

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

—————
Certiorari to Lexington County

Honorable Debra R. McCaslin, Circuit Court Judge
—————

JOSEPH E. MILLS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-000627
—————

APPENDIX
—————

ADAM SINCLAIR RUFFIN
Appellate Defender

ALAN WILSON
Attorney General

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

LILLY MEADOWS
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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State of South Carolina
County of Lexington

Court of General Sessions

State)	
)	
	)	Transcript of Record
v.	)	2017-GS-32-01001
	)	2017-GS-32-01002
Joseph Mills)	
)	
<u>Defendant.</u>)	

May 31, 2018
Lexington, South Carolina

B E F O R E:

The Honorable R. Knox McMahon, Judge.

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

Gill Bell, Assistant Solicitor
Attorney for the State

Robert Madsen, Public Defender
Sarah Mauldin, Assistant Public Defender
Attorneys for the Defendant

Bethanie K. Creppon
Circuit Court Reporter

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E X H I B I T S

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(No Exhibits.)

1 PROCEEDINGS

2 * * *

3 THE CLERK: 2017-GS-32-1001, State vs. Joseph
4 Elijah Mills, indicted for murder. He is pleading
5 as charged. 2017-GS-32-1002, State vs. Joseph
6 Elijah Mills, indicted for murder. He is pleading
7 as charged. Both indictments are true-billed and
8 he's represented by Ms. Mauldin and Mr. Madsen.

9 JOSEPH MILLS

10 being first duly sworn, testified as follows:

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Mr. Madsen, Ms. Mauldin, do you
13 represent Joseph Elijah Mills?

14 MS. MAULDIN: Yes, sir.

15 MR. MADSEN: Yes, Your Honor.

16 THE COURT: Do you want me to direct my
17 questioning to one or the other of you as far as
18 when we go through the plea?

19 MR. MADSEN: Probably Ms. Mauldin.

20 THE COURT: All right. Thank you, Mr. Madsen.

21 Ms. Mauldin, have y'all explained to Mr. Mills
22 the charges, the possible punishments, and his
23 rights, including his right to a jury trial?

24 MS. MAULDIN: We have, Your Honor.

25 THE COURT: In your opinion, does he understand

1 these things?

2 MS. MAULDIN: Yes, Your Honor.

3 THE COURT: How does he indicate he intends to
4 plead to murder, two counts?

5 MS. MAULDIN: Guilty, Your Honor.

6 THE COURT: Thank you.

7 Are you Joseph Elijah Mills?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Mr. Mills, before I can accept
10 pleas of guilty, it's necessary for me to determine
11 if those pleas are being given freely and
12 voluntarily; therefore, I need to ask you some
13 questions. If you do not understand my questions,
14 please let me know. I'll try to explain them to
15 you.

16 If at any time you wish to talk with your
17 attorneys, please let me know. I'll allow you to do
18 so. Do you understand?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: How old are you, sir?

21 THE DEFENDANT: Twenty-seven, sir.

22 THE COURT: How much education do you have?

23 THE DEFENDANT: A GED, sir.

24 THE COURT: What type of work did you do before
25 you were incarcerated?

1 THE DEFENDANT: Different kinds. I worked on
2 cars, I did landscaping, roofing, pretty much a
3 little bit of everything, sir.

4 THE COURT: Thank you.

5 Ms. Mauldin, has he been ordered to or has he
6 submitted to a mental examination to determine his
7 competency?

8 MS. MAULDIN: He has not, Your Honor.

9 THE COURT: Do you or Mr. Madsen have any
10 question whatsoever about his competency to stand
11 trial?

12 MS. MAULDIN: No, Your Honor.

13 THE COURT: None whatsoever?

14 MS. MAULDIN: No, Your Honor.

15 THE COURT: All right. Thank you.

16 Mr. Mills, today, are you under the influence
17 of any medications, drugs, or alcohol?

18 THE DEFENDANT: No, sir.

19 THE COURT: Are you aware of any physical,
20 emotional, or nervous problem that keeps you from
21 understanding what you're doing today?

22 THE DEFENDANT: No, sir.

23 THE COURT: You heard your attorneys tell me
24 that they've explained to you these charges, the
25 possible punishments, and your rights, and that you

1 understand those things. Is that correct?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: I've been handed up two
4 indictments. I'm going to review both of them with
5 you. The first one I come to is 2017-GS-32-01001.
6 It is a true-billed indictment that basically
7 alleges that you did, in Lexington County, on or
8 about 24 July 2016, unlawfully, willfully,
9 feloniously, and with malice aforethought kill the
10 victim, Charles Judge, by shooting the victim
11 multiple times with a pistol, and the victim died
12 as --

13 I'm sorry. Sheriff, would you take care of
14 that for me, please?

15 Multiple times with a pistol, and the victim
16 died as a approximate result thereof, in violation
17 16-3-10 of the Code of Laws of South Carolina, 1976
18 as amended. That is an indictment for murder.
19 Under our murder statute, you could receive a
20 sentence of not less than 30 years and up to life
21 without parole. Do you understand that charge and
22 that potential punishment?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: The next indictment,
25 2017-GS-32-01002, a true-billed indictment alleges

1 that you did, in Lexington County, on or about that
2 same date, 24 July 2016, unlawfully, willfully,
3 feloniously, and with malice aforethought kill the
4 victim, Jonathan Prinse, by shooting the victim
5 multiple times with a pistol and the victim died as
6 a proximate result thereof in violation of 16-3-10
7 Code of Laws of South Carolina, 1976 as amended.
8 That is an indictment for murder, again, for which
9 you could receive a potential sentence of a minimum
10 mandatory of 30 years, with a maximum potential
11 sentence of up to life without parole. Do you
12 understand?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Mr. Mills, when you plead guilty,
15 you give up certain very important constitutional
16 rights. First, you give up your right to remain
17 silent; that is your right against
18 self-incrimination, your right to say nothing at
19 all. You cannot be compelled to testify or to
20 provide evidence against yourself. Do you
21 understand?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Second, you give up your right to
24 have a jury trial. That is your right to have a
25 jury decide whether or not you are guilty beyond a

1 reasonable doubt. The jury would base their
2 decision upon evidence which the State presents and
3 on any evidence you might wish to introduce. In a
4 trial, you would be presumed to be innocent and the
5 State would have to produce evidence that would
6 convince all 12 members of the jury that you were
7 guilty beyond a reasonable doubt. Do you
8 understand?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Third, you give up your right to
11 confront and be confronted by the witnesses against
12 you. That is the right to see, hear, and
13 cross-examine any witnesses that may be called
14 against you during the trial and the right to
15 subpoena and call witnesses in your own behalf. Do
16 you understand?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you understand these very
19 important constitutional rights that I have just
20 explained to you?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you understand that when you
23 plead guilty you give up these very important
24 constitutional rights?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Is that what you want to do?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you understand that you will not
4 get a jury trial if you plead guilty?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Understanding, then, the nature of
7 the charges of murder, two counts, the potential
8 punishments as I have previously stated them to you
9 of a minimum mandatory of 30 years as to each count
10 with a potential maximum of life without parole as
11 to each count, understanding the charges and the
12 potential maximum punishments, how do you plead to
13 murder, two counts?

14 THE DEFENDANT: Guilty, sir.

15 THE COURT: Are you guilty?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Did you commit those offenses?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Mr. Mills, you may have defenses to
20 these charges against you. I don't know. I don't
21 know. I don't know whether you do or not. Do you
22 understand that by pleading guilty you waive or give
23 up any defenses you may have to these charges?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: You may have given an incriminating

1 statement in this case. I don't know if you have or
2 not. If you plead guilty, do you understand that
3 you waive or give up the right to contest and
4 challenge whether or not such statement or
5 statements were given freely and voluntarily in
6 accordance with your constitutional rights?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Have there been any plea
9 negotiations in this case, Solicitor?

10 MR. BELL: Yes, Your Honor. The plea
11 negotiations are that Mr. Mills will plead guilty to
12 a negotiated 40 years, which is to run concurrent on
13 both murder indictments. We'll be dismissing two
14 additional indictments, one for possession of a
15 weapon during a violent crime and one for assault
16 and battery against a Ms. Leann Eldridge.

17 THE COURT: Thank you, Solicitor.

18 Ms. Mauldin, is that the full and complete plea
19 negotiation?

20 MS. MAULDIN: Yes, Your Honor.

21 THE COURT: Mr. Mills, is that your
22 understanding of the full and complete plea
23 negotiations?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you still wish to plead guilty?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: When I am confronted with a
3 negotiated sentence of 40 years, I am bound to
4 accept or reject that sentence. If I reject that
5 sentence, it does not mean I will plead you -- or
6 sentence you any higher than the 40 years. I would
7 allow you to withdraw your plea. Do you understand?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you still wish to plead guilty?

10 THE DEFENDANT: Yes, sir.

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

14 THE DEFENDANT: No, sir.

15 THE COURT: Has anyone threatened you or used
16 force to get you to plead guilty?

17 THE DEFENDANT: No, sir.

18 THE COURT: Has anyone used any pressure or
19 intimidation to cause you to plead guilty?

20 THE DEFENDANT: No, sir.

21 THE COURT: Have you had enough time to make up
22 your mind?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Are you pleading guilty of your own
25 free will and accord?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: I want to ask you some questions
3 about your lawyers. Are you satisfied with the
4 manner in which your lawyers have advised you and
5 represented you?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Have you talked with your lawyers
8 as often and for as long as you feel necessary for
9 them to properly represent you?

10 THE DEFENDANT: Yes, sir.

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

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you need any more time to talk
15 with your lawyers?

16 THE DEFENDANT: No, sir.

17 THE COURT: Have your lawyers done everything
18 for you that you feel like they could have done or
19 should have done?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Have your lawyers done anything in
22 your case that you feel like they should not have
23 done?

24 THE DEFENDANT: No, sir.

25 THE COURT: Are you totally and completely

1 satisfied with your lawyers' services?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you have any complaints you want
4 to make about your lawyers?

5 THE DEFENDANT: No, sir.

6 THE COURT: The solicitor?

7 THE DEFENDANT: No, sir.

8 THE COURT: Or any police officers involved in
9 your cases?

10 THE DEFENDANT: No, sir.

11 THE COURT: Have you understood my questions?

12 THE DEFENDANT: Yes, sir.

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

15 THE DEFENDANT: No, sir.

16 THE COURT: Do you understand that you have a
17 right to appeal your guilty pleas and the sentences
18 of the Court and that you or your lawyers must do so
19 within ten days?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Thank you.

22 Solicitor, if you would, please give me the
23 facts.

24 MR. BELL: Thank you, Your Honor. May it
25 please the Court?

1 Your Honor, July 24th of 2016, shortly after
2 midnight, 911 began receiving a barrage of frantic
3 phone calls reporting an active shooting at the
4 Frayed Knot Bar & Grill. That's located off of Lake
5 Murray at 1701 Dreher Island Road in Chapin here in
6 Lexington County. Your Honor, initial --

7 THE COURT: That's near the county line?

8 MR. BELL: Yes, sir.

9 THE COURT: All right. Thank you.

10 MR. BELL: Your Honor, first responders with
11 the Lexington County Sheriff's Department rapidly
12 responded to the scene. When they arrived, they
13 found chaos. There were dozens upon dozens of
14 people trying to leave the area on foot, by vehicle,
15 and by boat.

16 As they tried to wade through that chaos and
17 determine whether or not there was still an active
18 threat as well as determine what was going on, they
19 found two clusters of people down by the waterside.
20 They shortly realized that those two clusters of
21 people were surrounding two individuals who were
22 prone on the ground.

23 After law enforcement had an opportunity to
24 examine, they realized that both of those
25 individuals had suffered what appeared to be gunshot

1 wounds. Those two individuals would later be
2 identified as Mr. Charles Judge and Mr. Jonathan
3 Prinse.

4 Your Honor, Jonathan Prinse suffered three
5 gunshot wounds to the upper torso. He was declared
6 deceased at the scene. Mr. Charles Judge suffered
7 two gunshot wounds to the upper torso. He was
8 transported by EMS, but passed away shortly
9 thereafter.

10 Your Honor, at this point, law enforcement
11 began the incredibly arduous task of trying to work
12 a scene where there was more than 150 people
13 present. They began trying to interview people as
14 well as review the CCTV footage that was present at
15 the bar and restaurant.

16 After interviewing a number of witnesses, they
17 then took what they had learned and sat down with
18 that footage from the CCTV and tried to put things
19 together. In reviewing that footage, what they see
20 that is relevant to the case is they see Mr. Mills
21 chasing a female who was identified as Leann
22 Eldridge.

23 To give you some background, Your Honor, law
24 enforcement became aware that Mr. Mills and
25 Ms. Eldridge were in a relationship for about a

1 month preceding this incident; that that
2 relationship primarily revolved around Mr. Mills
3 providing Ms. Eldridge with pain pills or Roxies, as
4 they were called, and we --

5 THE COURT: Is that Oxycontin?

6 MR. BELL: It's Roxycontin. It's a very
7 similar opiate, Your Honor.

8 THE COURT: Thank you.

9 MR. BELL: And we had also heard from numerous
10 witnesses that their relationship was abusive in
11 nature. Multiple witnesses report seeing
12 Ms. Eldridge running from Mr. Mills that night. The
13 pursuit starts in the parking lot by the road and
14 you see --

15 THE COURT: That would be -- if you're
16 facing out from the lakeside, that would be -- like,
17 looking at it from the lakeside, that would be up on
18 the front right?

19 MR. BELL: Top right. Yes, sir.

20 THE COURT: Okay. Thank you.

21 MR. BELL: The pursuit begins there. Mr. Mills
22 chases Leann into the sort of fake beach area that
23 is between what is referred to as the tiki bar and
24 the main bar or restaurant. They run down that
25 beach towards the water, at which point Mr. Mills

1 catches up with Leann Eldridge enough to tackle her
2 from behind.

3 In tackling her, they both go crashing through
4 a wooden latticework that is under the stairs that
5 lead up the back of the main restaurant from the
6 water. Multiple people corroborate what that video
7 shows in that they saw Leann running and they saw
8 her tackled.

9 As you can imagine, shortly after, a lot of
10 concerned citizens start running toward where they
11 saw a male tackle a female. They pull Mr. Mills
12 off. And the video shows at that time what appears
13 to be just a lot of jawing off, for lack of a better
14 word. There's no physical contact with Mills aside
15 from pulling him off of Ms. Eldridge up until the
16 point where one of the bar patrons does shove
17 Mr. Mills causing him to fall off the dock about a
18 foot down into the beach bed by the water.

19 Your Honor, at that point, multiple witnesses
20 as well as the video show that Mr. Mills then draws
21 a firearm and he fires it a handful of times in an
22 upward trajectory. There -- at least one bullet
23 effect was recovered from the soffit under the roof
24 of the main bar, so we knew that those bullets were
25 heading in an upward direction.

1 As you can imagine, everybody scurries,
2 everybody flees away from the gunshots at that time,
3 except for two people, Your Honor. Two people ran
4 towards the gunshots, ran towards where they thought
5 the danger was, and that ended up being Mr. Judge
6 and Mr. Prinse. The video very clearly shows those
7 two running down the dock towards Mr. Mills'
8 location, and you can see them come within several
9 yards of Mr. Mills while he's holding what we've
10 been told is a pistol, from speaking to multiple
11 witnesses.

12 At first, you can see their hands up. They
13 occasionally are taking a step back. And we've
14 heard from witnesses, they were simply trying to
15 diffuse the situation at that point. After there's
16 some back-and-forth verbally, you see Mr. Prinse,
17 who is a few feet behind Mr. Judge, take the
18 opportunity to try to reach around and grab at the
19 pistol that Mr. Mills has. Unfortunately, he's
20 unsuccessful in securing the pistol.

21 Very shortly after that, witnesses say the next
22 barrage of gunshots go off. Witnesses report
23 anywhere from five to six shots went off at that
24 time, except this time, he was not shooting in the
25 air; he was shooting at two targets, and he hit

1 those two targets. He hit Mr. Judge twice and
2 Mr. Prinse three times. Mr. Judge falls where he
3 was standing. Mr. Prinse scurries down the dock a
4 few feet, tries to crawl off the side, and then
5 under the dock to gain cover. Unfortunately, at
6 that point, the damage had already been done.

7 Your Honor, after the shooting occurs, the
8 video shows Mr. Mills take his t-shirt, put it over
9 his head and pull it down as if to create a hood to
10 conceal his face. He very calmly walks back from
11 the water, up through that sort of fake beach area
12 towards the parking lot where he gets into a vehicle
13 with a friend and drives away. Your Honor, the
14 murder weapon in this case has still never been
15 recovered. Mr. Mills was arrested later that
16 afternoon.

17 Your Honor, one thing that's been consistent,
18 as we spoke to dozens of witnesses in this case, is
19 that no one was making physical contact with
20 Mr. Mills beyond trying to restrain him off of
21 Ms. Eldridge when he initially tackled her and then
22 Mr. Prinse attempting to take the firearm. The one
23 exception, Your Honor, is the patron who shoves him
24 off of the dock. The two victims never made
25 physical contact except to try to secure the

1 firearm.

2 Your Honor, with us today are several members
3 of both victims' families. At the appropriate time,
4 they'd like to address Your Honor either personally
5 or through our victim advocate Ms. Rhonda Robinson.
6 As well, the State would like the opportunity to
7 tell you more about the victims.

8 THE COURT: Tell me about the investigation and
9 the arrest, if you could, Solicitor, please.

10 MR. BELL: Certainly, Your Honor. The
11 investigation, as you can imagine, started with
12 interviewing all of the witnesses there. Multiple
13 witnesses that were there were friends of Mr. Mills
14 and very readily were able to give his identity to
15 law enforcement, which law enforcement was able to
16 then find out who his known associates were and
17 figure out where he was staying.

18 Several of the friends that he had driven there
19 that night spoke to law enforcement, as well as a
20 group that he had been hanging out with before going
21 to the bar and knew that that's where he was headed.
22 As well, of course, Your Honor, Ms. Leann Eldridge,
23 the victim of the assault and battery, spoke to law
24 enforcement the morning after and told them that
25 Mr. Mills was the one who assaulted her.

1 When they went to arrest Mr. Mills, he did
2 eventually run out the back of the residence where
3 he was located into a wood line. Law enforcement
4 says that they sort of pretended that they had a K-9
5 that they were about to release. At that point,
6 Mr. Mills came back from the woods and back over the
7 fence. And they took him into custody without
8 further incident at that point. Your Honor, that,
9 essentially, leads up to his arrest.

10 There was no known prior interaction with
11 Mr. Mills or these victims. These were simply two
12 good Samaritans who were trying to run towards the
13 danger when everybody else ran away.

14 THE COURT: All right. Solicitor, I will hear
15 from anyone you'd like me to hear from.

16 MR. BELL: Your Honor, if I may defer to
17 Ms. Robinson.

18 MS. ROBINSON: We have Courtney Jernigan, and
19 she is Jonathan Prinse's sister.

20 THE COURT: All right.

21 Ms. Jernigan, tell me your full name, please.

22 MS. JERNIGAN: My name is Courtney Elizabeth
23 Jernigan.

24 THE COURT: Ms. Jernigan, I'll be glad to hear
25 from you.

1 MS. JERNIGAN: It's been almost two years since
2 tragedy struck our family. We lost my brother who
3 was the glue to our family. My sister-in-law now
4 has no husband; her three kids now have no father.
5 I have stepped up to do what I can, but in no way am
6 I ever going to be a replacement for what my brother
7 was to our family. My mother, she's just not even
8 the same person she was. Once Jonathan was gone,
9 that's where -- that's basically where we ended.

10 Moving forward, it's taken us some time to try
11 and grasp everything that happened that night and
12 trying to piece together the same thing that all
13 these detectives and everybody have been trying to
14 piece together themselves.

15 My brother, he would have done anything to help
16 others. It was in his -- it was in his blood. He
17 was in the military for almost 11 years. He
18 sacrificed himself numerous times. And to be taken
19 on home soil, it's wrong for our military. They
20 sacrifice so much for us to just even be here. And
21 for one of our own to take the life, or any lives,
22 in that matter, it's more than people can handle.
23 We only take what we can deal. It's taken us a long
24 time to try.

25 I've gone through almost two years of

1 counseling. I've been put into basic -- what do you
2 call them? Basically, I was on suicide watch.
3 Okay? I lost my brother. And due to the stress of
4 my brother gone, I was pregnant and I lost my baby.
5 She died on her due date because I couldn't...

6 This is not just -- there's -- we want -- we
7 would never wish anything on anybody's family, as
8 far as losing a loved one. We know what that's like
9 to be taken from them unexpectedly. We have agreed
10 to do 40 years for him to live his life because,
11 again, I would never want his mother to mourn the
12 loss of a child, his siblings to mourn a loss. But
13 that's what we've come to -- or that's where I've
14 come to in this.

15 If you could just -- please, Your Honor, I know
16 justice will be served in whatever happens here
17 today. And I'd like to say thank you.

18 THE COURT: Thank you. Thank you,
19 Ms. Jernigan.

20 MS. ROBINSON: Your Honor, the family of
21 Charles Judge has asked me just to convey to you
22 that he was a father, he was a son, he was a founder
23 of a program called Stand Down, which was for
24 veterans, and he was entering into a social work
25 program so that he could help other veterans. He

1 was a very caring and giving man.

2 THE COURT: All right. Solicitor?

3 MR. BELL: Your Honor, in reading about these
4 exceptional men, I did want to point out a few
5 things to Your Honor: Beginning with Mr. Charles
6 Judge, he was 40 at the time of the incident. At
7 that time, he had served 21 years with the Army
8 National Guard. He enlisted in 1995, as soon as he
9 finished high school, and began that long process of
10 training to serve our country. He served in
11 Operation Iraqi Freedom and he received numerous
12 decorations for his service there.

13 Your Honor, being a hero overseas for our
14 country wasn't enough, so he came home and decided
15 to be a hero here as well. He was one of the
16 founders and coordinators of the nonprofit Upstate
17 Stand Down, as you just heard. That's a nonprofit
18 that was designed to help homeless and at-risk
19 veterans, especially those with PTSD. Your Honor,
20 he is survived by two children.

21 Your Honor, Mr. Prinse was 29 at the time of
22 the incident. He dropped out of high school but got
23 his GED and then enlisted with the South Carolina
24 Air National Guard. He served three tours overseas;
25 two of those were in Afghanistan, one was in Iraq.

1 At the time of the incident, he had had over 10
2 years of service with the military, Your Honor. He
3 is survived by three children.

4 Your Honor, there is an old saying that's
5 recycled through literature. It goes something
6 along the lines of: Can you be brave when you're
7 afraid? And typically the response is, well, that's
8 the only time you can be brave. And the video shows
9 these men being brave. They ran towards the gunfire
10 when they could have run the other way or gotten on
11 a boat and left.

12 These men are heroes, and it's a tragedy that
13 they had to pass this way. But, certainly, all the
14 good that they have done will carry on, both through
15 their families, their children, the people they've
16 helped through their nonprofit, and certainly
17 through Ms. Leann Eldridge who was the victim of the
18 assault and battery earlier that night.

19 If you have any questions, Your Honor, the
20 State would be happy to oblige.

21 THE COURT: Prior criminal history, if any?

22 MR. BELL: Your Honor, a 2015 assault and
23 battery third degree -- and, I apologize, one
24 mistake, Your Honor: Mr. Prinse was from North
25 Carolina not South Carolina, so he would have been

1 with that branch of the National Guard --

2 MS. JERNIGAN: Army. Army. Army.

3 MR. BELL: Army. I apologize.

4 THE COURT: Anything further, Solicitor?

5 MR. BELL: No, Your Honor.

6 THE COURT: Thank you, Solicitor.

7 I find that there is a substantial factual
8 basis for these guilty pleas, that the defendant's
9 decision to enter these pleas of guilty is freely,
10 voluntarily, knowingly, and intelligently made, and
11 that the defendant has had the advice and counsel of
12 very, very competent attorneys, experienced, with
13 whom he says he is well and totally satisfied. The
14 defendant's plea of guilty to two counts of murder
15 is therefore accepted.

16 Ms. Mauldin?

17 MS. MAULDIN: Thank you, Your Honor. I'll
18 start with addressing the facts of the case.

19 When the initial group of men surrounded
20 Mr. Mills --

21 THE COURT: And that would not be Mr. Judge or
22 Mr. Prinse?

23 MS. MAULDIN: That's right, Your Honor.

24 THE COURT: All right. Thank you.

25 MS. MAULDIN: The initial group, we think,

1 truly believed that they were helping Ms. Eldridge.
2 But they surrounded him, he was pushed from the
3 retaining wall. Some of the witnesses say that he
4 was on his back, he was hit with a bottle. He says
5 that people were pushing him and hitting him too.
6 It's hard to tell from the video, because at that
7 point, it's dark and it's hard to tell exactly who's
8 doing what to him or who's throwing the bottle or
9 whatever. At that point, he was very frightened.
10 That's why he pulled out the gun and fired in the
11 air to try and get those people off of him.

12 Your Honor, after that, there was another man
13 who, I believe, had been part of that group that
14 kind of struggled with him at the dock. Mr. Judge
15 and Mr. Prinse ran up the dock from his right. Your
16 Honor, he was convinced, even after he was arrested,
17 that they had been part of the initial group that
18 had surrounded him.

19 The police had to explain to him that they were
20 two separate, completely uninvolved people that had
21 heard the shots and had run toward him. Your Honor,
22 that's the only thing I would say to correct that.
23 He believed they were part of that group that had
24 surrounded him, and he was frightened from that
25 first group.

1 Your Honor, he regrets this horrible, horrible
2 situation that he's put himself in. If there were
3 anything he could do to give back Mr. Judge and
4 Mr. Prinse to their families, he would absolutely do
5 that. Your Honor, he made a very long confession to
6 the police when he was arrested that next afternoon.
7 He talked to them for probably about two and a half
8 hours. He was emotional, he was distraught, he was
9 worried about what would happen to himself. But he
10 was clearly very upset about what he did to these
11 men, too, and to their families.

12 Since then, the medical records that we've
13 gotten from the jail have shown that he's
14 experienced nightmares while he's been there. He
15 has talked to us about how sorry he is about this.
16 He truly regrets this. And if he could take it
17 back, he absolutely would.

18 Your Honor, he's sorry for hurting his own
19 family too. It's a very close family. His mother
20 is Kimberley Jones. She's seated in the middle of
21 the front row to Your Honor's left. Your Honor,
22 she's a dispatcher at Owen Seal. He was living with
23 her when he got arrested. The way she found out
24 about all of this was the police came to her house
25 that day with a search warrant, and that's when she

1 found out what he had done. So this was just
2 terribly -- just a horrible thing for her to learn
3 about her child.

4 Your Honor, he has three sisters; he has one
5 brother and a half brother. He has 17 nieces and
6 nephews. They're a very close family. They all are
7 so sad for him and so sad for the family of
8 Mr. Judge and Mr. Prinse. Nobody wanted this to
9 happen.

10 Your Honor, he told you he's 27. He's from
11 Newberry. He's always lived in Newberry in Little
12 Mountain. He did earn his GED. He's done
13 construction work; he's worked in fast food
14 restaurants; he's been a Waffle House cook. He's
15 done pretty much anything he can do to stay busy.
16 And while he hasn't earned a lot of money, he's
17 somebody who has always worked hard and remained
18 steadily employed.

19 Your Honor, he did not set out that night to
20 hurt Mr. Judge or Mr. Prinse. But he certainly
21 understands that the choices he made put everyone in
22 this situation. He never imagined that this would
23 be something that he would do. And I think he would
24 truly take it back if there were any way he could do
25 that.

1 We would thank Your Honor for accepting his
2 plea. He has served 677 days in the detention
3 center.

4 THE COURT: Thank you, Ms. Mauldin.

5 MR. MADSEN: Judge --

6 THE COURT: Yes, sir. Go ahead. I didn't mean
7 to cut you off.

8 MR. MADSEN: I would just say, in meeting with
9 him, Joseph understands that he made a number of bad
10 decisions that put him in this situation and led up
11 to these things. It was not something that he
12 intended or, quite honestly, ever thought that he
13 would be in this situation. But he certainly
14 understands that some of the actions that led up to
15 it spiraled, and there were some poor decisions.

16 And he's expressed to us numerous times that if
17 he could do something to switch places with either
18 Mr. Judge or Mr. Prinse, he would. He understands
19 that that is certainly not possible. But he's been
20 emotional with us when we've spoken with him about
21 his remorse. Thank you, Your Honor.

22 THE COURT: Thank you. Thank you, Mr. Madsen.
23 And thank you, Ms. Mauldin.

24 Anything further, Solicitor?

25 MR. BELL: No, Your Honor.

1 THE COURT: Thank you.

2 Anything you'd like to say, Mr. Mills?

3 THE DEFENDANT: My lawyers pretty much said it:
4 If I could change places with them, I would. I
5 didn't come there intending to do that. And I'm
6 very sorry for their family. And I hope one day
7 they can get along and just accept life. And I'm
8 very sorry for what happened. If I could change
9 places with either one of them, I would.

10 THE COURT: Mr. Mills, why did you go to that
11 place armed with a pistol?

12 THE DEFENDANT: I pretty much carried a pistol
13 from the day that I was jumped for about the fourth
14 or fifth time in my neighborhood and I received an
15 ankle injury where my ankle was fractured. So I
16 pretty much carried a pistol for protection pretty
17 much everywhere I went, sir.

18 THE COURT: And when was that that you made
19 that decision after being jumped? You're from
20 around the Providence Church area?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: When did you make that -- when was
23 that decision made? How long ago was that?

24 THE DEFENDANT: That was when I was 19. And I
25 fractured my ankle. I had been lynched in Five

1 Points one time. A guy pulled a gun on me and
2 robbed me out there. So -- like, on the way back to
3 the car. So after that, I pretty much just carried
4 a gun to protect myself.

5 THE COURT: And you had a concealed weapon
6 permit, I assume.

7 THE DEFENDANT: No, sir.

8 THE COURT: And you would be armed any time you
9 went to a bar?

10 THE DEFENDANT: Yes and no. I mean, I guess if
11 I forgot it, then it would stay at home. But,
12 pretty much, I kept it on me if I thought about it,
13 like, any situation could arise.

14 THE COURT: You understand taking a plea you
15 waive your right to remain silent?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Where is the weapon that you used
18 to murder Mr. Judge and Mr. Prinse?

19 THE DEFENDANT: I threw it out the window on
20 the way home.

21 THE COURT: Did you tell the officers that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Did you point it out to them where
24 you threw it out?

25 THE DEFENDANT: They didn't ask me.

1 THE COURT: Well, tell me where you threw it
2 out.

3 THE DEFENDANT: On the way home, driving on
4 that road.

5 THE COURT: On, what, Dreher Island Road?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Which way do you go there? You go
8 back through Macedonia or what? I don't know if --
9 it's been a while since I've been in Providence
10 Church. It hadn't been a while since I've been in
11 parts of Little Mountain.

12 THE DEFENDANT: Okay. If you leave from Frayed
13 Knot, like you said, looking from the lake --

14 THE COURT: Yes, sir.

15 THE DEFENDANT: -- looking at the bar from the
16 lake, you take a right. You go down that road a
17 couple miles, then you come around that curve and
18 hit that church and stop right there, and that takes
19 me back toward home where I would turn on Meadowlark
20 to go home.

21 THE COURT: What kind of weapon was it?

22 THE DEFENDANT: A .40 caliber.

23 THE COURT: How many rounds did it have?

24 THE DEFENDANT: Fourteen. I think there was
25 one in the head.

1 THE COURT: How many did you shoot?

2 THE DEFENDANT: I think I shot five, maybe six
3 times the first time when I shot in the air and five
4 more times when I hit Mr. Prinse and Mr. Judge.

5 THE COURT: Anything else you'd like to say?

6 THE DEFENDANT: No, sir.

7 THE COURT: I find it very ironic that today,
8 which is actually the day after the calendar date of
9 Memorial Day, which is 30 May, that having been
10 changed a number of years ago by Congress -- it used
11 to be the fourth Monday, I think, in May, but the
12 actual technical date is 30 May, so it's the day
13 after -- that the individuals that you turned into
14 corpses are partially responsible supporters of the
15 freedoms you're having the right to exercise today.

16 You have fine lawyers, fine lawyers,
17 constitutional rights to remain silent,
18 constitutional rights to have a jury trial,
19 constitutional right to confront the attorneys
20 [sic], you wouldn't have those rights without men
21 like this, none of us would.

22 That's not to berate you in any manner. I
23 don't judge a person as good or bad. That's -- I
24 don't consider that my job as a judge. I judge
25 behavior. I don't put labels on people. I put

1 labels on behavior. But that's very ironic.

2 And, as the solicitor said and Ms. Jernigan and
3 as the statement presented to me through the victim
4 assistant indicates, we all should salute and take a
5 moment to pause and reflect on what these men, these
6 victims, and many, many other -- too many other
7 victims, men and women, allow us the right to be
8 free in this country.

9 I read something the other day that the
10 solicitor quoted to me. And the solicitor knows I
11 like quotes because I'm the best misquoter in the
12 world. So they'll never find it if I misquoted
13 anything because I'll also name the wrong author or
14 either use anonymous.

15 I read something the other day, and it's true
16 in this case: When you murder someone, you don't
17 take a life. When you murder two people, you don't
18 take two lives. As to them, you take four lives,
19 just ask the victims: The one they were living and
20 the one they don't get the opportunity to live. So
21 you take it up to their present and you take that
22 life that they no longer have the right, the
23 opportunity -- they have the right, but they no
24 longer have the opportunity to live.

25 And that doesn't even get down to the petal in

1 the pond. All these folks to my front right, they
2 have a burden, a cross to bear for the remainder of
3 their life. All the people on my front left, the
4 same, petal in the pond.

5 I'm not a psychologist, I'm not Dr. Phil, but
6 closure is just a word. Some wounds never heal.
7 You Band-Aid them up, and every day the Band-Aid
8 gets torn off. You may get 40 years, but they got a
9 life sentence. I'm not trying to be negative. I've
10 been serving that sentence since I was a young man.

11 I believe, and others in this courtroom that
12 have been present when I've accepted pleas before
13 know that I think that the worst crime anyone can
14 commit is stealing and a thief. Because when you're
15 a thief, if you take -- break into somebody's house
16 and take items, you're stealing their property. If
17 you lie to somebody, you're stealing the truth from
18 them. If you commit a murder, you're stealing
19 someone's son, brother, daddy, friend. It's the
20 basis of all crimes, stealing. There's different
21 things we steal, different things we steal.

22 And it is very sad that young men serve our
23 country in foreign places trying to assist in the
24 freedoms of those individuals, and come home to our
25 shores, our property, our locations, our country,

1 our communities, Chapin, Little Mountain, and lose
2 their lives over people's failure to control their
3 conduct.

4 You brought a gun to a fight. It just wasn't
5 necessary, ever. And these gentlemen weren't
6 fighting; they were trying to assist. I don't
7 criticize nor commend the Solicitor's Office for
8 accepting the plea. They understand their case,
9 they do a great job, walk along hand-in-hand with
10 local law enforcement in evaluating cases and
11 offering pleas, as they have done in this case. And
12 your lawyers have done you an outstanding job of
13 representing you.

14 I do -- would be derelict in my judicial duty
15 not to address the fact that the family of the
16 victims -- Ms. Jernigan, Mr. Prinse's family, and
17 Mr. Judge's family -- have shown a degree of mercy
18 that sometimes is too rare in these courtrooms. And
19 it always touches me when our fellow human beings
20 can be so merciful, can be so merciful. So not only
21 do you have the victims themselves, you have family
22 of the victims.

23 2017-GS-32-01002, that is the murder indictment
24 as to Mr. Jonathan Prinse, the defendant is
25 committed to the state department of corrections for

1 a determinate term of 40 years. As to Indictment
2 2017-GS-32-01000 [sic], that is the indictment for
3 Charles Judge, the defendant, John Elijah Mills, is
4 committed to the state department of corrections for
5 a determinate term of 40 years. Those are
6 concurrent. The defendant, by statute, is given
7 credit for all time served pursuant to 24-13-40.
8 Good luck to you, Mr. Mills.

9 THE DEFENDANT: Thank you.

10 THE COURT: Thank you, Ms. Mauldin. Thank you,
11 Mr. Madsen.

12 MR. BELL: Thank you, Your Honor.

13 -- END OF TRANSCRIPT OF RECORD --

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C E R T I F I C A T E

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2

3 STATE OF SOUTH CAROLINA

4 COUNTY OF LEXINGTON

5

6 I, the undersigned, Bethanie K. Creppon, Circuit
7 Court Reporter for the Eleventh Judicial Circuit of
8 the State of South Carolina, do hereby certify that
9 the foregoing is a true, accurate and complete
10 transcript of record of all the proceedings had and
11 the evidence introduced in the hearing of the
12 captioned cause, relative to appeal in the Criminal
13 Court for Lexington County, South Carolina, on the
14 31st of May, 2018.

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

17

18

July 3, 2019

19

20

s/Bethanie K. Creppon

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22

Bethanie K. Creppon
Circuit Court Reporter

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(No Exhibits.)

1 PROCEEDINGS

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3 THE COURT: All right. I understand I have a
4 motion. Is that correct, Solicitor?

5 MR. GRAHAM: Yes, Your Honor. It's a motion by
6 the Defense.

7 THE COURT: All right.

8 Ms. Mauldin?

9 MS. MAULDIN: Thank you, Your Honor.

10 Your Honor, this is our motion to withdraw
11 Mr. Mills' guilty pleas. He entered guilty -- a
12 plea of guilty to two counts of murder on May 31st
13 of this year before Your Honor. Your Honor
14 sentenced him to a negotiated 40 years. At this
15 point, he has asked us to file a motion to withdraw
16 the pleas.

17 He went to the department of corrections; he
18 wrote a letter to his mother, asking her to get in
19 touch with us. We arranged a meeting with him over
20 the telephone while he's been at SCDC. We were able
21 to do that on June 11th, and were able to talk to
22 him. He's told us that's what he wanted to do, and
23 that's why we filed the motion on his behalf.

24 Your Honor, the case law in this seems to say a
25 motion of this type is within the Court's

1 discretion. And, therefore, we'd ask the Court to
2 allow him to withdraw the plea. This is a situation
3 where he believes he made the wrong decision.

4 THE COURT: Thank you. Thank you, Ms. Mauldin.
5 Mr. Madsen, anything you'd like to add?

6 MR. MADSEN: No, sir. I believe she covered
7 it.

8 THE COURT: All right.
9 Mr. Mills, anything you'd like to say?

10 THE DEFENDANT: No, sir.

11 THE COURT: All right.
12 Solicitor?

13 MR. GRAHAM: Thank you, Your Honor.

14 When you took his plea, you went over his
15 rights. He understood his rights, what he was
16 giving up; he understood that he was getting a
17 negotiated 40 years in pleading to two murders. It
18 was free; it was voluntary; it was knowing and
19 intelligent. You accepted it.

20 On behalf of the State and the victims'
21 families, we'd ask that you enforce the plea.

22 THE COURT: Thank you. Thank you very much,
23 Solicitor.

24 Ms. Mauldin, will you place on the record and
25 enlighten the Court -- although you have practiced

1 in front of me for a number of years, would you give
2 me your educational background and your experience
3 as a criminal defense lawyer?

4 MS. MAULDIN: Yes, Your Honor. I graduated
5 from Presbyterian College. After that, I attended
6 the University of South Carolina Law School and
7 graduated there. I have worked at the Lexington
8 County Public Defenders Office since 2006 as an
9 assistant public defender, and then a senior public
10 defender. And I've represented people in a variety
11 of crimes, anything from juveniles that were charged
12 with crimes in family court, through general
13 sessions, up to murder charges.

14 THE COURT: And, tell me, do the math for me,
15 how many years is that, that you've been practicing,
16 Ms. Mauldin?

17 MS. MAULDIN: Twelve years now, Your Honor.

18 THE COURT: I know the caseload of both -- I'm
19 aware of the caseload of assistant public defenders
20 and assistant solicitors. How many cases do you
21 think you've handled, Ms. Mauldin, in that number of
22 years?

23 MS. MAULDIN: Your Honor, I really don't know.
24 Probably a thousand by now.

25 THE COURT: Thousands?

1 MS. MAULDIN: I don't know for sure, Your
2 Honor.

3 THE COURT: Many of those felony?

4 MS. MAULDIN: Yes, sir.

5 THE COURT: You have any idea -- have you tried
6 cases?

7 MS. MAULDIN: Yes, sir.

8 THE COURT: Do you have any idea how many cases
9 you've tried?

10 MS. MAULDIN: No, sir, I don't.

11 THE COURT: Have you tried serious felony
12 cases? Violent cases?

13 MS. MAULDIN: Yes, sir.

14 THE COURT: Have you tried murder cases?

15 MS. MAULDIN: Yes, sir. Well, one murder case,
16 Your Honor.

17 THE COURT: All right. Thank you, Ms. Mauldin.

18 Mr. Madsen, will you relate for me, for the
19 record, your training and experience and educational
20 background?

21 MR. MADSEN: Yes, sir. Just wanted to say one
22 thing: Ms. Mauldin is being a little bit honest.

23 As you know, Ms. Henry is retiring. Ms. Mauldin has
24 been promoted to our Deputy Public Defender. So --

25 THE COURT: And Ms. Henry, was that previously?

1 MR. MADSEN: Yes, sir.

2 THE COURT: All right. Thank you.

3 MR. MADSEN: Yes, sir. She's leaving the 29th.

4 But, Judge, I went to the Ohio State
5 University. I then graduated from USC School of
6 Law. I was in private practice for a period of
7 time, and a general practice in lower Richland. I
8 left there and left as a senior assistant solicitor
9 for the Second Judicial Circuit; ran the Barnwell
10 and Bamberg offices for six years where I
11 participated in five capital trials during that
12 period of time.

13 THE COURT: So you're death-penalty qualified?

14 MR. MADSEN: I am. I am death-penalty
15 qualified.

16 I then came over to Lexington County and worked
17 as an assistant solicitor in the beginning for six
18 years. I left as a member of the Violent Crimes
19 Task Force and a team leader there, and left as a
20 senior assistant.

21 I was appointed/elected as the public defender
22 for Lexington, Saluda, Edgefield, and McCormick
23 Counties in 2008, and have served in that capacity
24 ever since then. I have tried well over 100 jury
25 trials, everything from capital cases down to DUIs.

1 THE COURT: Everything from what?

2 MR. MADSEN: Capital cases down to DUIs.

3 THE COURT: And how many capital murder cases
4 have you tried, Mr. Madsen?

5 MR. MADSEN: Five as a -- five as a prosecutor;
6 was part of a prosecution team. And I have
7 currently one right now. Hopefully, don't want any
8 others, but that's not my decision.

9 THE COURT: Thank you. Thank you, Mr. Madsen.

10 I did some research. And, as both Ms. Mauldin
11 and, I think, the solicitor said, research as far as
12 the case law in South Carolina basically indicates
13 to this Court that the withdraw of a guilty plea is
14 generally within the sound discretion of the trial
15 judge.

16 There's also Federal Rule 11, which I also
17 looked at. And we have no parallel to Federal Rule
18 11 in South Carolina. But it did give some insight
19 to the Court what federal judges may consider or to
20 look at in determining whether or not to allow an
21 individual to withdraw his guilty plea.

22 I also went to some secondary sources
23 elucidating the Rule 11. And there should be some
24 type of reason given by a defendant as to why he
25 would want to withdraw his plea. I'm not sure that

1 comes up to he changed his mind.

2 The criminal justice system seeks finality,
3 whether it's in a guilty plea or a trial; whether an
4 individual is found guilty or not guilty. There
5 is -- there should be finality to the charges
6 pending.

7 As an initial matter, Mr. Mills has very
8 experienced, well-qualified attorneys. I went
9 through the colloquy under Boykin vs. Alabama, the
10 linchpin case on the trial judge's duty to qualify
11 one's guilty plea. I've read a rough draft of the
12 transcript of that proceeding. I asked all the
13 questions necessary under Boykin.

14 I, of course, advised Mr. Mills that at any
15 time that he wanted to talk with either or both of
16 his attorneys, I would allow him to do so; at any
17 time that he did not understand my questions, ask
18 me, and I would try to explain it to him. And,
19 without going line by line on that guilty plea
20 proceeding, I advised him of all his constitutional
21 rights; I advised him of the fact that he would
22 waive those very important constitutional rights:
23 Would not get a jury trial, right to -- against
24 self-incrimination was waived, his right to hold the
25 State to its burden of proving its case beyond a

1 reasonable doubt and, importantly, his right to a
2 jury trial, and that would be waived if he entered
3 pleas of guilty.

4 The plea bargain was placed on the record by
5 the solicitor; that it was 40 years on each count of
6 murder. The one as to victim Jonathan Prinse -- and
7 I apologize to those of you that are members of the
8 victims' families for not having their names right
9 off the top of my head.

10 MR. GRAHAM: It's Charles Judge, Your Honor.

11 THE COURT: Say the last name.

12 MR. GRAHAM: Judge.

13 THE COURT: And Mr. Jones [sic]. The
14 sentencing sheet indicated that Mr. Mills wanted to
15 enter a plea of guilty to these two counts of murder
16 for a negotiated sentence of 40 years concurrent.

17 I had not yet accepted the plea, and I never
18 accept a guilty plea or pleas until such time there
19 is a factual basis for the guilty plea. I listened
20 to that basis from the State, and there clearly was
21 a factual basis on Mr. Mills' entry of pleas of
22 guilty on two murder charges.

23 I asked him about his -- if he had been
24 coerced, forced, threatened, intimidated in any
25 manner; if he had adequate time with his attorneys;

1 if he had adequate time to make up his own mind; and
2 if his plea of guilty was freely and voluntarily
3 given. I listened to all that.

4 And I also listened to Ms. Mauldin's address to
5 the Court concerning factual allegations based on
6 her investigation, perhaps; based on her
7 conversations with her client, perhaps; concerning
8 the fact that there was an initial assault -- chase
9 and assault between Mr. Mills and, I think it was,
10 Ms. Ethridge -- is that the correct last name,
11 Ms. Ethridge -- at this location, Frayed Knot, on
12 Lake Murray; that a group -- a group, not including
13 Mr. Prinse and Mr. Jones, initially came to the aid
14 of Ms. Ethridge, confronted Mr. Mills; that
15 Mr. Jones and Prinse were out on the dock, Mr. Mills
16 fired a weapon that hit the building which alerted
17 the two young men and, I paraphrase, marched to the
18 sounds of the gun to assist Ms. Ethridge, who they
19 didn't know; having done that, in a position of
20 weakness from a position of weakness.

21 They weren't in a position of strength at that
22 time. Hands up, palms outward, engaging in
23 conversation to try to diffuse the matter. And, at
24 risk to their own life, not only did they risk their
25 life, they lost it, attempting to control Mr. Mills

1 and the weapon, and met with a volley of gunfire by
2 three rounds to the torso of each man. I believe
3 that's the number. Is that correct?

4 MR. GRAHAM: Three on one and two on the other,
5 Your Honor.

6 THE COURT: Three on one and two on the other.
7 Thank you. Thank you, Solicitor. I apologize.

8 If I would have taken the plea -- and, as a
9 negotiated plea, as you all know, good lawyers, a
10 trial judge is in a position where he either accepts
11 the plea or rejects the plea. I listened to
12 everything, and I accepted the plea.

13 Now, there's case law in the federal system
14 that -- there's this timeframe between acceptance
15 and sentence; for example, if I'd have taken it
16 under advisement, which I did not do.

17 I also talked to Mr. Mills about the fact that
18 he was waiving any defenses; was he waiving any
19 challenges to any statements -- incriminating
20 statements that he may have given. The 40 years was
21 the plea bargain. The State presented to the Court
22 that the 40 years was the plea bargain accepted by
23 Mr. Mills.

24 He doesn't allege -- he doesn't allege that the
25 State didn't comply with the bargain; he doesn't

1 allege that that wasn't the bargain that was made;
2 he doesn't allege innocence; waived all his rights;
3 waived all of his defenses. And, quite frankly, if
4 I were to have taken into account the statements
5 given concerning the totality of the circumstances,
6 even under his allegations, he's still guilty of
7 murder.

8 Changing one's mind is not a ground for this
9 Judge in this court to allow anybody to withdraw
10 their plea. That's not valid. I think it's no more
11 than gamesmanship, not by your attorneys. I have
12 the highest regard, personally and professionally,
13 for your attorneys.

14 They've practiced in front of me for over 12
15 years. They've always worked very hard, very
16 professionally, and very thoroughly for their
17 clients in preparing their cases, whether it's by
18 way of presenting guilty pleas on behalf of their
19 clients or jury trials. I think it's no more than
20 gamesmanship. And I think I would be violating my
21 judicial oath of office if I were to allow Joseph
22 Mills to withdraw his plea.

23 With that being said, anything you'd like to
24 say, Mr. Mills?

25 THE DEFENDANT: Yes, sir. It was --

1 THE COURT: Speak up.

2 THE DEFENDANT: It was a very rash decision.
3 It was only -- the plea was only on the table 24
4 hours, maybe more. And I'm not guilty of murder.

5 THE COURT: And you what?

6 THE DEFENDANT: I'm not guilty of murder.

7 THE COURT: I disagree with you. You're as
8 guilty of murder as any defendant that's ever stood
9 in front of me. Your motion to reconsider a
10 negotiated sentence, qualified plea, State adheres
11 to the sentence, you agree that that was the
12 negotiations, that motion is denied. Thank you.
13 Thank you, Mr. Mills. Good luck to you.

14 MR. GRAHAM: Thank you, Your Honor.

15 THE COURT: All right. Thank you, Solicitor.
16 Thank you, Ms. Mauldin. Thank you, Mr. Madsen.
17 Thank y'all for everything y'all do.

18 -- END OF TRANSCRIPT OF RECORD --

19

20

21

22

23

24

25

C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Criminal Court for Lexington County, South Carolina, on the 18th of June, 2018.

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

April 8, 2021

s/ *Bethanie K. Creppon*Bethanie K. Creppon
Circuit Court Reporter

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions

The Honorable R. Knox McMahon, Circuit Court Judge

Case No. 2017-GS-32-01001 and 2017-GS-32-01002

The State,

Respondent,

RECEIVED

JUN 29 2018

SC Court of Appeals

v.

VWA

Joseph Elijah Mills

Appellant.

NOTICE OF APPEAL

Joseph Elijah Mills appeals his guilty plea, sentence, and the denial of his motion to withdraw his guilty plea. The sentence was imposed by the Honorable R. Knox McMahon on May 31, 2018. Appellant filed a motion to withdraw the guilty plea, which was denied during a hearing on June 18, 2018. A written explanation supplementing this notice of appeal, pursuant to Rule 203 (d)(1)(B)(iv), SCACR, is enclosed.

Sarah H. Mauldin

Sarah H. Mauldin
Attorney for the Defendant
202 E. Main St.
Lexington, SC 29072
(803) 785-8873

Other Counsel of Record:

D. Shawn Graham, Deputy Solicitor
Lexington County Courthouse
205 E. Main St.
Lexington, SC 29072

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions

The Honorable R. Knox McMahon, Circuit Court Judge

Case No. 2017-GS-32-01001 and 2017-GS-32-01002

The State,

Respondent,

v.

Joseph Elijah Mills

Appellant.

RECEIVED

JUN 29 2018

SC Court of Appeals

EXPLANATION OF APPEAL

This is an appeal from a guilty plea heard on May 31, 2018. The attorney who represented appellant at plea filed a motion to reconsider sentence. Appellant later filed a motion to withdraw his plea, and the Honorable R. Knox McMahon denied the motion to withdraw the plea on June 18, 2018. A written explanation supplementing this notice of appeal pursuant to Rule 203 (d)(1)(B)(iv), SCACR, is enclosed.

Respectfully submitted,



Sarah H. Mauldin
Attorney for the Defendant
202 E. Main Street
Lexington, SC 29072



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

July 09, 2018

Ms. Sarah Hahn Mauldin, Esquire
202 E. Main St.
Lexington SC 29072

Re: The State v. Joseph Elijah Mills
Appellate Case No. 2018-001220

Dear Counsel:

Please provide a copy of the post-plea order denying the motion to withdraw appeal and motion to reconsider sentence.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Robert Michael Dudek, Esquire
David Shawn Graham, Esquire
Alan McCrory Wilson, Esquire
John Benjamin Aplin, Esquire

OFFICE OF THE PUBLIC DEFENDER

ELIZABETH FULLWOOD
Lexington Public Defender
407 W. Main St.
Lexington, SC 29072
Telephone (803) 957-8873
Fax (803) 957-1443

Eleventh Judicial Circuit
Lexington, Saluda, Edgefield,
and McCormick Counties

ROBERT M. MADSEN
Circuit Public Defender

BENNETT E. CASTO
Tri-County Public Defender
Post Office Box 1852
McCormick, SC 29835
Telephone (864) 852-9555
Fax (864) 852-9554

June 26, 2018

The Honorable Jenny Kitchings
Clerk of Court for Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED
JUL 16 2018
SC Court of Appeals

Re: The State vs. Joseph Elijah Mills
Appellate Case No. 2018-001220

Dear Ms. Kitchings:

I am writing in response to your request for the order denying Mr. Mills' motion to withdraw his guilty plea and motion to reconsider sentence.

Enclosed, please find a copy of the sentencing sheets from Joseph Mills' guilty plea. The sentencing judge presided over the hearing and orally denied the motion to withdraw the plea. There was no written order denying the motion. I did not file a motion to reconsider the sentence in this case.

Sincerely,



Sarah H. Mauldin
Attorney for the Defendant

Enclosures

cc: D. Shawn Graham, Esq.
Robert M. Dudek, Esq.
Alan McCrory Wilson, Esq.
John Benjamin Aplin, Esq.

The South Carolina Court of Appeals

The State, Respondent,

v.

Joseph Elijah Mills, Appellant.

Appellate Case No. 2018-001220

The Honorable R. Knox McMahon
Lexington County
Trial Court Case No. 2017GS3201001, 2017GS3201002

ORDER

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

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc:

Joseph Elijah Mills, 376644
Sarah Hahn Mauldin, Esquire
Robert Michael Dudek, Esquire
David Shawn Graham, Esquire
Alan McCrory Wilson, Esquire
Melody Jane Brown, Esquire

August 10, 2018

Dear, South Carolina Court of appeals;

I recieved your letter of notice that I needed to write you with a reason for appeal. I was ~~given~~ given the wrong address to send my appeal letter to. Now that I have the right address & am sending my appeal letter, I hope you will ~~not~~ accept my letter of appeal even tho it is past the 20 day mark.

Thank you so much & have a nice day.

Joseph Miller

RECEIVED

AUG 27 2018

SC Court of Appeals

RECEIVED

AUG 08 2018

Joseph Elijah Mills
#376644

Dear Appellate Court,

APPELLATE DEFENSE

My name is Joseph Elijah Mills. Today is July 20, 2018 I'm writing you this letter on my behalf. I honestly feel that I wasn't properly represented by my public defender (Sarah Mauldin) of the Eleventh Circuit public defenders office. I was coerced into taking a plea, being under the understanding that if I didn't agree to the plea that I would receive a worse sentence in the form of (Life) if I was to take it to trial. My public defender (Sarah Mauldin) also said that my reason for appeal was because I changed my mind which is something I never said. I am writing you myself to inform you as to why I'm putting in for an appeal. My reason for an appeal is ineffective counseling due to the fact that my public defender was persuading me not to take it to trial. I feel like she was working with the Solicitors in my case and she informed me that the Solicitors only gave me 24 hrs. to make a decision. I know I'm not guilty of murder and I deserve a chance to get a fair trial to prove my innocents. The honorable Judge Mr. R. Knox McMahon was the Judge on my case and I believe that he already had me convicted before I even walked into the courtroom. It looked as if he was just going through the motions just because and he was also siding with the Solicitors no matter what. He stated that I was guilty of murder on my appeal and called my appeal good "gamesmanship". My public defender didn't give me a fighting chance and I feel that they wanted to represent me in my case in the first place. I would love the opportunity and chance at a fair trial. Thanks in Advance for your time and patience and consideration.

RECEIVED

AUG 27 2018

SC Court of Appeals

16.(c-1): Applicant was denied the right to due process of law guaranteed under the fifth and fourteenth Amendment of the United States Constitution and by Article 149 of the Tennessee Constitution during the guilt or Innocent phase of his case.

Joseph Elijah Mills

Joseph Elijah Mills SCDC#376644

P.S. Can I receive a clockstamp copy back of this

The South Carolina Court of Appeals

The State, Respondent,

v.

Joseph Elijah Mills, Appellant.

Appellate Case No. 2018-001220

ORDER

This appeal was dismissed prior to the receipt of Appellant's pro se explanation under Rule 203 of the South Carolina Appellate Court Rules (SCACR). The appeal is reinstated for the purpose of allowing Appellant's pro se explanation to be considered. After careful consideration of the explanation and all filings in this appeal, Appellant has failed to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv), SCACR. Accordingly, this matter is dismissed, and the remittitur will be sent as required by Rule 221(b), SCACR.


FOR THE COURT

Columbia, South Carolina

cc:

Joseph Elijah Mills, 376644
Sarah Hahn Mauldin, Esquire
Robert Michael Dudek, Esquire
David Shawn Graham, Esquire
Alan McCrory Wilson, Esquire
Melody Jane Brown, Esquire

FILED

October 5, 2018

2019 CP 3200857

FORM 5

FILED

2019 FEB 26 AM 11:33

IN THE COURT OF COMMON PLEAS

STATE OF SOUTH CAROLINA

COUNTY OF *Lexington*

LISA H. COMER
CLERK OF COURT
LEXINGTON, SC

Full name and prison number (if any) of Applicant.

Joseph Mills 00376644
v.

State of South Carolina

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 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 *B.R.C.I.E - Marion 195, 4450 Broad River Rd, Columbia, SC, 2921*
2. Name and location of Court which imposed sentence *Lexington County General Sessio*
3. Name(s) of co-defendant(s) (if any) *NONE*
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) *I Don't have indictment #s*
 - (b) *MURDER (2) counts*
 - (c) *Assault and Battery, 2nd degree*
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) *5/20/18*
 - (b) *4 1/2 yrs Day for Day*

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ✓ _____

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

Yes

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. S.C. Court of Appeals

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. Appeal Denied

ii. _____

iii. _____

(c) the date of each such result:

i. N/A

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. N/A

ii. _____

iii. _____

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

(a) N/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 in violation of the 6th and 14th Amendment rights of the U.S. Constitution,
 (b) _____
 (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
 (a) see Attachment sheet
 (b) _____
 (c) _____
12. Prior to this application have you filed with respect to this conviction:
 (a) any petition in a State Court under South Carolina Law? NO
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
 (d) any other petitions, motions or applications in this or any other Court? 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. N/A
 ii. _____
 iii. _____
 iv. _____
 (b) the name and location of the Court in which each was filed:
 i. N/A
 ii. _____
 iii. _____
 iv. _____
 (c) the disposition thereof:
 i. N/A
 ii. _____
 iii. _____

Attachment 11(a) - Ineffective Assistance of Counsel in violation of the 6th and 14th Amendments of the U.S. Constitution.

- (1) Counsel ineffective for not getting Petitioner a independent medical and mental health evaluations.
- (2) Counsel ineffective for threatening and coercing Petitioner into taking a plea instead of going to trial.
- (3) Counsel ineffective for making improper comments at Petitioner's plea hearing and sentencing.
- (4) Counsel failed to object to Prosecutor's and Judge's unconstitutional improper prejudicial comments at plea hearing, which was ineffective.
- (5) Counsel ineffective for failing to inform Petitioner of his right to appeal his plea decision and failing to file for 'Notice to Appeal' plea decision.
- (6) Counsel ineffective for failing to go over the defense of self-defense with Petitioner and failing to prepare Petitioner's case as a case of self-defense for trial.
- (7) Counsel ineffective for failing to investigate the evidence, true facts, and the circumstances of the case.
- (8) Counsel ineffective for not fully giving all Discovery material to the Petitioner and not going over the Discovery material with the Petitioner.

(I, Petitioner, respectfully reserve the right to amend application for further issues.)

iv. _____
 (d) the date of each such disposition:

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

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

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

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

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

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

- (a) This is initial P.C.R.
- (b) _____
- (c) _____

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

- (a) your arraignment and plea? Yes
- (b) your trial, if any? ~~yes~~ NO
- (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. Sarah Mauldin, eleventh circuit,
 - ii. Public defenders office
 - iii. 202 east Main St,
Lexington SC 29072
- (b) the proceedings at which each such attorney represented you:
 - i. Plea
 - ii. Appeal of plea
 - iii. _____

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

To have plea reversed, and case Remanded for New Trial

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

NO

* Petitioner believes he has additional claims for postconviction relief, but does not yet have collateral counsel, access to the Discovery process, or funds for expert services to investigate these claims. As such I, the petitioner, would respectfully reserve the right to amend application for further issues. *

2019CP320085

STATE OF SOUTH CAROLINA)

County of Lexington)

VERIFICATION

I, ~~petitioner~~, 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.

Joseph Mills

SWORN to and subscribed before me this Feb. 21st
day of February, 2019.

James Washington (L.S.)
Notary Public

My Commission Expires: March 8, 2018

2019 FEB 26 AM 11:33
HISATL COVER
FEB 26 2019

FILED

2019CP320085

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

I, ~~petitioner~~, 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.

Joseph Melle
Applicant

SWORN or affirmed to and subscribed before me this

21st Feb, day of February, 2019.

George S. Wachs
Notary Public

My Commission Expires: March 8, 2020

FILED
2019 FEB 26 AM 11:33
US MAIL DELIVERED
COUNTY CLERK
COSTS

Joseph Mills, 00376644
B.R.C.I - Marion 195
4460 Broad River Rd,
Columbia, S.C. 29210
February 19, 2019

2019CP3200851

County of Lexington
Lisa M. Comer
Clerk of Court
205 East Main St.
Lexington, S.C. 29072

RE: Filing P.C.R Application

Dear Honorable Clerk:

FILED
2019 FEB 26 AM 11:33
LISA M. COMER
CLERK OF COURT
LEXINGTON SC

Hello; All be well, This letter comes to inform you that I have enclosed with this letter my application for Post-Conviction Relief to be filed in your office. I ask that you please clock-stamp my P.C.R Application and send back to me a clock-stamped copy of my P.C.R Application that I have sent to you. I have enclosed a self-addressed envelope for you to send back to me a copy of my Clocked-stamped P.C.R Application.

I thank you for All of your help and concern, Peace and Blessings Always.

Sincerely,
s/ Joseph Mills
Joseph Mills

~~Ex p.s. can you please send~~
~~to me copies warrants~~
~~Indictments and~~
~~sentencing sheets~~
~~Thank you~~

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	FOR THE ELEVENTH JUDICIAL CIRCUIT
)	
Mills, Joseph, SCDC #376444,)	
	)	Case No. 2019-CP-32-851
Applicant,)	
)	
v.	)	RETURN, AND PARTIAL MOTION TO
	)	DISMISS, AND MOTION FOR A MORE
State of South Carolina,	)	DEFINITE STATEMENT
	)	(COUNSEL APPOINTED)
Respondent.)	
)	
)	

In response to the post-conviction relief (PCR) action commenced by Joseph Mills (Applicant) on February 26, 2019, the State makes this return:

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to the orders of commitment of the Lexington County Clerk of Court. Applicant was arrested on July 25, 2016 following an investigation into the shooting death of Charles Judge and Jonathan Prinse during an incident which occurred the day prior. Applicant was indicted at the April 2017 term of the Lexington County Grand Jury for two counts of murder (2017-GS-32-1001, & -1002) and one count of possession of a weapon during the commission of a violent crime (2017-GS-32-1003).

On May 31, 2018, Applicant pleaded guilty as indicted to both counts of murder before the Honorable R. Knox McMahon. Chief Public Defender Robert M. Madsen and Assistant Public Defender Sarah Mauldin (collectively, Counsel) represented Applicant. Assistant Solicitor Gill Bell prosecuted the case. Applicant entered his plea pursuant to a negotiated sentence of concurrent terms of forty years' imprisonment on each charge. The Stated dropped the firearm charge as well as an unindicted second-degree assault and battery charge in exchange for the plea. Judge

McMahon accepted Applicant's guilty plea and sentenced him as negotiated—forty years' imprisonment.

Counsel subsequently filed a timely notice of appeal. On August 10, 2018, the South Carolina Court of Appeals dismissed Applicant's appeal pursuant to Rule 203(d)(1)(B)(iv), SCACR, for failure to provide a sufficient explanation as to why his appeal from a guilty plea should proceed. *State v. Mills*, S.C. Ct. App. filed August 10, 2018. By order dated October 5, 2018, the Court of Appeals reinstated the appeal because it was dismissed prior to receiving Applicant's *pro se* explanation. In the same order, the Court of Appeals, after careful consideration of Applicant's explanation, again dismissed the appeal pursuant to Rule 203(d)(1)(B)(iv), SCACR. *State v. Mills*, S.C. Ct. App. filed October 5, 2018. The remittitur was returned to the circuit court on October 23, 2018. Applicant timely commenced this PCR action on February 26, 2019.

II. STATEMENT OF THE FACTS

The underlying facts of the crime for which Applicant is incarcerated were articulated by the State during the plea proceeding as follows:

On July 24th of 2016, shortly after midnight, 911 began receiving a barrage of frantic phone calls reporting an active shooting at the Frayed Knot Bar & Grill. That's located off of Lake Murray at 1701 Dreher Island Road in Chapin here in Lexington County.

First responders with the Lexington County Sheriff's Department rapidly responded to the scene. When they arrived, they found chaos. There were dozens upon dozens of people trying to leave the area on foot, by vehicle, and by boat. As they tried to wade through that chaos and determine whether or not there was still an active threat as well as determine what was going on, they found two clusters of people down by the waterside. They shortly realized that those two clusters of people were surrounding two individuals who were prone on the ground.

After law enforcement had an opportunity to examine, they realized that both of those individuals had suffered what appeared to be gunshot wounds.

Those two individuals would later be identified as Mr. Charles Judge and Mr. Jonathan Prinse. Jonathan Prinse suffered three gunshot wounds to the upper torso. He was declared deceased at the scene. Mr. Charles Judge suffered two gunshot wounds to the upper torso. He was transported by EMS, but passed away shortly thereafter.

At this point, law enforcement began the incredibly arduous task of trying to work a scene where there was more than 150 people present. They began trying to interview people as well as review the CCTV footage that was present at the bar and restaurant.

After interviewing a number of witnesses, they then took what they had learned and sat down with that footage from the CCTV and tried to put things together. In reviewing that footage, what they see that is relevant to the case is they see Mr. Mills chasing a female who was identified as Leann Eldridge.

Law enforcement became aware that Mr. Mills and Ms. Eldridge were in a relationship for about a month preceding this incident; that that relationship primarily revolved around Mr. Mills providing Ms. Eldridge with pain pills or Roxies, as they were called. They we had also heard from numerous witnesses that their relationship was abusive in nature.

Multiple witnesses report seeing Ms. Eldridge running from Mr. Mills that night. The pursuit began in the parking lot. Mr. Mills chases Leann into the sort of fake beach area that is between what is referred to as the tiki bar and the main bar or restaurant. They run down that beach towards the water, at which point Mr. Mills catches up with Leann Eldridge enough to tackle her from behind. In tackling her, they both go crashing through a wooden latticework that is under the stairs that lead up the back of the main restaurant from the water. Multiple people corroborate what that video shows in that they saw Leann running and they saw her tackled.

Shortly after, a lot of concerned citizens start running toward where they saw a male tackle a female. They pull Mr. Mills off. And the video shows at that time what appears to be just a lot of jawing off, for lack of a better word. There's no physical contact with Mills aside from pulling him off of Ms. Eldridge up until the point where one of the bar patrons does shove Mr. Mills causing him to fall off the dock about a foot down into the beach bed by the water.

At that point, multiple witnesses, as well as the video, show that Mr. Mills then draws a firearm and he fires it a handful of times in an upward trajectory. At least one bullet effect was recovered from the soffit under the roof of the main bar, so we knew that those bullets were heading in an upward direction.

As you can imagine, everybody scurries, everybody flees away from the gunshots at that time, except for two people. Two people ran towards the gunshots, ran towards where they thought the danger was, and that ended up being Mr. Judge and Mr. Prinse. The video very clearly shows those two running down the dock towards Mr. Mills' location, and you can see them come within several yards of Mr. Mills while he's holding what we've been told is a pistol, from speaking to multiple witnesses.

At first, you can see their hands up. They occasionally are taking a step back. And we've heard from witnesses, they were simply trying to diffuse the situation at that point. After there's some back-and-forth verbally, you see Mr. Prinse, who is a few feet behind Mr. Judge, take the opportunity to try to reach around and grab at the pistol that Mr. Mills has. Unfortunately, he's unsuccessful in securing the pistol.

Very shortly after that, witnesses say the next barrage of gunshots go off. Witnesses report anywhere from five to six shots went off at that time, except this time, he was not shooting in the air; he was shooting at two targets, and he hit those two targets. He hit Mr. Judge twice and Mr. Prinse three times. Mr. Judge falls where he was standing. Mr. Prinse scurries down the dock a few feet, tries to crawl off the side, and then under the dock to gain cover. Unfortunately, at that point, the damage had already been done.

After the shooting occurs, the video shows Mr. Mills take his t-shirt, put it over his head and pull it down as if to create a hood to conceal his face. He very calmly walks back from the water, up through that sort of fake beach area towards the parking lot where he gets into a vehicle with a friend and drives away. The murder weapon in this case has still never been recovered. Mr. Mills was arrested later that afternoon.

One thing that's been consistent, as we spoke to dozens of witnesses in this case, is that no one was making physical contact with Mr. Mills beyond trying to restrain him off of Ms. Eldridge when he initially tackled her and

then Mr. Prinse attempting to take the firearm. The one exception is the patron who shoves him off of the dock. The two victims never made physical contact except to try to secure the firearm.

The investigation started with interviewing all of the witnesses there. Multiple witnesses that were there were friends of Mr. Mills and very readily were able to give his identity to law enforcement, which law enforcement was able to then find out who his known associates were and figure out where he was staying.

Several of the friends that he had driven there that night spoke to law enforcement, as well as a group that he had been hanging out with before going to the bar and knew that that's where he was headed. As well, of course, Ms. Leann Eldridge, the victim of the assault and battery, spoke to law enforcement the morning after and told them that Mr. Mills was the one who assaulted her. There was no known prior interaction between Mr. Mills and these victims.

(Plea Tr. 15-22).

III. CURRENT APPLICATION

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

1. "Ineffective Assistance of Counsel in violation of the 6th and 14th Amendment rights of the U.S. Constitution."
 - a. "Counsel is ineffective for not getting Petitioner a independent medical and mental health evaluations."
 - b. "Counsel is ineffective for threatening and coercing Petitioner into taking a plea instead of going to trial."
 - c. "Counsel ineffective for making improper comments at Petitioner's plea hearing and sentencing."
 - d. "Counsel failed to object to Prosecutor's and Judge's unconstitutional improper prejudicial comments at plea hearing, which was ineffective."
 - e. "Counsel ineffective for failing to inform Petitioner of his right to appeal his plea decision and failing to file 'Notice of Appeal' plea decision."

- f. “Counsel ineffective for failing to go over the defense of self-defense with Petitioner and failing to prepare Petitioner’s case as a case of self-defense for trial.”
- g. Counsel ineffective for failing to investigate the evidence, the facts, and the circumstances of the case.”
- h. “Counsel ineffective for not fully giving all discovery material to the Petitioner and not going over the discovery material with the Petitioner.”

Applicant requests relief as follows:

“To have plea reversed; and case remanded for new trial”

Attached to and incorporated herein are the Lexington County Clerk of Court records, Applicant’s records from the South Carolina Department of Corrections, the plea transcript, and the records of the current PCR action. The State reserves the right to amend this return upon receipt of any relevant materials.

IV. RESPONSE TO ALLEGATION COUNSEL FAILED TO FILE DIRECT APPEAL

The State submits Applicant’s allegations that Counsel failed to inform him of his right to appeal and failed to file a notice of appeal on his behalf should be summarily dismissed. As an initial matter, Applicant *did* know of his right to appeal, as Judge McMahon informed him of that right. (GP Tr. 14). Additionally, as discussed above, Counsel filed a timely notice of appeal on June 29, 2018. The South Carolina Court of Appeals dismissed Applicant’s appeal on October 5, 2018.

A. Conclusion and Action Requested

Before the Court will hold an evidentiary hearing, Applicant must make a *prima facie* showing he is entitled to relief. *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). Applicant has failed to make a showing

he is entitled to relief based on the information set forth above. Accordingly, the State moves to summarily dismiss this allegation based on the record.

V. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF COUNSEL

A. Ineffective Assistance of Plea Counsel, Generally

Applicant's allegations of ineffective assistance of counsel are without merit. The Sixth Amendment to the United States Constitution guarantees the Applicant, like all other defendants, the right to effective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668 (1984); *Lomax v. State*, 379 S.C. 93, 100, 665 S.E.2d 164, 167 (2008). The allegation of denial of such representation sets forth a prima facie violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973). In order to determine whether a guilty plea was taken in accordance with constitutional standards, the PCR judge must analyze and consider the entire record, including the transcript of the guilty plea and the evidence presented at the PCR hearing. *Harres v. Leeke*, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRCP; *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985); *State v. Pendergrass*, 270 S.C. 1, 4, 239 S.E.2d 750, 751 (1977). The applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland*, 466 U.S. at 686; *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. The reviewing court 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. *Strickland*, 466 U.S. at 690. Thus, a fair assessment of attorney performance

requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time. *Strickland*, 466 U.S. at 689

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-part test outlined in *Strickland* to determine whether counsel's "assistance was so ineffective as to require reversal" of the applicant's sentence. *Strickland*, 466 U.S. at 687. First, the applicant must show that counsel's performance was deficient; and second, that the deficient performance prejudiced the applicant. *Id.*; *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In order to prove deficient performance under the first prong of *Strickland*, the applicant must show that counsel's representation fell below an objective standard of "reasonableness under prevailing professional norms." *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

The second prong of *Strickland* requires the applicant to show that counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694.

In adjudicating a claim of actual ineffectiveness of counsel, "the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged." *Id.* at 696. The reviewing court must presume that counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Butler*, 286 S.C. at 442, 334 S.E.2d at 814; *See also Strickland*, 466 U.S. at 690 (noting that 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). The applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625.

The standards, however, do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. Additionally, “there is no reason a court deciding an ineffective assistance claim to approach the inquiry in the same order or even to address both components of the inquiry if the defendant makes an insufficient showing on one.” *Strickland*, 466 U.S. at 697. In particular, the court “need not determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. *Id.* If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, the court may evaluate the prejudice prong only. *Id.*”

Hill v. Lockhart extended the two-part *Strickland* test “to challenge guilty pleas based on ineffective assistance of counsel.” 474 U.S. 52, 58 (1985); accord *Stalk v. State*, 383 S.C. 559, 561–62, 681 S.E.2d 592, 594 (2009). The analysis of counsel’s performance under the first prong of *Strickland* remains unchanged—the applicant must show that counsel’s representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases. *Hill*, 474 U.S. at 58–59; accord *Thompson v. State*, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000).

The second, or “prejudice,” however, “focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process.” *Hill*, 474 U.S. at 58–59. In other words, the applicant “must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial.” *Id.* at 59. The question here is whether the applicant, if correctly informed of circumstances

surrounding the plea would have pled guilty—not whether counsel would have still advised him or her to plead guilty. *Turner v. State*, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999). Requiring a “prejudice” showing from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel “will serve the fundamental interest in the finality of guilty pleas.” *Hill*, 474 U.S. at 58.

Because “[a] guilty plea is a solemn, judicial admission of the truth of the charges against an individual,” an Applicant’s right to contest the validity of such a plea is usually, but not invariably, foreclosed. *Dalton v. State*, 376 S.C. 130, 137–38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Blackledge v. Allison*, 431 U.S. 63 (1977)). Therefore, admissions “made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements.” *Id.*

B. Involuntary Guilty Plea

The State interprets Applicant’s claim that Counsel threatened and coerced him into pleading guilty as an attack on the knowing and voluntary nature of Applicant’s plea.

“[I]t is the prerogative of any person to waive his rights, confess, and plead guilty, under judicially defined safeguards, which are adequately enforced.” *Reed v. Becka*, 333 S.C. 676, 685, 511 S.E.2d 396, 401 (Ct. App. 1999). Accordingly, because a criminal defendant waives several constitutional rights by pleading guilty, the Due Process Clause requires that guilty pleas are entered into voluntarily, knowingly, and intelligently. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Pittman v. State*, 337 S.C. 597, 524 S.E.2d 623 (1999). The standard 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.” *North Carolina v. Alford*, 400 U.S. 25, 31 (1970). Where a defendant is represented by counsel during the plea process and enters his plea

upon the advice of counsel, the voluntariness of the plea depends on whether counsel's advice "was within the range of competence demanded of attorneys in criminal cases." *Hill*, 474 U.S. at 56.

Before a court can accept a guilty plea, the defendant must be advised of the constitutional rights he or she is waiving; the right to a jury trial, the right to confront one's accusers, and the privilege against self-incrimination. *Boykin*, 395 U.S. at 243. Additionally, in order to knowingly and voluntarily plead guilty, the defendant must have a full understanding of the consequences of the plea, including the nature and crucial elements of the offense(s); the maximum and any mandatory minimum penalty; and the nature of the constitutional rights being waived. *Pittman*, 337 S.C. at 599, 524 S.E.2d at 624.

A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993); *See also Wolfe v. State*, 326 S.C. 158, 485 S.E.2d 367 (1997) (guilty plea not involuntary where the colloquy demonstrated the trial judge asked defendant twice whether he understood there were no promises and that no sentencing recommendations were binding on the judge). To ensure the defendant understands the consequences of his guilty plea, the trial judge "usually questions the defendant about the facts surrounding the crime and punishment that could be imposed." *Dover v. State*, 304 S.C. 433, 434–35, 405 S.E.2d 391, 392 (1991). However, the trial judge "does not have to direct the defendant's attention to every consequence of his plea provided the record reveals affirmative awareness of the consequences of a guilty plea." *Carter v. State*, 329 S.C. 355, 362, 495 S.E.2d 773, 776 (1998).

The voluntariness of a guilty plea, however, "is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made

at the time of the entry of the guilty plea and the record of the post-conviction hearing.” *Harres*, 282 S.C. at 133, 318 S.E.2d at 361. In considering an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing. *Wolfe*, 326 S.C. at 165, 485 S.E.2d at 370.

An applicant who enters a plea on the advice of counsel may “only attack voluntary, knowing and intelligent character of the plea by showing that plea counsel’s representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel’s errors, the [applicant] would not have pled guilty, but would have insisted on going to trial.” *Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). Given Applicant’s burden of proof and the analysis to be applied to this claim, Applicant’s claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and will be treated as such.

Applicant’s allegation that Counsel threatened and coerced him into taking a plea instead of going to trial is meritless; the record fully supports the knowing and voluntary nature of Applicant’s plea. The plea court conducted an extensive colloquy with Applicant, which included the following exchange:

PLEA COURT: Has anyone promised you or held out any hope of reward to get you to plead guilty.

APPLICANT: No, sir.

PLEA COURT: Has anyone threatened you or used to force to get you to plead guilty?

APPLICANT: No, sir.

PLEA COURT: Has anyone used any pressure or intimidation to cause you to plead guilty?

APPLICANT: No, sir.

PLEA COURT: Have you had enough time to make up your mind?

APPLICANT: Yes, sir.

PLEA COURT: Are you pleading guilty of your own free will and accord?

APPLICANT: Yes, sir.

(Plea Tr. 12–13).

Additionally, Applicant knew the nature of the charges against him, the terms of the plea agreement, and the consequences of pleading guilty pursuant to the requirements of *Boykin* and *Pittman*. At the outset of the plea hearing, Counsel advised the court that Applicant understood the charges against him, possible punishment, and constitutional rights as they have been explained to him. (Plea Tr. 4). During the plea colloquy, Judge McMahon explained to Applicant that by pleading guilty he would waive important constitutional rights, including his right to a trial by jury, his right to confront the witnesses against him, and his right to remain silent. (Plea Tr. 8–9). Judge McMahon further informed Applicant that if he did go forward to a trial that the burden of proof would not be upon him, but rather would be upon the State to prove every element of every charge against him, and that they would have to convince every member of the jury of his guilt. (Plea Tr. 8–9). Applicant indicated he understood, and wished to waive these rights in order to plead guilty. Judge McMahon thereafter separately explained each of the indictments in greater detail, and advised Applicant that the mandatory minimum sentence for murder is thirty years imprisonment as to each count, and the maximum is life without parole. (Plea Tr. 7–8, 10). The solicitor then advised the court of the terms of the negotiated plea agreement; that Applicant would serve concurrent terms of forty years imprisonment as to each charge and the State would drop the

firearm and assault and battery charges. Judge McMahon explained to Applicant the nature of a “negotiated” plea, and that he would either accept the negotiated sentence of forty years, or give him the opportunity to withdraw his plea. (Plea Tr. 12). Again, Applicant indicated he understood and wished to proceed forward. (Plea Tr. 12).

The State submits Applicant cannot meet his burden by way of this allegation, and his request for relief should be denied.

C. Failure to Evaluate Applicant’s Competency to Plead Guilty

Applicant contends Counsel was ineffective for failing to have him professionally evaluated for nonspecific mental health issues.

“Due process of law prohibits the conviction of a person who is mentally incompetent,” *Jeter v. State*, 308 S.C. 230, 232, 417 S.E.2d 594, 595 (1992), and “this right may not be waived by a guilty plea.” *Matthews v. State*. 358 S.C. 456, 458, 596 S.E.2d 49, 50 (2004). An accused is competent to stand trial if he or she has sufficient capability to consult with his or her lawyer with a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings. *Jeter*, 308 S.C. at 232, 417 S.E.2d at 596. “The test of competency to enter a plea is the same as required to stand trial”—“[t]he accused must have sufficient capability to consult with his lawyer with a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings against him.” *Garren v. State*, 423 S.C. 1, 12–13, 813 S.E.2d 704, 710 (2018) (internal citations omitted). In other words, “[t]he focus of a competency inquiry is the defendant’s mental capacity; the question is whether he [or she] has the *ability* to understand the proceedings.” *Garren*, 423 S.C. at 14, 813 S.E.2d at 711 (quoting *Godinez v. Moran*, 509 U.S. 389, 401 n.12 (1993)). In a PCR action, the applicant “bears the burden of proof and is required to show by a

preponderance of the evidence he was incompetent at the time of his plea.” *Id.* at 16, 813 S.E.2d at 712.

As to the deficiency prong under *Strickland*, an attorney may reasonably rely upon his or her own perceptions of a defendant in determining whether or not their client should be mentally evaluated. *Jeter*, 308 S.C. at 233, 417 S.E.2d at 596. When establishing *Strickland* prejudice in the context of plea counsel’s failure to request a mental competency evaluation, the applicant need only show a reasonable probability that he was incompetent at the time of the original proceeding. *Garren*, 423 S.C. at 12, 813 S.E.2d at 710; *Compare Jeter*, 308 S.C. at 232–33, 417 S.E.2d at 596 (finding counsel acted reasonably in relying on his own perceptions of a defendant’s competency), *with Ramirez v. State*, 419 S.C. 14, 22–23, 795 S.E.2d 841, 845–46 (2017) (finding plea counsel was deficient in failing to seek an independent competency evaluation where plea counsel was “clearly on notice” the defendant had mental health issues based on his own personal interactions with the defendant, as well as a previous psychological evaluation identifying several mental health issues).

However, an applicant seeking to prevail upon a claim that plea counsel was ineffective in failing to seek a competency evaluation must still show that the failure fell below an objective standard of reasonableness. *See Garren*, 423 S.C. at 13, 813 S.E.2d at 710-11. As is the case with any other allegation that a defense attorney failed to adequately investigate some matter, the applicant “bears the burden of proof and is required to show by a preponderance of the evidence he was incompetent at the time of his plea.” *Id.* at 16, 813 S.E.2d at 712. In order to establish prejudice, the “applicant must present some evidence of identifiable mental health issues which undermine his or her competency; mere speculation and conjecture by the applicant is insufficient.” *Id.* at 13-14, 813 S.E.2d at 711.

Applicant does not indicate any specific mental health issues, nor has he presented any proof of mental incompetency. Moreover, Judge McMahon specifically inquired as to whether Applicant had been ordered or submitted to a mental evaluation to determine his competency. (Plea Tr. 6). Counsel indicated that he had not, and assured the plea court they had no concerns about Applicant's competency. (Plea Tr. 6). Applicant also told the plea court he was not under the influence of any medications or drugs, and that he was not aware of any physical or mental illnesses that would affect his ability to understand the proceedings. (Plea Tr. (6)). Thus, the State submits Applicant's request for relief by way of this allegation should be denied.

D. Failure to Investigate, Provide Defense, and Review Discovery

"There is a strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in the case." *Ard v. Catoe*, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007). Nevertheless, "[c]ounsel has a duty to undertake reasonable investigations or to make a decision that renders a particular investigation unnecessary." *Bagwell v. State*, 410 S.C. 259, 265, 763 S.E.2d 630, 633–34 (Ct. App. 2014) (citing *Strickland*, 466 U.S. at 691). In particular, "[c]ounsel's conversations with the defendant may be critical to a proper assessment of counsel's investigation decisions." *Id.* at 265, 763 S.E.2d at 634 (internal citations omitted). Counsel's decision not to undertake a particular investigation should be assessed for reasonableness under all the circumstances with heavy deference to counsel's judgment. *Id.* at 265, 763 S.E.2d at 633 (citing *Simpson v. Moore*, 367 S.C. 587, 597, 627 S.E.2d 701, 706 (2006)).

In *Hill*, the U.S. Supreme Court explained that, in the context of guilty pleas, the "prejudice" requirement of the two-part *Strickland* test "focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process." 474 U.S. at 59 In other words,

in order to satisfy the “prejudice” requirement, “the defendant must show that there is a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial.” *Id.*

For example, where the alleged error of counsel is a failure to investigate or discover potentially exculpatory evidence, the determination whether the error “prejudiced” the defendant by causing him to plead guilty rather than go to trial will depend on the likelihood that discovery of the evidence would have led counsel to change his recommendation as to the plea. This assessment, in turn, will depend in large part on a prediction whether the evidence likely would have changed the outcome of a trial. Similarly, where the alleged error of counsel is a failure to advise the defendant of a potential affirmative defense to the crime charged, the resolution of the “prejudice” inquiry will depend largely on whether the affirmative defense likely would have succeeded at trial.

Id. See, e.g., Evans v. Meyer, 742 F.2d 371, 375 (CA7 1984) (“It is inconceivable to us ... that [the defendant] would have gone to trial on a defense of intoxication, or that if he had done so he either would have been acquitted or, if convicted, would nevertheless have been given a shorter sentence than he actually received”).

In order to prevail upon a claim that counsel did not adequately prepare or investigate a case, an applicant must present evidence of what counsel could have discovered or what other defenses applicant could have requested counsel develop and present had counsel been more prepared. *Harris v. State*, 377 S.C. 66, 75-76, 659 S.E.2d 140, 145-146 (2008) (citing *Jackson v. State*, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998)), *abrogated on other grounds by Smalls v. State*, 422 S.C. 174, 810 S.E.2d 836 (2018). Furthermore, an applicant must also present evidence to show how the discoverable matters or defenses would have resulted in a different outcome. *Harris*, 377 S.C. at 75-76, 659 S.E.2d at 145-46 (citing *Davis v. State*, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); *Skeen v. State*, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997)).

Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. *Id.* at 75, 659 S.E.2d at 145 (citing *Glover v. State*, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

Applicant alleges ineffective assistance of counsel for “failing to go over the defense of self-defense with [him] and failing to prepare [his] case as a case of self-defense for trial.” However, during the plea colloquy, Judge McMahon specifically advised Applicant that by pleading guilty, he would waive any defenses he may have. (Plea Tr. 10). Applicant told the plea court he understood, and wished to waive that right in order to plead guilty. Thus, Applicant cannot meet his burden by way of this allegation, and his request for relief should be denied.

Applicant contends Counsel failed to review and discuss with him the contents of his discovery. However, Applicant does not specifically identify precisely what it is Counsel did not disclose to him from materials provided in discovery, or what, if anything, could have been achieved had Counsel spent more time with him in consultation regarding the contents of his discovery. Applicant further alleges Counsel failed to investigate the evidence, facts, and circumstances of his case.

Thus, it is impossible for the State to adequately respond to either of these allegations because Applicant has completely failed to provide any specific facts to support such claims. Additionally, these claims are not supported by any other additional information in the application. Pursuant to Rule 12(e), SCRCPP, the State requests Applicant, through counsel, provide specific claims and facts to support this vague allegation. *See* S.C. Code Ann. § 17-27-50 (2014) (requiring an applicant to “specifically set forth the grounds upon which the application is based”); *see also Welch*, 246 S.C. at 260, 143 S.E.2d at 456 (stating it is incumbent upon an applicant to make at least a *prima facie* showing entitling him to relief before an evidentiary hearing will be scheduled

and held); Rule 8(a)(2), SCRCF (requiring all civil pleadings to include “a short and plain statement of the facts showing that the pleader is entitled to relief”); Rule 71.1(d), SCRCF (“Counsel shall insure that all available grounds for relief are included in the application and shall amend the application if necessary.”).

The State contends Applicant cannot meet his burden; however, these allegations probably raise questions of fact the record does not conclusively refute. Accordingly, the State requests an evidentiary hearing to fully resolve these issues. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (explaining that an evidentiary hearing shall be held when a PCR application “alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the [PCR] court”). However, as discussed above, it is impossible for the State to adequately respond to Applicant’s allegations of ineffective assistance of counsel for failure to review discovery and failure to investigate because Applicant has failed to provide any specific facts to support these claims. The State requests Applicant, through counsel, provide specific claims and facts to support these vague allegations.

E. Improper and Unconstitutional Comments

Applicant alleges Counsel was ineffective for making “improper comments” and for failing to object to the “prosecutor and judge’s unconstitutional improper prejudicial comments” during the plea proceeding. As an initial matter, the State submits these allegations are refuted by the record. Additionally, because Applicant has completely failed to point to any specific comment or provide any information regarding these alleged improper comments, it is impossible for the State to adequately respond to these allegations. Pursuant to Rule 12(e), SCRCF, the State requests Applicant, through counsel, provide specific claims and facts to support this vague allegation. *See* S.C. Code Ann. § 17-27-50 (2014) (requiring an applicant to “specifically set forth the grounds

upon which the application is based”); *see also Welch*, 246 S.C. at 260, 143 S.E.2d at 456 (finding that it is incumbent upon an applicant to make at least a *prima facie* showing entitling him to relief before an evidentiary hearing will be scheduled and held); Rule 8(a)(2), SCRCP (requiring all civil pleadings to include “a short and plain statement of the facts showing that the pleader is entitled to relief”); Rule 71.1(d), SCRCP (“Counsel shall insure that all available grounds for relief are included in the application and shall amend the application if necessary.”).

F. Conclusion and Action Requested

Applicant can satisfy neither requirement of the *Hill* test. However, the allegations of ineffective assistance of counsel probably raise questions of fact that the record does not conclusively refute. Accordingly, the State requests an evidentiary hearing to fully resolve this issue. *See Sharper*, 279 S.C. at 265, 305 S.E.2d at 248 (explaining that an evidentiary hearing shall be held when a PCR application “alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court”).

VI. ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY PROCESS

The State respectfully submits that it is incumbent upon Applicant, through counsel, to amend his application to set forth specific facts upon which his allegations are based so that the State may adequately prepare for an evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments *will be opposed by the State at an evidentiary hearing*. S.C. Code Ann. §§ 17-27-10 to -160; Rule 71.1, SCRCP. *See also* Rules 15(a)-(b), SCRCP; *Mangal v. State*, 421 S.C. 85, 805 S.E.2d 568 (2017). All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. *See* Rule 11, SCRCP. *Pro se* filings will not be considered at the PCR hearing.

If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, the State reserves the right to move to dismiss this allegation or claim. S.C. Code Ann. §§ 17-27-10 to -160; Rule 71.1, SCRPC. *See also* Rules 15(a)-(b), SCRPC. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State. *See* Rule 15(a), SCRPC.

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

VII. GENERAL DENIAL

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

[Conclusion and signature on following page]

VIII. CONCLUSION

WHEREFORE, having made its return, the State respectfully requests this Court this Court grant its partial motion to dismiss as set forth in section IV; grant its motion for a more definite statement as set forth in sections V; and convene an evidentiary hearing on the allegations of ineffective assistance of plea counsel.


Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

LILLIAN L. MEADOWS
Assistant Attorney General

By: 

ATTORNEYS FOR THE STATE
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

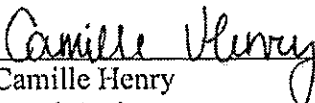
August 2, 2019

STATE OF SOUTH CAROLINA)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON)	
)	
	)	2019-CP-32-00851
)	
JOSEPH MILLS, #376444)	
)	
Applicant,)	
)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
)	
STATE OF SOUTH CAROLINA,)	
)	
Respondent.)	
)	

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

Ashley A. McMahan, Esquire
 McMahan & Taylor, Attorneys, LLC
 Post Office Box 5501
 West Columbia, South Carolina 29169

DATED this 2nd day of August, 2019.


 Camille Henry
 Legal Assistant

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)
 Joseph Mills, #376644)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
 _____)

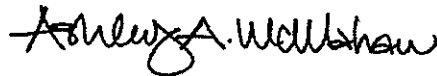
COURT OF COMMON PLEAS
 FOR THE 11th JUDICIAL CIRCUIT
 Case No.: 2019-CP-32-00851

**AMENDED POST-CONVICTION
 RELIEF APPLICATION**

The Applicant, by and through his undersigned attorney, hereby amends his PCR application filed on or about February 21, 2019, to add the following:

Furthermore, the Applicant requests that he be permitted to amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues arise during the course of the hearing that have not been specifically addressed in the Application. See Simpson v. Moore, 367 S.C. 587, 627 S.E.2d 701 (2006).

Respectfully submitted,



ASHLEY A. MCMAHAN, ESQUIRE

McMAHAN & TAYLOR ATTORNEYS, LLC

PO Box 50536

Columbia, SC 29250

803-219-1110

ashley@mcmahantaylor.com

SC Bar No. 71676

ATTORNEY FOR APPLICANT

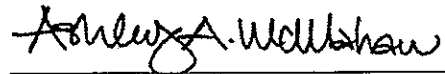
April 14th, 2021

CERTIFICATE OF SERVICE

I certify that I have served this document via email to:

Lillian Meadows
Assistant Attorney General
lillymeadows@scag.gov

This 14th Day of April, 2021.



ASHLEY A. MCMAHAN, ESQUIRE
Attorney for Applicant

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF LEXINGTON

4 Joseph E. Mills,
5
6 Petitioner,

7 vs. Transcript of Record
8 2019-CP-32-00851

9 The State of South Carolina,
10
11 Respondent.

12 April 29, 2021
13 Lexinton, South Carolina

14 B E F O R E:

15 The HONORABLE DEBRA R. MCCASLIN

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

17 Ms. McMahan, Representing the Petitioner
18 Ms. Meadows, Representing the State

19

20

21

22 Transcribed by SHARON G. HARDOON, CSR, III
23 from DCRP, Digital Courtroom Recorder Project

24

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64 21

Certificate of Reporter

75 1

1 THE COURT: All right. Clerk, you want
2 to call the case?

3 THE CLERK: This is the case of Joseph
4 Mills vs. State of South Carolina,
5 2019-CP-32-00851.

6 THE COURT: Okay. Good morning,
7 Mr. Mills.

8 MR. MILLS: Good morning. How are you?

9 THE COURT: I'm doing good.
10 Before we get started, this is your
11 post-conviction relief hearing, and I want you to
12 understand that there's only two possibilities
13 that could happen here today. I could can grant
14 your PCR, you would get a new trial. It doesn't
15 mean your charges go away. If there were any
16 original charges, they would be brought back to
17 you and you would stand for those charges again.
18 If I deny it, then you will just be returned and
19 you'll finish out your sentence. You understand?
20 It's not like, if I granted your PCR, you're
21 walking out the door today. Do you understand?

22 MR. MILLS: Yes.

23 THE COURT: All right. With that
24 understanding, Miss McMahan.

25 MS. MCMAHAN: Your Honor, the first

1 witness we call is Mr. Mills, although I'm just
2 not positive where he's supposed to sit.

3 THE COURT: Danita? We're making him a
4 place to sit.

5 Okay. Mr. Mills, if you'll stop on your
6 way, I'm going to have the clerk swear you in.

7 THE CLERK: Raise your right hand. Do
8 you solemnly swear or affirm that the testimony
9 you're about to give the Court will be the truth,
10 and nothing but the truth?

11 MR. MILLS: I do.

12 WHEREUPON:

13 JOSEPH MILLS,
14 after having been sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. MCMAHAN:

17 Q Mr. Mills, will you state your full name for the
18 record?

19 A Joseph Alijah Mills.

20 Q And did you file this PCR?

21 A Yes, ma'am.

22 Q Who was your attorney?

23 A Sarah Mauldin.

24 Q How many times would you say you met with
25 Ms. Mauldin?

1 A Three, maybe four.

2 Q Were you in the detention center the whole time or
3 were you out on bond?

4 A I was in the detention center.

5 Q So when you met with her, you were in the
6 detention center?

7 A Yes, ma'am.

8 Q Did you call her from the detention center at
9 all?

10 A No, ma'am.

11 Q Did you talk with anybody else in that office?

12 A Rob Madsen.

13 Q How many times did you speak with him?

14 A Maybe twice.

15 Q And let's just start with your first allegation,
16 which was that Miss Mauldin was ineffective for not
17 getting you a medical and mental health evaluation.
18 Can you talk about that?

19 A Basically, I feel like I should have had one.
20 I should have -- there should have been something
21 in there. You know, one of the first things that
22 was done. You know, look into my mental health.

23 Q Do you have a history of mental health issues?

24 A Yes, but -- yes.

25 Q What kind of issues were those?

1 A I don't know. Just basically depression, I
2 would assume.

3 Q Okay. Were you suffering from depression or
4 depression-like symptoms at the time all this was kind
5 of happening?

6 A No, ma'am.

7 Q After you got arrested were you suffering from
8 those?

9 A Yes, ma'am.

10 Q Okay. Did you ever talk to Miss Mauldin and tell
11 her that you felt like you should have a mental
12 evaluation?

13 A No, ma'am.

14 Q Did she ever bring it up with you?

15 A No, ma'am.

16 Q So the entire time that she was talking to you or
17 Mr. Madsen was talking to you, none of them brought up
18 the idea that you might need a mental health
19 evaluation.

20 A No, ma'am.

21 Q Okay. Let's talk about your issue Number 2, that
22 Miss Mauldin and Mr. Madsen were ineffective for
23 threatening and coercing you into taking the plea.
24 Tell me about that.

25 A Basically, I felt like she left me no option.

1 She didn't give me any other options. So she told
2 he that was the best thing for me to do, was to
3 take a plea for murder.

4 Q What kind of plea was it?

5 A Forty years and 40 years running
6 concurrent.

7 Q Were you about to go to trial?

8 A Yes, ma'am.

9 Q Was it going to be that week?

10 A Yes, ma'am.

11 Q And so what kind of conversations do you remember
12 having with Miss Mauldin or Mr. Madsen about the plea
13 offer?

14 A I told her I didn't commit murder, so I
15 didn't want to take it. Nothing I did that
16 night -- I had no aforethought or anything, so I
17 told her nothing I did I felt like was a murderous
18 action or any aforethought. Anything to do with
19 any kind of murder.

20 Q So when you're talking about aforethought, you're
21 talking about the malice aforethought required for
22 murder?

23 A Yes, ma'am.

24 Q Okay. How long was your -- when did they come and
25 talk to you the plea offer?

1 A Five days before we were supposed to go to
2 trial.

3 Q Okay. And you were in the detention center and
4 they were talking to you about the offer?

5 A Yes, ma'am.

6 Q What were they telling you about the offer or why
7 you should take it?

8 A I guess she was saying -- I don't know. That
9 she felt like if we went to trial that maybe would
10 have some kind of -- I don't know. Some kind of
11 way to convict me of murder.

12 Q Was she concerned -- or did you feel that she was
13 expressing concern to you that you could get life?

14 A Yes.

15 Q Did she express to you that you felt like you
16 would be convicted of murder? Did ever you have a
17 conversation about that?

18 A Yes. I guess -- I'm guessing she's saying I
19 would have been convicted of murder because of the
20 two victims, they were hit more than one time.

21 Q Okay. So when she was talking to you about what
22 you were charged with, did she talk about all the
23 different things you have to prove to prove murder
24 including malice aforethought?

25 A Somewhat. She didn't go through everything,

1 but she went through some of it.

2 Q Do you remember what she said to you about it,
3 like this is why you're charged with murder versus,
4 you know, manslaughter, or something else?

5 A Basically, the same thing. The number of
6 times that they were hit. That was the only
7 thing.

8 Q Did you talk to her about that you didn't have
9 malice to kill them?

10 A Yes, ma'am.

11 Q Okay. What did you tell her?

12 A I told her no action of mine was
13 anything close or anywhere near manslaughter or
14 murder or anything of that nature.

15 Q What was your intention that night?

16 A I was leaving. I was attempting to leave
17 when that happened.

18 Q Okay. So you were attempting to leave. But how
19 did it go from attempting to leave to firing a gun.
20 Explain that to me.

21 A Okay. Firing the gun -- there's was two
22 different times. The first time, me and the girl
23 got in the car, Leanne. We were going to do some
24 drugs, and I guess she decided that she wanted
25 them all.

1 So she, like -- like, grabbed the drugs
2 and took off and whatever. So I ran behind her
3 and whatever and through myself back, and I guess
4 people that were seeing it, I guess they
5 interpreted it as like a bad thing. Like, look at
6 this guy, he's chasing this girl, we don't know
7 what's going on. So, all I know is, she fell. I
8 struck my hand out to help her up. We was like
9 idiots right now. Because me and her, it wasn't
10 like we just meant. We been around each other for
11 a while.

12 So I stuck my hand out, like I was going
13 to say, come on, just get up. We're going right
14 now. But when I started putting my hand out, I
15 started getting hit in the back. After I got hit
16 in the back of the head, boom, boom, boom, boom,
17 boom, and then I just got pushed off the retaining
18 wall.

19 Q Wait. Let's back up a little bit. You said you
20 had people coming after you from behind, and then you
21 made the sound of gun shots. Tell me about, like, you
22 were doing gun shots for what reason?--

23 A Okay. The people -- I'm guessing there was
24 about 8 or 10 people. That's, kind of, what the
25 video showed. They were hitting from the back.

1 And I guess -- this is what the video shows. I
2 guess I turned to, like, react to them. I don't
3 know. To face them instead of having my back and
4 them being able to hit me in the back of my head.

5 Q Uh-huh.

6 A So when I turned, two of the guys out of the
7 crowd pushed me off of a retaining wall, and I
8 landed on my back. It knocked the air out of me.
9 I got up. I was like, whoa, it's time to go.
10 Yeah, it's time to go.

11 I got up, the two guys that pushed me off the
12 retaining wall, they were standing at the top of the
13 retaining wall waiting on me. So, I don't know what
14 clicked in my head. It was just like, well, they're
15 going to wait on me like that, they're going to
16 prevent me from leaving, you know, if I climbed back
17 up the wall to try to leave.

18 Q Uh-huh.

19 A So, I reached around. I had a firearm in my
20 pocket, and I reached in and got it and shot it in
21 the air. They dispersed. This is what I shot the
22 gun for, for them to basically move from right
23 there so I could climb back up the wall and
24 leave.

25 Q Where did you shoot the gun? Was it straight up

1 in the air?

2 A Yeah, in the air.

3 Q And did you talk with Miss Mauldin about, like,
4 why you had the gun with you?

5 A I don't think she really asked. I don't
6 think she ever asked me why I had the gun with
7 me.

8 Q Did you have the gun because that's just normally
9 something that you carry around on your person?

10 A Yeah. I live in a bad neighborhood and I had
11 got -- I had got jumped by a couple people and I
12 had a bad injury. I got a banged ankle.

13 So after that day -- I think I was probably a
14 little over 19. So from that day forward, I pretty
15 much carried a gun pretty much every day.

16 Q And that's really more for your safety?

17 A Yes, ma'am.

18 Q So let's talk about Number 3 where your attorneys
19 made improper comments at your plea hearing and
20 sentencing hearing. What were those particular
21 comments that you were adverse to?

22 A We never discussed it. Like, when she came
23 in there, like, everything was going to be fine.
24 Like, she didn't say -- she never told me that the
25 answer she was going to be that I changed my mind,

1 which I never said that. So, I feel like that she
2 said that so that they would deny it, so she
3 wouldn't have to, you know, fight for me. I
4 didn't feel like she wanted to fight for me, and I
5 don't feel she wanted the case. I feel like they
6 gave it to her and she really didn't want it. She
7 really didn't want to fight for me.

8 Q Okay. So when you're talking about changing your
9 mind, you're talking about the second hearing, the one
10 in June, right?

11 A Yeah, the --

12 Q When you tried to withdraw your plea.

13 A Yes, ma'am.

14 Q Okay. So when you guys met and you were talking
15 about going forward with this motion to withdraw your
16 plea, what was your -- what were you telling them why
17 you wanted to?

18 A I told her I appreciated her and her advice,
19 but it was a very bad decision, even though she
20 thought it was a good one, because I didn't commit
21 murder. I wasn't sleeping. I told her it was
22 three days now I hadn't been sleeping. I barely
23 been getting any sleep. It was weighing on me
24 really hard. I didn't commit murder, so now --
25 like I told her, you basically told me to go and

1 perjure myself in a courtroom. Told me to go
2 perjure myself in front of the judge. To have a
3 judge asked me all these questions about murder,
4 and really the answer should have been no, no, no.

5 Q Well, why didn't you tell the judge that?

6 A Because she told me if anything -- if I
7 said -- any of the questions that I answered no to
8 that anything -- if I had said anything to the
9 judge he wouldn't have accepted -- he wouldn't
10 have accepted the plea.

11 Q She told you were going to have to answer the
12 questions a certain way, or the plea wouldn't be
13 accepted?

14 A Like the question about aforethought, malice
15 aforethought. And like I told her, I said, why
16 would you want me to go in there and say I thought
17 about this and I had a thought and I committed
18 actions on that thought but I didn't.

19 Q So what crime do you feel like you have
20 committed?

21 A Can you repeat that one more time?

22 Q Is there a crime you felt like you had committed
23 that wasn't murder?

24 A I'm not really --

25 Q Did you talk about any type of manslaughter

1 charges, or anything like that?

2 A Yes. I mean we did.

3 Q Did you feel like that was more of an adequate
4 charge?

5 A No.

6 Q Is that because you felt the whole thing was in
7 self defense?

8 A Yes, ma'am.

9 Q Okay. Let's talk about Number 4. So you're
10 saying that -- in Number 4 that Miss Mauldin failed to
11 object to the prosecutor and the judge's
12 unconstitutional and improper comment at the plea
13 hearing. Which particular comments by the prosecutor
14 and the judge were you complaining about?

15 A They were having conversations like they knew
16 each other. Like on the outside, like, talking
17 about having cookouts and stuff. And that's
18 like -- I forget the word I'm looking for, but
19 it's...

20 Q Did you think there was some sort of misconduct?

21 A Yeah, basically like they knew each other
22 before.

23 Q So this was happening when; just before your plea
24 or just after?

25 A Just before.

1 Q It wasn't on the record. It was just something
2 they were talking about in the courtroom together?

3 A Yes, ma'am.

4 Q Was the conversation up at the bench where the
5 judge was or was it in an open area?

6 A Yes, ma'am.

7 Q It was an open area?

8 A Yes, ma'am.

9 Q And were you in the big courtroom upstairs, or
10 were you a smaller courtroom like this?

11 A Yeah, when I took the plea, it was one like
12 this. When I appealed it -- when I tried to
13 appeal it, it was a bigger courtroom.

14 Q When you say "appeal," you mean when you went for
15 the withdraw hearing?

16 A Yes, ma'am.

17 Q And that was up in the bigger courtroom?

18 A Yes, ma'am.

19 Q Okay. Let's talk about your right to appeal the
20 decision and file for notice of appeal. What did
21 Miss Mauldin or Mr. Madsen discuss about that with
22 you?

23 A Basically, when I talked to them -- I talked
24 to Sarah. She didn't say like it was going
25 like -- it was going to be a problem to go back.

1 Like, if you take the plea, you got ten days to
2 appeal it. She made it seem like it was just an
3 easy process. She didn't make it seem like I had
4 to have any special answers, or anything like
5 that. Any special answers.

6 So after I -- after she said what she said,
7 which was I changed I mind, and I told her -- I told
8 Rob, I don't want a conviction. And when he let me
9 talk, I told him I wasn't guilty of murder and I
10 hadn't said anything. I just said I changed my
11 mind.

12 Q I think you're confusing your appeal with your
13 withdrawal motion. When you say the word "appeal," it
14 means the Court of Appeals.

15 A Yes, ma'am.

16 Q Are you talking about when you went again in June
17 in front of Judge McMahon to withdraw?

18 A Yes, ma'am.

19 Q Okay. So that was your request to withdrawal on
20 your motion?

21 A Yes, ma'am.

22 Q Okay. So when you're talking about appeal in this
23 context, do you mean Miss Mauldin and Mr. Madsen not
24 sending documents to the Court of Appeals to appeal
25 it, or do you mean they didn't inform you that you

1 could withdraw your plea?

2 A She didn't inform me that she could give an
3 answer like that -- an answer that would help.

4 Q So you felt like it would be a fairly easy process
5 for you to go again in front of Judge McMahon and get
6 can it withdrawn and you could start back over?

7 A Yes.

8 Q She didn't explain to you that it was going to be
9 difficult?

10 A No.

11 Q But you did actually have an appeal to the Court
12 of Appeals, do you remember that?

13 A Yes, ma'am.

14 Q So you're talking about that. We're talking about
15 the withdrawal?

16 A Yes, ma'am.

17 Q Did Miss Mauldin or Mr. Madsen discuss with you
18 under Number 6 your defense of self defense Did you
19 feel like they had adequately prepared a defense for
20 you?

21 A No, ma'am.

22 Q Let's talk about that. Did you guys talk about
23 self defense or raising it at the trial, or anything
24 like that?

25 A That was my whole thing from the beginning.

1 I kept telling her and Rob, I didn't commit
2 murder. For what murder is, I'm not taking it.
3 That's why I wasn't going to take it at first..

4 And then, like I said, we talked more, and
5 she -- basically we pick and choose -- got the best
6 advice for me. She's got my best interests at heart,
7 you know, but I don't feel like she did. Especially
8 the answers she gave. I changed my mind. I never
9 said that.

10 Q What answer did you give?

11 A She said I changed my mind, that was
12 reason.

13 Q You mean at the withdrawal hearing she said
14 that?

15 A Yes, ma'am.

16 Q So when you guys are talking about self defense,
17 did she explain to you what the elements of self
18 defense were and how you could raise that?

19 A Yes, ma'am.

20 Q What did she say to you about that?

21 A Basically, like someone being attacked.
22 Like, if I was being attacked. Like she said,
23 when the first crowd attacked me, like I would be
24 hit back of the head --

25 Q Yes.

1 A -- it would have been different if I would
2 have pulled a gun out then and just started
3 shooting behind me and shot somebody then or shot
4 more than one person, or a bunch of people. She
5 said it would have been difficult because I was
6 being attacked then.

7 Q So you said the first time you shot the gun, it
8 was up in the air?

9 A Yes. That was when I got pushed off the
10 retaining wall.

11 Q Yeah. So the second time you pulled out the gun
12 and you shot, what was the self defense aspect of
13 that?

14 A I was trying to leave. They were approaching
15 me. I did not walk down there to them. I didn't
16 call to them. I didn't motion to them to come to
17 me. I was trying leave. They were trying to
18 prohibit me from leaving.

19 Q You felt almost like they were kidnapping you
20 there and trying to keep you there?

21 A Yeah, they were definitely trying to keep me
22 there.

23 Q When did you start to feel threatened, like when
24 they kept coming after you? Like, how far away were
25 they coming after you.

1 A I would say maybe like 25, 30 feet a part.
2 They were down by the dock.

3 Q Where were you at this point?

4 A I had climbed back up the wall. I had shot
5 the gun. They ran. I climbed back up the wall.
6 I'm trying to leave. There's a voice coming from
7 behind me, so I stopped. I turned around. The
8 guy, I don't know who he is, he just walked
9 straight up on me. I don't remember what he was
10 saying, but he just walked, like, right up, and I
11 was like something is not right about this, you
12 know?

13 Q Uh-huh.

14 A If I seen you firing a gun, I wouldn't just
15 walk up, hey, how you doing, everything okay? But
16 something told me to get him away from me, so, I
17 mean, I didn't really think about it so I hit him
18 with the gun.

19 Q When you fell off the retaining wall and you got
20 back up, did you still have the gun in your hand?

21 A The gun was in my pocket. When I got up the
22 retaining wall, and then they were waiting on me
23 at the top of the wall like they weren't going to
24 let me get up to where I could leave. Climb up
25 the wall and I could leave. They were going to

1 make me stay down there, that's when I reached in
2 my pocket and took the gun out and shot in the
3 air.

4 Q So after you shot it the first time, you put it
5 back in your pocket?

6 A No, I never put it back in my pocket.

7 Q Okay. So you shot it the first time after you
8 fell off the retraining wall or before you fell off
9 the retaining wall?

10 A After. They pushed me.

11 Q Okay. So and then that was when the other guys
12 were coming at you?

13 A Those guys -- I shot the gun. I climbed up
14 the wall. That one guy was coming up. Like I
15 said, as soon as -- he just walked straight up on
16 me and something clicked in my head, like,
17 something's not right, get him away from me. So I
18 hit him. As soon as I hit him to get him away
19 from me, somebody hit me with a bottle, like a
20 half or three-quarters full bottle of beer, and
21 then somebody hit me with a punch.

22 And I got beer running down my face and I'm
23 having like three or four seconds of blacking in and
24 out. Like a punch, one or two seconds down. I just
25 spaced out. I don't know. I couldn't really -- the

1 only reason I know exactly what happened is because I
2 watched the video, because other people told me.

3 Q So you don't really remember much of that night?

4 A I don't remember everything, no, ma'am.

5 Q Is that also another reason why you thought you
6 needed a mental evaluation?

7 A Yes, ma'am.

8 Q Number 7, failing to investigate the true facts.
9 So what you just told us, were those the facts that
10 you kept trying to explain to Miss Mauldin?

11 A Yes, ma'am.

12 Q Did you feel like she adequately looked into the
13 facts as you presented them?

14 A No, ma'am.

15 Q What do you think she should have done?

16 A I feel like with me explaining how everything
17 happened that she could have been trying to figure
18 out a way to actually help me. The only thing she
19 was really doing was telling me, like, all the
20 negatives. She wasn't telling me that -- okay, I
21 see what happened. You didn't commit murder.
22 We're going to go to trial. I'm going to do what
23 I can for you, but she wasn't doing that.

24 Q What do you mean? Like, she was telling you, you
25 went to trial, what?

1 A I was going to get life and they might ask
2 for the death penalty and all kinds of stuff. I
3 told her I was not -- I wasn't scared of that and
4 I wasn't -- it didn't -- it didn't put fear in me
5 that they were going to put that on the table
6 because I didn't commit murder, so I wasn't scared
7 that that could be a possible outcome.

8 Q Okay. The last issue you have in your application
9 is that you felt like your attorneys did not fully go
10 over the discovery material with you. Talk about that
11 for me.

12 A She brought it one time, videos, and she said
13 she would bring them back because I was asking
14 her -- the video she had, it was like shrunk down
15 basically. It was like the outside was, I guess,
16 maybe cut out a little bit. So some of the stuff
17 she was telling me she saw, and then I was
18 watching it on the computer, I was like, well, I
19 don't see that on here. She said, okay, we'll
20 bring it back and we'll go over it again.

21 Yeah, when they offered me that plea a couple
22 days before we go to trial, the same thing.
23 Basically, I just felt like she wasn't -- she was
24 coming up with every reason to not plea me out. I
25 don't think she wanted want to defend me in that

1 case.

2 Q When you say they were cut off on the sides, what
3 do you mean?

4 A Not like cut off. But, you know, like a
5 smaller TV screen. They still show you the whole
6 picture, but it was --

7 Q Like the video was kind of shrunk in or
8 something?

9 A No. It was cutting off. Like stuff she said
10 she seen, like, yeah, the guy was cut out. It was
11 cut out, like, on the edge.

12 Q So like if I tried to watch something on a wide
13 screen on a square TV, the sides might be cut off. Is
14 that what you mean?

15 A Yeah.

16 Q So you never really saw the wide screen version of
17 it essentially?

18 A No, ma'am.

19 Q Is there anything else you want to tell the Court
20 today?

21 A Only that I asked her for a change of venue,
22 to put in for a change of venue. And she said she
23 would, but that never happened.

24 Q Why did you feel like you needed a venue change?

25 A Everything -- everything the judge was doing

1 was for the prosecution. He didn't want to hear
2 anything we had to say. Everything was for the
3 prosecution.

4 Q So every time you went in front of the judge, you
5 felt like that judge was just aiding the
6 prosecution?

7 A He gave them everything they wanted. If they
8 would have said, yeah, he can take the plea back
9 and we'll go to trial. He can risk life in prison
10 or two lives, innocence, whatever. It would have
11 been different. But when the judge asked them,
12 did they want to go back to trial, he didn't want
13 to go trial. He didn't want to.

14 Q By "he," you mean the judge didn't want to try
15 it?

16 A No, the prosecutor.

17 Q Oh, okay.

18 A The prosecutor. What did he think when I was
19 trying to appeal the plea. You know, so he
20 basically just asked them what they wanted pretty
21 much and just gave them what they wanted.

22 Q Answer any questions Miss Meadows has for you?

23 MS. MEADOWS: Your Honor, may I approach
24 the witness?

25 THE COURT: You may.

CROSS-EXAMINATION

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BY MS. MEADOWS:

Q Let me talk to you about your plea.

A All right.

Q Now, do you recall Judge McMahon going over your constitutional rights with you? It's on page 8 or 9. I think it starts on page 8.

Specifically, do you see where he told you you had a constitutional right to a trial?

A Yes, ma'am.

Q Okay. And you told him you wanted to waive that right and plead guilty, correct?

A Yes, ma'am.

Q Okay. You also testified that Miss Mauldin told you that it was probably likely you would get a life sentence if you all went to trial, correct?

A Yes, ma'am.

Q And is that what you characterized as a threat?

A Pretty much. That wasn't the only thing. Like, everything put together was pretty much saying that she didn't want to go to trial and fight for me. If she went to trial and fought for me and I would have ended up with a life sentence, I would have still been happy and respected her a lot more than just saying, oh, he changed his

1 mind.

2 Q Okay. Now, as far as the mental evaluation, could
3 you turn to page 6 in the transcript?

4 A Uh-huh.

5 Q Do you see where it -- do you recall Judge McMahon
6 asking if you have any -- I think he says physical,
7 emotional, or nervous problems that keep you from
8 understanding what you're doing here today?

9 A Yes, ma'am.

10 Q And what did you tell him?

11 A "No, sir."

12 Q Okay. And you also testified that before your
13 plea, Miss Mauldin basically asked you to perjure
14 yourself. When did she ask you to do that?

15 A When she told me to go in front of the judge
16 and take the plea for murder.

17 Q Okay. Now, if you wouldn't mind turning to
18 page 12.

19 A Uh-huh. All right.

20 Q Okay. Do you recall telling Judge McMahon that
21 you hadn't been threatened or coerced into pleading
22 guilty?

23 A Yes, ma'am.

24 Q And you also told him that no one promised you
25 anything or held out any hope of reward to get you to

1 plead guilty, correct?

2 A Yes, ma'am.

3 Q And he also said that no one threatened you or
4 used force to get you to plead guilty?

5 A Yes, ma'am.

6 Q And that no one used any pressure or intimidation
7 to cause you to plead guilty?

8 A Yes, ma'am.

9 Q And that you had enough time to make up your mind
10 and you were pleading guilty of your own free will?

11 A I guess I said yes.

12 Q Okay. And then if you wouldn't mind flipping to
13 the next page on page 13. So, do you recall
14 Judge McMahon asking you if you were satisfied with
15 your attorneys?

16 A Yes, ma'am.

17 Q What did you tell him?

18 A That I was.

19 Q Okay. He also asked you if you talked with them
20 as often and as long as you felt necessary, correct?

21 A Uh-huh. Yes, ma'am.

22 Q Okay. And then he also asked if your lawyers had
23 done everything for you that you felt like they could
24 have done or should have done, correct?

25 A Yes, ma'am.

1 Q Okay. And then as far as the improper comments,
2 you said that the -- your attorneys and Judge McMahon
3 and the solicitors acted like they knew each other.
4 That's what you thought was improper.

5 A Uh-huh.

6 Q How do you think that affected your case?

7 A He pretty much didn't want to hear anything
8 we had to say.

9 Q Okay. And that's because they were acting like
10 they knew each other?

11 A They did know each other.

12 Q Okay. But you thought that would hurt you?

13 A They were talking about having barbecues and
14 stuff in the backyard. Coming over and having
15 barbecue, or something like that, for the weekend,
16 or something like that. They knew each other.

17 Q And you thought that was improper?

18 A Yes, ma'am.

19 Q And then you also said at the hearing on your
20 motion to withdraw that Miss Mauldin improperly
21 told you that -- or told the judge that you changed
22 your mind, correct?

23 A Yes, ma'am.

24 Q So how would you characterize the reason you
25 wanted to withdraw your plea?

1 A The reason I told her I wasn't, about three
2 days -- I think I waited about two or three days.
3 I wasn't getting much sleep. I maybe had gotten
4 maybe five or six hours sleep out of three days.
5 I wasn't sleeping. It was just weighing hard on
6 me. Every time I woke up, it was the same thing.
7 You're not guilty of murder. I don't know why you
8 let them tell you to take this plea and perjure
9 yourself, but you can't. So call them and tell
10 them that you --

11 Q But you don't consider that changing your mind?

12 A No, because I never was guilty. I went off
13 of her advice to perjure myself and say that I was
14 guilty of murder, but that's because that was her
15 advice. I thought she was giving me the best
16 advice possible.

17 Q Okay.

18 MS. MEADOWS: Nothing further, Judge.

19 THE COURT: Thank you, Miss Meadows.

20 Any recross?

21 MS. MCMAHAN: Briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY MS. MCMAHAN:

24 Q When Judge McMahan was asking you all those
25 questions about waiving your right to a trial and all

1 that kind of stuff, why did you answer the way that
2 you did?

3 A She told me, if I didn't answer yes, they
4 wouldn't take the plea.

5 Q And by "she," you mean Miss Mauldin?

6 A Yes.

7 Q So when the judge asked you have you felt any
8 pressure to enter the guilty plea and you said, no,
9 correct, was that because Miss Mauldin told you you
10 had to say that?

11 A Yeah.

12 Q So what kind of pressure were you actually feeling
13 from Miss Mauldin at the time?

14 A I felt like I didn't have a choice. Like, I
15 expected her to give me the best advice possible
16 and to represent me, but I felt like she didn't
17 want the case. I felt that she didn't want to
18 fight that case.

19 Q So you felt like, after a certain amount of time,
20 she just stopped caring about what your defenses were
21 and all that?

22 A I felt like, when she came -- they kind of
23 brushed it, because Judge McMahan was supposed to
24 be stepping down at the end of month. So I felt
25 like they, kind of, rushed my trial, like sped it

1 up so he could be my judge. And when they did
2 that, it's like, okay, they speeded it up so
3 they're going to make sure he's your judge. So
4 now you take this plea -- I was sitting there
5 thinking, I'll take this plea, I can just appeal
6 it. I can come back. Oh, yeah, sure, within
7 10 days. She made it seem like it wasn't going to
8 be any problem. Like, I didn't have to have a
9 special reason to come back. Because the appeal,
10 she was like, you going to appeal it, and you can
11 go back to trial if that's what you want to do.
12 She made it seem like it was going to be fairly
13 easy.

14 Q Did she explain to you what the difference was
15 between an appeal and a withdraw?

16 A No, ma'am.

17 Q Okay. And --

18 MS. MCMAHAN: Beg the Court's indulgence.
19 I just had a blank moment.

20 THE COURT: Take your time. That's
21 happened to me before.

22 BY MS. MCMAHAN:

23 Q By they rushing your trial, you mean the
24 prosecution, the State attorneys?

25 A Yes, ma'am.

1 Q Okay. At that point, how long had your case been
2 pending?

3 A Two months -- two years. Twenty-two
4 months.

5 Q Two months less than two years, so 22 months.

6 A Yes, ma'am.

7 MS. MCMAHAN: Okay. I have no further
8 questions, Your Honor.

9 THE COURT: Anything else, Miss Meadows.

10 MS. MEADOWS: Just one question.

11 RECROSS-EXAMINATION

12 BY MS. MEADOWS:

13 Q Mr. Mills, you said Miss Mauldin told you that it
14 would basically be no problem if you wanted to
15 withdraw your plea after?

16 A Yes, ma'am.

17 Q Okay. What specifically did she tell you?

18 A Can you repeat that one more time?

19 Q I said, what specifically did she tell you?

20 A She didn't tell me it was going to be a
21 problem because she made be, like, I could take
22 the plea. I didn't have to have a reason, that I
23 could just appeal it and it would go back and I
24 could go back to trial.

25 MS. MEADOWS: Okay. Nothing further,

1 Judge.

2 THE COURT: Okay, thank you. Can I let
3 Mr. Mills step down?

4 MS. MCMAHAN: Yes, Your Honor.

5 THE COURT: Mr. Mills, you can step down.
6 Miss Meadows.

7 MS. MEADOWS: Judge, the State calls
8 Sarah Mauldin.

9 THE CLERK: Raise your right hand. Do
10 you solemnly swear or affirm that the testimony
11 you're about to give will be the truth, the whole
12 truth, and nothing but the truth.

13 THE WITNESS: I do.

14 THE CLERK: Please be seated at the
15 witness stand.

16 WHEREUPON:

17 SARAH MAULDIN,
18 after having been sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. MEADOWS:

21 Q Good morning, Miss Mauldin.

22 A Morning.

23 Q So just to get a brief background. How long have
24 you been practicing?

25 A Later this month, 15 years.

1 Q How much of that time has been in criminal?

2 A All of it.

3 Q And what is your current title?

4 A I'm the deputy public defender at the
5 11th Circuit Public Defender's Office.

6 Q How did you become involved in Mr. Mills' case?

7 A His case was assigned to me in July of
8 2016.

9 Q Okay. So that was about how long before he
10 pled?

11 A Just under two years.

12 Q Okay. And Mr. Madsen assisted you, correct?

13 A That's right.

14 Q Okay. And would you mind giving the Court just a
15 brief explanation of Mr. Mills' charges and how those
16 charges were handled, a brief summary of that?

17 A Certainly. He was charged with murder and
18 also possession of a weapon during the commission
19 of a violent crime. There was an assault and
20 battery 2nd degree charge as well.

21 Essentially, the events of that night were
22 that he had gone to a bar in Chapin called the
23 Frayed Knot. He had been drinking. There was an on
24 again, off again girlfriend that was there as well.

25 At some point, they went to his car. He gave

1 her some drugs that he told the police later was
2 heroin. The plan -- he thought plan was that she was
3 going to go home with him. She apparently did not
4 want to do that, and so she grabbed the drugs and
5 sprinted away from his car in the parking lot back
6 towards the bar. He chased her to try to get the
7 drugs back. He reached a fence closer to the bar.
8 His version was that she had fallen down and that he
9 fell on top of her. The witnesses reported that he
10 had tackled her, threw her down.

11 When whatever happened took place, several
12 people that were out of this bar -- because there was
13 a bar inside and a bar outside, so there were a lot of
14 people outside that night anyway. When they saw this
15 happen, a crowd of people surrounded him, kind of,
16 pushed him back. There was a retaining wall. They,
17 sort of, pushed him down the retaining wall, so he
18 fell down.

19 Someone hit him in the head with a bottle of
20 some sort. He, trying to get out of the crowd that
21 had surrounded him, took out his gun, fired it into
22 the air, the crowd mostly dispersed. He got up from
23 the retaining wall, came back towards a walkway and
24 interacted with a man there. I think he was trying to
25 go into the bar rather than go back the way that he

1 had come. So he, kind of, interacted with that man
2 there.

3 As that was happening, two men who had been
4 on a boat that day ran towards him because they had
5 heard the gun shots and were trying to respond to
6 that. They confronted him and the two of them
7 approached. They were within -- certainly within
8 10 feet of him. He held out the gun and he ended up
9 hitting both of them; one twice and one three times.

10 They did not, you know, punch him or anything
11 like that. They didn't physically hurt him, but they
12 had come straight up to him and he felt like they were
13 going to try to do him harm.

14 Q Okay. And the two victims were in the military,
15 correct?

16 A That's right.

17 Q So did you think this was a case where the State,
18 possibly, could get the death penalty?

19 A That was never a real concern. You know,
20 from the get-go the solicitor's office, you know,
21 did not indicate in any way that they planned to
22 treat it as one.

23 Q Okay. So how many times did you meet with
24 Mr. Mills?

25 A Counting the guilty plea, at least 17 times

1 at the jail or at different hearings.

2 Q Okay. So at these meetings, did you discuss his
3 charges and the potential sentence he was facing?

4 A Yes.

5 Q And what was the maximum sentence he could receive
6 these charges?

7 A Life.

8 Q And Mr. Mills testified earlier that he did not
9 commit murder because he did not have malice
10 aforethought. Did he tell that you too?

11 A Yes. We discussed the elements of murder.
12 We discussed malice aforethought.

13 Q What did you tell him in response to that?

14 A Well, we told him that murder is the unlawful
15 killing of another with malice aforethought either
16 expressed or implied, and that, in this case, we
17 thought that the jury would find that it was
18 murder.

19 The problem that we had, we wanted to assert
20 self defense. That, you know, would have been -- to
21 him, you know, he felt like he was protecting himself
22 and that he had been assaulted, which, you know, he
23 had been by this group of people that pushed him down
24 off of the wall and hit him in the head. Our problem
25 was that the first element of self defense is being

1 without fault in bringing on the difficulty.

2 Q Right.

3 A So our concern was that even if the jury
4 believed that he was just chasing this girl and
5 that she had fallen and he had fallen on top of
6 her, he was still chasing her trying to get his
7 drugs back.

8 Q Right.

9 A And that he would not meet that first prong
10 of self defense.

11 Q Okay. And, let's see, Mr. Mills also allegations
12 you should have requested a mental evaluation. Did
13 you or Mr. Madsen have any concerns about his
14 competency or mental capacity, or anything like
15 that?

16 A Not really. I got his mental health records
17 from the jail. He had talked about being come
18 what confused that, although we could see his
19 demeanor in his videos. We read the testimony
20 from other witnesses -- or, excuse me, the police
21 reports of what other witnesses said. The notes
22 that you are investigators had prepared when
23 talking to different witnesses.

24 At one point, I did consult with Dr. Thomas
25 Martin about the case. I don't think he ever

1 evaluated Mr. Mills, but I ran it by him just a, kind
2 of, this is what we have and summarized the
3 information. I don't recall his mental health
4 diagnosis from the jail. I do remember, from the
5 transcript, there was a reference to having
6 nightmares, but I don't recall that he had anything
7 more significant than that. And throughout my
8 representation, I, at no point, thought he couldn't
9 understand what was going on or couldn't help me, or
10 anything of that nature.

11 Q Okay. So as far as the charges, you didn't see
12 any possible mental health defense?

13 A No.

14 Q And you said he appeared to understand the charges
15 he was facing and everything you all discussed about
16 his case?

17 A Yes.

18 Q Did Mr. Mills or any of his family members express
19 any concerns to you about his mental health?

20 A I do remember him talking to me about having
21 nightmares, but, beyond that, I don't recall
22 anything that I thought would have risen to the
23 level of a mental health defense from him or a
24 family member.

25 Q Okay. But as far as is the plea, you felt he was

1 competent to enter the plea?

2 A Yes.

3 Q Let's see. What type of investigation did you
4 do?

5 A Well, pretty quickly after I received the
6 file, I asked another staff member at the office
7 to take photographs of the injuries that he
8 sustained and she did that. We retained an
9 investigator on the case who went out and
10 interviewed witnesses and was able to obtain the
11 surveillance video from the bar that night. I
12 think that was mainly it.

13 Q Did you think any of the witnesses gave favorable
14 testimony that they investigated?

15 A There were some favorable aspects to some of
16 their testimony, but not anything that we thought
17 would win the case.

18 Q Right, right.

19 Let's see. And then could you briefly
20 describe the State's evidence against Mr. Mills?

21 A Well, the most damning thing was the
22 surveillance video that depicted most of what
23 happened. The only thing that wasn't really
24 captured on the video was where the woman either
25 fell or he tackled her, depending on the version.

1 But everything else was on video.

2 Q Was that, kind of, the -- what you felt was most
3 problematic to his case?

4 A That, and he confessed to the police at
5 length for several hours and the confession seemed
6 coherent. I didn't see any way to get that thrown
7 out. So those two things.

8 Q Okay. Did you review the discovery with him and
9 everything?

10 A I did.

11 Q Okay. And what were the conversations like about
12 going to trial?

13 A Well, part of the job of a defense attorney
14 is to tell the client bad news even when he
15 doesn't want to hear it. So, yes, we told him
16 that the State had a strong case against him and
17 that we thought that the chances were against us
18 if we went to trial.

19 Q Okay.

20 A Yeah, that's true.

21 Q So you do not believe that self defense would be
22 successful at trial, correct?

23 A No.

24 Q So did you believe the State could prove guilt
25 beyond a reasonable doubt?

1 A Yes.

2 Q Let's see. How did the guilty plea come about in
3 this case?

4 A Well, we had been in touch with the
5 solicitor's office. And if I can refer to my
6 notes.

7 Q Sure.

8 A We -- the earliest discussion of any sort of
9 plea offer was in January of 2018. At that point,
10 the prosecutor told me that he expected to have an
11 offer in a couple of months. And, at that point,
12 he said that the earliest trial date would be
13 June 4th. And then in April of 2018, I discussed
14 potential plea offers with Mr. Mills. At that
15 point, we had not gotten an offer. This was sort
16 of a, hey, you know, they may come back with an
17 offer of this, you know, these are some possible
18 things.

19 And later in April, I met with him again.
20 This time Rob Madsen was with me. Again, we discussed
21 personal trial dates and plea offers. I had a meeting
22 with the prosecutors sometime after that. We asked
23 for manslaughter with concurrent sentences. They
24 declined to take that offer. I met with him in May of
25 '18, Mr. Mills, again with Rob. We told him about

1 that conversation, that we asked for that offer. The
2 solicitor's office was not interested. At that point
3 he wanted an offer of murder for 30 concurrent.

4 There was also a letter that he wrote to,
5 sort of, apologize and explain to the family what had
6 gone on. So he worked on that.

7 And later in May, we -- I met with him again.
8 We talked about an offer. At that point, he said that
9 he might plea to 35, and he completed the letter. We
10 gave that to the prosecutor later in May. And we
11 discussed the offer with the prosecutor. I had given
12 him some life expectancy tables in the Department of
13 Corrections. We talked about other sentences in
14 Lexington County around that time.

15 And on May 28th, the prosecutor gave us the
16 offer of two counts of murder concurrent for 40 years.

17 We met with Mr. Mills the following day, on
18 May 29th, and he wanted to talk about it with his
19 mother. He met with her.

20 And on the 30th, Rob and I met with him again
21 and had a meeting with the solicitor following that
22 meeting. We asked for manslaughter for 20, and also
23 murder for 35. The prosecutor said he didn't want to
24 do that. He wanted more time.

25 And then after that, I advised Mr. Mills of

1 what they had said. And, at that point, we signed the
2 sentencing sheet, that was May 30th, and then the plea
3 was held on May 31st.

4 Q Okay. This was a negotiated plea, correct?

5 A Yes.

6 Q And did you explain to him what that meant?

7 A Yes.

8 Q Okay. Did you ever threaten him into taking the
9 plea?

10 A No.

11 Q Okay. Were you prepared to go forward with trial,
12 if necessary?

13 A Yes.

14 Q And, ultimately, whose decision was it to plead
15 guilty?

16 A It was his decision.

17 Q Okay. Now, Mr. Mills testified a little earlier
18 about how you acted like it was no problem to withdraw
19 his plea. What were your conversations about as far
20 as the ability to withdraw?

21 A He didn't ask about with drawing the plea
22 until after he had entered the plea. So it was
23 not a situation where we suggested that that was a
24 good idea before he took the plea.

25 Q Okay. So when did he ask to file a motion to

1 withdraw?

2 A Well, on June 7th, I got a message that had
3 been faxed to his mother, I think, and his mother
4 got in touch with us and gave us the message that
5 he wanted to withdraw the plea. We called her and
6 she told us that that was the case.

7 Q Okay. And there was a hearing on that, correct?

8 A Yes.

9 Q Do you have a copy of the transcript? I have one,
10 if you need it.

11 A Yeah, show me yours.

12 MS. MEADOWS: Judge, may I approach?

13 THE COURT: Absolutely.

14 BY MS. MEADOWS:

15 Q And if you wouldn't mind -- I think it's on the
16 last page. I believe Mr. Mills told Judge McMahon
17 that the plea was a, quote, rash decision. Did
18 Mr. Mills ever explain to you what he meant by that?

19 A No. I mean, I do know he was unhappy with
20 the situation, what it was.

21 Q Right.

22 A He didn't want to take a deal of 40 years,
23 but I think we all felt that was the best
24 opportunity to get him a chance of not spending
25 the rest of his life in prison.

1 Q Right. So you felt a plea would be in his best
2 interest?

3 A Yes.

4 Q So I guess -- so basically he just changed his
5 mind, right?

6 A Yes.

7 Q And then from your experience, are judges one to
8 allow defendants to withdraw their pleas?

9 A I think I've had only one other client who
10 has wanted to withdraw a plea, and the judge
11 denied the motion to withdraw in that case.

12 Q Okay. And Judge McMahon denied his motion,
13 correct?

14 A Yes.

15 Q And, at the hearing, did you believe that
16 Judge McMahon or the solicitor made any improper
17 comments?

18 A No.

19 Q Okay. Do you believe Mr. Madsen made any improper
20 comments?

21 A No.

22 Q You did file a notice of appeal for him,
23 correct?

24 A Yes.

25 Q And I believe his convictions were affirmed. Is

1 that your understanding?

2 A Yes.

3 MS. MEADOWS: I think that's it from the
4 State.

5 THE COURT: Thank you, Miss Meadows.

6 Ms. McMahan.

7 CROSS-EXAMINATION

8 BY MS. MEADOWS:

9 Q If you guys had gone to trial, would you have
10 raised self defense at the trial anyway?

11 A We would have tried to elicit as much
12 testimony as we could to get that out, but I don't
13 think we would have gotten a jury instruction on
14 it.

15 Q Why is that?

16 A I don't think that the judge would have found
17 that he was without fault in bringing on the
18 difficulty.

19 Q When you went to meet with him about the discovery
20 and stuff at the detention center, did you bring the
21 video with you?

22 A I don't remember showing him the videos. He
23 says that I did. I do know that my paralegal
24 investigator in the office showed him the videos
25 too. I have no doubt that he saw him. I don't

1 independently showing the videos to him myself.

2 Q But you do remember the investigator or the
3 paralegal going to the jail and taking the computer to
4 show it to him?

5 A Yeah.

6 Q When you watched them, did you see if any part was
7 cut off on the sides when you were watching them on
8 the computer?

9 A When you open the video that we had, the
10 player opens into, sort of, a small window. It
11 doesn't take up the whole screen. That may be
12 what he's talking about. You can -- when I played
13 it on my computer, I can see the entire video
14 that's there and you can see the rest of the desk
15 top behind it, but it's not cut off.

16 Q It was like one of those DVDs you get from like
17 the cops where it's got the player built in that plays
18 it for you. You're not opening it with your own video
19 viewer. It's already built into the whole program
20 when you put the DVD disk in?

21 A Yeah.

22 Q Okay. Would Mr. Mills have had access to that
23 video at any other time outside of this investigator
24 or the paralegal?

25 A No. The jail doesn't let people have --

1 without expressed permission from the judge, the
2 jail doesn't let people have things like that.

3 Q Would the jail let them have their paper
4 discovery?

5 A Yes.

6 Q Would the jail let them have paper discovery that
7 included photos?

8 A Unless it's something explicit, yes.

9 Q Okay. Did you provide all that discovery to
10 Mr. Mills, the paper discovery?

11 A I believe that I did. Yeah, I have the notes
12 that I gave him discovery, at least as early as
13 March of 2017.

14 Q And you were getting regular discovery updates
15 from the solicitor's office, weren't you?

16 A Yes. Later on, I can't say with a hundred
17 percent certainty that I gave him everything that
18 we got, you know, in the last days leading up to
19 the potential trial, but I know that I gave him
20 what came in earlier in the case.

21 Q Okay. And when you were describing to him the
22 sentencing range for these charges, did you explain
23 that murder was a minimum and a maximum --

24 A Thirty up to life, yes.

25 Q You said 35 to life?

1 A Thirty up to life.

2 Q Okay. And then was the trial set for, like,
3 within a week of that guilty plea date?

4 A Yes, it would have been June 4th.

5 Q So it would have, like, immediately -- almost like
6 immediately afterwards.

7 A Right.

8 Q Like four days later.

9 A Yeah.

10 Q And when you were doing the withdraw hearing --
11 and bear with me because I think that -- I speculate
12 that Mr. Mills is getting appeal and withdraw plea
13 mixed up. So if he's saying appeal, he's meaning the
14 withdraw hearing. Did you have a chance to talk to
15 him before he was brought from SCDC to explain to him
16 the withdraw stuff?

17 A Well, we did talk with him on June 11th, and
18 so that would have been before the hearing. The
19 transcript appears to have been on the 18th. We
20 had a telephone call with him, Rob and I did,
21 while he was at SCDC, and he told me that he
22 wanted to withdraw the plea. He didn't feel like
23 he was guilty of murder. And we let the solicitor
24 know, and we went ahead and filed and served the
25 motion to withdraw and the hearing was

1 scheduled.

2 Q So at the hearing was there any other evidence you
3 could have presented in support of the withdraw other
4 than Mr. Mills had changed his mind?

5 A None that I knew of. There was, you know,
6 like no -- like information from a witness,
7 anything like that. No.

8 Q There was no after discovered stuff, or anything
9 like that?

10 A No.

11 Q Okay. Do you know what the case law talks about
12 with the withdrawing of guilty pleas?

13 A I haven't researched the issue, but you would
14 have to ask me a more specific question.

15 Q Does it say that there has to be some sort of
16 change in circumstances in order to withdraw?

17 A My recollection is that there's not as much
18 South Carolina law on this. I have researched the
19 issue and found more cases in federal law. I
20 don't know that you're necessarily required to
21 have new evidence, no.

22 Q You could present it? You could still go forward
23 with one.

24 A Yes.

25 Q A withdraw hearing?

1 A Yes.

2 Q Did he tell you why he changed his mind?

3 A Well, the only note that I have was that he
4 didn't think he was guilty murder.

5 Q And I know Miss Meadows had asked you some of this
6 before. How did you explain to him why he was charged
7 with murder versus manslaughter or something else?

8 A Well, I know that we met with him and
9 explained the differences between murder and
10 manslaughter. You know, this was not a case where
11 we thought it would have been a heat of passion
12 killing. I mean, it looked like he drew the
13 weapon and shot those men, and --

14 Q So from the video, it looks like he's just drawing
15 his gun and shooting straight at him with a purpose?

16 A Yes. They approach him. He had told us that
17 he had shot over their heads. That it was blurry
18 and he couldn't see what he was looking at. But
19 it just did not look like that from the tape. It
20 looked like he extended his arm and took aim and
21 fired at them. It just didn't...

22 Q So the video did not present itself in such a way
23 that his story was being shown on it?

24 A Right.

25 MS. MCMAHAN: Beg the Court's

1 indulgence.

2 THE COURT: Take your time.

3 BY MS. MCMAHAN:

4 Q In the video, does it appear that the two
5 individuals are coming up after towards Mr. Mills and
6 that there's another individual behind him?

7 A There were a lot of people there that night.
8 There may have been somebody behind him. I don't
9 remember seeing anybody that would have blocked
10 his path and prevented his retreat, if that's what
11 you mean. There were a number of people there
12 that night. Most of them dispersed when they
13 heard the shots. You could see on the video that
14 there are several people that initially run
15 towards this, and then once the shots are fired,
16 they all scatter.

17 Q You're talking about the first set of shots?

18 A Yes.

19 Q And did Mr. Mills express to you what was
20 happening and explain to you, kind of, as he was
21 watching the video what was happening? Like, this is
22 the point where I had just gotten hit with the bottle
23 in the head and then these guys are coming at me and
24 everything is blurry and there was a few behind me.
25 Did he explain all that?

1 A He did. You know, like I said, I don't
2 remember the act of showing him the video, but we
3 talked about what it showed and we talked at
4 length about exactly what was going through his
5 mind while it was happening.

6 Q Okay.

7 THE COURT: Anything further,
8 Miss Meadows?

9 MS. MEADOWS: Nothing further from the
10 State.

11 THE COURT: Miss Mauldin, let me ask you
12 one question: On a negotiated plea, did you
13 explain to him that the judge's hands are tied,
14 that what was negotiated between the solicitor's
15 office and yourself was the 40 years and that's
16 exactly what he would get?

17 THE WITNESS: Yes, Your Honor.

18 THE COURT: Thank you.

19 May I excuse, Miss Mauldin?

20 MS. MCMAHAN: Yes, Your Honor.

21 THE COURT: Thank you, Miss Mauldin.

22 MS. MCMAHAN: Judge, we would just
23 briefly call Rob Madsen if he's here.

24 THE COURT: Yes, ma'am. I see
25 Mr. Madsen.

1 THE CLERK: Do you solemnly swear or
2 affirm that the testimony you're about to give
3 will be the truth, the whole truth, and nothing
4 but the truth so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Thank you. Please be
7 seated.

8 WHEREUPON:

9 ROBERT MADSEN,

10 after having been sworn to tell the truth, testified
11 as follows:

12 DIRECT EXAMINATION

13 BY MS. MCMAHAN:

14 Q All right. Good morning, Mr. Madsen.

15 A Good. How are you?

16 Q Good. How are you?

17 A Good.

18 Q I just a have a few questions. So how long have
19 you been practicing criminal law?

20 A This year will be 25 years.

21 Q Okay. And what is your current title?

22 A I am the circuit public defender for the 11th
23 Circuit, so I'm responsible for all the public
24 defenders in Lexington, Saluda, Edgefield, and
25 McCormick counties.

1 Q Okay. And, I guess, how did you become involved
2 in this case and what was your role?

3 A Miss Mauldin asked me to assist her on this
4 case pretty early on because of the nature of the
5 fact that it was two murders.

6 Q Right, okay. Do you recall how many times you met
7 with Mr. Mills?

8 A The notes -- I don't specifically, but I
9 believe the notes indicate that it was at least
10 five times and then I believe there was some phone
11 calls also.

12 Q Okay. And then a few minutes ago Miss Mauldin,
13 kind of, gave us the summary of evidence against
14 Mr. Mills. Do you agree with her opinion as far as
15 the strength of the evidence and the likelihood of
16 success at trial?

17 A Oh, absolutely.

18 Q Okay. So you do not believe that it would have
19 been successful to assert self defense?

20 A No, not whatsoever.

21 Q Did you convey this opinion to Mr. Mills?

22 A I did. We had discussions. He had told us
23 that -- you know, I mean, kind of his position was
24 that if these fellows had minded their own
25 business, this would have never happened. So it

1 was almost their fault. And I remember we had a
2 discussion, I explained to him -- there was, kind
3 of, a commercial running at that time that was a
4 military recruitment. And I told him, I said,
5 there's a gun fired up in the air, a lot of people
6 scatter -- the commercial at that time talked
7 about military, about how when there's danger most
8 people run away.

9 Q Right.

10 A You had two military guys, they came towards
11 because they heard the gunfire. And I said, you
12 know, that's the situation that you're in. People
13 aren't going to look at them as, hey, they should
14 have minded their own business.

15 Q Right.

16 A They would have looked at them as heroes.

17 Q Right.

18 A I think that was an appropriate
19 characterization. And we explain to him and we
20 talked about, you know, self defense and, quite
21 honestly, we did not think that he was going to be
22 able to, you know, even with the State having to
23 disprove that beyond a reasonable doubt, that
24 there's no way we would have met that.

25 Q Okay. And let's see. Do you believe this could

1 have been a capital case had he gone to trial?

2 A Absolutely.

3 Q Okay.

4 A And that was one of the things -- I was
5 probably a little bit more worried about it than
6 Miss Mauldin, but, like I said, you had military
7 guys trying to help out a lady, gunfire and that,
8 and the fact that it's two murders, I thought it
9 had all the hallmarks of a capital case, and that
10 was my initial fear.

11 Q Okay. Did you ever threaten Mr. Mills into taking
12 the plea?

13 A Absolutely not.

14 Q Okay. And did you feel it was in his best
15 interest to take the plea?

16 A It was. But now, and Miss Mauldin I know is
17 the same way, I don't ever tell anyone to plead
18 guilty.

19 Q Right.

20 A Or go to trial. We certainly lay out
21 everything and all the offers, and I specifically
22 tell them that that's their decision and their
23 decision alone. It doesn't matter to us. We're
24 going to help them either way.

25 Q Right.

1 A But we did tell him what thought his chances
2 were at trial, which was, you know, nil.

3 Q Okay. So ultimately it was his decision to plead
4 guilty?

5 A It was.

6 Q And did you have any concerns about his competency
7 or mental capacity?

8 A Absolutely not. He seemed intelligent, he
9 answer responsibly, sometimes -- or, I mean, he
10 would ask appropriate questions.

11 Q Right.

12 A So I didn't have any concern whatsoever.

13 Q Okay. So just, in your opinion, you believe he
14 was competent to enter the plea?

15 A Yes, ma'am.

16 Q Okay. And then as far as the motion to withdraw
17 the plea. From your experience, are judges normally
18 willing to allow defendants to withdraw their pleas?

19 A That was the only one that I've ever had in
20 the 13 years that I've been the public defender.

21 Q Okay.

22 A So it's kind of hard to say. But I would
23 guess, if I had to hazard a guess, I would say
24 usually if it's opposed that they would not.

25 Q Right, okay. Do you have a copy of the transcript

1 from the motion to withdraw? I can give you one.

2 A I think I do.

3 Q Okay.

4 A Okay.

5 Q And if you wouldn't mind, just, kind of, turning
6 to the last page, which I believe is when Mr. Mills
7 spoke to the judge.

8 A Is that page 39?

9 Q I think you may have a different transcript.

10 A That might be.

11 MS. MEADOWS: Judge, may I approach?

12 THE COURT: You may.

13 BY MS. MEADOWS:

14 Q Like I said, if you wouldn't mind just turning to
15 the last page. I believe Mr. Mills told Judge McMahon
16 the plea was a rash decision. Do you see that?

17 A Yes, ma'am.

18 Q Okay. Did he explain to you what he meant by
19 that?

20 A No, other than -- like Miss Mauldin said, we
21 were contacted by his mother about him wanting to
22 withdraw the plea. I believe, if I'm not wrong,
23 we had a phone conversation with him from SCDC
24 where he explained essentially that he had changed
25 his mind.

1 Q Okay.

2 A I know initially when we took the plea offer,
3 I believe there was at least a day or two that he
4 thought about it, and I believe he spoke with his
5 mother about it.

6 Q Okay.

7 A And then came back and said that he would
8 accept the plea and wanted to plead guilty.

9 Q Okay.

10 A But he did not.

11 Q Okay. So you agree with Miss Mauldin's
12 characterization of it, that he just changed his mind.

13 A Yes. He didn't give us any other thing
14 except for he wanted to withdraw the plea.

15 Q Okay. And then Mr. Mills talked about some
16 comments he believed were improper. Do you believe
17 Judge McMahon or the solicitor made any improper
18 comments?

19 A Nothing that I recall.

20 Q Okay. Do you believe you or Miss Mauldin made any
21 improper comments?

22 A Absolutely not.

23 Q And he believed, I guess, that was improper that
24 you all were acting like you knew each other, but you
25 know each other, correct?

1 A When you say that --

2 Q I mean, you, the solicitor, and the judge all know
3 each other?

4 A Yeah, the solicitor and I went to school
5 together.

6 Q Okay.

7 A We don't do anything socially.

8 Q Right.

9 A I think the last thing, he was a coach on a
10 soccer team a few years ago.

11 Q Yeah. But it's normal for you all to talk.

12 A Yeah. And I've never done anything socially
13 with the judge.

14 Q Okay. But it's normal for you guys to have a
15 casual conversation before a hearing?

16 A Oh, certainly.

17 Q Okay.

18 MS. MEADOWS: I think that's it from the
19 State.

20 THE COURT: Thank you, Miss Meadows.

21 CROSS-EXAMINATION

22 BY MS. MCMAHAN:

23 Q Just out of curiosity, how many public defenders
24 are in the 11th Circuit?

25 A Now?

1 Q Yeah.

2 A Nineteen.

3 Q Normally it's about 20?

4 A Nineteen. Well, I guess, if you say right
5 now, we do have one position open, so it's 18.
6 But 19 normally.

7 Q Nineteen is your normal maxed out level?

8 A Right now. We got budgeted for a couple
9 others, so we're keeping our fingers crossed.

10 Q How many are normally assigned to the
11 Tri-County?

12 A Two.

13 Q So when you said you did not believe self defense
14 was going to be successful, why did you believe
15 that?

16 A As Miss Mauldin testified to, I do not
17 believe he would have met that first almost. I
18 mean, because, even under his version, he was
19 trying to get drugs back from the girl because he
20 expected he was going to give her the drugs, she
21 was going to go home with him, she ran away. So
22 he's trying to get those drugs back, which --
23 especially -- the law since then has gotten even
24 worse in that situation for a defendant.

25 And then also I think that there might have

1 been a problem with the duty to retreat, although,
2 certainly initially, we thought that there was no way
3 that would be able to get past that first issue.

4 Q Okay. And then at any point when you were
5 watching the video or anything were the victims
6 armed?

7 A No.

8 Q Was the girl armed?

9 A No.

10 Q Did the --

11 A At least nothing that you could see --

12 Q On the video?

13 A -- on the video, anything like that. Never
14 did we have any witnesses that testified that they
15 were armed. I believe, if I recall correctly, the
16 fellows that got killed were, kind of, coming up
17 where the boats were. So the docks were there.
18 So, you know, Mr. Mills, the parking lot would
19 have been behind him and the lake would have been
20 behind them.

21 Q Okay. And, at any point, did those two victims
22 when they were coming at him try to grab his gun from
23 him?

24 A I do remember something about one of them,
25 kind of, reaching. But they were still -- they

1 had a decent amount of distance between them. I'd
2 say that at least five or six feet. Like I said,
3 they weren't part of that initial -- so whether he
4 tackles her, whether she falls and he falls on top
5 of her, there were a bunch of people that came
6 around. He did get pushed off a retaining wall.
7 He does shoot up in the air and those people
8 disperse. And so these two fellows were not a
9 part of that initial -- like I said, you can
10 assume from everything that happened, they heard
11 the gunshot and they, kind of, came up the dock.

12 Q What was time frame from the first shot to the
13 second shot, like a minute, 30 seconds?

14 A It wasn't very long.

15 Q Okay.

16 A I mean, I can't sit here and tell you it was
17 47 seconds, or anything like that, but it was
18 pretty quick.

19 Q Okay. So right after the first shot, I guess the
20 second shots come?

21 A Those guys disperse. Like I said, I assume,
22 the fact that these guys were military guys, heard
23 gunshots and knew what that was, they started
24 coming up from the area where the boats were.

25 Q Okay. And so after the second, was the girl, kind

1 of, gone? Was she no longer at the scene?

2 A Yes. I don't recall -- it's been a while
3 since I watched the video, but I don't really
4 recall after that. With him on top of her and the
5 folks running around, I seem to recall that she
6 left and I don't think I saw her again in the
7 video, at least not while the shooting took place
8 or the ruckus.

9 I think I, kind of, recall her running off
10 because the area has, kind of, an indoor bar and
11 there's, kind of, an outdoor bar that would serve
12 drinks.

13 I actually went out there a couple of times
14 just to, kind of, take a look where the cameras were
15 to kind of orient myself.

16 Q And it had an indoor area, but then it had an
17 indoor area.

18 A Separate buildings.

19 Q But it had some sandy volleyball courts?

20 A Right. There's a volleyball. And behind it
21 was, kind of, a pretty decently long bar where
22 they would serve drinks. I mean, while it had a
23 roof over top of it, it didn't have -- it wasn't
24 an enclosed area.

25 Q The vast majority of that was more of an outdoor

1 bar?

2 A The indoor restaurant is not terribly big.

3 It does have some, like, patio seating.

4 Q And then there's a dock that, kind of, attaches to
5 that?

6 A Right behind it where people would park boats
7 and you could come off the lake.

8 Q So when you say they're coming up the dock, that's
9 the dock you're talking about?

10 A Yeah.

11 Q Okay. And then during the withdraw -- you said in
12 your 13 years, it was your first withdraw as a public
13 defender. Did you ever see any while you were a
14 solicitor?

15 A I don't think so.

16 Q So when he was telling you, I've changed my mind,
17 could you find any other legal basis for a withdraw
18 that you could have presented to the judge other than
19 that?

20 A Not that I could think of.

21 Q Okay. Did he ever tell him that he has to answer
22 the questions a certain way at the guilty plea?

23 A No. Now, it is part that we go over these
24 are the questions that the judge is going to ask
25 and that you need to answer. But as far as

1 saying, you need to answer this way or that way.
2 You know, Miss Mauldin met with him a number of
3 times when I wasn't there, but none of those
4 conversations ever occurred when I was there where
5 we said, hey, you have to say this, this or this.
6 That's just not true.

7 Q You would, kind of, go over these are the
8 questions?

9 A Yes. That the judge will go over those
10 rights that we went over with you. We always
11 encourage yes, sir, no, sir, yes, Your Honor, no,
12 Your Honor, yes, ma'am, no, ma'am. Go over that.
13 But they will ask you a series of questions to
14 make sure you understood those rights that we went
15 over with you, that when you plead guilty, you're
16 giving up those rights, you're giving up the right
17 to remain silent, that you're taking away the
18 burden of proof from the State, and that when you
19 plead guilty, you're not getting a jury trial.

20 Q So Miss Mauldin said that the trial was set for
21 June 4th. At that point, were you guys prepared to go
22 to trial if you had to on June 4th?

23 A We had been working on it for quite a period
24 of time. Like I said, we had gone out to the
25 scene. We had hired an investigator. We had

1 reviewed what they had found. We had spoken to
2 him, like I said, quite a few times.

3 Q So when you're also going over the colloquy, like
4 what the judge is going to ask, do you say -- do you
5 ever tell him, like, hey, if have any questions, let
6 the judge know, we can stop, we can answer
7 questions?

8 A I can't specifically remember. I mean, you
9 know, if they ever had a question, certainly.
10 That's not unusual for someone to sometimes have a
11 question. I even had it this week where I did a
12 plea where someone got confused by the question,
13 and I'm like, no, this is what he's asking, this
14 is what she's asking. But other than that, I
15 don't think we had any conversations on the front
16 end about that.

17 Q Throughout your history, you've seen it both as a
18 solicitor and as a public defender where, you know,
19 individuals that are pleading guilty will sometimes
20 stop and say, I have a question, or ask for
21 clarification from their attorney?

22 A It's pretty rare, but, yeah. I mean, that
23 does happen sometimes where they'll stop. Like I
24 said, it's most often when the judge asks a
25 question and they answer it. And I might lean

1 over and say, no, this is what the judge is asking
2 you. People are nervous a lot of times.

3 Q There's verbiage being thrown around --

4 A Sure.

5 Q -- that not everybody is familiar with --

6 A Sure.

7 Q -- that doesn't have a law degree.

8 A That's true.

9 Q Is there anything else you want to tell us about
10 your representation of Mr. Mills?

11 A No. I mean, like she said, we met with him a
12 multitude of times. We got it ready for trial.
13 She was able -- or Miss Mauldin was able to secure
14 the offer, which I thought was a very good offer
15 given the facts of the case. But we left it up to
16 him on whether or not to accept it or not. If he
17 would have said I wanted to go to trial, we would
18 have tried the case.

19 Q Just before I leave: How many murder cases have
20 you handle understand your legal career?

21 A Oh, gosh.

22 Q More than 20, less than 20?

23 A Way more than 20.

24 Q Okay.

25 A I would guess at least over 100.

1 Q Okay, thank you.

2 MS. MCMAHAN: I have nothing further,
3 Judge.

4 MS. MEADOWS: Nothing from the State,
5 Judge.

6 THE COURT: May I release Mr. Madsen.

7 MS. MEADOWS: Yes, ma'am.

8 THE COURT: You can be excused,
9 Mr. Madsen. Thank you.

10 MS. MEADOWS: The State rests.

11 THE COURT: Okay.

12 MS. MCMAHAN: Nothing further.

13 THE COURT: Any motions? Any closings or
14 anything?

15 MS. MCMAHAN: Your Honor, I just ask that
16 you take some time to review the evidence as a
17 whole meaning the testimony here today.

18 THE COURT: Okay. I am going to take it
19 under advisement. I'll issue an order.

20 Mr. Mills, your lawyer will be in touch with
21 you concerning my order. Okay?

22 MR. MILLS: Yes, ma'am.

23 THE COURT: All right. Thank you. Good
24 job both sides.

25 (The hearing was concluded.)

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CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record, digitally recorded of the proceedings had and evidence introduced in the hearing of the captioned case, in General Sessions for Lexington County, South Carolina.

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

August 29, 2021



Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

STATE OF SOUTH CAROLINA)
 COUNTY OF LEXINGTON)
)
 Joseph E. Mills, SCDC #374512,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
)
 _____)

IN THE COURT OF COMMON PLEAS
 FOR THE ELEVENTH JUDICIAL CIRCUIT

Case No. 2019-CP-32-0851

ORDER OF DISMISSAL

FILED
 FEBRUARY 27 AM 8:07
 CLERK OF COURT
 11th JUDICIAL CIRCUIT
 LEXINGTON, SC

The matter before this Court is an action for post-conviction relief (PCR) commenced by Joseph E. Mills (Applicant) on February 26, 2019. The State requested an evidentiary hearing through its return on August 2, 2019. Applicant, through PCR counsel, thereafter filed an amended application on April 14, 2021.

On April 29, 2021, a hearing into the matter convened at the Lexington County Judicial Center before the undersigned. Applicant was present and represented by Ashley McMahan, Esquire. Assistant Attorney General Lillian L. Meadows represented the State. Applicant testified on his own behalf at the hearing. The State presented testimony from Applicant’s trial counsels, Sarah Mauldin, Esquire, and Robert Madsen, Esquire.

In addition to the pleadings in this action, this Court had before it a copy of the Lexington County Clerk of Court records regarding the subject convictions; Applicant’s records from the South Carolina Department of Corrections; the plea transcript; the withdrawal motion transcript; and the records of the current PCR action.

After hearing the testimony at the PCR hearing and reviewing the record in its entirety, this Court finds Applicant’s allegations of ineffective assistance of counsel are without merit.

Therefore, for the reasons discussed below, this Court denies relief and dismisses this action with prejudice.

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to the orders of commitment of the Lexington County Clerk of Court. Applicant was arrested on July 25, 2016, following an investigation into the shooting death of Charles Judge and Jonathan Prinse during an incident the day prior. During its April 2017 term, the Lexington County Grand Jury indicted Applicant for two counts of murder (2017-GS-32-1001, -1002) and one count of possession of a weapon during the commission of a violent crime (2017-GS-32-1003).

On May 31, 2018, Applicant appeared before the Honorable R. Knox McMahon and pleaded guilty as indicted to both counts of murder. The State dropped the weapons charge and an unindicted second-degree assault and battery charge in exchange for Applicant's plea. Chief Public Defender Robert M. Madsen and Deputy Public Defender Sarah Mauldin (collectively, Counsels) represented Applicant. Assistant Solicitor Gill Bell prosecuted the case. Pursuant to negotiations entered into between Applicant and the State, Judge McMahon sentenced Applicant to concurrent terms of forty years' imprisonment on each murder indictment.

On June 11, 2018, Counsel Mauldin filed a motion to withdraw his plea at Applicant's request. A hearing on the motion convened before Judge McMahon on June 18, 2018. Judge McMahon orally denied Applicant's motion at the hearing.

Applicant filed a timely notice of appeal. On August 10, 2018, the Court of Appeals dismissed Applicant's appeal pursuant to Rule 203(d)(1)(B)(iv), SCACR, for failure to provide a sufficient explanation as to why an appeal from his guilty plea should proceed. *State v. Mills*, S.C. Ct. App. filed August 10, 2018). By order dated October 5, 2018, the Court reinstated the appeal

because it was dismissed prior to receiving Applicant's *pro se* explanation. In the same order, the Court, after careful consideration of Applicant's explanation, again dismissed the appeal pursuant to Rule 203(d)(1)(B)(iv), SCACR. *State v. Mills*, (S.C. Ct. App. filed October 5, 2018). The case was remitted back to the circuit court on October 23, 2018. Applicant timely commenced this PCR action on February 26, 2019.

II. STATEMENT OF FACTS

On July 24, 2016, shortly after midnight, 911 began receiving a barrage of frantic phone calls reporting an active shooting at the Frayed Knot Bar & Grill. (Plea Tr. 15). The Frayed Knott is located off of Lake Murray at 1701 Dreher Island Road in Chapin. (Plea Tr. 15). First responders with the Lexington County Sheriff's Department rapidly responded to the scene. (Plea Tr. 15). When they arrived, they found chaos. (Plea Tr. 15). There were dozens upon dozens of people trying to flee the area on foot, by vehicle, and by boat. (Plea Tr. 15). As they tried to wade through the chaos and determine whether there was still an active threat, deputies found two clusters of people down by the waterside. (Plea Tr. 15). They quickly realized that those two clusters of people were surrounding two individuals who were lying prone on the ground. (Plea Tr. 15).

After law enforcement had an opportunity to examine the individuals, they realized both of them suffered what appeared to be gunshot wounds. (Plea Tr. 15–16). Those two individuals would later be identified as Mr. Charles Judge and Mr. Jonathan Prinse. (Plea Tr. 16). Jonathan Prinse suffered three gunshot wounds to the upper torso. (Plea Tr. 16). He was declared deceased at the scene. (Plea Tr. 16). Mr. Charles Judge suffered two gunshot wounds to the upper torso. (Plea Tr. 16). He was transported by EMS, but passed away shortly thereafter. (Plea Tr. 16).

In the meantime, law enforcement began the incredibly arduous task of trying to work a scene with more than 150 people present. (Plea Tr. 16). They began interviewing people and

reviewing the CCTV footage from the Frayed Knott. (Plea Tr. 16). In reviewing that footage, law enforcement identified Applicant chasing a female, who was identified as Leann Eldridge. (Plea Tr. 16). Law enforcement subsequently learned that Applicant and Ms. Eldridge were in a relationship for about a month preceding this incident; the relationship primarily revolved around Applicant providing Ms. Eldridge with narcotics; and the relationship was abusive in nature. (Plea Tr. 16–17).

Multiple witnesses reported seeing Ms. Eldridge running from Applicant that night. (Plea Tr. 17). The pursuit began in the parking lot by the road. (Plea Tr. 17). Applicant chased Ms. Eldridge into the fake beach area located between the tiki bar and the main bar or restaurant. (Plea Tr. 17). They ran down the beach towards the water, at which point Applicant caught up with Ms. Eldridge enough to tackle her from behind. (Plea Tr. 17–18). In tackling her, they both went crashing through wooden latticework located under the stairs, which leads back to the back of the main restaurant from the water. (Plea Tr. 18). Multiple witnesses corroborated what that video shows in that they saw Ms. Eldridge running and Applicant tackling her. (Plea Tr. 18).

Shortly thereafter, several concerned citizens started running toward the back of the restaurant, and eventually pull Applicant off of Ms. Eldridge. (Plea Tr. 18). The video then shows what appears to be yelling between Applicant and the other individuals at the scene. (Plea Tr. 18). There was no physical contact with Applicant aside from pulling him off of Ms. Eldridge until the one of the bar patrons shoves Applicant, causing him to fall off the dock approximately a foot down into the beach bed by the water. (Plea Tr. 18).

At that point, the video shows Applicant drawing a firearm and firing it a handful of times in an upward trajectory. (Plea Tr. 18). Multiple witnesses corroborated what is seen in the video. (Plea Tr. 18). At least one bullet effect recovered from the soffit under the roof of the main bar,

indicating the first few bullets were heading in an upward direction. (Plea Tr. 18).

Everyone then flees from the gunshots except for two people. (Plea Tr. 19). Two people ran toward the gunshots where they thought the danger was. (Plea Tr. 19). Those two people were later identified as Mr. Judge and Mr. Prinse. (Plea Tr. 19). The video clearly shows the two men running down the dock towards Applicant. (Plea Tr. 19). It shows them coming within several yards of Applicant while he is holding what a pistol. (Plea Tr. 19).

At first, they put their hands up, occasionally taking a step back. (Plea Tr. 19). Multiple witnesses stated they were simply trying to diffuse the situation at that point. (Plea Tr. 19). After some verbal back-and-forth verbally, the video shows Mr. Prinse, who is a few feet behind Mr. Judge, try and reach around to grab the pistol from Applicant's hand. (Plea Tr. 19). Unfortunately, he was unsuccessful in securing the pistol. (Plea Tr. 19).

Shortly thereafter, witnesses stated the next barrage of gunshots—anywhere from five to six shots—went off. (Plea Tr. 19). This time, however, Applicant was not shooting into the air. (Plea Tr. 19). He was shooting at two targets, and he hit those targets. (Plea Tr. 19–20). Applicant hit Mr. Judge twice and Mr. Prinse three times. (Plea Tr. 20). Mr. Judge fell where he was standing while Mr. Prinse scurried down the dock a few feet, tried to crawl off the side, and then under the dock to gain cover. (Plea Tr. 20). Unfortunately, the damage had already been done. (Plea Tr. 20).

Right after the shooting occurred, the video shows Applicant taking his t-shirt, putting it over his head, and pulling it down as if to create a hood to conceal his face. (Plea Tr. 20). He very calmly walked back from the water, up through that sort of fake beach area towards the parking lot. (Plea Tr. 20). Applicant is then seen getting into the passenger side of a vehicle, which drives away. (Plea Tr. 20). The murder weapon in this case was never recovered. (Plea Tr. 20). Applicant was arrested later that afternoon. (Plea Tr. 20).

During the investigation, multiple witnesses stated that no one made physical contact with Applicant beyond trying to restrain him off of Ms. Eldridge when he tackled her and then Mr. Prinse attempting to take the firearm. (Plea Tr. 20). The one exception is the patron who shoved him off of the dock. (Plea Tr. 20). The two victims never made physical contact except to try to secure the firearm. (Plea Tr. 20–21).

Multiple witnesses were friends with Applicant and readily able to give his identity to law enforcement. (Plea Tr. 20). Law enforcement also spoke with another group he had been with before the incident who knew Applicant was headed to the Frayed Knot. (Plea Tr. 21). They were then able to then find out who his known associates were and figure out where he was staying. (Plea Tr. 21).

When law enforcement went to arrest Applicant, he ran out the back of the residence where he was located into a wood line. (Plea Tr. 22). Law enforcement stated they pretended to have a K-9 they were about to release. (Plea Tr. 22). At that point, Applicant came back from the woods and back over the fence. (Plea Tr. 22). He was taken into custody without further incident (Plea Tr. 22). Ms. Eldridge, the victim of the assault, spoke to law enforcement the morning after and identified Applicant as the one who assaulted her. (Plea Tr. 22). There were no known prior interactions between Applicant and the two victims. (Plea Tr. 22).

II. SUMMARY OF TESTIMONY FROM EVIDENTIARY HEARING

Applicant

At the PCR hearing, Applicant recited his account of what happened the night of the shooting. He stated he first had an encounter with his ex-girlfriend, Ms. Eldridge, in the parking lot of the Frayed Knot. He testified they were in his car doing drugs but that she “decided she wanted them all.” She allegedly grabbed the drugs and took off running toward the bar. Applicant

ran after her. Applicant testified Ms. Eldridge fell and he stuck his hand out to help her up. According to Applicant, all of the sudden eight to ten bar patrons approached them and started hitting him from behind.

Two men in the crowd allegedly pushed him off the retaining wall, knocking the air out of him. He got up and began punching them when he was hit in the head with a beer bottle. He blacked out for three or four seconds before getting up and allegedly attempting to leave the bar. However, he stated the two men who pushed him were waiting for him at the top of the retaining wall, approximately twenty-five to thirty feet away from him. Applicant testified that "something clicked in his head that they were going to prevent him from leaving." He then pulled a firearm out of his pocket and shot it into the air. The crowd dispersed, including the two men who pushed him. Applicant testified he did not put the gun back into his pocket after he fired the initial shots into the air. He stated that once he climbed back up the wall, he saw the victims approach him. Applicant explained that he shot them because he believed they were also trying to prevent him from leaving.

Applicant recalled meeting with Counsel Mauldin three or four times at the Lexington County Detention Center and Counsel Madsen twice. Applicant testified he explained his version of events to Counsel Mauldin; however, he does not think she adequately looked into the facts. When asked what Counsel Mauldin should have done, Applicant stated she should have "figured out a way to help him. Applicant stated that neither of his lawyers reviewed the discovery with him; however, he admitted he watched the surveillance videos. Applicant testified the one time he was able to watch the videos, they were "shrunk down" and it appeared that the sides were cut off. He believed the witness hitting him in the head with a bottle was edited out. Applicant further explained he was not able to recognize many of the things Counsel Mauldin pointed out to him in

the video.

Applicant testified he had a clear case of self-defense, both when he fired his gun into the air and when he shot the victims. According to Applicant, his lawyers did not discuss self-defense with him; however, he recalled Counsel Mauldin explaining the elements of self-defense. He further recalled Counsel Mauldin telling him she did not think self-defense would be a successful trial strategy. He stated she told him the situation may have been a different had Applicant only fired his gun the first time, while he was purportedly being attacked.

Applicant further testified he did not think ending up with a life sentence was a possible outcome. He stated he told Counsel Mauldin that he “wasn’t scared of that” and “it didn’t put the fear in [him] because [he] didn’t commit murder.” Applicant recalled Counsel Mauldin explaining to him what the State would have to prove to convict him of murder, and she specifically pointed out the number of times the victims were shot. Applicant testified he told Counsel Mauldin he did not commit murder; however, he complained that she “never said that she could see that he did not commit murder.” He further stated he did not believe what he did was a “murderous action” and he did not have malice aforethought. Applicant testified Counsel Mauldin discussed manslaughter with him, but he did not think he committed manslaughter because he acted in self-defense. When asked about whether he talked to Counsel Mauldin about his alleged lack of malice, Applicant responded that none of his actions “were near murder or manslaughter.” Applicant did not respond when asked what crime he thought he committed.

Applicant further alleged Counsel Mauldin should have requested a mental health evaluation when she was first appointed to represent him because he has a history of mental health issues. The only mental health issue Applicant could identify he had previously suffered from is depression; however, he did not provide any further details. Applicant testified only that he was

not depressed at the time of the crime, but that he became depressed after he was arrested. He admitted he never asked or spoke with Counsels about possibly needing a mental health evaluation.

Applicant stated his case was scheduled to go to trial the week he pleaded guilty, and recalled meeting with his attorneys at the detention center five days before his trial was supposed to begin. When asked about the conversations he had with his lawyers at that time, Applicant recalled Counsel Mauldin advising him that accepting the forty-year plea offer was in his best interest because he would likely get convicted at trial and be sentenced to life. Applicant testified that by giving him such advice she was coercing and threatening him into pleading guilty.

Applicant further testified his attorneys coerced him into pleading guilty because they “didn’t give him any options.” He stated Counsel Mauldin made him think she had the best advice for him and had his best interest at heart. Applicant explained that Counsel Mauldin should have figured out a way to help him instead of focusing on the negative aspects of his case. He further claimed Counsel Mauldin was “coming up with every reason not to defend [him]” and he “never felt she wanted to fight for [him].”

Applicant testified that Counsel Mauldin told him to perjure himself “and tell the judge yes to everything when the answers should have been no.” He testified she told him he had to answer the questions a certain way or Judge McMahon would not accept the plea. When asked specifically when Counsel Mauldin told him to perjure himself, he responded, “when she said to plead to murder.” He stated he was never guilty but that he perjured himself by telling the plea court he was guilty on Counsel Mauldin’s advice.

Applicant further testified Counsel Mauldin failed to object to “unconstitutional comments” that were made before his plea hearing started. He stated the solicitor and judge were conversing outside the courtroom “about having barbecues in the backyard over the weekend.” Applicant alleged

the comments were improper and this was misconduct because they knew each other. When asked on cross-examination how the judge and solicitor conversing before his plea affected his case, Applicant responded that the “judge did not want to hear anything [he] had to say.” Applicant further testified “the judge was doing everything for the prosecution” and believes the judge denied his motion to withdraw his plea because the prosecution did not want to go back to trial.

When asked about the allegation that Counsel Mauldin failed to inform him of his right to appeal or file an appeal on his behalf, Applicant testified he asked Counsel Mauldin before he pleaded guilty whether he could appeal it. He stated Counsel Mauldin told him has ten days to appeal and “made it seem like it would be easy and he could go back to trial.” He then clarified that he was referring to the motion to withdraw. He stated his attorneys did not explain the difference between an appeal and withdrawal.

As to the allegedly improper comments, Applicant testified Counsel Mauldin falsely told the judge that he wanted to withdraw his plea because he changed his mind. When asked what he told her regarding why he wanted to withdraw his plea, Applicant testified he told Counsel Mauldin that he “appreciated her advice” but he thought pleading guilty was a bad decision because he did not commit murder and had not been able to sleep the night before his plea. He stated this was not the same as changing his mind.

Applicant further complained that Counsel Mauldin never told him she was going to tell Judge McMahon he changed his mind. He alleged she only said that so his motion would be denied. Applicant testified that when Counsel Madsen “let him talk,” he told the court he was not guilty of murder and that he never said he “changed his mind.” Applicant testified that he does not know why he “let them tell him to plead and perjure himself.”

Applicant then proceeded to complain that Counsel Mauldin did not explain to him that

withdrawing his plea would be difficult. Specifically, he testified Counsel Mauldin “never said there would be a problem” and that she “made it seem like an easy process.” On re-cross, Applicant was asked specifically whether Counsel Mauldin told him it would be no problem to withdraw his plea after the fact. He responded rather that *she did not tell him it would be a problem*. He also testified she “did not make it seem” like he would have to “have any special answers.” He specifically stated that she did not tell him that he “could give an answer that would have it denied.”

Counsels

Counsel Mauldin testified she is currently the Deputy Public Defender for the Eleventh Judicial Circuit. She has been practicing criminal law for approximately fifteen years. In July of 2016, she was appointed to represent Applicant—approximately two years before he pleaded guilty. Counsel Madsen is currently the Chief Public Defender for the Eleventh Judicial Circuit, and has tried over 100 murder cases throughout his career. He recalled Counsel Mauldin asking for his assistance shortly after she was appointed because the case involved a double murder. Counsel Madsen testified he does not recall exactly how many times he met with Applicant in person; however, his notes indicate he met with Applicant at the jail at least five times and there were multiple phone calls. Counsel Mauldin testified she met with Applicant at least seventeen times over the course of her representation.

When she first received his file, Counsel Mauldin asked someone in the office to take pictures of Applicant’s injuries. She also had an investigator interview witnesses and obtain the surveillance video from the bar. Counsel Madsen visited the scene several times to orient himself and see where the cameras were located. Counsels and their investigators all reviewed the surveillance video, witness statements, and police reports.

Counsel Mauldin recalled discussing and reviewing the evidence extensively with

Applicant. Her notes indicate she gave him a copy of all documentary discovery in early 2017. She explained that the jail allowed inmates to keep copies of their discovery, including non-explicit photographs. She stated she cannot guarantee she gave Applicant every single piece of discovery she received, as she was getting regular discovery updates from the solicitors up until right before the case was set to go to trial.

Counsel Mauldin provided further details about the facts of the case. Counsel Mauldin stated Applicant had been drinking at the Frayed Knot when he ran into his ex-girlfriend, Ms. Eldridge. They went to the parking lot, where he gave her drugs¹ and thought she would go home with him. When she decided she did not want to go home with him, she grabbed the drugs and ran back toward the bar. Applicant told Counsel Mauldin he chased Ms. Eldridge before falling on top of her. However, multiple witnesses told law enforcement they saw Applicant tackle her and throw her on the ground. Upon seeing what appeared to be Applicant hitting Ms. Eldridge, a crowd quickly formed around them and pulled Applicant off of her. Applicant was pushed down the retaining wall and fell down. Someone hit him in the head with a bottle. Applicant was trying to escape from the rapidly growing crowd when he pulled the gun out of his pocket and fired into the air. The crowd mostly dispersed.

The surveillance video shows Applicant getting up, going back towards a walkway, and interacting with a man there. At the same time, two men who had been on a boat docked at the Frayed Knott ran toward Applicant after hearing the gunshots. When the men came within approximately ten feet of Applicant, he pointed his gun and fired at them. He hit one of the victims twice and the other three times. They did not physically touch Applicant; however, he felt they were trying to hurt him. The two victims were later identified as Charles Judge and Jonathan

¹ Counsel Mauldin testified Applicant told law enforcement the drugs were heroin.

Prinse. They were both active-duty service members.

Counsel Mauldin testified her paralegal and investigators showed Applicant the surveillance video, which she believed was by far the most damning piece of evidence. She discussed the video with Applicant at length, and they went over what the video showed and what was going through his mind at the time. Regarding Applicant's testimony that the video was shrunken down and cut off, Counsel Mauldin explained that the video player is proprietary and therefore the video opens in a small window with the desktop behind it. However, no part of the video is cut off and the entire video is clearly shown. Counsel Mauldin testified that the only thing not captured on the video was Ms. Eldridge falling and Applicant tackling her.

Counsel Madsen recalled Applicant telling him, "it would have never happened if those guys had minded their own business." Counsel Madsen told Applicant the jury would look at the victims as heroes and not people who should have "minded their own business." In fact, Counsel Madsen was concerned about the State possibly seeking the death penalty if Applicant's case had gone to trial. He believed the case had all the hallmarks of a capital case—the "death of heroes." The victims were two servicemen who, as the solicitor stated at the plea hearing, ran toward danger. Counsel Madsen specifically recalled a military recruitment commercial around that time that said something along the lines of, "military members don't run away from gunfire."

Counsels Mauldin and Madsen both testified they thoroughly discussed with Applicant the law on murder, manslaughter, and self-defense. In explaining to Applicant why he was charged with murder rather than manslaughter, Counsel Mauldin specifically recalled going over the elements and definition of each offense. She stated pursuing manslaughter would not work because there was no "heat of passion." Rather, the video showed Applicant drawing his weapon and shooting the victims as they approached him.

Counsel Mauldin also recalled Applicant telling her he felt he lacked malice because he was protecting himself after being assaulted by the crowd of people. However, she told him the video did not support his side of the story because anyone approaching the scene turned and ran as soon as Applicant fired the first shots into the air, as did most of the crowd surrounding him. Counsel Madsen agreed, explaining that the victims were not part of the initial incident that caused him to fire the first shots into the air. The video shows Applicant drawing his gun and shooting the men as they were approaching him. Counsel Madsen stated that one of the men appeared to be reaching toward Applicant; however, there was at least five or six feet between them. By the time Applicant shot the victims, the crowd who had initially assaulted him had already dispersed. Counsel Madsen added that the video clearly shows the victims were not armed. No witnesses reported anyone being armed other than Applicant.

In response to Applicant's testimony that she did not want to help or fight for him, Counsel Mauldin testified that part of her duty as a criminal defense attorney is to logically and realistically evaluate the circumstances of her client's case, including the likelihood of success at trial, and advise them accordingly.

She recalled telling Applicant several times that the State's case against him was strong, and she was confident the State could prove guilt beyond a reasonable doubt. She also told him multiple times she did not believe self-defense would be viable and that he could receive thirty years to life. Counsel Madsen testified he agreed with Counsel Mauldin's assessment, and that he did not believe Applicant had any viable defenses. He further noted that Applicant did not have a good insight into the strength of the evidence against him no matter what they told him or how many times they explained it to him.

Counsel Mauldin stated she was able to identify a few favorable aspects of some witnesses'

statements; however she did not find anything substantial that she thought would help them win the case. Beyond the surveillance video and witness statements, Applicant also confessed to the police over the course of several hours of interrogation. Counsel Mauldin did not see anything in the video of the confession indicating it was coerced. Therefore, she believed the likelihood of successfully challenging the admissibility of the recording in a pre-trial *Denno*² hearing was low.

Counsels Mauldin and Madsen both testified they never had any concerns about Applicant's ability to understand the proceedings against him or assist in his defense. Counsel Mauldin reviewed his mental health records from the jail, and did not recall seeing any diagnosis listed or symptoms that could have supported a mental health defense or cause her to question his competency. She recalled only that Applicant reported he had been experiencing nightmares since his arrest and incarceration. Neither Applicant nor his family members expressed to her any concerns about his mental health. Counsel Mauldin nonetheless consulted with Dr. Thomas Martin about the case. Dr. Martin did not personally evaluate Applicant; however, he reviewed the mental health records Counsel Mauldin provided to him.

Counsel Mauldin recalled engaging in extensive plea negotiations with the solicitor's office in this case. She testified the solicitor began working on a plea offer in January 2018. In early April 2018, she sat down with Applicant and discussed potential plea offers. She told him they had not yet received an offer at that point, but she let him know one would be forthcoming. About a week later, she met with Counsel Madsen and Applicant to discuss trial dates and further discuss plea offers.

Counsel Mauldin then met with the assigned solicitors and asked if they would consider recommending concurrent sentences and reducing the charges to manslaughter. They declined her

² *Jackson v. Denno*, 378 U.S. 368 (1964)

offer. When she and Counsel Madsen met with Applicant shortly thereafter, Applicant gave them an apology letter he prepared for the victims' families, which she hoped would help them get a better plea offer. They again explained the law on manslaughter, involuntary manslaughter, self-defense, and the problems with asserting self-defense in Applicant's case. Because the evidence against him was overwhelming, Counsel Mauldin strongly advised Applicant to accept any offer reducing his exposure to anything in the vicinity of thirty years. Applicant told her he would consider pleading to thirty-five years. Counsel Mauldin testified they gave Applicant's letter of apology to the solicitor; discussed a possible thirty-five year offer; and gave him Applicant's apology letter along with copies of the life expectancy tables in SCDC.

On May 28th, Counsels received the final offer from the solicitor's office; two counts of murder, concurrent, with a forty-year negotiated sentence. Applicant's trial was scheduled to start the following week. They met with Applicant on May 29th to consult with him about the offer. Counsel Mauldin recalled explaining to him that a negotiated plea means the judge can either accept the plea and issue the negotiated sentence or reject the plea entirely. In other words, she explained to him that the judge must sentence him to forty years as long as he accepts Applicant's plea. At Applicant's request, they contacted his mother and reviewed the offer with her. When they met with him again on May 30th, he asked them to make a thirty-five year counteroffer.

Counsel Mauldin then met with the solicitor and made the counteroffer, which the solicitor rejected. Counsel Mauldin then met with Applicant again later that afternoon and explained the solicitor would not offer anything lower. She again went over the terms of the plea offer extensively. Applicant ultimately decided to accept the offer. They both signed the sentencing sheets and Applicant entered his plea the following day.

Counsels Mauldin and Madsen both testified they felt it was in Applicant's best interest to

accept the forty-year offer. Counsel Mauldin stated Applicant was not necessarily thrilled the offer, but they told him it was his best chance to avoid dying in prison. Counsel Madsen agreed, and stated it was a good offer considering the facts of the case. However, Counsels Mauldin and Madsen both unequivocally testified they did not “threaten” Applicant or otherwise coerce him into pleading guilty. Although they were prepared to proceed to trial, it was ultimately Applicant’s decision to accept the State’s offer and plead guilty. Counsel Mauldin noted that Applicant was never particularly adamant about going to trial. Counsel Madsen testified he never tells his clients whether they should plead or go to trial. Rather, he lays out their options and tells them it is their decision alone.

Counsel Madsen testified he did not tell Applicant what to say at the plea hearing, but he and Counsel Mauldin told him the questions the judge would likely ask. He further stated he never heard Counsel Mauldin tell Applicant he had to answer the judge’s questions in a certain way.

Counsel Mauldin testified Applicant did not bring up the possibility of withdrawing his plea until he already pleaded. She testified she received a message on June 7th from Applicant’s mother stating he wanted to withdraw his plea. On June 11th she and Counsel Madsen spoke with him on the phone. Applicant told them he wanted to withdraw because he was not guilty. Counsel Madsen stated Applicant essentially told them he changed his mind.

Counsel Mauldin testified she let the solicitor know Applicant asked her to file a motion to withdraw, which she filed the same day she spoke with Applicant. She stated she has only ever had one other client who wanted to withdraw his plea. That motion was also denied. Counsel Madsen stated Applicant’s was the only withdrawal motion he has ever had; however, he surmised judges usually do not grant withdrawal motions that are opposed by the State.

When asked about her understanding of the case law, Counsel Mauldin stated there were

not many South Carolina cases involving motions to withdraw but that she reviewed several federal cases. She stated this was not a case of after-discovered evidence or anything like that. The only thing she had to present at the withdrawal hearing was what Applicant told her.

Counselors' were both asked about Applicant telling Judge McMahon at the end of the hearing that he made a "rash decision." Counsel Mauldin testified Applicant never told her what he meant by that. Counsel Madsen agreed, adding that Applicant did not by tell them much of anything except that he wanted to withdraw his plea. Counselors Mauldin and Madsen both testified Applicant just changed his mind. The only notes Counsel Mauldin had regarding why Applicant wanted to withdraw his plea is that he did not think he was guilty of murder.

III. ISSUES BEFORE THIS COURT

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

1. "Ineffective Assistance of Counsel in violation of the 6th and 14th Amendment rights of the U.S. Constitution."
 - a. "... for not getting Petitioner a[n] independent medical and mental health evaluations."
 - b. "... for threatening and coercing Petitioner into taking a plea instead of going to trial."
 - c. "... for making improper comments at Petitioner's plea hearing and sentencing."
 - d. "... for fail[ing] to object to Prosecutor's and Judge's unconstitutional improper prejudicial comments at plea hearing, which was ineffective."
 - e. "... for failing to inform Petitioner of his right to appeal his plea decision and failing to file 'Notice of Appeal' plea decision."
 - f. "... for failing to go over the defense of self-defense with Petitioner and failing to prepare Petitioner's case as a case of self-defense for trial."
 - g. "... for failing to investigate the evidence, the facts, and the circumstances of the case."
 - h. "... for not fully giving all discovery material to the Petitioner and not going over the discovery material with the Petitioner."

Pursuant to Rule 71.1, SCRCP, Applicant, through PCR counsel, amended his application to conform to the evidence presented at the PCR hearing in the event that any new issues arise during the court of the hearing.³

IV. STANDARD OF REVIEW

An applicant may seek PCR upon the following types of allegations:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy[.]

S.C. Code Ann. § 17-27-20(A).

Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right, and raises

³ See *Simpson v. Moore*, 367 S.C. 587, 599, 627 S.E.2d 701, 708 (2006), *abrogated on other grounds by Smalls v. State*, 422 S.C. 174, 810 S.E.2d 836 (2018); Rule 15(b), SCRCP (pleadings may be amended, even after judgment, to conform to issues tried by express or implied consent but not raised in the original pleadings)

a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

The reviewing court applies the two-part test outlined in *Strickland v. Washington* to determine whether counsel's conduct "was so defective as to require reversal" of the applicant's conviction. 466 U.S. 668, 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Id.* at 687–88; *accord. Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. *Strickland*, 466 U.S. at 700; *see also Bell v. Cone*, 535 U.S. 685, 695 (2002) (explaining that "[w]ithout proof of both deficient performance and prejudice to the defense . . . , it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable" (citation and internal quotation marks omitted)).

The applicant has the burden of establishing both deficiency and prejudice in order to be entitled to relief. *Hughes v. State*, 346 S.C. 554, 558, 552 S.E.2d 315, 317 (2001); *see* Rule 71.1(e), SCRCPC ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."). To prove deficient performance, the applicant must establish that, in light of all the circumstances, the acts or omissions complained of "were outside the wide range of competence" demanded of attorneys in criminal cases. *Strickland*, 466 U.S. at 688. To prove prejudice, the applicant must establish that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 694. A reasonable probability is a probability "sufficient to undermine confidence in the outcome." *Id.* Significantly, "the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged." *Id.* at 696.

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, *Hill v. Lockhart*, 474 U.S. 52 (1985), extended the two-part *Strickland* test to challenge guilty pleas based on ineffective assistance of counsel. See *Padilla v. Kentucky*, 559 U.S. 356, 373 (2010) (recognizing that the guilty plea process is a “critical phase of litigation” for purposes of the Sixth Amendment right to effective assistance of counsel). When reviewing a guilty plea, the analysis of counsel’s performance under the first prong of *Strickland* remains unchanged—the applicant must show that counsel’s representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases. *Hill*, 474 U.S. at 58–59; accord *Thompson v. State*, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000).

An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel’s advice to plead guilty was not “within the range of competence demanded of attorneys in criminal cases.” *Hill*, 474 U.S. at 56. The second, or “prejudice” prong, however, “focuses on whether counsel’s constitutionally ineffective performance affected the outcome of the plea process.” *Id.* at 58–59. Specifically, when an applicant claims counsel’s deficient performance caused him to accept a plea, the applicant “must show that there is a reasonable probability that, but for [plea] counsel’s [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial.” *Id.* at 59.

This inquiry “focuses on a defendant’s decisionmaking” and does not turn on the outcome of a defendant’s actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. *Lee v. United States*, --- U.S. ----, 137 S. Ct. 1958, 1966 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. *Padilla*, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—*not*

whether counsel would have still advised him or her to plead guilty. *Turner v. State*, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

Reviewing “[c]ourts should not upset a plea solely because of *post hoc* assertions from a defendant about how he would have pleaded but for his attorney’s deficiencies.” *Lee*, 137 S. Ct. at 1967. Rather, judges should “look to contemporaneous evidence to substantiate a defendant’s expressed preferences.” *Id.* at 1958 In determining whether a guilty plea was taken in accordance with constitutional standards, the reviewing judge must analyze and consider the entire record, including the transcript of the guilty plea and the evidence presented at the PCR hearing. *Harres v. Leeke*, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

V. FINDINGS OF FACT & CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the PCR hearing, observed the witnesses, passed upon their credibility, and weighed their testimony accordingly. After hearing the testimony presented and considering the legal arguments by counsel, as well as the record in this action incorporated by way of the State’s return, this Court proceeds to the claims raised in the amended application and finds each to be without merit. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings of facts and conclusions of law based upon all of the probative evidence presented.

A. Pre-Trial: Failure to Investigate, Prepare Defense, and Request Mental Health Evaluation⁴

Applicant first makes a series of claims alleging Counsels’ were ineffective in their investigation, preparation, and overall performance prior to his guilty plea. Specifically, Applicant alleges Counsels’ were ineffective for failing to review discovery with him; failing to investigate the evidence, facts, and circumstances of his case; failing to prepare a self-defense case for trial;

⁴ Claims 1(a); 1(f)–(h).

and failing to request a mental health evaluation. This Court disagrees, and finds credible and persuasive the testimony of Counsels, who presented well-recalled testimony of the events leading up to Applicant's plea. Applicant's own testimony, although predominantly incredible, established he met with Counsels to discuss the prosecution's case and potential defenses several times prior to his plea. Judge McMahon specifically advised Applicant that by pleading guilty, he would waive any defenses he may have. (Plea Tr. 10). Applicant told the plea court he understood, and wished to waive that right in order to plead guilty. Further, Applicant failed to present evidence of any viable defense, investigative tactic, or alternate strategy Counsel should have explored which would have helped Applicant's case or affected his decision to plead guilty.

1. Failure to Investigate, Prepare, and Review Discovery

As an initial matter, this Court finds Applicant failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [his] case." *Ard v. Catoe*, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (citing *Strickland*, 466 U.S. 668). "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). "[W]hile the scope of a reasonable investigation depends upon a number of issues, at a minimum, counsel has the duty to interview potential witnesses and to make an independent investigation of the facts and circumstances of the case." *Ard*, 372 S.C. at 331–32, 642 S.E.2d at 597 (internal quotation marks omitted) (emphasis omitted).

However, our Supreme Court has cautioned reviewing courts not to lose sight of the reasonableness standard regarding counsel's duty to investigate. *See, e.g., id.* at 331, 642 S.E.2d

at 597 (“Without a doubt, [a] criminal defense attorney has a duty to investigate, but this duty is limited to reasonable investigation.”). “[S]trategic choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable; and strategic choices made after less than complete investigation are reasonable precisely to the extent that reasonable professional judgments support the limitations on investigation.” *Strickland*, 466 U.S. at 690–91; *see id.* (“In other words, counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.”). Thus, in applying the *Strickland* standard to a claim of failure to investigate, counsel’s decision not to undertake a particular investigation must be evaluated with heavy deference to counsel’s judgment. *Bagwell v. State*, 410 S.C. 259, 265, 763 S.E.2d 630, 63 (Ct. App. 2014).

To prevail on a claim of ineffective assistance based on failure to investigate or prepare for trial, a PCR applicant must ordinarily present some evidence “that would have affected counsel’s advice to [him] to accept the plea bargain offered or that would have caused [him] to decline to accept it.” *Stalk v. State*, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009); *see, e.g., Jackson v. State*, 329 S.C. 345, 353–54, 495 S.E.2d 768, 772 (1998) (reversing the PCR court’s grant of relief where the applicant failed to “present any evidence of what counsel could have discovered or what other defenses he would have requested counsel pursue had counsel more fully prepared for the trial”). Applicant failed to

Counsels’ credibly testified they met with Applicant prior to his plea, reviewed the discovery with him, and discussed his case with him at length. Considering Applicant admitted to watching the surveillance videos, this Court does not find credible Applicant’s claim that his attorneys never reviewed discovery with him. Likewise, this Court will not credit Applicant’s present claim he would have gone to trial absent Counsels’ deficient performance when he failed

to present evidence of any investigatory matter which would have helped Applicant's case or affected his decision to plead guilty. See *Moorehead v. State*, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998) (holding trial counsel's failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result

Accordingly, Applicant's claims pertaining to Counsels' failure to adequately investigate and review his discovery are **DENIED**.

2. Failure to Pursue Self-Defense

Applicant further contends Counsels' were ineffective for failing to prepare a clear defense theory or trial strategy based on self-defense. To establish a case of self-defense in South Carolina, four elements must be present: (1) the defendant was without fault in bringing on the difficulty; (2) the defendant actually believed he was in imminent danger of losing his life or sustaining serious bodily injury; (3) a reasonable, prudent person of ordinary fitness and courage would have entertained the same belief; and (4) the defendant had no other probable means of avoiding the danger of losing his life or sustaining serious bodily injury other than to act as he did. *State v. Santiago*, 370 S.C. 153, 159, 634 S.E.2d 23, 27 (Ct. App. 2006) (citing *Jackson v. State*, 355 S.C. 568, 570–71, 586 S.E.2d 562, 562 (2003).

i. *Without Fault*

This Court finds Applicant failed to show Counsels' determination that they could not meet the first element of self-defense fell below an objective standard of reasonableness. Counsel Madsen explained that even under Applicant's version of events, he brought on the difficulty by chasing Ms. Eldridge in an attempt to get his drugs back. When asked whether she would have argued self-defense had Applicant decided to go to trial, Counsel Mauldin stated they would have

tried to elicit as much testimony as possible in support of self-defense. However, neither she nor Counsel Madsen believed they would have even been able to get a jury charge on self-defense because they simply could not show Applicant was without fault in bringing on the difficulty.

ii. *Imminent Danger*

While Applicant asserts he actually believed he was in imminent danger, this Court finds Counsels Mauldin and Madsen reasonably determined they could not meet the third element of self-defense “because a reasonable, prudent person of ordinary fitness and courage would not have feared for his life or serious bodily injury under the circumstances of this case.” *Santiago*, 370 S.C. at 160–61, 634 S.E.2d at 27.

Applicant testified that both times he fired his gun he was protecting himself after being assaulted by the initial crowd of people. Counsel Mauldin also recalled Applicant telling her he felt he lacked malice because he was protecting himself after being assaulted by the crowd of people. However, she testified the video did not support his side of the story because anyone approaching the scene turned and ran as soon as Applicant fired the first shots into the air, as did most of the crowd surrounding him. Counsel Madsen agreed, explaining that the two victims were not part of the initial incident that caused him to fire the first shots into the air. By the time Applicant shot the victims, everyone involved in the initial altercation has dispersed like the rest of the crowd. Counsel Madsen added that the video clearly shows the victims were not armed. No witnesses reported anyone being armed other than Applicant.

iii. *Duty to Retreat*

Finally, this Court finds Applicant failed to show Counsels’ assessment they could not establish the third element of self-defense was objective unreasonable. An individual has a duty to retreat or take other probable means of avoiding danger unless it would increase his danger of

being killed or suffering serious bodily injury. *State v. Fuller*, 297 S.C. 440, 377 S.E.2d 328, 331 (1989).

Counsel Mauldin was asked on cross-examination whether it appeared from the video that two people were approaching Applicant from the front and another from behind. She stated there were lots of people around and someone may have been behind him; however, she did not see anyone “blocking his retreat.” Counsel Madsen agreed, explaining that the front of the Frayed Knott faced the road and the back faced the lake. The video shows the victims approaching from the lake side where the boats were docked while Applicant was located between the lake side and parking lot. Counsel Madsen explained Applicant could have safely retreated to the parking lot after he fired the initial shots into the air and the crowd dispersed. *See, e.g., State v. Bryant*, 336 S.C. 340, 345, 520 S.E.2d 319, 322 (1999) (noting that the defendant easily could have avoided the conflict by leaving the open parking lot where the situation arose).

Accordingly, Applicant’s claims pertaining to Counsel’s failure to pursue a strategy of self-defense are **DENIED**.

3. Mental Health Evaluation

Applicant next contends Counsels’ were ineffective for failing to request a mental health evaluation. As an initial matter, this Court finds Counsels Mauldin and Madsen reasonably relied on their own perception and interactions with Applicant—over the course of nearly two years—in deciding a mental evaluation was not necessary. *See Medina v. California*, 505 U.S. 437, 450 (1992) (noting the significance of trial counsel’s opinion regarding competency because trial counsel interacts with the defendant on a daily basis and is in the best position to evaluate whether the defendant is able to participate meaningfully in the proceedings). *Compare Jeter v. State*, 308 S.C. 230, 233, 417 S.E.2d 594, 596 (1992) (finding trial counsel not deficient

for failing to request mental examination of defendant—which might have formed the basis of an insanity defense or determination that defendant was not competent to stand trial—where trial counsel reasonably relied on his own perceptions that defendant was not mentally deficient), *with Ramirez v. State*, 419 S.C. 14, 22–23, 795 S.E.2d 841, 845–46 (2017) (finding plea counsel was deficient in failing to seek an independent competency evaluation where plea counsel was “clearly on notice” the defendant had mental health issues based on his own personal interactions with the defendant, as well as a previous psychological evaluation identifying several mental health issues). Counsel Mauldin and a psychiatrist reviewed Applicant’s mental health records from the jail, and did not find any diagnosis listed or symptoms that could have supported a mental health defense or caused them to question his competency.

To establish *Strickland* prejudice in the context of plea counsel’s failure to fully investigate the applicant’s mental capacity, the applicant “need only show a ‘reasonable probability’ that he was either insane at the time [the crime was committed] or incompetent at the time of the plea.” *Matthews v. State*, 358 S.C. 456, 459, 596 S.E.2d 49, 51 (2004) (alterations in original) (quoting *Jeter*, 308 S.C. at 233, 417 S.E.2d at 596); *see id.* at 458–60, 596 S.E.2d 49, 50–51 (expanding the reasonable probability standard as the burden for proving both the deficiency of counsel and the prejudice prongs). As is the case with any other allegation that a defense attorney failed to adequately investigate some matter, an applicant must present some proof of identifiable mental health issues which undermine his or her competency; mere speculation and conjecture by the applicant is insufficient to establish prejudice. *Garren v. State*, 423 S.C. 1, 13–14, 813 S.E.2d 704, 711 (2018).

To the extent Applicant claims Counsels were ineffective for failing to pursue a mental health defense, this Courts finds Applicant wholly failed to meet his burden under *Strickland*. In

South Carolina, insanity is an affirmative defense to prosecution if the accused “lacked the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong” at the time the offense. S.C. Code Ann. § 17-24-10(A); *see State v. Lewis*, 328 S.C. 273, 278, 494 S.E.2d 115, 117 (1997) (“[T]he key to insanity is ‘the power of the defendant to distinguish right from wrong in the act itself—to recognize the act complained of is either morally or legally wrong.’” (alterations in original) (citations omitted)).

Applicant failed to present any evidence suggesting he was insane under South Carolina law at the time of the shooting nor does his testimony at the PCR hearing in any way suggest an insanity defense could have been developed. *Jeter*, 308 S.C. at 233–34, 417 S.E.2d at 596. Even if depression could somehow support the idea he was insane, Applicant testified he had a history of depression but was not depressed at the time of the crime. Counsel Mauldin further testified Applicant was drinking that night and recalled Applicant mentioning only that he was “confused” at some point during the incident. Applicant testified he blacked out for three or four seconds after he was hit with the beer bottle. This Court does not find credible Applicant’s testimony that “the only reason he knows what happened is because he watched the video and knows what people told him.” However, even if Applicant remembered nothing from that night, his alcohol consumption would have precluded him from presenting a defense of insanity or obtaining a guilty but mentally ill verdict. *See United States v. Knott*, 894 F.2d 1119, 1122 (9th Cir. 1990) (emphasizing that “[a] mental disease or defect must be beyond the control of the defendant if it is to vitiate his responsibility for the crime committed” and “[i]nsanity that is in any part due to a defendant’s voluntary intoxication is not beyond his control”)

This Court similarly finds Applicant failed to establish a reasonable probability he was incompetent at the time of the plea. “The test of competency to enter a plea is the same as required

to stand trial”—the accused “must have sufficient capability to consult with his lawyer with a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings against him.” *Jeter*, 308 S.C. at 232, 417 S.E.2d at 596.

Applicant failed to present evidence indicating he was at any point incapable of consulting with his lawyers or understanding the plea proceedings. Counsel Mauldin testified Applicant appeared to understand everything she told him about his case. Counsel Madsen agreed with Counsel Mauldin’s assessment, adding that Applicant seemed intelligent, responsive, and recalled him asking appropriate questions during their meetings. Counsel Mauldin’s testimony corroborates with what she told Judge McMahon at the outset of Applicant’s plea hearing. (Plea Tr. 6). Applicant further acknowledged telling Judge McMahon he was not aware of any physical or mental illnesses that would affect his ability to understand the proceedings. (Plea Tr. 6).

Applicant testified he had trouble sleeping and felt depressed after his arrest; however, he failed to show he was prevented him from understanding the consequences of his plea as a result. *Miles v. Dorsey*, 61 F.3d 1459, 1470–71 (10th Cir. 1995) (“Although deadlines, mental anguish, depression, and stress are inevitable hallmarks of pretrial plea discussions, such factors considered individually or in aggregate do not establish that [a defendant]’s plea was involuntary.”).

Accordingly, Applicant’s claims pertaining to Counsels’ failure to request a mental evaluation are **DENIED**.

B. Involuntary Guilty Plea and Coercion⁵

Applicant next claims his attorneys advising him he would likely be found guilty and receive a life sentence at trial caused Applicant to enter into an involuntary and unknowing guilty plea. He further contends his attorneys made prejudicial comments prior to his plea hearing and

⁵ Claim 1(b)–(d).

failed to object to prejudicial comments made by the solicitor and judge. This Court disagrees, and finds the combined record from the plea hearing and the PCR hearing establishes Applicant freely, knowingly, and voluntarily pleaded guilty.

“[I]t is the prerogative of any person to waive his rights, confess, and plead guilty, under judicially defined safeguards, which are adequately enforced.” *Reed v. Becka*, 333 S.C. 676, 685, 511 S.E.2d 396, 401 (Ct. App. 1999). Accordingly, because a criminal defendant waives several constitutional rights by pleading guilty, the Due Process Clause requires that guilty pleas are entered into voluntarily, knowingly, and intelligently. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Pittman v. State*, 337 S.C. 597, 524 S.E.2d 623 (1999). To be intelligent, a plea must be made by a mentally competent defendant who understands both the charges against him and the consequences of his plea. *Brady v. United States*, 397 U.S. 742, 748 (1970). To be voluntary, a plea must be free of threats or other coercion that would impermissibly distort the defendant’s choice. *Id.* at 755; *see also United States v. Smith*, 440 F.2d 521, 528–529 (7th Cir. 1971) (Stevens, J., dissenting) (explaining that voluntariness relates to the trustworthiness of the admission of guilt and binding character of the waiver of the constitutional protections which would be available to the accused if he elected to stand trial).

Before a court can accept a guilty plea, the defendant must be advised of the constitutional rights he or she is waiving; the right to a jury trial, the right to confront one’s accusers, and the privilege against self-incrimination. *Boykin*, 395 U.S. at 243. Additionally, the defendant “must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived.” *Pittman*, 337 S.C. at 599, 524 S.E.2d at 624.

The voluntariness of a guilty plea, however, “is not determined by an examination of the

specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing.” *Harres*, 282 S.C. at 133; see *Rayford v. State*, 314 S.C. 46, 443 S.E.2d 805 (1994) (finding that, where the transcript of the guilty plea proceeding refuted applicant’s claim that he did not understand the terms of a plea bargain, granting PCR was inappropriate notwithstanding applicant’s claim his lawyer misadvised him).

1. Plea Hearing

At the outset of the plea hearing, Counsel Mauldin advised the court that she and Counsel Madsen had explained to Applicant the charges against him, possible punishments, and constitutional rights. (Plea Tr. 4). Counsel Mauldin also stated Applicant had not been ordered to or received a mental health examination. (Plea Tr. 6). She further stated she had no concerns about Applicant’s competency to enter the plea. (Plea Tr. 6). Applicant told the plea court he was not under the influence of any medications or alcohol and that he was not aware of any physical or mental illnesses that would affect his ability to understand the proceedings. (Plea Tr. 6).

Judge McMahon thereafter read each indictment into the record and advised Applicant that the mandatory minimum sentence for murder is thirty years’ imprisonment and the maximum is life without parole. (Plea Tr. 7–8). Applicant indicated he understood the charges against him and the exposure he faced on each indictment. (Plea Tr. 7–8).

Judge McMahon then explained to Applicant constitutional rights he waived by pleading guilty; including his right to remain silent, challenge the State’s evidence, and present a defense. (Plea Tr. 8–11). Applicant informed the court he was knowingly, voluntarily, and freely waiving those constitutional rights by pleading guilty. (Plea Tr. 8–11). Applicant then admitted he was guilty and committed the conduct outlined in the indictments. (Plea Tr. 10).

The solicitor then put the terms of the negotiated plea on the record. (Plea Tr. 11). Assistant Solicitor Bell stated Applicant is pleading guilty to a negotiated 40-year concurrent sentence on each murder indictment. (Plea Tr. 11). He stated they were dismissing the weapons and assault and battery charges. (Plea Tr. 11). Counsel Mauldin and Applicant both agreed with the solicitor's explanation of the terms of the plea agreement. (Plea Tr. 11). Judge McMahon explained to Applicant the nature of a "negotiated" plea, and that he would either accept the negotiated sentence of forty years, or give him the opportunity to withdraw his plea. (Plea Tr. 12). Again, Applicant confirmed he understood and wished to proceed forward. (Plea Tr. 12).

The following exchange then took place:

JUDGE MCMAHON: Has anyone promised you or held out any hope of reward to get you to plead guilty.

APPLICANT: No, sir.

JUDGE MCMAHON: Has anyone threatened you or used to force to get you to plead guilty?

APPLICANT: No, sir.

JUDGE MCMAHON: Has anyone used any pressure or intimidation to cause you to plead guilty?

APPLICANT: No, sir.

JUDGE MCMAHON: Have you had enough time to make up your mind?

APPLICANT: Yes, sir.

JUDGE MCMAHON: Are you pleading guilty of your own free will and accord?

APPLICANT: Yes, sir.

JUDGE MCMAHON: I want to ask you some questions about your lawyers. Are you satisfied with the manner in which your lawyers have advised you and represented you?

APPLICANT: Yes, sir.

JUDGE MCMAHON: Have you talked with your lawyers as often and for as long as you feel necessary for them to properly represent you?

APPLICANT: Yes, sir.

JUDGE MCMAHON: Have you understood your talks with your lawyers?

APPLICANT: Yes, sir.

JUDGE MCMAHON: Do you need any more time to talk with your lawyers?

APPLICANT: No, sir.

JUDGE MCMAHON: Have your lawyers done everything for you that you feel like they could have done or should have done?

APPLICANT: Yes, sir.

JUDGE MCMAHON: Have your lawyers done anything in your case that you feel like they should not have done?

APPLICANT: No, sir.

JUDGE MCMAHON: Are you totally and completely satisfied with your lawyers' services?

APPLICANT: Yes, sir.

JUDGE MCMAHON: Do you have any complaints you want to make about your lawyers?

APPLICANT: No, sir.

JUDGE MCMAHON: The solicitor?

APPLICANT: No, sir.

JUDGE MCMAHON: Or any police officers involved in your cases?

APPLICANT: No, sir.

(Plea Tr. 12–14). Applicant told Judge McMahon he understood all of his questions. (Plea Tr. 14).

Judge McMahon then advised Applicant he had a right to appeal within ten days. (Plea Tr. 14).

After hearing a factual recitation from Mr. Gill, the victims' statements, Applicant's criminal history, and mitigation from Counsels Mauldin and Madsen, Judge McMahon accepted the negotiated plea and sentenced Applicant accordingly. (Plea Tr. 11, 27, 38–39).

2. Discussion

i. *Coercion*

Applicant's claim counsel was ineffective for coercing, threatening, and telling him to

perjure himself in order to force him to plead guilty is an attack the knowing and voluntary nature of Applicant's plea. Specifically, Applicant contends Counsels' advice to accept the forty-year plea offer in light of the strength of the evidence against him somehow constitutes an impermissible form of "coercion" or "threat" because he otherwise faced a life—or even death—sentence. Applicant further alleges Counsel Mauldin instructed him to perjure himself by instructing him to agree with all of Judge McMahon's questions and admit he was guilty of murder.

Applicant complains essentially that his attorneys honestly assessed the strength of the State's case against him; yet, in doing so, Counsels' fulfilled their duty to their client. All criminal defense attorneys go through the process of investigating their client's case, exploring possible defenses, and developing a strategy for defending the client. As Counsel Mauldin mentioned, part of that process involves making a determination that certain defenses or strategies will not be effective based on an examination of the evidence, facts, and circumstances of a particular case.

"Sound advice by counsel does not constitute coercion merely because it is unpleasant to hear." *Davis v. State*, 754 S.W.2d 593, 594 (Mo. Ct. App. 1988). Counsels' advising Applicant that it was highly likely he would be convicted and sentenced to life at trial is not a "threat" despite Applicant's ridiculous characterization of it as such. *See Tollett v. Henderson*, 411 U.S. 258, 268 (1973) (explaining that the prospect of plea bargaining, the expectation or hope of a lesser sentence, or the convincing nature of the evidence against the accused are considerations that might well suggest the advisability of a guilty plea). As then-Judge Burger explained in *Brown v. United States*:

A lawyer has a duty to give the accused an honest appraisal of his case. This is commanded in part because without it the accused cannot make an informed judgment as to whether he should enter a plea of guilty—a course of action frequently to the advantage of an accused. The constitutional right to counsel does not mean counsel who will be optimistic in his private appraisal of the evidence and

his advice to the accused. Counsel has a duty to be candid; he has no duty to be optimistic when the facts do not warrant optimism.

264 F.2d 363, 369 (D.C. Cir. 1959) (en banc) (Burger, Circuit Justice, concurring in part).

This Court finds Applicant’s claim of coercion is wholly without merit, particularly in light of his solemn declarations on the record at the plea hearing that no one promised him anything or held out any hope of reward to get him to plead guilty; no one threatened or used force to get him to plead guilty; no one used any pressure or intimidation to cause him to plead guilty; and that he was pleading guilty of his own free will and accord. (Plea Tr. 12–14). While Applicant now claims he was coerced by his attorneys into entering into a guilty plea, he made it clear to the plea court that the decision to plead guilty was his own.

Applicant failed to present any evidence Counsel threatened him or provided improper inducements—he merely contends that his attorneys advising him to plead guilty in light of the strong evidence against him amounted to a “threat.” See *Lunz v. Henderson*, 533 F.2d 1322, 1327 (2d Cir. 1976) (explaining that “advice—even strong urging” by counsel does not render a guilty plea involuntary); *Miles*, 61 F.3d at 1470 (“Merely because [counsel] attempted to persuade [defendant] that it was in his best interest to plea does not lead to the conclusion that his . . . plea was involuntary.”).

ii. *Improper Comments*

As to Applicant’s allegation Counsel Mauldin was ineffective for failing to object to “unconstitutional comments” made before his plea hearing started, this Court finds Applicant failed to show any unconstitutional or improper comments were made by the judge, the solicitor, or his lawyers. Counsels Mauldin and Madsen both testified that neither they nor the solicitor nor the judge ever made any improper comments. Counsel Madsen stated it was normal to have casual conversation in the courtroom before proceedings begin. Counsel Mauldin therefore had nothing to object to.

Moreover, Applicant cannot show he was prejudiced by any allegedly improper comments between the solicitor and judge where the plea entered into was negotiated.

3. Conclusion

This Court finds Applicant knew the nature of the charges against him, the terms of the plea agreement, and the consequences of pleading guilty in accordance with the requirements of *Boykin* and *Pittman*. Because a guilty plea is a “solemn, judicial admission of the truth of the charges against an individual . . . , a criminal inmate’s right to contest the validity of such a plea is usually, but not invariably, foreclosed.” *Dalton v. State*, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Blackledge v. Allison*, 431 U.S. 63, 74 (1977)). This Court finds Applicant failed to “present[] [any] valid reasons why he should be allowed to depart from the truth of [the] statements” made during the plea proceeding. *Id.* at 137–38, 654 S.E. at 874. While Applicant now claims he was coerced by his attorneys into entering into a guilty plea, he made it clear to the plea court that the decision to plead guilty was his own. This Court does not find credible Applicant’s claim he was prevented from informing the plea court his attorneys coerced him into pleading guilty. Nor will this Court credit Applicant’s ridiculous claim that Counsel Mauldin told him to perjure himself.

Surmounting *Strickland*’s high bar is never an easy task, and the strong societal interest in finality has “special force with respect to convictions based on guilty pleas.” *Lee*, 137 S. Ct. at 1967; *cf. Hill*, 474 U.S. at 58 (“[R]equiring a ‘prejudice’ showing from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel ‘will serve the fundamental interest in the finality of guilty pleas.’”). Based on the evidence presented at the PCR hearing and the record of the plea proceeding, this Court finds Applicant’s plea was freely, knowingly, and voluntarily entered into. Accordingly, Applicant’s request for relief by way

of this allegation is **DENIED**.

C. Post-Plea: Improper Comments and Withdrawal of Plea⁶

Finally, Applicant makes several claims regarding Counsels' performance after his plea. Applicant first alleges Counsel Mauldin was ineffective for leading him to believe he could easily withdraw his plea after the fact and proceed to trial. He further contends Counsel Mauldin's statement at the withdrawal hearing that Applicant "changed his mind" was improper. This Court disagrees, and finds Counsels' did not make any improper comments at his withdrawal hearing nor did they lead him to believe he could easily withdraw his plea.

1. Withdrawal Hearing

On June 18, 2018, Applicant and his attorneys appeared before Judge McMahon on his motion to withdraw the plea. Counsel Mauldin asked the Court to allow Applicant to withdraw his plea, stating "[t]his is a situation where he believes he made the wrong decision." (Mot. Tr. 5). Judge McMahon then asked Applicant if he had anything he would like to say. (Mot. Tr. 5). Applicant declined. The solicitor simply stated Applicant's plea was knowing and voluntary and asked that he not be permitted to withdraw it. Judge McMahon then asked Counsels Mauldin and Madsen to give him their educational background and experience as criminal defense lawyers, which they did. (Mot. Tr. 5–9).

Judge McMahon explained that he researched the issue of plea withdrawal in both the state and federal context. (Mot. Tr. 9). He stated that case law in South Carolina basically indicates that whether to allow withdrawal of the plea is left to the sound discretion of the trial judge. (Mot. Tr. 9). He also researched Rule 11 of the Federal Rules of Criminal Procedure to provide insight on what federal judges may consider or look to in determining whether or not to allow an individual

⁶ Claims 1(c) and 1(h).

to withdraw his guilty plea. (Mot. Tr. 9). Although a defendant is barred from withdrawing his plea after the sentence is imposed, a federal judge in his discretion may allow the defendant to withdraw “after the court accepts the plea, but before it imposes sentence if . . . the defendant can show a fair and just reason for requesting the withdrawal.” Fed. R. Crim. P. 11(d)(2)(B). Judge McMahon stated he did not believe the defendant changing his mind was a sufficient reason. (Mot. Tr. 9–10).

Judge McMahon then pointed out the following: (1) the criminal justice system seeks finality; (2) Applicant is represented by experienced and well-qualified attorneys; and (3) he reviewed the transcript and asked all the necessary questions under *Boykin*. (Mot. Tr. 10). He further summarized everything that happened at the plea hearing, including portions of his colloquy, the terms of the plea agreement, and the facts of the case. (Mot. Tr. 10–14). At the end of the hearing, Judge McMahon asked Applicant again if he would like to say anything to the court. (Mot. Tr. 14). The following exchanged ensued:

APPLICANT: It was a very rash decision. It was only -- the plea was only on the table 24 hours, maybe more. And I’m not guilty of murder.

JUDGE MCMAHON: And you what?

APPLICANT: I’m not guilty of murder.

(Mot. Tr. 14–15). Judge McMahon stated he disagreed and denied Applicant’s motion from the bench. (Mot. Tr. 15).

2. Discussion

This Court does not find credible Applicant’s testimony that Counsel Mauldin somehow suggested that he could simply withdraw his plea for any reason and proceed to trial instead. It is well-established that “a plea of guilty is a confession of guilt made in a formal manner and is equivalent to and as binding as a conviction after a trial on the merits. It has the same effect in law

as a verdict of guilt and authorizes the imposition of the punishment prescribed by law.” *State v. Cantrell*, 250 S.C. 376, 379, 158 S.E.2d 189, 191 (1967); *United States v. Sweeney*, 878 F.2d 68, 70 (2d Cir. 1989) (“Society has a strong interest in the finality of guilty pleas, and allowing withdrawal of pleas ‘undermines confidence in the integrity of our [judicial] procedures . . . , increas[es] the volume of judicial work, [and] delays and impairs the orderly administration of justice.’” (alterations in original) (quoting *United States v. Timmreck*, 441 U.S. 780, 784 (1979))); *Premo v. Moore*, 562 U.S. 115, 125 (2011) (“Prosecutors must have assurance that a plea will not be undone years later,” lest they “forgo plea bargains that would benefit defendants,” which would be “a result favorable to no one.”). Moreover, this Court finds Counsels were not ineffective for stating at the withdrawal hearing that Applicant wished to withdraw his plea because he changed his mind. Accordingly, Applicant’s claims pertaining to withdrawal of his plea are **DENIED**.⁷

VI. ALL OTHER ALLEGATIONS

As to any and all allegations raised in the application or at the hearing in this matter and not specifically addressed in this order, this Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds those claims were voluntarily waived and abandoned, and those claims are therefore denied and dismissed with prejudice. S.C. Code Ann. § 17-27-90.

VII. CONCLUSION

Based on the evidence presented at the PCR hearing and a thorough review of the record, this Court finds and concludes Applicant failed to meet his burden of proof pursuant to *Strickland*

⁷ To the extent Applicant claims Judge McMahon erred in denying his motion to withdraw, trial court error does not constitute an appropriate basis for a finding of ineffective assistance of counsel, is not a cognizable claim for post-conviction relief, and is procedurally barred by S.C. Code Ann. § 17-27-20(b). *Wolfe v. State*, 326 S.C. 158, 162, 485 S.E.2d 367, 369 (1997) n.2.

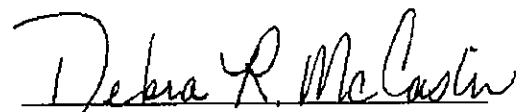
and Rule 71.1, SCRPC. This Court finds Counsels adequately conferred with Applicant; logically and realistically evaluated the circumstances of his case; provided effective assistance in advising him to plead guilty; and were thoroughly competent in their representation. Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Therefore, based on the foregoing, this Court denies relief on all allegations and dismisses this PCR action with prejudice.

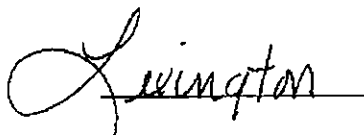
Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review pursuant to Rule 203, SCACR. Applicant has a right to appellate counsel's assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). Rule 71.1(g), SCRPC, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 26th day of May, 2021.


 DEBRA R. MCCASLIN
 Presiding Circuit Court Judge
 Eleventh Judicial Circuit

 , South Carolina

WITNESSES

Lexington County Sheriffs Department

J. Kemfort

Law Enforcement Case #: 16014826

DSG

ARREST WARRANT NUMBER

2016A3210201264

ACTION OF GRAND JURY

TRUE BILL

Shirley R. Johnson
Foreperson of Grand Jury

Date: 5-8-17

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017GS3201001

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

MAY TERM 2017

THE STATE

vs.

Joseph Elijah Mills

CDR #: 0116

Indictment for

Murder

§ 16-03-0010

S.R. Hubbard III, SOLICITOR

A TRUE COPY

Shirley R. Johnson
Lex. Co. C.C.D.P., G.S. & F.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Murder
§ 16-03-0010

At a Court of General Sessions, convened on April 2017 the Grand Jurors of Lexington County present upon their oath:

That **Joseph Elijah Mills** did in Lexington County on or about July 24, 2016 unlawfully willfully, feloniously and with malice aforethought kill the victim, Charles Judge by shooting the victim multiple times with a pistol and the victim died as a proximate result there of, in violation of § 16-3-10, Code of Laws of South Carolina 1976 as amended

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


DEPUTY SOLICITOR

A TRUE COPY


Lex. Co. C.C.O.P., G.S. & F.C.

STATE OF SOUTH CAROLINA

COUNTY OF Lexington
STATE VS.

Joseph Elijah Mills

AKA:

Race: Sex: M Age: 27

DOB: SS#: [REDACTED]

Address: Meadowlark Road

City, State, Zip: Little Mountain, SC 29075

DL#: SID#: SC01907468

*CDL Yes No CMV Yes No Hazmat Yes No

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

4015 etc
IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS3201001

A/W#: 2016A3210201264

Date of Offense: 7/24/2016

S.C. Code § : 16-03-0010

CDR Code #: 0116

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

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

ATTEST:

Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,

for a determinate term of 40 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the SCDOP.

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso (Public Def/Probation) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments) \$

TOTAL \$125
Clerk of Court/Deputy Clerk
Court Reporter
SCCA/217 (01/29/18)

PTUP

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly

mnts. of \$ beginning

\$ paid to Public Defender Fund

Other:

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code:

Sentence Date: 31 July 2018

WITNESSES

Lexington County Sheriffs Department

J. Kemfort

Law Enforcement Case #: 16014826

DSG

ARREST WARRANT NUMBER

2016A3210201265

ACTION OF GRAND JURY

TRUE BILL

Sheryl R. Johnson
Foreperson of Grand Jury

Date: 5-8-17

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017GS3201002

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

MAY TERM 2017

THE STATE

vs.

Joseph Elijah Mills

CDR #: 0116

Indictment for

Murder

§ 16-03-0010

S.R. Hubbard III, SOLICITOR

ATRUE COPY

Sheryl R. Johnson
Lex. Co. C.C.P., C.S. & F.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Murder

§ 16-03-0010

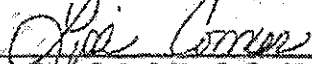
At a Court of General Sessions, convened on April 2017 the Grand Jurors of Lexington County present upon their oath:

That **Joseph Elijah Mills** did in Lexington County on or about July 24, 2016 unlawfully, willfully, feloniously and with malice aforethought kill the victim, Johnathan Prins by shooting the victim multiple times with a pistol and the victim died as a proximate result thereof, in violation of § 16-3-10, Code of Laws of South Carolina, 1976 as amended

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


DEPUTY SOLICITOR

A TRUE COPY



Lex. Co. C.C.O.R., G.S. & F.C.

4045 c/c

STATE OF SOUTH CAROLINA)
 COUNTY OF Lexington)
 STATE VS.)
Joseph Elijah Mills)
 AKÁ: _____)
 Race: _____ Sex: M Age: 27)
 DOB: _____ SS#: _____)
 Address: Meadowlark Road)
 City, State, Zip: Little Mountain, SC 29075)
 DL#: _____ SID#: SC01907468)
 *CDL Yes No CMV Yes No Hazmat Yes No

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS3201002
 A/W#: 2016A3210201265
 Date of Offense: 7/24/2016
 S.C. Code § : 16-03-0010
 CDR Code #: 0116

SENTENCE SHEET

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

CONVICTED OF or PLEADS

in violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

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

Cole M. Bello Solicitor 100001 Joseph Mills Defendant Samuel Maudie Attorney for Defendant 73681 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 40 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the SCDOC.

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 Set by SCDPPPS _____

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

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5%)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(D) (Vehicle Assessment)	\$40/ca	\$
3% to County (if paid in installments)		\$

TOTAL \$ 125
 Clerk of Court/Deputy Clerk _____
 Court Reporter _____
 SCCA217 (04/2018)

Appointed PD or appointed other counsel,
 §Proviso requires \$500 be paid to Clerk
 during probation and shall be collected before
 any other fees.
 Presiding Judge _____
 Judge Code: _____
 Sentence Date: 5/17/17 2018

ARREST WARRANT

2016A3210201265

STATE OF SOUTH CAROLINA

County/ Municipality of

Lexington

THE STATE
against

ORIGINAL

Joseph Elijah Mills

Address: [REDACTED] Meadowlark Rd
Little Mountain, SC 29075-

Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: W Height: 6 I Weight: 250

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0320000

Prosecuting Agency: Lexington County Sheriff

Prosecuting Officer: J. Kemfort - 2992

Offense: Murder / Murder

Offense Code: 0116

Code/Ordinance Sec: 16-03-0010, 0020

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant on Joseph Elijah Mills
7-25-2016

Signature of Constable/ Law Enforcement Officer

RETURN WARRANT TO:
General Sessions
Lexington County Summary Court Center
139 East Main Street
Lexington, SC 29072

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Lexington

Personally appeared before me the affiant J. Kemfort who

being duly sworn deposes and says that defendant Joseph Elijah Mills

did within this county and state on or about 7/24/2016 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Lexington)

in the following particulars:

DESCRIPTION OF OFFENSE: Murder / Murder

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

That Joseph Elijah Mills on or about July 24, 2016 while at 1701 Dreher Island Rd. Lexington County, SC did unlawfully kill
Johnathan Michael Prins in violation of Section 16-3-10, SC Code of laws 1976, as amended, to wit: Mills, while at the Frayed Knot
bar, did with malice aforethought willfully and maliciously discharge a firearm toward Prins striking Prins multiple times about the
torso causing his death in the presence of several witnesses. Moments earlier, Mills physically assaulted a female companion and
was physically separated from her by several bar patrons including Prins. Mills then presented a handgun, pointed it in the direction
of Prins and discharged the firearm killing Prins. This incident was detailed by eyewitness statements and captured by video
surveillance.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Lexington

Affiant's Address P O Box 639

Lexington, SC 29071-

Affiant's Telephone (803)785-2482

ARREST WARRANT

RECEIVED

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 7/24/2016 defendant Joseph Elijah Mills Lexington Co. Sheriff's Dept.

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Lexington) as set forth below:

DESCRIPTION OF OFFENSE: Murder / Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable

Sworn to and subscribed before me

on 7/24/2016

Signature of Issuing Judge (L.S.)

Rebecca L Adams

Judge Code: 5057

Judge's Address 111 Lincreek Drive

Columbia, SC 29212-2204

Judge's Telephone (803)781-7584

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

TRUE COPY
JUL 25 2016
Lex. Co. C.I.P., C.B. & P.O.

BAIL set by

Judge

Ct

on

7/25/14

Type and Amount:

No Bond

Name of Surety:

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney:

Decision:

DISPOSITION before

Judge

on

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

WITNESSES

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS



2016 JUL 29 AM 8:16
RENE A. GARRIGG
CLERK OF COURT
LEXINGTON SC
A TRUE COPY
[Signature]
LEX. CO. C.O.C.R. CLERK

General Sessions

CASE HISTORY FOR CASE 2016A3210201265

The State of South Carolina VS Joseph Elijah Mills

FILED DATE: 7/29/2016

CASE TYPE: GS

STATUS: Appeal

INDICTMENT NUMBER: 2017GS3201002

ASSIGNED JUDGE: Clerk Of Court C P, G S, And Family Court

DISPOSITION JUDGE: McMahon, R. Knox

ARRESTING AGENCY: Lexington County Sheriff

CASE PARTIES:

Defendant Mills, Joseph Elijah

Meadowlark Road, Little Mountain, SC 29075

Officer Kemfort, J.

P O Box 639, Lexington, SC 29071

Public Defender Mauldin, Sarah Hahn

407 W. Main St., Lexington, SC 29072

CASE HISTORY FOR CASE 2016A3210201265

Mills, Joseph Elijah
Meadowlark Road

Age: 28

DOB: [REDACTED]

DL#: [REDACTED]

SSN: [REDACTED]

Little Mountain, SC 29075

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
0116 Murder / Murder	7/24/2016	Pled Guilty	5/31/2018

SENTENCING:

Sentenced - 40 years concurrent

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
Charge: Murder / Murder				
Fine to State 44%	\$0.00	\$0.00	\$0.00	999
Fine to General Fund	0.00	0.00	0.00	999
Victim Services Asm 38.0013% / 5.783	0.00	0.00	0.00	999
Victim Conviction Surcharge \$100 / \$21	100.00	100.00	0.00	999
Law Enforcement Funding Surcharge \$:	25.00	25.00	0.00	999
State Assessment	0.00	0.00	0.00	999
Collection Fee 3%	3.75	3.75	0.00	3
Total:	\$128.75	\$128.75	\$0.00	

DATE	TIME	EVENT DESCRIPTION
7/28/2016	11:15 AM	Motion for Disclosure of Evidence Favorable to Def
7/28/2016	11:16 AM	Filing recorded: Request for Disclosure - Rule 5
7/29/2016	8:19 AM	Filing recorded: Filing/Case File
7/29/2016	12:00 AM	C32BHENDRI recorded the following Case Note: approved for PD at bond ct
11/10/2016	10:53 AM	Filing recorded: Preliminary Hearing Disposition

Print Date: 02/27/2019
Print Time: 9:28:17AM
Requested By: C32CROSA

CaseHistory.rpt V6.1

Page 1 of 2

CASE HISTORY FOR CASE 2016A3210201265

5/8/2017	11:06 AM	Filing recorded: Indictment
1/3/2018	3:11 PM	Motion/Motion for Bond
5/9/2018	3:49 PM	Filing recorded: Request for Discovery
5/18/2018	2:33 PM	Order/Other
5/31/2018	4:20 PM	Filing recorded: Active - Non Probation
5/31/2018	4:26 PM	Filing recorded: Sentence Issued
6/11/2018	11:33 AM	Motion/Withdraw
6/27/2018	4:46 PM	Filing recorded: Letter/Letter
6/27/2018	4:50 PM	Filing recorded: Appeal/Notice of Appeal
10/29/2018	10:36 AM	Filing recorded: Letter/Letter

ARREST WARRANT

2016A3210201264

STATE OF SOUTH CAROLINA

County/ Municipality of

Lexington

THE STATE

against

Joseph Elijah Mills

Address: Meadowlark Rd

Little Mountain, SC 29075-

Phone: SSN: [REDACTED]

Sex: M Race: W Height: 6 1 Weight: 250

DL State: SC DL#: [REDACTED]

DOB: [REDACTED] Agency ORI#: SC0320000

Prosecuting Agency: Lexington County Sheriff

Prosecuting Officer: J. Kemfort - 2992

Offense: Murder / Murder

Offense Code: 0116

Code/Ordinance Sec: 16-03-0010, 0020

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Joseph Elijah Mills on 7-25-2016

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
Lexington County Summary Court Center
139 East Main Street
Lexington, SC 29072

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA)

County/ Municipality of)

Lexington)

Personally appeared before me the affiant J. Kemfort who

being duly sworn deposes and says that defendant Joseph Elijah Mills

did within this county and state on or about 7/24/2016 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Lexington)

in the following particulars:

DESCRIPTION OF OFFENSE: Murder / Murder

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That Joseph Elijah Mills on or about July 24, 2016 while at 1701 Dreher Island Rd. Lexington County, SC did unlawfully kill Charles Allen Judge in violation of Section 16-3-10, SC Code of laws 1976, as amended, to wit: Mills, while at the Frayed Knot bar. did with malice aforethought willfully and maliciously discharge a firearm toward Judge striking Judge multiple times about the torso causing his death in the presence of several witnesses. Moments earlier, Mills physically assaulted a female companion and was physically separated from her by several bar patrons including Judge. Mills then presented a handgun, pointed it in the direction of Judge and discharged the firearm killing Judge. This incident was detailed by eyewitness statements and captured by video surveillance.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Lexington

Affiant's Address P O Box 639

Lexington, SC 29071-

Affiant's Telephone (803)785-2482

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 7/24/2016 defendant Joseph Elijah Mills

did violate the criminal laws of the State of South Carolina (or ordinance of Lexington Co. Sheriff's Dept.

County/ Municipality of Lexington) as set forth below:

DESCRIPTION OF OFFENSE: Murder / Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him/her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me)

on 7/24/2016)

Signature of Issuing Judge (L.S.))

Rebecca L. Adams)

Judge Code: 5057)

Judge's Address 111 Lincreek Drive

Columbia, SC 29212-2204

Judge's Telephone (803)781-7584

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

AFFIDAVIT

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

RECEIVED

JUL 25 2016

Lex. Co. C.O.D.P., C.S. & P.C. TRUE COPY

Judge Cx ^{BAIL set by}
on 7/25/14
Type and Amount: No Bond
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, not. pros., etc.)
Disposition: _____
Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS



REINA CARRIGG
CLERK OF COURT
FARMINGTON, CT

2014 JUL 29 AM 8:18

A TRUE COPY

Reina Carrigg
CLERK OF COURT
FARMINGTON, CT

General Sessions

CASE HISTORY FOR CASE 2016A3210201264

The State of South Carolina VS Joseph Elijah Mills

FILED DATE: 7/29/2016

CASE TYPE: GS

STATUS: Appeal

INDICTMENT NUMBER: 2017GS3201001

ASSIGNED JUDGE: Clerk Of Court C P, G S, And Family Court

DISPOSITION JUDGE: McMahon, R. Knox

ARRESTING AGENCY: Lexington County Sheriff

CASE PARTIES:

Defendant Mills, Joseph Elijah
Meadowlark Road, Little Mountain, SC 29075

Officer Kemfort, J.
P O Box 639, Lexington, SC 29071

Public Defender Mauldin, Sarah Hahn
407 W. Main St., Lexington, SC 29072

Solicitor Bell, Lester McGill Jr.
205 East Main St, Lexington, SC 29072

Court Reporter Creppon, Bethanie K.

CASE HISTORY FOR CASE 2016A3210201264

Mills, Joseph Elijah
Meadowlark Road
Little Mountain, SC 29075

Age: 28
DL#: [REDACTED]

DOB: [REDACTED]
SSN: [REDACTED]

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
0116 Murder / Murder	7/24/2016	Pled Guilty	5/31/2018

SENTENCING:

Sentenced - 40 years

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
Charge: Murder / Murder				
Fine to State 44%	\$0.00	\$0.00	\$0.00	999
Fine to General Fund	0.00	0.00	0.00	999
Victim Services Asm 38.0013% / 5.783	0.00	0.00	0.00	999
Victim Conviction Surcharge \$100 / \$2!	100.00	100.00	0.00	999
Law Enforcement Funding Surcharge \$.	25.00	25.00	0.00	999
State Assessment	0.00	0.00	0.00	999
Collection Fee 3%	3.75	3.75	0.00	3
Total:	\$128.75	\$128.75	\$0.00	

CASE HISTORY FOR CASE 2016A3210201264

DATE	TIME	EVENT DESCRIPTION
7/28/2016	11:15 AM	Motion for Disclosure of Evidence Favorable to Def
7/28/2016	11:16 AM	Filing recorded: Request for Disclosure - Rule 5
7/29/2016	8:19 AM	Filing recorded: Filing/Case File
7/29/2016	12:00 AM	C32BHENDRI recorded the following Case Note: approved for PD at bond ct
11/10/2016	10:53 AM	Filing recorded: Preliminary Hearing Disposition
5/8/2017	11:05 AM	Filing recorded: Indictment
1/3/2018	3:11 PM	Motion/Motion for Bond
5/9/2018	3:49 PM	Filing recorded: Request for Discovery
5/18/2018	2:33 PM	Order/Other
5/31/2018	4:21 PM	Filing recorded: Active - Non Probation
5/31/2018	4:27 PM	Filing recorded: Sentence Issued
6/11/2018	11:33 AM	Motion/Withdraw Guilty Plea
6/27/2018	4:46 PM	Filing recorded: Letter/Letter
6/27/2018	4:50 PM	Filing recorded: Appeal/Notice of Appeal
10/29/2018	10:36 AM	Filing recorded: Letter/Letter

Print Date: 02/27/2019
 Print Time: 9:26:24AM
 Requested By: C32CROSA

CaseHistory.rpt V6.1

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