?

24 A Sure.

25 Q And an unidentified, uh, other person; correct?

- 1 A Uh-huh.
- 2 COURT REPORTER: Is that a yes or a no please?
- 3 A Oh, I'm so sorry; yes, ma'am. Forgive me.
- 4 Q So Mr. Alfred Redwine's, uh, D-N-A was not found on --
- 5 listed in the first SLED D-N-A analysis; was it?
- 6 A Apparently not; but, certainly in the final one it was.
- 7 And like I said, you always lose those Schmerber hearings.
- 8 They were gonna get his blood one way or the other.
- 9 Q And in the final report, uh, the -- the only item that
- 10 supposedly had Mr. Redwine's D-N-A on it was a shirt -- was a
- 11 shirt found at the crime scene---
- 12 A Yes.
- 13 Q ---is that correct? His D-N-A was not found inside the
- 14 vehicle?
- 15 A Not to my knowledge.
- 16 Q Or -- or -- and not in the bed of the truck?
- 17 A Not to my knowledge.
- 18 Q Or on any other items, correct?
- 19 A No, just the shirt. (After pause) And, you know, in --
- 20 in making an analysis for him about what to do in his case,
- 21 you know, you have to tell 'em that sometimes that's enough
- 22 to do it.
- 23 Q Is it fair to say that that was the only actual evidence
- 24 against -- against Mr. Redwine?
- 25 A No. The -- the witnesses on the street that day

1 combined with the shirt, Mr. Strobot, you know, fleeing the  
2 state. I think it all would-a just come down on him.

3 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
4 CONFERENCE, OFF THE RECORD.)

5 (WHEREUPON, COURT RESUMED.)

6 Q All right. Now, when you say evidence that  
7 Mr. Redwine -- he fled the state; uh, what evidence is there?

8 A Well, apparently he went to see his girlfriend in  
9 Savannah where she lives. Ashley Williams; is that her name?

10 Um---

11 Q I can't answer questions for you.

12 A Okay; I'm so sorry. Um -- her statement says, I got to  
13 be here 'cause the police are looking for me. Or, she told  
14 him that the police was -- were looking for him. It was one  
15 or the other; I can go back and look.

16 Q So he had a girlfriend in Savannah and he actually had  
17 wrecked a motorcycle, uh, at some point that day; correct?

18 A He had what?

19 Q He had actually wrecked a motorcycle?

20 A I don't think he wrecked it.

21 Q The woman called the police that day, didn't she?

22 A No; I don't think he wrecked it. I think it was more of  
23 a he left it there.

24 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
25 CONFERENCE, OFF THE RECORD.)

1 (WHEREUPON, COURT RESUMED.)

2 A It would have just appeared as a clumsy attempt at an  
3 alibi.

4 Q So, in effect (balance of question mumbled.)

5 A Yes.

6 COURT REPORTER: Repeat the question please.

7 MS. DeWITT: The question was, in effect, it was  
8 circumstantial?

9 Q Thank you; that's all the questions I have.

10 THE COURT: Any further questions Mr.---

11 MR. FRIEDMAN: No other questions, Your Honor.

12 THE COURT: Mr. Ruffalo, you may step down; thank you.

13 MR. RUFFALO: Thank you, sir.

14 (WITNESS STEPPED DOWN.)

15 THE COURT: Anything further, Ms. DeWitt?

16 MS. DeWITT: No, Your Honor.

17 THE COURT: Anything further from The State?

18 MR. FRIEDMAN: No, Your Honor.

19 THE COURT: All right; I'll review the information  
20 that's been provided to me based on my notes from the  
21 testimony and I'll let both of you know on this, okay?

22 MS. DeWITT: All right; thank you, sir.

23 THE COURT: Thank you, Ms. DeWitt.

24 (WHEREUPON, HEARING ENDED AT 10:52 A.M.)

25 \*\*\*\*\*END OF REQUESTED TRANSCRIPT\*\*\*\*\*


STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF BEAUFORT )

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED VIVIAN H. CROSS, OFFICIAL COURT REPORTER FOR THE EIGHTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF THOSE PROCEEDINGS AND EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF COMMON PLEAS FOR BEAUFORT COUNTY, SOUTH CAROLINA, ON THE 20<sup>TH</sup> DAY OF APRIL 2011.

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

OCTOBER 31, 2012

  
 VIVIAN H. CROSS  
 CIRCUIT COURT REPORTER

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

COUNTY OF JASPER )

2009-CP-27-574

Alfred Redwine, #291230,

Applicant,

**ORDER OF DISMISSAL**

v.

State of South Carolina,

Respondent.

RECEIVED  
JASPER COUNTY CLERK OF COURT  
JAN 25 2010

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed August 31, 2009. The Respondent made its Return on January 25, 2010. An evidentiary hearing into the matter was convened on April 20, 2011 at the Beaufort County Courthouse. The Applicant was present at the hearing and was represented by Diane DeWitt, Esquire. Matthew J. Friedman, Esquire, of the South Carolina Attorney General's Office represented the Respondent.

Applicant testified on his own behalf at the PCR hearing. Applicant's plea counsel, Dudley Ruffalo, Esquire, also testified at the hearing. This Court had before it the records of the Jasper County Clerk of Court, Applicant's records from the South Carolina Department of Corrections, the guilty plea transcript, the PCR application, and Respondent's Return thereto.

**PROCEDURAL HISTORY**

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Jasper County Clerk of Court. The Applicant was indicted at the December 2007 term of the Jasper County Grand Jury for murder (2007-GS-27-533) and kidnapping (2007-GS-27-687). Dudley Ruffalo, Esquire, represented the Applicant. On November 13, 2008, the Applicant pled guilty as indicted. Pursuant to a negotiated plea

Posted  
5/16/2011  
DMG

agreement, the Honorable G. Thomas Cooper, Jr. sentenced him to confinement for thirty (30) years. The Applicant did not appeal his conviction or sentence.

### ALLEGATIONS

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

1. Ineffective assistance of counsel.
2. Involuntary guilty plea.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon his or her credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Applicant testified that Cory Fleming, Esquire, represented him at the Schmerber hearing. He testified that he first met with plea counsel Dudley Ruffalo in February or March 2008. He asserted that counsel did not go over the DNA reports with him. Applicant testified that his brother has the same name as him, and his brother was the main suspect. He testified that several members of his family were charged with accessory after the fact and part of his negotiated plea agreement was that the charges against his family members would be dropped. He asserted that counsel told him that he should be thinking about his family and not about himself.

Plea counsel testified that he met with Applicant 7-10 times prior to the plea hearing. He testified that he was appointed until after the Schmerber hearing, but he spoke with the attorney

who represented Applicant at that hearing. He testified that Applicant's blood sample from SCDC matched the DNA sample. He asserted that DNA was clearly not the deciding factor in this case. Counsel testified that the State's evidence included testimony from witnesses who watched Applicant grab the victim off the street in broad daylight. He asserted that he explained to Applicant the evidence against him, and he advised Applicant that there were so many little things to connect him to the crime. Counsel testified that he hired a private investigator and a DNA expert. He testified that he went to the various incident scenes, spoke with witnesses and law enforcement, met with his investigator, and reviewed the discovery with Applicant. Counsel testified that he and his investigator looked into the other Alfred Redwine and obtained a copy of his picture, but he was never a suspect. He asserted that Applicant was always the prime suspect.

Counsel testified that there was not much wiggle room in his negotiations with the solicitor. He asserted that the solicitor offered thirty (30) years, and they did not discuss the charges against Applicant's family members being dismissed. He testified that he may have told Applicant that it was unlikely that anyone would convict his mother for protecting her son. Counsel asserted that Applicant told him he would plead guilty if he received a good deal. Counsel testified that he discussed the pros and cons of pleading guilty with Applicant. He testified that they also discussed the process of going to trial and making pre-trial motions. Counsel testified that it was Applicant's decision to plead guilty.

#### Ineffective Assistance of Counsel / Involuntary Guilty Plea

The Applicant alleges that he received ineffective assistance of counsel and that his plea was not entered freely and voluntarily. In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground

for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 334 S.E.2d 813.

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

Courts use a two-pronged test to evaluate allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Id. at 625 (citing Strickland, 466 U.S. 668). 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 625. When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S. Ct. 366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When determining issues relating to guilty pleas, the court will consider the entire record, including the

transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)). When a defendant pleads guilty on the advice of counsel, the plea may only be attacked through a claim of ineffective assistance of counsel. Roscoe, 345 S.C. at 20, 546 S.E.2d at 419 (citations omitted).

This Court finds that counsel's testimony was credible. This Court finds that counsel is a trial practitioner who has extensive experience in the trial of serious offenses. Counsel conferred with the Applicant on numerous occasions. During conferences with the Applicant, counsel discussed the pending charges, the elements of the charges and what the State was required to prove, Applicant's constitutional rights, Applicant's version of the facts, and possible defenses or lack thereof.

The record reflects that Applicant understood the nature of the charges and the possible punishments. At the plea hearing, he indicated that he was satisfied with counsel and was pleading guilty of his own free will and accord. He told the court that he understood the terms of the negotiated sentence. He also admitted guilt at the plea hearing. This Court finds that Applicant's plea was entered voluntarily and intelligently with a full understanding of the consequences. This Court finds that Applicant understood the terms of the negotiated sentence and that it was Applicant's decision to plead guilty. This Court also finds that Applicant filled out a document captioned "Defendant's Statement in Support of Guilty Plea," in which he indicated that he understood the consequences of the plea.

Regarding Applicant's claims of ineffective assistance of counsel, this Court finds Applicant has failed to meet his burden of proof. This Court finds that Applicant's attorney demonstrated the normal degree of skill, knowledge, professional judgment, and representation

that are expected of an attorney who practices criminal law in South Carolina. State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977); Strickland, 466 U.S. at 668; Butler, 286 S.C. 441, 334 S.E.2d 813. This Court further finds counsel adequately conferred with Applicant, reviewed the discovery with him, conducted a proper investigation, and was thoroughly competent in his representation. This Court finds that counsel obtained a favorable negotiated sentence for Applicant considering that Applicant was facing exposure of confinement for life for murder plus thirty (30) years for kidnapping. This Court finds that counsel's representation did not fall below an objective standard of reasonableness.

This Court finds that properly advised Applicant of the pros and cons of pleading guilty and going to trial. This Court finds that counsel's testimony regarding the plea negotiations was credible. Counsel testified that the charges against Applicant's family members were not part of the negotiated plea agreement.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test, specifically that counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that counsel committed either errors or omissions in his representation of the Applicant. The Applicant failed to show that counsel's performance was deficient. This Court also finds the Applicant has failed to prove the second prong of Strickland, specifically that he was prejudiced by plea counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

#### All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this

matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

**CONCLUSION**

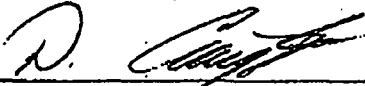
Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner, nor was the Applicant prejudiced by counsel's representation. Therefore, this application for PCR must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of written notice of entry of this Order to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely served and filed.

**IT IS THEREFORE ORDERED:**

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

**AND IT IS SO ORDERED** this 9<sup>th</sup> day of May, 2011.

  
 \_\_\_\_\_  
 D. Craig Brown  
 Presiding Judge  
 14<sup>th</sup> Judicial Circuit

Flower, South Carolina.