

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

—————
Certiorari to Anderson County

Honorable Letitia H. Verdin, Circuit Court Judge
—————

RANDALL M. SIMPSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2021-000350
—————

APPENDIX
—————

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ATTORNEYS FOR RESPONDENT

RECEIVED

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S.C. SUPREME COURT

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)	2017-GS-04-00465
)	2017-GS-04-00466
)	
)	
STATE OF SOUTH CAROLINA,)	
)	
vs.)	TRANSCRIPT OF RECORD
)	
RANDALL M. SIMPSON,)	
DEFENDANT.)	ORIGINAL
_____)	

May 15, 2017
Anderson, South Carolina

B E F O R E:

THE HONORABLE R. SCOTT SPROUSE, JUDGE.

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

LUCAS C. MARCHANT, ESQ.
Assistant Solicitor

GREGORY L. COLE, JR., ESQ.
Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits introduced.)

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P R O C E E D I N G S

THE COURT: Mr. Marchant.

MR. MARCHANT: May it please the Court, Your Honor.

The Solicitor's Office is going to call the case of the State v. Randall M. Simpson, a charge of one count of murder on indictment number 2017-GS-04-464; a charge of one count of attempted armed robbery and possession of a weapon during the commission of a violent crime, 2017-GS-04-465; and a second count of murder on indictment number 2017-GS-04-466.

The case is scheduled for Your Honor to strike a jury at 2:30 today. I believe Defense Counsel has a motion.

THE COURT: All right. Mr. Cole.

MR. COLE: Your Honor, my client has indicated to me that he wishes to move to relieve me as his attorney. And there was some conversation about he may have another attorney. But I don't know what the status of that is right now. But he wants to move to relieve me. So I want to let -- I wanted to let him make his motion.

THE COURT: Madam Clerk, would you put him under oath.

THE CLERK: Yes, sir.

If you would, please, raise your right hand.

WHEREUPON,

RANDALL M. SIMPSON,

after first having been duly sworn, testified as follows:

1 THE CLERK: Thank you.

2 THE COURT: All right. Sir, your attorney indicates
3 that -- that you wish to relieve him as counsel.

4 DEFENDANT SIMPSON: Yes, sir.

5 THE COURT: Why -- why do you want him relieved?

6 DEFENDANT SIMPSON: I'm just -- I don't feel he has
7 my best interest in mind. I mean, I've been here in the
8 county jail for 17 months. I've seen him twice. I've
9 wrote him, don't get responses back about legal work, and
10 stuff.

11 I mean, all the sudden, I'm going to trial. He come
12 to see me last week. I didn't even know I was going to
13 trial. I found out about it on TV that I was going to
14 trial.

15 THE COURT: You understand your trial starts today?

16 (WHEREUPON, there was no response.)

17 THE COURT: Do you understand that?

18 DEFENDANT SIMPSON: Yes, sir.

19 THE COURT: And relieving your attorney is not
20 grounds for a continuance of your trial.

21 Do you understand that?

22 (WHEREUPON, there was no response.)

23 THE COURT: I'm not going to put your case off
24 because you want to fire your attorney.

25 Do you understand that?

1 DEFENDANT SIMPSON: Yes, sir.

2 THE COURT: All right. If you want to take a
3 minute --

4 Mr. Cole, do you want to talk to your client?

5 MR. COLE: Yes, Your Honor.

6 THE COURT: All right. Why don't y'all go off the
7 record and talk.

8 All right. Mr. Marchant, why don't we stand down on
9 this --

10 MR. MARCHANT: Yes, sir.

11 THE COURT: -- and let me hear the first probation
12 case while they talk.

13 (WHEREUPON, a break was taken.)

14 MR. MARCHANT: May it please the Court.

15 THE COURT: Yes, sir.

16 MR. MARCHANT: Before you is Randall M. Simpson.
17 He's here on indictment number 2017-GS-04-464, indictment
18 for a charge of murder. It has been true billed. He's
19 pleading to the same.

20 Indictment number 2017-GS-04-465, he's charged with
21 attempted armed robbery, a second charge of possession of
22 a weapon during the commission of a violent crime. That
23 charge has, also, been indicted.

24 Lastly, indictment number 2017-GS-04-466, an
25 indictment for a charge of murder, pleading to voluntary

1 manslaughter. It is a true bill. And that is a lesser
2 included offense.

3 THE CLERK: Raise your right hand.

4 WHEREUPON,

5 RANDALL M. SIMPSON,

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

7 THE COURT: All right. You're Randall M. Simpson; is
8 that correct, sir?

9 DEFENDANT SIMPSON: Yes, sir.

10 THE COURT: All right. You have a charge of murder
11 before the Court. That carries a minimum sentence of
12 30 years and a maximum sentence of life in prison.

13 Do you understand that?

14 DEFENDANT SIMPSON: Yes, sir.

15 THE COURT: You have a charge of voluntary
16 manslaughter, which carries a maximum sentence of
17 30 years.

18 Do you understand that?

19 DEFENDANT SIMPSON: Yes, sir.

20 THE COURT: You, also, have an attempted armed
21 robbery and possession of a weapon during the commission
22 of a violent crime.

23 Mr. Marchant, what's the maximum on the attempted
24 armed robbery?

25 MR. MARCHANT: Zero to 20, Your Honor.

1 THE COURT: 20. Okay. That's what I thought.

2 And the possession of a weapon during the commission
3 of a violent crime is punishable by up to five years.

4 Do you understand that?

5 DEFENDANT SIMPSON: Yes, sir.

6 THE COURT: Now, this Court can impose consecutive
7 sentences, meaning that if that were to happen, you'd have
8 to serve each sentence separately.

9 Do you understand that?

10 DEFENDANT SIMPSON: Yes, sir.

11 THE COURT: Now, Mr. Simpson, this case is being pled
12 off the trial docket. And there -- as I understand it,
13 there is no recommendation from the State.

14 Is that correct, Mr. Marchant?

15 MR. MARCHANT: That's correct, Your Honor. No
16 recommendation.

17 THE COURT: Mr. Simpson, with no recommendation, that
18 means that this is what we call a straight-up plea. It
19 means that the State would be free to ask for the maximum
20 sentence, just as your attorney would be free to ask for
21 an alternative sentence. And as in any situation before
22 the Court, it would be up to the Court to determine what
23 the appropriate sentence would be.

24 Do you understand that?

25 DEFENDANT SIMPSON: Yes, sir.

1 THE COURT: Now, with that knowledge, how do you
2 plead to the charge of murder?

3 DEFENDANT SIMPSON: Guilty.

4 THE COURT: How do you plead to the charge of
5 voluntary manslaughter?

6 DEFENDANT SIMPSON: Guilty.

7 THE COURT: How do you plead to the charge of
8 attempted armed robbery?

9 DEFENDANT SIMPSON: Guilty.

10 THE COURT: And how do you plead to the charge of
11 possession of a weapon during the commission of a violent
12 crime?

13 DEFENDANT SIMPSON: Guilty.

14 THE COURT: Mr. Simpson, are you pleading guilty of
15 your own free will?

16 DEFENDANT SIMPSON: Yes, sir.

17 THE COURT: Are you under the influence of any
18 alcohol, drugs, or anything that might affect your
19 judgment today?

20 DEFENDANT SIMPSON: No, sir.

21 THE COURT: When you plead guilty, you give up rights
22 that you have. One of those rights you had already begun
23 exercising this morning, that is the right to a jury
24 trial. You would be entitled to have a jury of 12 of your
25 peers to hear the evidence in the cases. In order for you

1 to be convicted, that jury would have to be unanimous in
2 finding you guilty.

3 Do you understand that right?

4 DEFENDANT SIMPSON: Yes, sir.

5 THE COURT: You would have a right to call witnesses
6 on your behalf.

7 Do you understand that right?

8 DEFENDANT SIMPSON: Yes, sir.

9 THE COURT: You would have the right to confront and
10 cross-examine the witnesses who are against you.

11 Do you understand that right?

12 DEFENDANT SIMPSON: Yes, sir.

13 THE COURT: Mr. Simpson, at a trial, you would have
14 the right to remain silent. And that could not be held
15 against you at all during a trial.

16 Do you understand that right?

17 DEFENDANT SIMPSON: Yes, sir.

18 THE COURT: If you went to trial, you, also, would
19 have the opportunity to present any defenses that you
20 might have to the charge.

21 Do you understand that right?

22 DEFENDANT SIMPSON: Yes, sir.

23 THE COURT: You are presumed innocent. And the State
24 would have the burden of proving you guilty beyond a
25 reasonable doubt.

1 Do you understand that right?

2 DEFENDANT SIMPSON: Yes, sir.

3 THE COURT: Now, you have been represented by
4 Mr. Cole in these cases. Have you had enough time to talk
5 to him?

6 DEFENDANT SIMPSON: Yes, sir.

7 THE COURT: Has he answered your questions?

8 DEFENDANT SIMPSON: Yes, sir.

9 THE COURT: Do you have any questions for him now?

10 DEFENDANT SIMPSON: No, sir.

11 THE COURT: Has he done all you've asked him to do?

12 DEFENDANT SIMPSON: Yes, sir.

13 THE COURT: Are you completely satisfied with his
14 services?

15 DEFENDANT SIMPSON: Yes, sir.

16 THE COURT: Now, Mr. Simpson, how old are you?

17 DEFENDANT SIMPSON: 33.

18 THE COURT: And how far did you go in school.

19 DEFENDANT SIMPSON: Eleventh grade.

20 THE COURT: Did you ever get your GED?

21 DEFENDANT SIMPSON: No, sir.

22 THE COURT: Have you ever been treated for mental
23 illness?

24 DEFENDANT SIMPSON: No, sir.

25 THE COURT: All right. Mr. Marchant, let me hear the

1 facts.

2 MR. MARCHANT: Judge, before we get into that, I'm
3 not sure that Your Honor went over the serious, most
4 serious, and two strikes, three strikes.

5 THE COURT: Okay. Mr. Simpson, you understand --
6 have you been over what a most serious offense is with
7 your attorney?

8 DEFENDANT SIMPSON: No, sir.

9 THE COURT: With the law, as the Solicitor stated it,
10 these convictions are classified as violent and most
11 serious, which gives you the possibility of receiving a
12 life sentence.

13 Do you understand that?

14 DEFENDANT SIMPSON: Yes, sir.

15 THE COURT: Do you need time to go off the record and
16 discuss that with your attorney?

17 Mr. Cole, why don't you go off the record and discuss
18 that with your client --

19 MR. COLE: Yes, Your Honor.

20 THE COURT: -- and make sure he understands it.

21 (Pause.)

22 THE COURT: All right. Mr. Simpson, have you
23 discussed the ramifications of the violent and most
24 serious offense convictions with your attorney?

25 DEFENDANT SIMPSON: Yes, sir.

1 THE COURT: Do you understand that -- that a life
2 without parole sentence is a possibility under that law?

3 DEFENDANT SIMPSON: Yes, sir.

4 THE COURT: Mr. Cole, anything that you'd like to add
5 to the record regarding that?

6 MR. COLE: No, Your Honor. I've -- I've discussed
7 that with my client, and he understands that going into
8 this.

9 THE COURT: Okay. Thank you, Mr. Cole.

10 All right. Mr. Marchant.

11 MR. MARCHANT: May it please the Court, Your Honor.

12 On or about January the 9th of 2016, just a little
13 after midnight at 151 Pierce Road and Amy Road in Iva here
14 in Anderson County, the victim, Justin Ray Williams, was
15 set up to be the victim of an armed robbery. This
16 Defendant and his co-defendants, Tabitha Roberts, Brandon
17 Davis, and Wesley Malmister conspired with a
18 would-have-been fifth co-defendant, Casey Waddell, to go
19 down to Mr. Williams' trailer and rob him of drugs and
20 money.

21 The five of these individuals were in a vehicle, an
22 Isuzu Trooper that was loaned to them by Taylor Pierce.
23 They went down to Mr. Williams' trailer.

24 Ms. Roberts was the individual who made contact with
25 Mr. Williams by way of cell phone and advised him that she

1 wanted to purchase some methamphetamine. Ms. Roberts was
2 really the key to getting into the trailer as Mr. Williams
3 had somewhat of a prior relationship with her.

4 Mr. Williams was familiar with Casey Waddell, who is the
5 other deceased in this case. And it seems that in the
6 past, they had had some prior disagreements likely over
7 drugs and women.

8 In any event, the five of these individuals drove
9 down to Mr. Williams' trailer. Ms. Roberts made entry
10 just by opening the door. Mr. Williams was expecting her
11 to arrive. Moments later, within a minute or two,
12 Ms. Roberts was pulled out of the camper as Casey Waddell
13 entered.

14 Mr. Waddell was clothed in a hoodie, had a bandanna
15 around his face, and was armed with an AK-47. He made
16 entry into the camper, demanded something to the effect
17 of, You know what time it is. Give it up.

18 Mr. Williams, the victim, who was the home owner of
19 the trailer, had a .357 in his pocket and he was able to
20 get off one shot. That one shot struck Mr. Waddell in the
21 left cheek causing him to collapse and was the fatal shot
22 to him. Mr. Waddell was shot one time by Justin Williams.

23 This individual, Mr. Simpson, was behind Casey
24 Waddell. Once Mr. Waddell went down, Randy Simpson
25 unloaded four to five shots into Mr. Williams. And those

1 were the fatal shots coming from a 40-caliber that caused
2 his life to end.

3 Following this, Mr. Simpson, Mr. Malmister,
4 Ms. Roberts, and Mr. Davis fled off in various directions.
5 The three co-defendants that are still with us are
6 Ms. Roberts, Mr. Davis, and Mr. Malmister. They pled in
7 front of Judge Hocker back on April the 25th. They all
8 pled to two counts of voluntary manslaughter and one count
9 of attempted armed robbery. Their sentences were
10 deferred. They are being held in the detention center,
11 are present, and would be ready to testify should
12 Mr. Simpson have exercised his right to trial. So their
13 sentences are deferred and have not had any resolution on
14 their charges yet.

15 The Defendants fled. They all attempted to make up a
16 story to say Mr. Waddell left by himself and went down
17 there, and we don't know what happened. But, obviously,
18 through the investigation of Jeff Finley [phonetic] with
19 the sheriff's office, he was able to bring this case to a
20 close and arrested those four individuals, Ms. Roberts,
21 Mr. Davis, Mr. Malmister, and Mr. Simpson.

22 There's no indication from any of the co-defendants
23 that we are aware of that anyone other than Mr. Simpson
24 fired a weapon. The weapon that Mr. Simpson had has not
25 been located. There are other guns that were seized as

1 part of this investigation. But that weapon we don't know
2 where it is.

3 Again, those other three co-defendants have pled and
4 are ready to testify here today or tomorrow at this trial.

5 There is no plea agreement from the State. At the
6 appropriate time, a representative of the Williams family,
7 Mr. Shaw, would like to address the Court with respect to
8 sentencing.

9 There are some members of the Waddell family. I do
10 not know if any of them wish to address the Court.

11 I do not believe Investigator Finley has anything to
12 add.

13 Thank you, Judge.

14 THE COURT: Mr. Simpson, did you hear the facts as
15 stated by the Solicitor?

16 DEFENDANT SIMPSON: Yes, sir.

17 THE COURT: Do you agree that those are the facts of
18 the case?

19 DEFENDANT SIMPSON: Yes, sir.

20 THE COURT: All right. Mr. Cole, have you had the
21 opportunity to thoroughly go over the facts and applicable
22 law with your client?

23 MR. COLE: Yes, Your Honor.

24 THE COURT: And based on your conversations with him,
25 are you satisfied that he understands his rights?

1 MR. COLE: Yes, Your Honor.

2 THE COURT: And after you've had the opportunity to
3 investigate these cases, and engage in discovery, and talk
4 to your client, do you concur in his decision to plead
5 guilty to these charges?

6 MR. COLE: Yes, I do, Your Honor.

7 THE COURT: Are there any concerns on your part of
8 your client's mental health or his competency to be here
9 today?

10 MR. COLE: No, Your Honor. I have no concerns.

11 THE COURT: All right. I find there is a factual
12 basis for the pleas. The Defendant pleads guilty freely,
13 voluntarily, and intelligently with the advice of
14 competent counsel with whom he indicates he is satisfied.

15 All right. Let's do this.

16 Mr. Marchant, I'll hear from anyone from the victims
17 families that wish to address the Court.

18 And then I'm going to turn it over to you, Mr. Cole.

19 MR. COLE: Thank you, Your Honor.

20 THE COURT: Yes, sir. State your name for the
21 record, please, sir.

22 MR. DANIEL SHAW: Daniel Shaw, Your Honor.

23 THE COURT: All right. Mr. Shaw.

24 MR. DANIEL SHAW: I'm Justin's older brother. And I
25 wanted to write some things, but I don't know how to put

1 into words something that's unexplainable.

2 If you look over there on the first row, that's
3 Justin's family, my mom, my dad, my older brother, my
4 older sister, his wife. His son's not here. But every
5 person over there lost more than I can put into words and
6 explain to you.

7 It's been 491 days since my brother died. And I can
8 tell you right now that that void is just as empty and
9 just as painful as it was the day we lost him.

10 Me, personally, it has changed me. It's put a strain
11 on my marriage, on my parents marriage, who we've always
12 seen just love one another through everything. The burden
13 of what's happened is one we're going to have to carry for
14 our entire lives.

15 His son, to this day, asks about his dad. His son is
16 special needs, and he don't [sic] understand. I don't
17 understand, and I'm a grown man.

18 A couple months before Justin died, God gave me an
19 opportunity to witness to my brother. Two weeks later, he
20 showed up at my house just unexpected asking questions.
21 The last conversation I ever had with my brother in person
22 was one about the Lord, and one about scripture, and about
23 forgiveness.

24 Because, Your Honor, I'm a Christian. I have been
25 for a long time, along with my family. And I don't say

1 that by meaning we go to church. I mean we are
2 Christians. We believe what the Bible says. And the
3 Bible asks that, as Christians, we learn to forgive. And
4 that's one that eludes us. I hope with time that we can
5 find the strength to do it.

6 But the Bible, also, says that vengeance is God's. I
7 ask that mercy be God's, too, and that you give him the
8 maximum on everything, that he never see the light of day
9 as a free man, because my brother won't.

10 Every Christmas, every birthday, we're going to feel
11 that loss. I think it's only fair that he feel loss every
12 day of his life, too.

13 Thank you.

14 THE COURT: Thank you, sir.

15 (Pause.)

16 MR. MARCHANT: I don't believe anybody from the
17 Waddell family wishes to speak.

18 The only other thing that -- our records indicate
19 he's been incarcerated continuously since his date of
20 arrest on February the 3rd of 2016. And our records
21 indicate that to be 449 days.

22 THE COURT: Do you agree with that, Mr. Cole?

23 MR. COLE: Yes, Your Honor. We're in agreement with
24 that.

25 THE COURT: Any prior record?

1 MR. MARCHANT: The relevant prior record, Your Honor,
2 2004, possession of a sawed-off shotgun; '08, burglary
3 second degree; '09, burglary second degree; 2015, PWID or
4 distribution of either crack cocaine or methamphetamine.
5 That was in July of '15, as well as unlawful carrying of a
6 pistol in July of '15.

7 THE COURT: All right. Mr. Cole.

8 MR. COLE: Thank you, Your Honor.

9 May it please the Court.

10 I'd like to start today on behalf of my client, Your
11 Honor, by apologizing to the families of the victims. He
12 is very remorseful. He knows that nothing that he can say
13 or I can say can take back what he's done. However, he
14 is -- he's very remorseful and wants to give his -- his
15 deepest apologies.

16 He understands in -- by pleading guilty today, he
17 understands that he is going to have to do significant
18 time in prison to help pay society back for the wrongs
19 he's done. And -- however, I would ask the Court to
20 consider the fact -- the circumstances of this case, and
21 to sentence him to the minimum of 30 years.

22 He has -- Your Honor, in this situation, it's like so
23 many we've seen. It's a tragic situation that all
24 revolves around methamphetamines. This was a -- my client
25 was a user addicted to methamphetamines, and all the

1 co-defendants were. The victims in this case were
2 involved in the trade of methamphetamines. And that was
3 the -- as the Solicitor stated with the facts earlier --
4 as this Court knows in that illegal -- that illegal
5 enterprise that so many people are involved in a regular
6 thing that happens in robberies. And that was something
7 that -- that they set out to do in this case.

8 As the Solicitor said, the -- the victim,
9 Mr. Waddell, who would have been a co-defendant if he
10 would have lived, went up to the -- the house. My client
11 was behind him. Mr. Waddell was shot dead. Then -- then
12 my client shot the other victim, Mr. Williams.

13 Now, this is a very -- very imperfect self-defense,
14 Your Honor. It would have been his -- it would have been
15 his possible defense, and we went over that. And -- and I
16 looked at that thoroughly.

17 And we know that self-defense cannot -- cannot hold
18 up if the person who is claiming self-defense was at fault
19 in bringing about the trouble. And that -- clearly, if
20 this case would have went to a jury, a jury, clearly,
21 would have found, based on the evidence, that my client
22 was at fault in bringing about the trouble.

23 However -- so this was a -- I don't know that there
24 was a lot of malice as far as evil intention towards the
25 victims, as -- as my client had. There's, certainly, the

1 inferred malice of being involved in a felony.

2 However, just in mitigation that he was -- he saw
3 somebody get shot in front of him, so he returned fire.
4 And that was the -- and had the tragic consequences. We
5 have two people who are deceased, Your Honor.

6 And so I would ask that you look at that and look at
7 the nature that they were all in this criminal enterprise.
8 And that he understands, again, that there's -- this is
9 going to be a significant prison sentence.

10 However, I would ask you to consider sentencing him
11 to the minimum. Give him the opportunity, at least, later
12 on -- he's 35 years old, I believe. He's 35. At least,
13 one day later on in the future when he is an older man
14 that he would be able to have the opportunity to get out
15 and be a productive member of society.

16 All his family lives here in the Anderson area. He
17 does have a young child that he would like to be able to
18 see at some point and be in that child's life after that
19 child's an adult, Your Honor. And he would like to try to
20 get back and work and become a member of society at --
21 some day after he's served his time.

22 So I would ask that you consider allowing him to do
23 that, allow him to go for -- to the Department of
24 Corrections to be corrected, and to be able to get back
25 into society for, at least, part of his life, hopefully,

1 Your Honor.

2 THE COURT: Mr. Simpson, anything you'd like to tell
3 me?

4 DEFENDANT SIMPSON: I'd just like to apologize to the
5 families. I mean, I wish I could take things back. I
6 wish I could trade places with them, but I can't. I'm
7 sorry for it, with all my heart, I am. I pray for y'all
8 every night. I'm sorry.

9 THE COURT: Thank you, Mr. Simpson.

10 All right. Anything further from either --

11 MR. MARCHANT: Nothing from the State, Your Honor.

12 THE COURT: If there's nothing further, this is truly
13 a tragic, tragic situation.

14 This will be the sentence of the Court, on
15 2017-GS-04-464, the Defendant be confined to the
16 Department of Corrections for a term of 30 years. He's
17 given credit for 449 days time served.

18 On 2017-GS-04-465, the Defendant be confined to the
19 Department of Corrections for a term of 15 years. That's
20 consecutive. 449 days time served.

21 And on 2017-GS-04-465, the other charge of possession
22 of a weapon, he's confined to the Department of
23 Corrections for a term of five years. That's consecutive.
24 449 days time served.

25 And the final indictment, 2017-GS-04-466, he's

1 confined to the Department of Corrections for a term of
2 20 years. That's concurrent.

3 Good luck to you, sir.

4 MR. MARCHANT: Judge, I'm sorry. Just a point of
5 clarification. The consecutive sentences, do they run
6 concurrent with each other?

7 THE COURT: No.

8 *****END OF TRANSCRIPT OF RECORD*****
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CERTIFICATE OF REPORTER

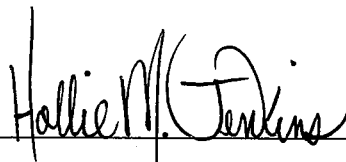
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of General Sessions for Anderson County, South Carolina, on 15th day of May, 2017.

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

October 6, 2017



Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

FORM 5

19 DEC 9 AM 9:28:59
Anderson, SC Dist. CP/68

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ANDERSON)
)
 Randall Matthew Simpson, 315061,)
 Full name and prison number (if any) of Applicant.)
)
 v.)
)
 State of South Carolina)
)

IN THE COURT OF COMMON PLEAS

2019CP0402435

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 Lee Correctional Institution, 990 Wisacky Hwy., Bishopville, SC 29010
2. Name and location of Court which imposed sentence Anderson County Court of General Sessions, 100 S. Main Street, Anderson, SC 29624
3. Name(s) of co-defendant(s) (if any) Wesley Malmister, Tabitha Roberts, and Brandon Davis
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2017-GS-04-00464: Murder
 - (b) 2017-GS-04-00465: Possession of a Weapon & Attempted Armed Robbery
 - (c) 2017-GS-04-00466: Voluntary Manslaughter

5. The date upon which sentence was imposed and the terms of the sentence:
- (a) May 15, 2017: 30 years
 - (b) May 15, 2017: 5 years & 15 years (consecutive)
 - (c) May 15, 2017: 20 years (concurrent)
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty X
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes.
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
 - i. South Carolina Court of Appeals
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. Dismissed
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. January 4, 2019
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. Unpub. Op. No. 2019-UP-008
 - ii. _____
 - iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
 - (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective assistance of counsel for failure to properly prepare and investigate.
- (b) Ineffective assistance of counsel for failure to ensure that Applicant's plea was knowingly and voluntarily entered, which rendered Applicant's plea involuntary.
- (c) Ineffective assistance of counsel for filing a post trial motion only addressing reconsideration and not addressing the voluntariness of Applicant's plea.
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Counsel failed to properly prepare with Applicant prior to trial, as Applicant addressed in his motion to relieve counsel.
- (b) Counsel failed to engage in meaningful plea negotiations, protect client's interests when court would not grant a continuance, and ensure that Applicant's plea was knowingly and voluntarily entered.
- (c) Counsel filed a motion for reconsideration asking for concurrent sentences, but counsel failed to address the voluntariness of Applicant's plea.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? Yes.
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No.
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No.
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. Motion for Reconsideration of Sentence
- ii. _____
- iii. _____
- iv. _____

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

i. Anderson County Court of General Sessions

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. Denied

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. July 11, 2017

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

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

No.

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

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

i. _____

- ii. _____
- iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) PCR is the proper forum for each allegation.
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? Yes.
- (b) your trial, if any? _____
- (c) your sentencing? Yes.
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes.
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes.
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. G. Lee Cole, Jr., PO Box 315, Williamston, SC 29697
- ii. Taylor Gilliam, PO Box 11589, Columbia, SC 29211
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Plea, sentencing and motion to reconsider.
- ii. Direct appeal.
- iii. _____
19. State clearly the relief you seek in filing this application:
A new trial and/or whatever relief the court deems proper.
20. Are you now under sentence from any other court that you have not challenged?
No.

2019CP0402435

STATE OF SOUTH CAROLINA)
)
County of Lee)

VERIFICATION

19 DEC 3 AM 9:39:04
Anderson, SC Doc. CP/66

I, Randall Matthew Simpson, 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.

Randall Simpson

SWORN to and subscribed before me this 14th
day of November, 2019.

[Signature] (L.S.)
Notary Public

My Commission Expires: 5/23/26

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

I, Randall Matthew Simpson , 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.

Randall Simpson
Applicant

SWORN or affirmed to and subscribed before me this

14th day of November, 2019.

[Signature]
Notary Public

My Commission Expires: 5/23/20

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON	)	FOR THE TENTH JUDICIAL CIRCUIT
)	
Randall Matthew Simpson, #315061,	)	Case No.: 2019-CP-04-2435
)	
Applicant,	)	RETURN AND MOTION FOR A
	)	MORE DEFINITE STATEMENT
v.)	
)	
State of South Carolina,)	
)	
Respondent.)	
<hr/>		

The State (Respondent), making its return to the application for post-conviction relief filed by Randall Matthew Simpson (Applicant) on December 3, 2019, would respectfully show this Court:

I. Procedural History

Applicant is presently incarcerated according to an order of commitment of the Anderson County Clerk of Court. During its February of 2017 term, the Anderson County Grand Jury indicted Applicant for the possession of a weapon during the commission of a violent crime (2017-GS-04-465), attempted armed robbery (2017-GS-04-465), and two counts of murder (2017-GS-04-464; -466). Applicant was represented by Gregory L. Cole, Jr., Esquire, (plea counsel) and Assistant Solicitor Lucas C. Marchant of the Tenth Circuit Solicitor’s Office prosecuted the case. On May 15, 2017, Applicant appeared before the Honorable R. Scott Sprouse (trial court) and pleaded guilty to murder (-464), the possession of a weapon during the commission of a violent crime, attempted armed robbery, and voluntary manslaughter (-466). The trial court sentenced Applicant to imprisonment for thirty years for murder, fifteen years for attempted armed robbery, five years for the possession of a weapon, and twenty years for voluntary manslaughter. The trial court gave Applicant credit for his time served, and ordered that the sentences for murder,

attempted armed robbery, and possession of a weapon be served consecutively, with the sentence for voluntary manslaughter running concurrent to the others, such that Applicant's sentence is an aggregate of fifty years in prison. On May 18, 2017, plea counsel filed a motion for a reconsideration of the sentence, arguing that, pursuant to S.C. Code Ann. Section 17-25-50, Applicant's crimes may be considered as a single offense, and that Applicant's sentences should run concurrently instead of consecutively. The trial court denied the motion in an order issued on July 11, 2017.

Plea counsel filed a timely notice of appeal. Appellate Defender Taylor Davis Gilliam – South Carolina Commission for Indigent Defense (appellate counsel) represented Applicant on appeal. Appellate counsel filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), on April 18, 2018, arguing that the trial court erred in finding Applicant knowingly and voluntarily pleaded guilty after denying Applicant's motion to relieve plea counsel and his motion for a continuance; appellate counsel also filed a motion to be relieved as counsel. On May 21, 2018, Applicant filed a pro se Anders response, arguing the trial court erred in denying his motion to relieve plea counsel, erred in denying plea counsel's motion for reconsideration, and violated Rule 501, SCACR. The South Carolina Court of Appeals dismissed the appeal and granted appellate counsel's motion to be relieved in an unpublished opinion. State v. Simpson, Op. No. 2019-UP-008 (S.C. Ct. App. filed January 4, 2019). The Remittitur was issued on January 23, 2019.

II. Current Application

On December 3, 2019, Applicant filed an application for post-conviction relief.¹ Applicant

¹ Applicant's application for post-conviction relief was noticed and mailed to the Anderson County Clerk of Court for filing by Tricia A. Blanchette, Esquire. As Ms. Blanchette's cover letter indicated she did not intend to enter an appearance on Applicant's behalf, Respondent requested that an attorney be appointed to represent Applicant.

alleges therein that he is entitled to post-conviction relief upon multiple grounds, which are: (1) plea counsel was constitutionally for failing to investigate and prepare for trial, (2) plea counsel was constitutionally ineffective for failing to engage in meaningful plea negotiations, (3) plea counsel was constitutionally ineffective for failing to protect Applicant's interests when the trial counsel denied his motion for a continuance, (4) plea counsel was constitutionally ineffective for failing to ensure that Applicant's guilty pleas were knowingly and voluntarily entered, (5) plea counsel was constitutionally ineffective for failing to move for reconsideration on the ground that Applicant's guilty pleas were not knowingly and voluntarily entered, and (6) Applicant's guilty pleas were not knowingly and voluntarily entered. Applicant prays that the PCR court would grant relief by granting him a new trial "and/or whatever relief the court deems proper."

Attached to this return and incorporated by reference are the records of the Anderson County Clerk of Court regarding the subject convictions, the transcript from Applicant's plea hearing, the Record on Appeal from Applicant's direct appeal, the briefs and pro se response and opinion from Applicant's direct appeal, and the application for post-conviction relief. Respondent reserves the right to amend this return upon receipt of any relevant materials.

III. Ineffective Assistance of Counsel

Applicant, like all other defendants, has a right to the assistance of effective counsel as provided by the Sixth Amendment to the United States Constitution. Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008). Applicant has the burden of proving the allegations in his post-conviction relief action, and when alleging that counsel was constitutionally ineffective, he must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that it cannot be relied upon as having produced a just result." Strickland, 466 U.S. at 686. In evaluating allegations of ineffective assistance of

counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, Applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced Petitioner 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, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985). The "prejudice prong ordinarily requires more than simply a defendant's assertion that but for counsel's deficient performance he would not have pled but would have gone to trial." Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 595 (2009). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill, at 56.

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered

by the defendant as a result of the alleged deficiencies. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, 466 U.S. 668. Moreover, Strickland does not require a finding of ineffectiveness merely for deviation from some rigid rule of representation. Rather, Strickland requires the post-conviction relief applicant to prove “counsel made errors so serious that counsel was not functioning as the ‘counsel’ guaranteed the defendant by the Sixth Amendment.” Id. at 697. Therefore, the function of the post-conviction relief court is to determine if “in light of all the circumstances, the identified acts or omissions were outside the wide range of professional competent assistance” required of a criminal defense attorney. Id. at 690.

“A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate’s right to contest the validity of such a plea is usually, but not invariably, foreclosed.” Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (S.C. Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 74 (1977)). “Indeed, where a thorough colloquy is conducted, courts must exercise caution in setting aside the guilty plea.” Garren v. State, 423 S.C. 1, 12, 813 S.E.2d 704, 712 (2018); see Jamison v. State, 410 S.C. 456, 469-71, 765 S.E.2d 123, 129-30 (2014) (observing that “guilty plea[s] must be treated as final in the vast majority of cases” and instructing that caution must be exercised so as not to “undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea”).

A defense attorney has a duty to undertake reasonable investigations or to make a decision that renders a particular investigation unnecessary. Strickland at 691. Thus, “[a] criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State.” McKnight v. State, 378 S.C. 33, 46, 661 S.E.2d 354, 360 (2008).

A defense attorney's "[f]ailure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by **mere speculation** as to the result." Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998) (citing Kibler v. State, 267 S.C. 250, 227 S.E.2d 199 (1976)). An applicant alleging that his attorney failed to prepare for the case **must show** how additional preparation would have resulted in a different outcome. Skeen v. State, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997). Moreover, counsel's decision not to investigate should be assessed for reasonableness under all the circumstances with heavy deference to counsel's judgment. Simpson v. Moore, 367 S.C. 587, 597, 627 S.E.2d 701, 706 (2006). "[A] court deciding an actual ineffectiveness claim must judge the reasonableness of counsel's challenged conduct on the facts of the particular case, viewed as of the time of counsel's conduct." Id. at 690; Bagwell v. State, 410 S.C. 259, 265, 763 S.E.2d 630, 633-34 (S.C. Ct. App. 2014).

The South Carolina Supreme Court has found a defense attorney ineffective for failing to move to withdraw his client's guilty plea when the defendant asserted his innocence repeatedly during the plea hearing before a sentence was imposed and when the deficient on counsel's part prevented the trial court from exercising its discretion and the appellate courts from reviewing a denial of the motion on the part of the trial court. Rolen v. State, 384 S.C. 409, 683 S.E.2d 471 (2009). In Rolen, the Supreme Court remanded the case to the point in the guilty plea proceeding in which the defense attorney should have moved to withdraw his client's guilty plea because, "[o]nce the plea judge found that [Rolen's] plea was voluntary and supported by a factual basis and formally accepted the plea of guilt, [Rolen] forfeited his ability to withdraw the plea as a matter of right. Id. at 414, 683 S.E.2d at 474 (quoting State v. Bickham, 381 S.C. 143, 672 S.E.2d 105 (2009)).

At the plea hearing, after Applicant moved to relive counsel, Applicant affirmed that he understood that his trial would not be delayed until a further date if Applicant decided to persist in having plea counsel relieved. Tran. 4-5. After conferring more with plea counsel, Applicant indicated he wished to plead guilty to the crimes. Tran. 8. Applicant affirmed that he understood the potential sentences he could receive. Tran. 6-7. Applicant affirmed that he understood that, if he pleaded guilty, he could be sentenced to consecutive terms of imprisonment. Tran. 7. Applicant affirmed that he understood that the sentence imposed would be left to the discretion of the trial court. Tran. 7. Applicant affirmed that he was pleading guilty of his own free will. Tran. 8. Applicant affirmed that he understood his trial rights and that he would be waiving them by pleading guilty. Tran. 8-10. Applicant affirmed that he had had enough time to talk with plea counsel, that plea counsel had answered all of Applicant's questions, that plea counsel had done everything Applicant asked, and that Applicant was "completely satisfied" with plea counsel's representation. Tran. 10. Applicant affirmed that he understood that the trial court could sentence him to imprisonment for life without the possibility of parole. Tran. 11-12. Applicant affirmed that the State's recitation of facts that would be proved at trial was accurate. Tran. 15. Plea counsel affirmed that he believed it was in Applicant's best interest to plead guilty. Tran. 16. Plea counsel acknowledged that Applicant understood that, by pleading guilty, he would have to do substantial time in prison. Tran. 19. Plea counsel informed the Court that he had discussed the defense of self-defense with Applicant, and that he believed that defense would not aid Applicant at trial. Tran. 20. Plea counsel asked that the trial court impose only the minimum sentences. Tran. 21. Applicant apologized to the victims' families and stated that he wished he could "take things back." Tran. 22.

Respondent submits that Applicant cannot likely cannot show that he is entitled to relief

because he cannot meet his burden in showing that his attorneys' performance was deficient and that Applicant would not have pleaded guilty but for the deficiency; however, Respondent requests an evidentiary hearing in order to address the questions of fact raised that the record may not conclusively refute. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (holding that an evidentiary hearing is required when an application for post-conviction relief alleges specific instances of ineffectiveness that are not conclusively refuted by the record) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV. Motion for a More Definite Statement

Respondent moves for a more definite statement as to Applicant's allegations. Applicant alleges plea counsel was constitutionally ineffective for failing to properly prepare and investigate before trial, but does not explain how counsel's preparation was inadequate, does not provide the additional preparation in which counsel should have engaged, and does not explain how the outcome of proceedings would have been different had counsel done more in preparation for trial. Applicant alleges plea counsel was constitutionally ineffective for failing to ensure that Applicant's guilty pleas were knowingly and voluntarily entered, but does not explain what made the pleas unknowingly and involuntary. Applicant alleges plea counsel was constitutionally ineffective for failing to protect Applicant's interests when the trial court denied his motion for a continuance, but fails to explain what actions plea counsel should have taken in order to protect those interests or how the result would have been different had counsel done so. Applicant fails to set forth with specificity the facts and circumstances upon these claims are based. The Uniform Post-Conviction Procedure Act requires that Applicant must "specifically set forth the grounds upon which the application is based." Section 17-27-50 of the Code of Laws of South Carolina (1976). In an application for post-conviction relief, it is incumbent upon Applicant to make at least

a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). The Supreme Court of South Carolina has provided that:

[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the appellant that he was deprived of counsel is insufficient.

Coardes v. State, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974).

Furthermore, Rule 8(a), SCRPC, requires all civil pleadings include “a short and plain statement of the facts showing that the pleader is entitled to relief.”

Applicant has failed to state with any specificity the specific facts giving rise his allegations. Respondent moves pursuant to Rule 12(e), SCRPC, to require Applicant to provide a more definite statement of his claims. Respondent moves to require Applicant to file an amended application well in advance of any evidentiary hearing scheduled in this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the relevant allegation(s).

V. Denial of All Other Allegations

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

VI. Future Amendments and the Discovery Process

Applicant must specify any claims he intends to raise at the post-conviction relief evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed counsel, that attorney and not the Applicant is the only individual authorized to file amendments to this application for post-conviction relief. See Rule 11, SCRPC. Pro se filings will not be considered at the evidentiary hearing. Respondent reserves the right to

request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent pursuant to Love v. State, Op. No. 27921 (S.C. Sup. Ct. filed October 2, 2019) (Shearhouse Adv. Sh. No. 39 at 14), or, alternatively, Respondent will move for a continuance in the matter. See Love, at 24 (Kittredge, J., dissent) (“If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.”).

VII. Conclusion

WHEREFORE, Respondent requests that the PCR Court require Applicant to provide a more definite statement as requested herein and hold an evidentiary hearing regarding Applicant’s allegations.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

TAYLOR SMITH
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

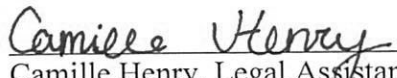
February 26, 2020

STATE OF SOUTH CAROLINA)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON)	
	)	2019-CP-04-2435
)	
RANDALL M. SIMPSON, #315061)	
)	
Applicant,)	
)	
vs	)	CERTIFICATE OF SERVICE BY MAIL
)	
STATE OF SOUTH CAROLINA,)	
)	
Respondent,)	
_____)	

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

Don A. Thompson, Esquire
 107 Smithwood Court
 Simpsonville, South Carolina 29681

DATED this the 26th day of February, 2020.



 Camille Henry, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	2020-CP-04-02435
COUNTY OF ANDERSON)	
)	
)	
)	
)	
RANDALL M. SIMPSON,)	
Applicant,)	
)	
vs.	)	TRANSCRIPT OF RECORD
)	
THE STATE OF SOUTH CAROLINA,)	
Respondent.)	
_____)	

February 2, 2021
Via Web Conferencing

B E F O R E:

THE HONORABLE LETITIA H. VERDIN, JUDGE

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

DON A. THOMPSON, ESQ.
Attorney for the Applicant

TAYLOR Z. SMITH, ESQ.
Attorney for the Respondent

CHERYL A. SMITH
Circuit Court Reporter

INDEX

(AW) - Denotes Applicant's Witness
(RW) - Denotes Respondent's Witness

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EXHIBITS

	<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>
20		(Applicant's Exhibit)		
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P R O C E E D I N G S

(WHEREUPON, proceedings commenced at 2:00 p.m.)

THE COURT: Mr. Smith, you want to start us off?

MR. SMITH: Yes, Judge. And I'd like to note just first that we're all participating over WebEx today because of the pandemic.

But if it please the Court, Mr. Simpson is serving a sentence now. During its February 2017 term, the Anderson County grand jury indicted Mr. Simpson for possession of a weapon, attempted armed robbery, two counts of murder.

In May of 2017, Mr. Simpson appeared before Judge Sprouse pleading guilty to murder, possession of a weapon, attempted armed robbery, involuntary manslaughter as a lesser included. Judge Sprouse sentenced Mr. Simpson to imprisonment for 30 years for murder, 15 for attempted armed robbery and five for possession of a weapon with all running consecutively, and also for 20 years for voluntary manslaughter to run concurrently so that the sentence was an aggregate of 50 years. And the Court gave him credit for time served.

THE COURT: Okay.

MR. SMITH: After that, Mr. Cole, who's here to testify today and who represented Mr. Simpson in the underlying case, moved to reconsider, asking Judge Sprouse essentially to run the sentences concurrently. Judge

1 Sprouse denied that. The case went up on appeal. On an
2 Anders brief, Mr. Simpson did file a pro se Anders brief
3 himself, and the Court of Appeals dismissed.

4 He filed -- Mr. Simpson filed this application on
5 December 3, 2019, raising multiple claims. Based on my
6 recent discussions with Mr. Thompson, I believe that they
7 will be arguing one claim today that Mr. Simpson's guilty
8 pleas were not knowingly and voluntarily entered because
9 Mr. Cole's delay in having Mr. Simpson's motion to relieve
10 counsel heard in a timely fashion left Mr. Simpson with no
11 choice but to plead guilty, and that his reason for
12 wanting Mr. Cole relieved as counsel is because he
13 believed Mr. Cole was not prepared for trial. And I'll
14 let Mr. Thompson agree whether or not that that's the
15 single claim today. But other than that, the State is
16 ready.

17 THE COURT: All right. Mr. Thompson?

18 MR. THOMPSON: Mr. Smith is correct. The main claim
19 is that the plea was not freely and voluntarily entered
20 because a request that Mr. Simpson made to relieve his
21 attorney was never brought before the Court to be heard.
22 The elements that he's put forth in his application, we
23 are going to briefly touch on those, but they are simply
24 to show the reasons as why he wanted to dismiss his
25 attorney. They're not to make any allegations at this

1 point in time as to separate allegations of ineffective
2 assistance of counsel. They're simply under the umbrella.

3 Judge, when you read the transcript, you'll see that
4 when the case was actually called for trial, Mr. Simpson
5 was then given the opportunity to move to relieve his
6 attorney. But at that point in time, the judge said, you
7 know, if I do that, you're going to go forward with trial
8 on your own. So our main issue is, and we'll get into
9 this, that it was not timely brought before the Court for
10 the Court to explore his reasons for wanting to relieve
11 his attorney.

12 THE COURT: All right. Are you ready to proceed,
13 Mr. Thompson?

14 MR. THOMPSON: I am.

15 THE COURT: All right.

16 MR. THOMPSON: Okay. We would call Mr. Simpson,
17 Randall Simpson.

18 THE COURT: Mr. Simpson, will you raise your right
19 hand, please.

20 WHEREUPON,

21 RANDALL SIMPSON

22 After having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. THOMPSON:

25 Q Give us your full name, Mr. Simpson.

1 A Randall Matthew Simpson.

2 Q Okay. And where are you presently at?

3 A I'm at Lee Correctional Institution.

4 Q Okay. Did you hear Mr. Smith earlier on when he went
5 over the charges that you pled guilty to and the sentence
6 you got?

7 A Yes, sir.

8 Q Do you agree with that?

9 A Yes, sir.

10 Q Okay. Now, when you were arrested on this, did you
11 hire an attorney or did you have an appointed attorney?

12 A I was appointed an attorney.

13 Q Okay. And who was that attorney?

14 THE COURT: Hold on just one second. Hold on just
15 one second. Mr. Simpson, could you reach forward on that
16 computer and turn down your volume? I want you to be able
17 to hear everything, but it's reverberating.

18 THE WITNESS: I don't know where it's at.

19 THE COURT: It would be in the lower right-hand
20 corner.

21 THE WITNESS: I see it. Uh-oh. Excuse me. Can you
22 turn the volume down? All right. Thank you.

23 THE COURT: Are you still able to hear us?

24 THE WITNESS: Ma'am?

25 THE COURT: Are you still able to hear us?

1 THE WITNESS: Yes, ma'am.

2 MR. THOMPSON: Are you ready, Judge? All right.

3 BY MR. THOMPSON:

4 Q I believe we got to the point that you said that you
5 had an appointed attorney to represent you?

6 A Yes, sir.

7 Q And that was Mr. Cole?

8 A Yes, sir.

9 Q Okay. Were you on the street or were you in the jail
10 at that time?

11 A I was in the jail.

12 Q Okay. Did you ever make bond and get out?

13 A No, sir.

14 Q Okay. How long were you in jail?

15 A Roughly 17, 18 months.

16 Q Okay. And how long had you been in jail before
17 Mr. Cole was appointed to represent you?

18 A About a month, maybe. A little over a month.

19 Q Okay. During that 17 or 18 months less the month
20 before he was appointed, how many times did you see
21 Mr. Cole?

22 A After that? After he was appointed my lawyer?

23 Q After he was appointed as your lawyer.

24 A Maybe two, three times, maybe.

25 Q Okay. When was the first time you saw him; do you

1 recall?

2 A When he came to tell me that he was going to be
3 appointed my lawyer.

4 Q Okay. At that point in time, did he have discovery?

5 A No, sir.

6 Q Okay. When was the next time you saw him?

7 A When I was going for a bond reduction -- or going up
8 for a bond hearing.

9 Q Okay. And how long after the first time was that?

10 A Maybe six months.

11 Q Okay. Did he have discovery at that time?

12 A No, sir.

13 Q Okay. And when was the next time you saw him?

14 A I think right before I was going to court.

15 Q And what do you mean by right before? How far
16 before?

17 A About a week before.

18 Q Okay. And did he go over discovery with you at that
19 time?

20 A No, sir.

21 Q All right. Did you ever get discovery in your case?

22 A I did.

23 Q And how did you get it?

24 A It was brought to me by a correction officer from the
25 county jail at like 12 o'clock at night.

1 Q Okay. Do you know how the correctional officer got
2 it?

3 A I have no idea.

4 Q Okay. At any point in time, did Mr. Cole ever sit
5 down and go over the discovery with you?

6 A No, sir.

7 Q All right. How did you learn you were up for trial?

8 A I was watching TV at the jail, and the news, I was
9 watching the news, and my case came on the TV telling me
10 that my codefendants, their case was being deferred until
11 after trial.

12 Q All right. And did Mr. Cole come see you after that?

13 A It was maybe two weeks after that when he came to see
14 me.

15 Q Okay. Now, had you ever contacted Mr. Cole and
16 indicated you wanted to relieve him as attorney?

17 A No. I -- when he came to see me, I told him I was
18 trying to get a paid lawyer, but the paid lawyer never
19 went through. So I just put in a motion to relieve my
20 counsel.

21 Q Okay. Are you talking about the letter you sent?

22 A Yes, sir.

23 MR. THOMPSON: Your Honor, I sent to you by email and
24 also to Mr. Smith and to Court Reporter Cheryl Smith a
25 letter that was filed in the clerk of court's office. It

1 was actually filed on May the 2nd of 2015 -- or 2017. I
2 would like at this point in time ---

3 BY MR. THOMPSON:

4 Q Mr. Simpson, is that -- did you write that letter
5 about April 30th of 2017?

6 A Yes, sir.

7 Q If I read this brief letter, would you remember if
8 that's the letter you wrote?

9 A Yes, sir.

10 Q Okay. I'm going to read it, if that's okay.

11 A Okay.

12 Q It says (as read): RE: Motion to dismiss counsel.
13 I would like to dismiss my counsel Gregory Lee Cole, Jr.,
14 Esq. cause of the sixteen months I have been here I have
15 only seen my lawyer twice. I received my motion of
16 discovery two months after my lawyer received it. I have
17 asked for legal mail I never received. He does not reply
18 to my mail. I feel my counsel does not have my best
19 interest in mind. It indicates it's signed by Randall M.
20 Simpson, dated April 30, 2017. Is that the letter that
21 you sent?

22 A That's it.

23 Q And who did you send that to?

24 A I sent it to the clerk of court, and I sent a copy to
25 my lawyer, to Gregory Cole.

1 MR. THOMPSON: At this point in time, Your Honor, I
2 would move this letter into evidence as Applicant's
3 Number 1.

4 THE COURT: Any objection, Mr. Smith?

5 MR. SMITH: No objection.

6 THE COURT: All right. It will be so admitted.

7 (WHEREUPON, Applicant's Exhibit Number 1 was admitted into
8 evidence.)

9 THE COURT: Do you know what we're -- how things are
10 going here, Mr. Thompson? You sent me that letter. I've
11 got that letter. I'm going to print that letter. And the
12 court reporter and I are going to work to get that marked,
13 and then we'll send it on to the clerk's office in
14 Anderson, eventually.

15 MR. THOMPSON: Okay. Thank you.

16 And I might note, Your Honor, that that letter was
17 filed, as I say, May the 2nd of 2017, and it appears that
18 the clerk of court has indicated on the bottom of it that
19 they carbon copied it to the solicitor and the public
20 defender on that same date, May 2, 2017.

21 BY MR. THOMPSON:

22 Q Now, Mr. Simpson, one of the things you say is you
23 sent letters to Mr. Cole and never received any response;
24 is that true?

25 A Yes, sir.

1 Q Do you know how many letters you sent to him?

2 A There were several of them.

3 Q Okay.

4 A I even had my -- my family even called to try to get
5 him to (unintelligible). He never called back.

6 MR. THOMPSON: All right. If I may have a moment,
7 Your Honor, go over my notes to make sure.

8 MR. SMITH: Judge, I have an objection to that, that
9 that would be outside of Mr. Simpson's personal knowledge
10 of what his family did while he was in jail.

11 THE COURT: Sustained.

12 And I -- and certainly, take as much time as you
13 need, Mr. Thompson.

14 MR. THOMPSON: Thank you.

15 BY MR. THOMPSON:

16 Q Now, Mr. Simpson, was there ever any discussion of a
17 guilty plea?

18 A No, sir.

19 Q All right. And the first time -- when was the first
20 time you were taken to court to allow you to argue to
21 relieve your attorney?

22 A I never went to argue to relieve him. Just the date
23 I went to trial, I told the judge that I wanted to relieve
24 my counsel.

25 Q Okay. The day of trial.

1 A Yes, sir. The day of trial.

2 Q That was the day y'all were set to pick a jury?

3 A Yes, sir.

4 Q What did the judge tell you at that time?

5 A He told me that I could relieve my counsel, but he
6 was going to send me downstairs, he was going to send
7 another lawyer down there and let me go over my case with
8 that lawyer, he'll bring me back up and I was going to
9 trial that day.

10 Q Okay. You were told you were going to trial that
11 day.

12 A Yes, sir.

13 Q All right. Did you feel you were prepared to go to
14 trial that day?

15 A No, sir.

16 Q Had your attorney, Mr. Cole, talked with you and
17 prepared you for trial?

18 A No, sir.

19 Q Now, the discovery you received, is that all the
20 discovery in your case that you're aware of?

21 A Well, when I went back to court when I was going to
22 trial, Mr. Cole told me that they had new discovery on my
23 case. I guess it was the new statements that my
24 codefendant had brought. And he said he was going to send
25 it to me, but I never got it.

1 Q Okay. Did he ever go over any discovery with you?

2 A No, sir.

3 Q All right. Did you ever receive it?

4 A No, sir.

5 Q And I believe you're saying the first time you were
6 made aware of it was the day you were to go to trial?

7 A Yes, sir.

8 Q Okay. And I may have asked this, but I'll ask again.
9 Do you feel you were prepared to go to trial?

10 A No, sir. Not at all.

11 Q Why did you plead guilty?

12 A Because I felt like I was forced into it. I felt
13 like I had no other choice.

14 Q And what do you mean by you had no other choice?

15 A I feel like if I -- they would have gave me another
16 lawyer, I didn't have enough time to prepare for it still.
17 I only had two hours to prepare for it.

18 MR. THOMPSON: Okay. Thank you. Answer any
19 questions that Mr. Smith may have, please.

20 THE COURT: Mr. Smith?

21 MR. SMITH: Thank you.

22 CROSS EXAMINATION

23 BY MR. SMITH:

24 Q Mr. Simpson, you testified that you never discussed
25 pleading guilty with Mr. Cole?

1 A Sir?

2 Q Your testimony was that you did not discuss pleading
3 guilty with Mr. Cole?

4 A Yes, sir.

5 Q So you wanted to go to trial the whole time, but
6 never considered a guilty plea.

7 A Yes, sir. I wanted to go to trial.

8 Q Okay. You remember at your guilty plea hearing that
9 after you were sworn in, you did answer some questions
10 before Judge Sprouse, didn't you?

11 A Yes, sir.

12 Q Okay. And you remember you told him while you were
13 under oath that you were pleading guilty of your own free
14 will?

15 A Yes, sir.

16 Q Okay. That you wanted to waive your rights by
17 pleading guilty?

18 A Yes, sir.

19 Q Okay. You told him that you had enough time to talk
20 with Mr. Cole. You told him that, didn't you?

21 A Yes, sir.

22 Q Okay. And you agreed with Judge Sprouse that
23 Mr. Cole had answered all the questions you had.

24 A Yes, sir.

25 Q Okay. And you agreed with Judge Sprouse you didn't

1 have any more questions to ask Mr. Cole.

2 A Yes, sir.

3 Q Okay. And while you were under oath, you told
4 Mr. Sprouse that Mr. Cole had done everything you'd asked
5 him to do.

6 A Yes, sir.

7 Q Okay. And that you were completely satisfied with
8 Mr. Cole.

9 A Yes, sir.

10 MR. SMITH: Okay. Judge, no more questions. Thank
11 you.

12 THE COURT: Mr. Thompson, anything else for this
13 witness?

14 THE WITNESS: I can't hear him.

15 (Pause in proceedings.)

16 THE COURT: I'm sorry, Mr. Thompson. I think you and
17 I are muting and unmuting each other. Okay. Sorry about
18 that.

19 Do you have any other witnesses you'd like to call?

20 MR. THOMPSON: No, ma'am, we don't.

21 THE COURT: All right. Very well then.

22 Mr. Smith, are you ready to proceed?

23 MR. SMITH: Yes, Judge. I would call -- I'm sorry.
24 I didn't mean to cut you off.

25 THE COURT: No, you didn't. I was -- I was just

1 going to say, you know, before we go any further,
2 Mr. Marchant, I haven't asked you if you wanted to -- I
3 mean, you could just be here observing, but I didn't know
4 if you felt you wanted to participate in any way.

5 MR. MARCHANT: Thank you, Judge. I was asked to be
6 here by the attorney general's office, so here I sit and
7 stand ready for the Court if there are any questions for
8 me.

9 THE COURT: Very well. I appreciate you being here
10 as always.

11 All right. Mr. Smith, are you ready to proceed?

12 MR. SMITH: Yes, Your Honor. I would first call
13 Mr. Gregory Lee Cole.

14 THE COURT: Mr. Cole, will you raise your right hand,
15 please.

16 WHEREUPON,

17 GREGORY LEE COLE, JR.

18 After having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. SMITH:

21 Q Mr. Cole, how did you come to be involved in
22 Mr. Simpson's General Sessions case?

23 A I was appointed to his case pursuant to a Rule 608
24 contract that I had with Anderson County.

25 Q At the time, how long had you been practicing in the

1 field of criminal law?

2 A In 2017 I had been practicing criminal law for five
3 years, the entire time I had been practicing. I was
4 admitted in 2012.

5 Q Okay. While representing Mr. Simpson, did you have
6 in-person meetings with him?

7 A Yes, I did.

8 Q Do you remember how many times you met with him?

9 A In looking back at the file, I know I had several
10 in-person meetings with him. It appears that it would
11 have been -- from the best of my memory and from review of
12 the file, there would have been about five total meetings,
13 and also from the file that I did send seven letters to
14 him on different matters.

15 Q Did you ever talk to Mr. Simpson on the phone?

16 A I do not recall if we ever spoke on the phone. I did
17 speak to some of his family members, including his mother,
18 on the phone with his consent.

19 Q Do you remember generally what sorts of things you
20 received in discovery from the State?

21 A The discovery we received, we received audio and
22 video, we received photographs and we received statements
23 from the other parties involved as well as police reports
24 and other things that you generally will receive in
25 discovery, then some forensic information as well.

1 Q Okay. And when you say statements from other parties
2 involved, you mean Mr. Simpson's codefendants?

3 A Yes.

4 Q Okay. Can you tell me what you remember about the
5 facts of the crime?

6 A The best of my memory, the facts of this case is that
7 the allegations were that Mr. Simpson and the codefendants
8 attempted to rob the alleged victim. One of the
9 codefendants was -- the victim was in a camper. One of
10 the codefendants was the first person into the door of the
11 camper and was armed. He was shot dead by the alleged
12 victim. And then my client was second, and my client is
13 alleged to have shot the victim dead immediately after
14 that. And there were several other codefendants that were
15 involved in this alleged robbery.

16 Q Did you discuss with Mr. Simpson the things you
17 received in discovery?

18 A Yes.

19 Q Do you remember on how many occasions you went over
20 discovery with him?

21 A I know we went over discovery on several occasions.

22 Q Did you just talk about it with him, or did you show
23 him items? How did it work when you would talk about
24 discovery?

25 A The best of my memory, we talked about it, and I did

1 go over the documents and other items that I had received
2 with Mr. Simpson in person.

3 Q Okay. Did you make Mr. Simpson aware that his
4 codefendants would probably testify against him if he went
5 to trial?

6 A Yes.

7 Q Can you remember the timing of discovery? In other
8 words, did you get discovery late in the case? early? Can
9 you tell me what you can remember about that?

10 A We did have some issues with discovery in the case.
11 We did not -- we did not receive -- there was a delay from
12 the normal practice of the solicitor's office in getting
13 us discovery, and we filed -- because of that filed a
14 motion for bond and a motion to dismiss on Mr. Simpson's
15 behalf. And then the State -- after filing that, the
16 State did provide discovery. However, the initial
17 discovery provided by the State was far enough in advance
18 of trial that I did not believe that it would be
19 prejudicial.

20 Q When you were meeting with Mr. Simpson, did you go
21 over his trial rights?

22 A Yes, I did.

23 Q Okay. Did you discuss with him the possibility of
24 his pleading guilty?

25 A Yes. We thoroughly discussed that.

1 Q Do you remember on how many occasions you discussed
2 what Mr. Simpson, the possibility of his pleading guilty?

3 A I know we discussed it on, I believe, two occasions
4 prior to the date of the guilty plea. We discussed it
5 thoroughly. And then we also discussed it on the date of
6 the guilty plea. Now, that's discussing it thoroughly.
7 Of course, when I first met with him, we discussed the
8 options, which would be to go to trial or plead guilty if
9 the charge could not be dismissed prior to trial.

10 Q Did Mr. Simpson indicate he was interested in
11 pleading guilty, or was he set on trial the entire time?

12 A No. He was interested in pleading guilty, to the
13 best of my memory, the entire time. However, we did
14 discuss -- we discussed going to trial, and I was prepared
15 to go to trial on the date that the case was called.

16 Q Okay. What sorts of things did you do to prepare for
17 trial?

18 A We thoroughly looked through the discovery, looked
19 back at the -- the main evidence that the State had, to
20 the best of my memory, was the statements of the other
21 witnesses. I did speak to -- all the other witnesses were
22 represented by counsel, and I did speak to counsel for a
23 couple of those witnesses to confirm that they would be
24 testifying against my client. So I looked at their
25 statements and looked at the best ways in which we could

1 impeach them.

2 To the best of my memory, the physical evidence was
3 not -- there was not much exculpatory in favor of the
4 defense. The -- really, the only thing we had to go on
5 was self-defense, and that is what I discussed the most.
6 I had planned on having a stand-your-ground hearing prior
7 to the trial and then moving forward with a self-defense
8 if the stand-your-ground hearing did not -- was not
9 granted if the case was not dismissed pursuant to that.

10 I'd also spoken to Mr. Simpson about the possibility
11 of testifying on his own behalf in a self-defense case
12 like this. And we had discussed that but had not decided
13 100 percent as to whether he wanted to testify on his own
14 behalf or not. There were really no other witnesses that
15 I planned to call due to it being a self-defense, just
16 cross-examining the State's witnesses in regards to what
17 went on.

18 Q What did you tell Mr. Simpson about his chances of
19 being successful at trial?

20 A I told him, in my opinion, that the chances of
21 success were very low because I believed that he had what
22 would be in some jurisdictions a possibility of an
23 imperfect self-defense. But even that's not recognized in
24 South Carolina. It could be a mitigating factor.
25 However, I feel like even the elements of imperfect

1 self-defense were not completely there because South
2 Carolina law is clear that the person who was attempting
3 to assert self-defense could not have been a person who
4 caused the difficulty, and appeared the evidence supported
5 the State's case that there was -- this was a robbery or a
6 break-in that caused the difficulty that led to the victim
7 being shot.

8 Q Did you enter into plea negotiations with
9 Mr. Marchant on Mr. Simpson's behalf?

10 A Yes.

11 Q Okay. And what was the main thrust of those
12 discussions?

13 A We were discussing -- he and I had several
14 conversations on the phone and by email, and we were
15 discussing the possibility of what different plea offers
16 would look like, if it came down to it that we could not
17 agree to a plea that -- with a term of years that
18 Mr. Simpson would agree to. But Mr. Simpson and I talked
19 about the possibility of a straight-up plea, talked to
20 Mr. Marchant about a straight-up plea, and with looking at
21 all the factors involved in that, we felt like that it
22 would be a -- it felt like that if we went to trial,
23 overwhelming odds would be that he would be found guilty
24 and he'd be sentenced to life, and that if we did a
25 straight-up plea, that we could avoid a life sentence.

1 Q Okay. Was your relationship with Mr. Simpson
2 contentious while you represented him?

3 A No.

4 Q At what point were you aware that he wanted to have
5 you relieved as counsel?

6 A The best of my memory and review of the case file, I
7 received -- I was aware that he wanted to relieve me. I
8 received a copy of his motion that he filed to relieve me
9 on May the 3rd, 2017.

10 Q Okay. And what did you do upon getting that letter?

11 A First of all, I -- we had it right around the same
12 time I had made a motion for a continuance in the case
13 based on some late discovery. And we did have a phone
14 hearing with Judge Sprouse on that motion on May the 5th.
15 And in that same period of time, I spoke with Mr. Marchant
16 about those issues as to some late discovery as well as
17 the issue that I'd just been made aware of that
18 Mr. Simpson wanted to terminate me. And then I spoke to
19 Mr. Simpson on May the 5th regarding that.

20 And from my conversation with him that day, it
21 appeared to me that he was -- that he was willing to plea,
22 go ahead and move forward with the plea, and that he did
23 not want to relieve me as counsel. However, after that --
24 after that date, I received a call on May the 8th from his
25 mother who stated that she -- that he had retained another

1 attorney, Scott Robinson, in this matter. And then -- so
2 then I let the solicitor know and I let the judge's law
3 clerk know on May the 9th that that was -- that he had
4 made this motion and that he had now stated that he had
5 retained another attorney, and asked the judge's law clerk
6 when this could be brought up before the Court. And the
7 Court decided to wait to hear that motion on May the 15th.

8 Q Okay. So you notified Judge Sprouse's office one day
9 after hearing from Mr. Simpson's mother?

10 A Yes.

11 Q Okay. During that time on May the 8th and May the
12 15th, did you do any other work on Mr. Simpson's case or
13 discuss the case with him?

14 A Yes. We discussed the case. I did meet with him one
15 day during that week, and we discussed, again, the
16 possibility of a plea. We discussed whether he would be
17 retaining Scott Robinson. And we discussed, you know,
18 going to trial if he didn't do either one of those things.

19 Q Okay. You mentioned earlier that you asked Judge
20 Sprouse for a continuance on the phone. What was his
21 response to your request?

22 A Judge Sprouse denied that request for a continuance.

23 Q Okay. You mentioned earlier that you discussed the
24 imperfect self-defense with Mr. Simpson. That is
25 something you brought up in mitigation before Judge

1 Sprouse, wasn't it?

2 A That's correct.

3 MR. SMITH: Your Honor, I have no more questions.

4 Thank you.

5 THE COURT: Mr. Thompson, any questions for this
6 witness?

7 MR. THOMPSON: Just a few.

8 CROSS EXAMINATION

9 BY MR. THOMPSON:

10 Q Mr. Cole, you indicated, I think, that you received
11 initial discovery at some point in time and then later on
12 received more discovery; is that correct?

13 A That's correct.

14 Q Okay. How far in advance of trial was it you
15 received that second set of discovery?

16 A The -- we received a -- the late-filed discovery that
17 we received was approximately three weeks prior to trial.

18 Q Okay. Did you go over that with Mr. Simpson?

19 A Yes, we did.

20 Q Did you provide him a copy of it?

21 A I cannot remember if I provided him a copy with that
22 second set of discovery or not. I know we went over it,
23 and I know I provided him a copy with the first set, but I
24 cannot remember as to the second set. However, that
25 second set was some things that were, the best of my

1 memory, it was forensics, ballistics, things of that
2 nature that, after looking at it, did not have that much
3 of an effect on our defense of the case.

4 Q Okay. Now, at one point in time, were you made aware
5 that Mr. Simpson wanted to discharge you as his attorney?

6 A From review of the file in the case, I received an
7 email copy of his motion either -- I believe it was either
8 from the Public Defender's Office or from the clerk's
9 office on May the 3rd, 2017.

10 Q Okay. And I believe you testified that you talked to
11 him about that a day or two later?

12 A Yes.

13 Q Okay. And then it was, what, May the 9th when you
14 actually approached Judge Sprouse about -- about his
15 desire to have you relieved?

16 A That's correct.

17 Q So it was almost a week later, is that correct ---

18 A Yes.

19 Q --- you were made aware of it?

20 A Yes. Based on our conversation that he did not want
21 to relieve me.

22 Q Okay. Was there ever any attempt to get the matter
23 before the Court other than a phone call with Judge
24 Sprouse prior to the date that it was set for trial?

25 A On May the 9th when I notified the Court of -- that

1 he wanted to relieve me or that he may have retained other
2 counsel, then I asked the Court when they wanted -- asked
3 the judge's law clerk when the judge would like to set
4 that hearing. And I was available anytime.

5 Q Okay. But there never was a hearing set; is that
6 correct?

7 A That's correct. It was -- it was heard by the Court
8 on May the 15th, which would have been the day that the
9 case was called or would have been called to trial.

10 Q Okay. In other words, you were in the courtroom
11 ready to pick a jury when the matter was heard; is that
12 correct?

13 A I don't believe we got all the way to that point yet,
14 but we were getting -- that would have been the next step.

15 Q Okay. And at that point in time, I believe Judge
16 Sprouse told him if he dismissed you, he'd have to
17 represent himself; is that correct?

18 A To the best of my memory, that is correct.

19 Q All right. Did Mr. Simpson say anything to you
20 about, at that point in time, he felt like he was being
21 forced to go forward with the plea?

22 A No.

23 Q Did he feel -- say anything about he was
24 uncomfortable with the situation at that time and felt
25 like he had to plea?

1 A No.

2 Q Do you feel that Mr. Simpson would have been
3 competent to go forward and represent himself?

4 A No.

5 Q Okay. So at that point in time, he -- in your
6 opinion, he needed an attorney; is that correct?

7 A Yes. I would agree with that.

8 Q All right. But other than that -- that day, May 15th
9 when the plea occurred shortly before, he was not given
10 the opportunity to get in front of a judge to voice his
11 concerns and raise the issues that he wanted to as far as
12 dismissing you as his attorney?

13 A The Court (audio interference) a hearing prior to
14 that date.

15 Q I'm sorry. I didn't catch that.

16 A The Court did not set a hearing prior to that date.

17 MR. THOMPSON: Okay. Thank you. I have no further
18 questions.

19 THE COURT: Mr. Smith, anything else for this
20 witness?

21 MR. SMITH: No more questions, Judge. Thank you.

22 THE COURT: Thank you Mr. Cole.

23 THE WITNESS: Thank you, Your Honor.

24 THE COURT: Mr. Smith, do you have any other
25 witnesses?

1 MR. SMITH: Yes, Judge. I was going to call
2 Mr. Marchant. Just a few questions.

3 THE COURT: Mr. Marchant, do you mind raising your
4 right hand, please.

5 WHEREUPON,

6 LUCAS MARCHANT

7 After having been duly sworn, testified as follows:

8 THE COURT: All right. Thank you.

9 DIRECT EXAMINATION

10 BY MR. SMITH:

11 Q Mr. Marchant, how did you come to be involved in
12 Mr. Simpson's case?

13 A Can everyone hear me okay?

14 Q I can.

15 A Okay. At the time as is now I was in private
16 practice, Solicitor David Wagner engaged me in a contract
17 to handle some cases for him. I began that contract
18 around February the 1st of 2017 and stayed with Solicitor
19 Wagner for about five months. This was one of the cases
20 that he wanted me to handle.

21 So I immediately reviewed the case, began looking at
22 it, and pretty much just reached out to all the defense
23 attorneys in the case to see if we could work something
24 out or if we were headed down the path to trial.

25 Q Okay. Do you remember what -- generally what the

1 State's evidence against Mr. Simpson was?

2 A I think it falls pretty much in line with what
3 Mr. Cole discussed: drug deal or a dope robbery that went
4 bad. What would have been a codefendant of Mr. Simpson's
5 entered the residence of the victim first. The victim
6 shot and killed that codefendant. I do not recall that
7 name. And then the evidence pointed to Mr. Simpson as
8 being the one that shot and killed the victim. I believe
9 her name was Casey Hood. So we had a double homicide
10 situation.

11 With the majority of the evidence coming from
12 codefendant testimony, that, as in many cases, unfolds
13 throughout the case and always gets generally a little
14 better when pressure gets put on codefendants to either
15 cooperate or sit next to the other defendants at the trial
16 table.

17 Q Okay. Do you remember how many let's call it batches
18 of discovery you turned over to the defense?

19 A Sure. I do recall having early discussions with
20 Mr. Cole about him having -- missing a lot of information.
21 I can't say that I disagree with that prior to my
22 involvement, but I've looked back through some records
23 that the solicitor has provided to me, and it looks like I
24 corresponded with him in writing on February 27th,
25 March 6th, April 11th, April 17th, April 19th, May 9th of

1 2017 with various supplemental discovery that was given to
2 me either by law enforcement or some additional testing
3 that I may have requested. In addition to that, out of
4 the defendants that were charged in this case, I would
5 say, best of my recollection, Mr. Cole and I probably had
6 the most correspondence back and forth with each other
7 about his client, whether or not we could reach an
8 agreement or not.

9 Q Okay. Did Mr. Cole tell you that his client was
10 interested in pleading guilty or considering it?

11 A Well, he certainly discussed that he was considering
12 it. And I think he stated earlier, and I would agree with
13 that, that should a trial have occurred on the matter, I
14 think a life sentence was likely probable. And to the
15 best of my recollection, I believe that I told him should
16 we have to have gone through an entire trial, it's likely
17 that my recommendation to the Court would be a sentence of
18 life.

19 I think the best that I could do, and I say the best
20 that I could do, the best that I was willing to do as far
21 as any plea negotiations would be to remain silent should
22 he accept responsibility of the charges that he was
23 pleading guilty to, meaning I would not tell the Court he
24 deserved the minimum or the maximum. Whatever he got, he
25 got.

1 Q Okay. At what point did you become aware that
2 Mr. Simpson filed a motion to have Mr. Cole relieved?

3 A I do recall addressing it the day of trial. I don't
4 recall the telephone conversation we had with Judge
5 Sprouse. I'm sure that happened, because at that time the
6 solicitor's office kind of did a preliminary docket of
7 what was really going to be a trial and what was not. And
8 so if Mr. Cole's records reflect we talked with Judge
9 Sprouse, I'm confident that did occur.

10 The comments about new lawyer having been retained, I
11 don't recall that occurring until the day of trial, and to
12 my knowledge, the solicitor's office in Anderson nor I
13 ever received any correspondence from Scott Robinson.

14 MR. SMITH: Okay. No more questions. Thank you,
15 Mr. Marchant.

16 THE WITNESS: Yes, sir.

17 THE COURT: Mr. Thompson, any questions for this
18 witness?

19 MR. THOMPSON: I'm sorry. I'm still muted. Just a
20 couple.

21 CROSS EXAMINATION

22 BY MR. THOMPSON:

23 Q I believe you indicated that on May 9th you sent the
24 final discovery?

25 A It looks like in my records that I have, that is the

1 date where there was the last written correspondence
2 between Mr. Cole and I prior to the trial. It looks like
3 there were two pieces of evidence: a supplemental report
4 that was one page, I don't know what that is; and a DNA
5 lab report that was two pages.

6 Q Okay. Now, this went to court on May the 15th; is
7 that correct?

8 A It appears that the published trial date was
9 May 15th, yes, sir.

10 Q Okay. So six days after you sent that writing?

11 A Oh, yes, sir. Yeah. I've got you.

12 Q And how did you transmit that writing to Mr. Cole?
13 Was it mailed, or was it hand-delivered, or do you know?

14 A Affidavit of service that my investigator at the time
15 sent, Brenda Backer [phonetic], states that it was emailed
16 to Mr. Cole.

17 Q On what date?

18 A On May the 9th of 2017.

19 Q And I believe your testimony was you were not aware
20 of any attempt to relieve Mr. Cole until the 15th of May
21 in court?

22 A I -- I don't recall. There very well could have
23 been, but I don't remember the phone call with Judge
24 Sprouse prior to that date, the trial date, May 15th.

25 MR. THOMPSON: Thank you. I have no further

1 questions.

2 THE WITNESS: Yes, sir.

3 THE COURT: Mr. Smith, anything else for this
4 witness?

5 MR. SMITH: No more questions, Judge. Thank you.

6 THE COURT: Thank you, Mr. Marchant.

7 And, Mr. Smith, anything else on behalf of the State.

8 MR. SMITH: That's the State's case, Judge.

9 I would ask that my two witnesses be excused if
10 they'd like to go.

11 THE COURT: Any objection, Mr. Thompson?

12 MR. THOMPSON: No, ma'am.

13 THE COURT: All right. Very well. Mr. Cole and
14 Mr. Marchant, if y'all are -- if there's nothing else,
15 then you're free to go, certainly. Thank you very much.

16 Anything that, Mr. Thompson, you'd like to add?

17 MR. THOMPSON: No, ma'am. We've presented our case.

18 THE COURT: All right. And, Mr. Smith, nothing to
19 add at this time?

20 MR. SMITH: Are you asking for argument, Judge?

21 THE COURT: Yes. Well, and if Mr. Thompson --
22 Mr. Thompson, if I was unclear about that, if you want to
23 make any sort of argument, I'm certainly happy to hear
24 from you.

25 MR. THOMPSON: Okay. I'm sorry. I thought you were

1 asking if I had any further witnesses.

2 The only argument I would make, Judge, is Mr. Simpson
3 has indicated the reasons for his desire to dismiss
4 Mr. Cole as his attorney. And I realize that Mr. Cole and
5 Mr. Simpson's testimony is not exactly the same on each
6 one of those reasons. But it is clear that there was a
7 written document filed with the clerk of court two weeks
8 before this went to trial by Mr. Simpson asking that his
9 attorney be relieved. It's also clear that matter was not
10 brought before the Court until shortly -- actually, the
11 day of the trial shortly before they were scheduled to
12 pick a jury. From looking at the transcript, it appears
13 that Judge Sprouse indicated that if he were to discharge
14 Mr. Cole at that point in time, Mr. Simpson would have to
15 go forward on his own.

16 Judge, it's a situation where I think that
17 Mr. Simpson's allegations that it was an involuntary plea
18 may be substantiated by the fact that his desires were not
19 heard as to his attorney. He did everything he could do.
20 He couldn't contact the judge and set up a hearing. He
21 filed the document with the clerk of court, which was
22 apparently carbon-copied by the clerk to the solicitor and
23 the public defender.

24 I can't tell you what the outcome of that hearing
25 would have been had it occurred. It may well have been

1 that Mr. Cole was continued as his attorney. It may have
2 been that he was relieved. It would have been up to the
3 judge to determine whether or not there was valid grounds
4 at that point in time. And I would assume -- again, this
5 is an assumption on my part, and we know what that means.
6 I would assume, though, that if the judge had granted his
7 request to relieve Mr. Cole and appoint another attorney,
8 there would have been a continuance at that time to give
9 that other attorney time to get ready.

10 So our simple argument is is that it was ineffective
11 -- well, it wasn't ineffective. It was an unknowing -- my
12 mind just left me, Judge. I'm not used to talking on a
13 computer.

14 THE COURT: I know. It's a strange world.

15 MR. THOMPSON: It was an involuntary plea because
16 Mr. Simpson was not given his option -- or his opportunity
17 to express his desires as to how he wanted to go forward.

18 THE COURT: I thank you, Mr. Thompson. Thank you so
19 much.

20 Mr. Smith?

21 MR. SMITH: Judge, I'll just say I think the credible
22 evidence before the Court shows that Mr. Cole did a
23 thorough preparation for trial, that he did discuss with
24 Mr. Simpson their opportunity to go to trial and what that
25 would entail or his chance to plead guilty and what that

1 would entail, that he entered plea negotiations on
2 Mr. Simpson's behalf, and that, although he found out on
3 May the 3rd that Mr. Simpson wanted to have him relieved
4 as counsel, a conversation he had with Mr. Simpson about
5 two days later made him think that Mr. Simpson had changed
6 his mind and was willing to plead guilty and go forward in
7 pleading guilty while being represented by Mr. Cole.

8 Mr. Cole's testimony was that a few days after that
9 conversation, that Mr. Simpson's mother let him know that
10 Mr. Simpson had decided he wanted to hire private counsel,
11 that the next day after that phone call, Mr. Cole notified
12 Judge Sprouse, Judge Sprouse's office of that fact, that
13 Judge Sprouse's office decided to let the motion be heard
14 on the day of trial, that certainly that is not within
15 Mr. Cole's authority to decide when motions will be heard.

16 So I think the record's clear that Mr. Cole was
17 prepared for trial. He was also willing to help
18 Mr. Simpson plead guilty, and that there's no evidence
19 before the Court that he was deficient in not bringing the
20 motion to the Court's attention.

21 I think he's also failed to carry his burden in
22 proving that if Judge Sprouse had known about the motion
23 three days earlier that -- or whatever it is, that it
24 would have made a difference, especially after Judge
25 Sprouse had already denied a motion for continuance in the

1 case once by phone.

2 I think Mr. Marchant's testimony confirms the
3 substance of Mr. Cole's testimony.

4 I think that there's credibility issues in
5 Mr. Simpson's testimony by not only because it contradicts
6 the testimony of Mr. Simpson and Mr. Marchant, but because
7 by Mr. Simpson's own admission today, he either lied under
8 oath before Judge Sprouse or he has to be lying today,
9 because his answers to Judge Sprouse on the day of the
10 guilty plea hearing are mutually exclusive to his
11 testimony before this court. They can't both be true.

12 In addition to that, I think his guilty plea was
13 knowingly and voluntarily entered because Judge Sprouse
14 thoroughly covered all his trial rights on the day of
15 trial, and knowing all of that, Mr. Simpson decided to
16 plead guilty.

17 Thank you. That's the State's case.

18 THE COURT: Thank you so much.

19 I want to begin by saying that I am very thankful for
20 the excellent job that both Mr. Simpson and Mr. Smith have
21 done in this case in presenting both Mr. Simpson's side of
22 things as well as -- and I said Mr. Simpson, I think. I
23 meant Mr. Thompson. I'm so sorry, Mr. Thompson. And
24 Mr. Thompson and Mr. Smith have done in presenting this
25 case and in presenting Mr. Simpson's side of things but

1 the State's side of things as well.

2 Mr. Simpson, I want to thank you for how courteous
3 you've been today and throughout this testimony, and I
4 appreciate that as well. I also appreciated the two
5 attorneys who appeared virtually to testify here today.

6 After reviewing the materials in this case and after
7 hearing the testimony, the testimony in this case largely
8 -- other than that of Mr. Simpson, largely corroborated
9 what the materials bore out.

10 I do find as a threshold matter that Mr. Simpson
11 knowingly and voluntarily entered his plea that day, that
12 he did so after discussion with his attorney, and his
13 attorney testified that he went over things with
14 Mr. Simpson fully, he talked to him on a number of
15 occasions. I don't think anybody, I think, facing these
16 serious of charges ever feels like they have quite enough
17 time, I would not think, in making such a momentous
18 decision. But that is -- Mr. Cole's testimony does not
19 stand alone. That's corroborated by Mr. Marchant's
20 testimony that there was discussions. I think he even
21 testified that, actually, of the codefendants' attorneys,
22 he spoke with Mr. Cole more than any of them, that
23 Mr. Cole somewhat right out of the gate, so to speak,
24 began talking to him, making sure he had all the discovery
25 and trying to see what the State's position would be if it

1 did become a plea.

2 Mr. Simpson voiced concerns about Mr. Cole and his
3 representation in a letter that's been, of course, marked
4 as Applicant's 1 and will be entered into the record as
5 such. But he says that after -- he notified the Court of
6 this, but after that, Mr. Simpson waffled with him later,
7 which is not uncommon in a case such as this, waffled with
8 him, but then later said that he wanted -- his family
9 informed him that he wanted to hire a private attorney.

10 Mr. Cole did what he needed to do, which was contact
11 the Court and asked for a continuance, and the Court said
12 no. And there's nothing Mr. Cole could do about that.
13 Furthermore, when he asked when -- the Court when this
14 motion -- the Court wanted to hear this motion, the Court
15 wanted to hear it on the day of trial, which is indicative
16 of the fact that the Court would not have been inclined to
17 have granted that motion at any point, definitely not
18 three days earlier, but was not inclined to grant that,
19 and I think the day of even indicated, you know, if
20 somebody else were going to step in, they'd have to be
21 ready to go that day.

22 I think that Mr. Cole's strategy was to avoid what he
23 saw as a potential life sentence for Mr. Simpson and/or he
24 thought was a likely life sentence for Mr. Simpson.
25 Mr. Marchant corroborated that testimony.

1 CERTIFICATE OF REPORTER
2

3 STATE OF SOUTH CAROLINA)

4 COUNTY OF ANDERSON)
5
6

7 I, CHERYL A. SMITH, Official Court Reporter for the
8 Thirteenth Judicial Circuit of the State of South
9 Carolina, do hereby certify that the foregoing is a true,
10 accurate and complete Transcript of Record of the
11 proceedings had and evidence introduced in the trial of
12 the captioned case, relative to appeal, in the Court of
13 Common Pleas for Anderson County, South Carolina, on the
14 2nd day of February, 2021.

15 I do further certify that I am neither of kin,
16 counsel, nor interest to any party hereto.
17

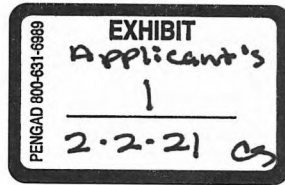
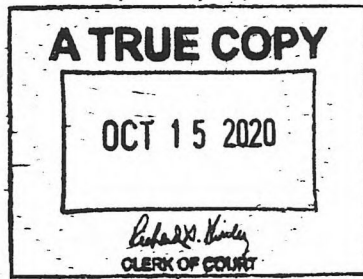
18 April 30, 2021
19
20

21 Cheryl A. Smith

22 Cheryl A. Smith, CVR-M

23 Court Reporter
24
25

In the state of
South Carolina
County of Anderson
v.s
Randall M. Simpson



In the court of
General Session
10th Judicial
Circuit

FILED-CLERK'S OFFICE
ANDERSON SC
2017 MAY -2 AM 10:55
COMPUTER PRINTS AND
RECEIVED STAMPS

RE: Motion to Dismiss Counsel

I would like to Dismiss my counsel Gregory Lee Cole Jr. Esq. cause of the sixteen Months I have been here I have only seen my lawyer twice. I received my Motion of Discovery two Months after my lawyer received it. I have ask for legal Mail I never received He does not reply to my mail I feel my counsel does not have my best Interest in mind.

Randall M. Simpson
4-30-2017

cc: Solicitor; Public Defender
5.2.17/NAK

STATE OF SOUTH CAROLINA)
 COUNTY OF ANDERSON)
)
 Randall Matthew Simpson, #315061,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE TENTH JUDICIAL CIRCUIT

Case No. 2019-CP-04-2435

ORDER OF DISMISSAL

This matter comes before this Court by way of an application for post-conviction relief filed on December 3, 2019, by Randall Matthew Simpson (“Applicant”). The State (“Respondent”) filed its return on February 28, 2020, wherein it moved for a more definite statement of Applicant’s claims and requested the convening of an evidentiary hearing. An evidentiary hearing in this matter was held before the undersigned on February 2, 2021, with the parties appearing by WebEx due to the ongoing COVID19 pandemic. Applicant appeared by WebEx from Lee Correctional Institution and was represented by Don A. Thompson, Esquire. Assistant Attorney General Taylor Z. Smith of the South Carolina Attorney General’s Office represented Respondent. Applicant testified on his own behalf. Respondent called Gregory Lee Cole, Jr. (“plea counsel”), Esquire, and Lucas C. Marchant, Esquire, as witnesses. Following a thorough review of the record in its entirety and the testimony and evidence presented at the evidentiary hearing, this Court finds that Applicant has failed to prove that he is entitled to post-conviction relief and denies the application for post-conviction relief with prejudice.

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 1 of 16
Richard X. Bulley
 CLERK OF COURT

PROCEDURAL HISTORY

Applicant is presently incarcerated in the South Carolina Department of Corrections. During its February of 2017 term, the Anderson County Grand Jury indicted Applicant for the possession of a weapon during the commission of a violent crime (2017-GS-04-465), attempted armed robbery (2017-GS-04-465), and two counts of murder (2017-GS-04-464; -466). Applicant was represented by plea counsel) and Marchant, then and assistant solicitor of the Tenth Circuit Solicitor's Office, prosecuted the case. On May 15, 2017, Applicant appeared before the Honorable R. Scott Sprouse and pleaded guilty to murder (-464), the possession of a weapon during the commission of a violent crime, attempted armed robbery, and voluntary manslaughter (-466). Judge Sprouse sentenced Applicant to imprisonment for thirty years for murder, fifteen years for attempted armed robbery, five years for the possession of a weapon, and twenty years for voluntary manslaughter. Judge Sprouse gave Applicant credit for his time served, and ordered that the sentences for murder, attempted armed robbery, and possession of a weapon be served consecutively, with the sentence for voluntary manslaughter running concurrent to the others, such that Applicant's sentence is an aggregate of fifty years in prison. On May 18, 2017, plea counsel filed a motion for a reconsideration of the sentence, arguing that, pursuant to S.C. Code Ann. Section 17-25-50, Applicant's crimes may be considered as a single offense, and that Applicant's sentences should run concurrently instead of consecutively. Judge Sprouse denied the motion in an order issued on July 11, 2017.

Plea counsel filed a timely notice of appeal. Appellate Defender Taylor Davis Gilliam of the South Carolina Commission for Indigent Defense represented Applicant on appeal. Gilliam filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), on April 18, 2018, arguing that Judge Sprouse erred in finding Applicant knowingly and voluntarily pleaded guilty after denying

Applicant's motion to relieve plea counsel and his motion for a continuance; Gilliam also filed a motion to be relieved as counsel. On May 21, 2018, Applicant filed a pro se Anders response, arguing that Judge Sprouse erred in denying his motion to relieve plea counsel, erred in denying plea counsel's motion for reconsideration, and violated Rule 501, SCACR. The South Carolina Court of Appeals dismissed the appeal and granted Gilliam's motion to be relieved in an unpublished opinion. State v. Simpson, Op. No. 2019-UP-008 (S.C. Ct. App. filed January 4, 2019). The remittitur was issued on January 23, 2019.

CURRENT PROCEEDING

In his application for post-conviction relief, filed on December 3, 2019, Applicant alleges that he is entitled to post-conviction relief upon multiple grounds, which are: (1) plea counsel was constitutionally ineffective for failing to investigate and prepare for trial, (2) plea counsel was constitutionally ineffective for failing to engage in meaningful plea negotiations, (3) plea counsel was constitutionally ineffective for failing to protect Applicant's interests when the trial counsel denied his motion for a continuance, (4) plea counsel was constitutionally ineffective for failing to ensure that Applicant's guilty pleas were knowingly and voluntarily entered, (5) plea counsel was constitutionally ineffective for failing to move for reconsideration on the ground that Applicant's guilty pleas were not knowingly and voluntarily entered, and (6) Applicant's guilty pleas were not knowingly and voluntarily entered. Applicant prays that the PCR court would grant relief by granting him a new trial "and/or whatever relief the court deems proper."

At the beginning of the evidentiary hearing before this Court on February 2, 2021, Respondent requested that Applicant state on the record the claims that he would be arguing at the hearing. Thompson stated that the single claim upon which Applicant would move forward was that plea counsel was constitutionally ineffective for not ensuring that Applicant was heard on his

pro se motion to relieve counsel in a timely fashion. This Court finds that Applicant abandoned and waived all claims except for this single claim.¹

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has thoroughly reviewed the record in its entirety. Before this Court are: the records of the Anderson County Clerk of Court regarding Applicant's convictions and sentences; the records from Applicant's direct appeal, including the record on appeal, Gilliams' Anders brief, Applicant's pro se Anders brief, and the dispositive opinion; Applicant's records from the South Carolina Department of Corrections; the parties' filings in this matter; and the exhibits admitted into evidence at the evidentiary hearing. Set forth below are the relevant findings of facts and conclusions of law with regards to the claim Applicant advanced at the evidentiary, as required pursuant to S.C. Code Ann. §17-27-80 (1985).

Summary of the testimony presented at the evidentiary hearing.

Applicant testified on his own behalf at the evidentiary hearing. He testified that plea counsel represented him in the underlying criminal case. He testified that he was in jail for the entirety of the representation because he was never bonded out. He testified that he spent about seventeen or eighteen months in jail. He testified that, during that time, he met with plea counsel on two or three occasions only. He testified that plea counsel did not have a copy of discovery with him during their first meeting. He testified that his second meeting with plea counsel took place about six months after the first when he was at a bond hearing, and that plea counsel still did not have discovery at that point. He testified that he saw plea counsel again about one week before his trial date, and that plea counsel still did not have discovery to review with him. He testified that a

¹ Applicant stated that, although he was not arguing it as a standalone claim, he felt that his motion to relieve counsel was justified because he did not believe that plea counsel was prepared to try the case.

disc containing the discovery was dropped off for him at jail, but that plea counsel did not go over the disc's contents with him.

Applicant testified that he found out that his trial date had been set by seeing a news broadcast on television in jail. He testified that plea counsel came to visit him two weeks later and told him that the trial date was approaching. He testified that he told plea counsel that he was trying to retain private counsel and he filed a motion to relieve counsel when his attempts to hire a private lawyer did not prove successful. Without objection, his motion to relieve counsel was admitted into evidence at the hearing as Applicant's Exhibit One. He testified that he sent multiple letters to plea counsel but received no response. He testified that he and plea counsel did not discuss the possibility of pleading guilty. He testified that plea counsel told him that they were going to trial, but he did not feel that plea counsel was adequately prepared. He testified that plea counsel had not prepared him for trial, either. He testified that, shortly before trial, plea counsel told him that he had received new discovery, consisting of statements, but Applicant testified that he did not get a copy. He testified that he was forced to plead guilty because, once Judge Sprouse indicated that the trial would not be continued to give him time to secure other representation, he had no other choice since he would not have time to prepare for trial.

On cross-examination, Applicant testified that he never discussed pleading guilty with plea counsel. He testified that he wanted to go to trial for the entirety of plea counsel's representation of him and that at no point did he want to plead guilty. He admitted to answering questions asked of him by Judge Sprouse during the colloquy when he pleaded guilty.

Plea counsel testified at the evidentiary hearing. He testified that he was appointed to represent Applicant through the 608 program, and that he had been practicing law for approximately five years at the time of his representation of Applicant. He testified that he met

with Applicant on five occasions and mailed seven letters to Applicant. He testified that he talked to Applicant's family members with Applicant's consent. He testified as to the items that he received in discovery generally: audio and video recordings, photographs, a statement from Applicant's codefendant, and police reports. He testified as to the facts of the crime, saying that Applicant and his codefendants attempted to rob someone, that the codefendant who was the first into the victim's home was shot and killed by the victim, that Applicant was the second of the robbers into the home, and that Applicant returned fire and killed the victim. He testified that he discussed the discovery with Applicant on multiple occasions. He testified that he told Applicant that, if Applicant proceeded to trial, his codefendants would testify against him.

Plea counsel testified that there was a delay in the State's prosecution of the case, which he assumed was caused by the State's waiting for the codefendants to plead guilty and agree to cooperate before trying Applicant. He testified that he discussed with Applicant the trial rights that Applicant could exercise if he proceeded to trial. He testified that he discussed with Applicant thoroughly the possibility of Applicant pleading guilty, and that they discussed the matter on at least two occasions. He testified that Applicant was interested in pleading guilty.

Plea counsel testified as to the preparation that he did to get ready for trial: he looked at the discovery turned over by the State, reviewed the statements of those who would testify against Applicant, talked to the lawyers of some of the codefendants about the testimony that the codefendants would give at trial, saw that there was not much exculpatory evidence that could be used to defend Applicant, looked for information that could potentially be used to impeach the codefendants, and considered the advisability of a "stand your ground" hearing. He testified that he thought that the chances that Applicant would be acquitted at trial were low. He testified that

Applicant would have only an imperfect defense of self-defense because he was at fault in bringing on the difficulty.

Plea counsel testified that he discussed the case with Marchant by phone and over email. He testified that he and Marchant could not reach mutually acceptable terms for Applicant to plead guilty and he thought that Applicant could be sentenced to life imprisonment. He testified that there was no contentiousness in his relationship with Applicant. He testified that he moved for a continuance because he received discovery on a late date, but testified that Judge Sprouse denied that request.

Plea counsel testified that he received the letter from Applicant with the motion to relieve counsel on May 3, 2017. He did not know that Applicant wanted to relieve him as counsel until he received the motion. He received a phone call from Applicant's mother a few days later, in which she told plea counsel that Applicant was hiring another attorney to represent him. He tried to confirm that fact with that attorney, but was unable to do so. He sent an email to Judge Sprouse's office on May 9, 2017, notifying Judge Sprouse that Applicant wanted to have him relieved as counsel. Judge Sprouse's office responded by saying that, since a hearing was already scheduled to be held in the case on May 15, 2017, Judge Sprouse would consider the motion at that time. Plea counsel testified that he still discussed the case with Applicant when they met again before May 15, and that they discussed at that meeting the possibility of Applicant pleading guilty, whether Applicant was hiring another attorney, and what would happen if Applicant proceeded to trial.

Plea counsel testified on cross-examination that he received two "batches" of discovery from Marchant. He testified that he received the second batch about three weeks before Applicant's trial was scheduled to begin. He testified that he discussed the contents of that batch with

Applicant, but could not remember if he provided a hard copy of all documents contained therein with Applicant. He remembered that that batch contained forensic evidence and ballistics. He did not think that the items in that batch affected his ability to be prepared to defend Applicant at the upcoming trial.

Plea counsel testified that he received a copy of Applicant's motion to have him relieved on May 3, 2017, but could not remember whether he received a copy of it from the staff at the Public Defender's Office or the Anderson County Clerk of Court. He reiterated that he notified Judge Sprouse of the motion on May 9, 2017, and informed Judge Sprouse that he was available to discuss the matter at any time.

Plea counsel testified that, whenever Judge Sprouse discussed Applicant's motion on May 15, Judge Sprouse Applicant that he would be required to proceed to trial as a pro se defendant if Applicant pursued his motion. He testified that Applicant did not indicate at any point that he was uncomfortable with plea counsel's representation of him or that he felt like he was being forced to plead guilty. He testified that he does not believe that Applicant could have successfully represented himself at trial. He testified that Judge Sprouse did not set a date for a hearing on Applicant's motion and that the decision was Judge Sprouse's alone.

Marchant testified before this Court at the evidentiary hearing. He testified that he is currently engaged in the private practice of law and that the Tenth Circuit Solicitor's Office hired him on a contract basis to prosecute some cases that were pending. He testified that he began working for the Tenth Circuit Solicitor's Office in or around February of 2012. He began by talking to all of the defense attorneys with clients with pending cases. He testified that he agreed with plea counsel's summary of the evidence of Applicant's guilt. He described the crime as a robbery gone wrong in which Applicant was the shooter and the result was a double homicide. He testified that

the State's case would have been built mostly on the testimony of Applicant's codefendants. He acknowledged that any delay in his prosecution of Applicant would have been due to his trying to get the codefendants to cooperate with the State in the prosecution of Applicant because pressure from codefendants helps.

Marchant testified about discussing discovery with plea counsel on multiple occasions. He testified that he discussed Applicant's case with plea counsel more than he discussed any of his other pending cases with any other defense attorney. He testified that plea counsel told him that Applicant was considering pleading guilty. He testified that it was possible that Applicant would have been sentenced to life without the possibility of parole if Applicant had been convicted following trial and that the Solicitor's Office may have recommended that sentence. He testified that he agreed that he would be silent as far as recommendations go if Applicant pleaded guilty.

Marchant testified that the parties addressed Applicant's motion to relieve counsel on the day of trial. He does not remember whether there was any discussion of Applicant hiring a new lawyer.

Marchant was questioned on cross-examination. He testified that the final discovery disclosure he made to plea counsel was made on May 9, 2017. He testified that that was the last written correspondence he had with plea counsel before trial. He believed that that disclosure would have included two pieces of evidence and a laboratory report.

He testified that he notified plea counsel of the trial date by email on May 9, 2017. He did not remember whether he and plea counsel discussed Applicant's motion to relieve plea counsel.

Applicant has failed to prove that he is entitled to post-conviction relief based upon his claim that plea counsel was constitutionally ineffective for not ensuring that Applicant was heard on his pro se motion to relieve counsel in a timely fashion

Applicant, like all other defendants, has a right to the assistance of effective counsel as provided by the Sixth Amendment to the United States Constitution. Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008). Applicant has the burden of proving the allegations in his post-conviction relief action, and when alleging that counsel was constitutionally ineffective, he must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that it cannot be relied upon as having produced a just result.” Strickland, at 686. In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, Applicant must prove that counsel’s performance was deficient. Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, at 117, 386 S.E.2d at 625 (quoting Strickland, at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel’s deficient performance must have prejudiced Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to plea counsel, Applicant must show that there is a reasonable probability that, but for counsel’s alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985). A defendant who pleads

guilty on the advice of counsel may collaterally attack the plea only by showing: (1) counsel was deficient and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pleaded guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). The "prejudice prong ordinarily requires more than simply a defendant's assertion that but for counsel's deficient performance he would not have pled but would have gone to trial." Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 595 (2009).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, at 670. Moreover, Strickland does not require a finding of ineffectiveness merely for deviation from some rigid rule of representation. Rather, Strickland requires the post-conviction relief applicant to prove "counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." Id. at 697. Therefore, the function of the post-conviction relief court is to determine if "in light of all the circumstances, the identified acts or omissions were outside the wide range of professional competent assistance" required of a criminal defense attorney. Id. at 690.

"A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed." Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (S.C. Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 74 (1977)). "Indeed, where a thorough colloquy is conducted, courts must exercise caution in setting aside the guilty plea." Garren v. State, 423

S.C. 1, 12, 813 S.E.2d 704, 712 (2018); see Jamison v. State, 410 S.C. 456, 469-71, 765 S.E.2d 123, 129-30 (2014) (observing that “guilty plea[s] must be treated as final in the vast majority of cases” and instructing that caution must be exercised so as not to “undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea”). The South Carolina Supreme Court has instructed that:

The longstanding test for determining the validity of a guilty plea is whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him.

State v. Inman, 395 S.C. 539, 556, 720 S.E.2d 31, 40 (2011) (internal quotations and citations omitted). “[A] guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights.” Jamison, at 468, 765 S.E.2d at 129 (citations omitted).

This Court finds that Applicant has failed to prove that there was any deficiency in plea counsel’s performance. Although Applicant alleges that plea counsel delayed in bringing to the courts’ attention the motion to relieve counsel, this allegation is without merit. The motion was filed with the Anderson County Clerk of Court on May 2, 2017. Plea counsel’s credible testimony proves that plea counsel received a copy of the motion (and his first notice of it) on May 3, 2017, the following day. Plea counsel credibly testified that he informed Judge Sprouse of the motion on May 9, 2017, which was only six days after learning of it. Plea counsel’s testimony proves that Judge Sprouse wanted to hear the motion on May 15, which was a date upon which Applicant, plea counsel, and Marchant were already scheduled to be before Judge Sprouse. While that date was approaching, plea counsel and Applicant still met and worked to prepare for a guilty plea hearing or a trial. A defense attorney’s performance is not deficient if he notifies the presiding judge of his client’s motion to relieve counsel six days after he learns of it. Plea counsel’s performance did not fall short of “the range of competence required in criminal cases.” Butler, at

442, 334 S.E.2d at 814.

This Court finds that Applicant has failed to prove that there is a reasonable likelihood that he would have proceeded to trial absent some deficiency in plea counsel's performance. Applicant speculates that, had he been heard on his motion to relieve counsel earlier than May 15, Judge Sprouse may have continued the trial so that Applicant could hire another attorney or be prepared to go to trial as a pro se defendant. Applicant has not proven that his dissatisfaction with plea counsel—regardless of the apparent baselessness of that dissatisfaction—would have required Judge Sprouse to relieve plea counsel and continue the trial so that Applicant could hire another attorney. See State v. Jones, 270 S.C. 587, 588-89, 243 S.E.2d 461, 462 (1978) (holding that, “at least after the trial has begun, a mere disagreement between a defendant and his counsel as to a matter of trial tactics is not sufficient cause, in itself, to require the trial court to replace or to offer to replace court appointed counsel with another attorney at that time) (citations omitted). Plea counsel credibly testified that Judge Sprouse declined to continue the trial when plea counsel requested a continuance around the same time as when Applicant filed his motion. The fact that Judge Sprouse denied plea counsel's continuance request is evidence that Judge Sprouse would not have been inclined to continue the trial even if Judge Sprouse would have been notified about Applicant's motion by plea counsel a few days earlier. As Judge Sprouse informed Applicant at the hearing on May 15, Applicant's “relieving [his] attorney [was] not grounds for a continuance of [the] trial,” and Judge Sprouse was “not going to put [his] case off because [he] want[ed] to fire” plea counsel. Plea Tran. 4-5. Applicant has not proved that Judge Sprouse's ruling would have been any different if plea counsel notified Judge Sprouse of the motion on May 3.

This Court finds that Applicant has failed to prove that he did not knowingly and voluntarily plead guilty. The Due Process Clause of the United States Constitution requires that a

defendant enter a guilty plea voluntarily, knowingly, and intelligently. Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999) (citing Boykin v. Alabama, 395 U.S. 238 (1969)). The defendant must be aware of the right to confront his accusers, the privilege against his self-incrimination, the right to be tried by a jury, the nature and crucial elements of the offense for which he is being accused, the maximum and minimum possible penalties, and the nature of any constitutional rights being waived by the entry of a guilty plea. Id. (citations omitted). It is not required that a court direct a defendant's attention to "each and every constitutional right and obtain a separate waiver for each." Staté v. Lambert, 266 S.C. 574, 578-79, 225 S.E.2d 340, 342 (1976) (citing Wade v. Coiner, 468 F.2d 1059 (4th Cir. 1972)). Even if plea counsel misadvised or failed to advise Applicant regarding one of the aforementioned matters, Judge Sprouse's colloquy likely would have cured such an error. Holden v. State, 393 S.C. 565, 575, 713 S.E.2d 611, 616 (2011) (citations omitted) (concluding that any alleged deficiency in plea counsel's advice to Holden was cured by the plea court's colloquy), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018).

Once Applicant decided to plead guilty rather than proceed to trial on May 15, Marchant read the indictment numbers, offense descriptions, and status as true-billed indictments for each indictment to which Applicant pleaded guilty. Plea Tran. 5-6. Judge Sprouse informed Applicant of the name and potential sentencing range for each offense, and Applicant affirmed that he understood. Plea Tran. 6-7. Applicant affirmed that he understood that Judge Sprouse could impose the sentences consecutively. Plea Tran. 7. Applicant affirmed that he understood that he was pleading guilty without the benefit of a sentencing recommendation from the State, meaning that Marchant could ask for the maximum sentence and plea counsel could ask for the minimum sentence. Plea Tran. 7. Applicant affirmed that he was pleading guilty of his own free will, without

being under the influence of any judgement-impairing substances. Plea Tran. 8. Judge Sprouse informed Applicant of his trial rights and Applicant affirmed that he understood them and that he would be waiving them by pleading guilty. Plea Tran. 8-9. Applicant affirmed that he had had enough time to talk with plea counsel, that plea counsel had answered all of his questions, that he had no more questions to ask of plea counsel, that plea counsel had done all that he had asked him to do, and that he was “completely satisfied” with plea counsel’s services. Plea Tran. 10. Applicant affirmed that he understood that he could be sentenced to life without the possibility of parole if he pleaded guilty, and plea counsel stated that he had discussed the matter with Applicant, whom plea counsel believed understood the significance of that fact. Plea Tran. 11-12. After hearing Marchant provide a recitation of facts that the State would attempt to prove if Applicant proceeded to trial, Applicant affirmed that the recitation stated the facts of the case. Plea Tran. 12-15. This Court’s review of the transcript from Applicant’s guilty plea hearing, coupled with plea counsel’s credible testimony before this Court, the credibility of which was affirmed by Marchant’s corroborating testimony, establishes the knowing and voluntary nature of Applicant’s entry of his guilty pleas. Applicant’s testimony before this Court that his guilty pleas were not knowingly and voluntarily entered and that he believed that plea counsel was not prepared for trial are not credible.²

CONCLUSION

² Even if this Court accepted the testimony that Applicant gave before it as credible, it would still be cognizant of the fact that Applicant would have therefore been lying to Judge Sprouse at the guilty plea hearing when he affirmed his satisfaction with plea counsel’s services. See Kolle v. State, 386 S.C. 578, 596-97, 690 S.E.2d 73, 82-83 (2010) (stating the view that an applicant’s entry of a guilty plea should not be found to have been involuntary when the applicant falsely testified as to his satisfaction with his defense attorney at the guilty plea hearing) (Kittredge, J., dissenting), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018).

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

This Court notes Applicant must file and serve a notice of appeal, through counsel, within thirty days from the receipt of this order to secure the appropriate appellate review. See Rule 203 and 243, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an applicant has a right to the assistance of appellate counsel in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCR, provides that, if the applicant wishes to seek appellate review, he must serve and file a notice of appeal. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. This application for post-conviction relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the State within the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 16 day of March, 2021.



Letitia H. Verdin
Presiding Judge

Craenville, South Carolina

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Anderson, SC CDC, CP/68

A TRUE COPY

MAR 19 2021

Richard W. Kintz
CLERK OF COURT 16 of 16

RECEIVED

MAR 31 2021

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

INDICTMENT

FEB 21 2017

At a Court of General Sessions, convened on _____, the
Grand Jurors of Anderson County present upon their oath:

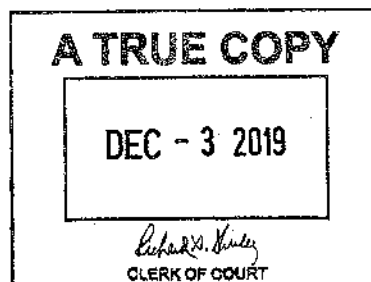
MURDER

That Randall M Simpson did in Anderson County, on or about January 9, 2016, unlawfully and with malice aforethought, either express or implied, kill Justin Ray Williams by means of shooting the victim with a firearm, and the victim died as a proximate result thereof. All in violation of §16-3-10, *South Carolina Code of Laws* (1976, as amended).

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



AUSTIN MCLAIN
ASSISTANT SOLICITOR



WITNESSES

Anderson Co. Sheriff's Office
Jeffrey R. Finley

ARREST WARRANT NUMBER

2016A0410100079

ACTION OF GRAND JURY

TRUE BILL

FEB 21 2017

Foreperson of Grand Jury
Date:

Shirley M. Johnson
Foreperson

VERDICT

Foreperson of Grand Jury
Date:

DOCKET NO. 2017-GS-04- 00464

The State of South Carolina
County of Anderson

COURT OF GENERAL SESSIONS

FEB 21 2017, TERM

THE STATE

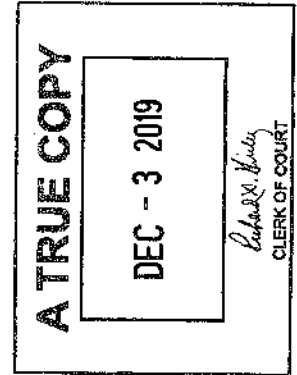
VS.

RANDALL M SIMPSON

INDICTMENT FOR

MURDER

SC Code: § 16-03-0010
CDR Code: 0116



COMMITMENT

5/15/17-RT

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

INDICTMENT

At a Court of General Sessions, convened on FEB 21 2017, the
Grand Jurors of Anderson County present upon their oath:

COUNT ONE - ATTEMPTED ARMED ROBBERY

The defendant, Randall M Simpson did on or about January 9, 2016, in Anderson County, South Carolina, while armed with a deadly weapon or while displaying what a person present during the robbery would reasonably believe to be a deadly weapon, attempt to take by means of force, threats, or intimidation, goods or monies from the person or presence of Justin Ray Williams. All in violation of 16-11-0330(B) of the South Carolina Code of Laws (1976) as amended.

COUNT TWO - POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

The defendant, Randall M Simpson, did on or about January 9, 2016, in Anderson County, South Carolina, while committing the crime of Attempted Arm Robbery, a crime of violence, have in his possession a firearm. All in violation of 16-23-0490 of the South Carolina Code of Laws (1976) as amended.

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


AUSTIN MCLAIN
ASSISTANT SOLICITOR

A TRUE COPY

DEC - 3 2019

Richard S. Kinley
CLERK OF COURT

WITNESSES

Anderson Co. Sheriff's Office
Jeffrey R. Finley

ARREST WARRANT NUMBER

COUNT ONE 2016A0410100081
COUNT TWO 2016A0410100098

ACTION OF GRAND JURY

TRUE BILL

FEB 21 2017

Foreperson of Grand Jury
Date:

Foreperson

VERDICT

Foreperson of Grand Jury
Date:

DOCKET NO. 2017-GS-04-00465

The State of South Carolina
County of Anderson

COURT OF GENERAL SESSIONS
FEB 21 2017
_____ , TERM

THE STATE

VS.

RANDALL M SIMPSON

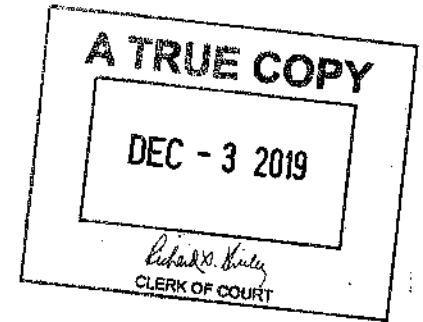
INDICTMENT FOR

**COUNT ONE - ATTEMPTED ARMED
ROBBERY**

SC Code: § 16-11-0330(B)
CDR Code: 0026

**COUNT TWO - POSSESSION OF A
WEAPON DURING THE COMMISSION OF
A VIOLENT CRIME**

SC Code: § 16-23-0490
CDR Code: 0549



106

COMMITMENT

5/15/17-RT

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

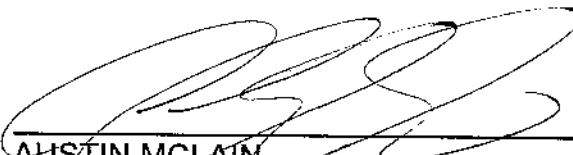
INDICTMENT

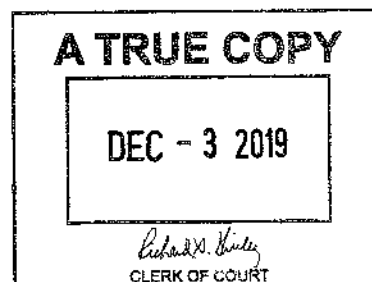
At a Court of General Sessions, convened on FEB 21 2017, the
Grand Jurors of Anderson County present upon their oath:

MURDER

That Randall M Simpson did in Anderson County, on or about January 9, 2016, unlawfully and with malice aforethought, aid and assist in the death of Casey Allen Waddell during the commission of an armed robbery when Casey Allen Waddell was shot and the victim died as a proximate result thereof. All in violation of §16-3-10, *South Carolina Code of Laws* (1976, as amended).

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


AUSTIN MCLAIN
ASSISTANT SOLICITOR



WITNESSES

Anderson Co. Sheriff's Office
Jeffrey R. Finley

ARREST WARRANT NUMBER

2016A0410100067

ACTION OF GRAND JURY

TRUE BILL

FEB 21 2017

Foreperson of Grand Jury
Date:

Jessica M. John
Foreperson

VERDICT

Foreperson of Grand Jury
Date:

DOCKET NO. 2017-GS-04-00466

The State of South Carolina
County of Anderson

COURT OF GENERAL SESSIONS

FEB 21 2017, TERM

THE STATE

VS.

RANDALL M SIMPSON

INDICTMENT FOR

MURDER

SC Code: § 16-03-0010
CDR Code: 0116

A TRUE COPY
DEC - 3 2019
Richard M. Finley
CLERK OF COURT

COMMITMENT

5/15/17-RF