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S.C. Supreme Court

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Spartanburg County

Roger L. Couch, Circuit Court Judge

JEREMY J. JETER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-213167

APPENDIX

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS
3
4 The State,)
5 -vs-) TRANSCRIPT OF RECORD
6 Jeremy Jamond Jeter,) 2008-GS-42-5632 .
7 Defendant.) April 13, 2010
8) Spartanburg, South Carolina
9

10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE
12
13

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

15 BARRY JOE BARNETTE, ESQUIRE
16 Attorney for the State

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18 JAMES A. CHEEK, ESQUIRE
19 Attorneys for the Defendant
20
21

22 Linda D. Moffitt
23 Circuit Court Reporter
24
25

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No sworn testimony.

1	<u>EXHIBITS</u>			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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1	<u>EXHIBITS</u>			
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1 (Incident reports marked State's Exhibit No. 1; waiver
2 form marked State's Exhibit No. 2; voluntary statement
3 marked State's Exhibit No. 3.)

4 MR. BARNETTE: May it please the Court, Your Honor.

5 This is the case of the State vs. Jeremy Jamond Jeter.
6 Your Honor, he's pleading guilty to the following
7 indictment: 08-GS-42-5632. It has been true billed by the
8 grand jury.

9 He is represented by James Cheek and Tanya Jones, Your
10 Honor, of the Spartanburg County Public Defender's Office,
11 Your Honor.

12 This is a straight-up plea, Your Honor. I do have
13 three exhibits. I have State's Exhibit 1, is the incident
14 reports in this case from the Spartanburg County Sheriff's
15 Office.

16 Your Honor, it consists of incident reports from
17 Deputy Michael Turner, Sergeant Phillip Cockrell in this
18 case. And Mark Noburg is one of the -- it consists of five
19 pages.

20 Then I have the waiver and statement given by the
21 defendant in this case. It consists of two pages --
22 State's Exhibit No. 2. And State's Exhibit No. 3, Your
23 Honor, is a statement given by Terry Lamar Sims, the victim
24 in this case. It consists of one page.

25 I'd ask all of those be made a part of the record,

1 Your Honor, as well as a part of the facts in the case when
2 they're recited.

3 THE COURT: Okay.

4 MR. BARNETTE: May I approach the bench, Your Honor?

5 THE COURT: Are the other indictments to be nolle
6 prosed?

7 MR. BARNETTE: Yes, sir. That is an unlawful
8 possession of pistol charge -- once this plea is taken.

9 THE COURT: You are Jeremy Jamond Jeter.

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Mr. Cheek and Ms. Jones are your lawyers.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And how long have they been representing
14 you on this charge?

15 THE DEFENDANT: Well, since I caught the charge, Your
16 Honor.

17 THE COURT: About how long has that been?

18 THE DEFENDANT: About 20 months.

19 MS. JONES: Your Honor, if I may interject, I think my
20 client is confused. We picked him up on February 19th of
21 2010.

22 THE COURT: All right. So you didn't have a lawyer?
23 This event is alleged to have occurred back on -- in July
24 of 2008.

25 THE DEFENDANT: Yes, Your Honor.

7
1 THE COURT: You didn't have a lawyer until February of
2 2010, this year?

3 THE DEFENDANT: I had an attorney but not for -- not
4 for this, this case, Your Honor.

5 THE COURT: Okay.

6 THE DEFENDANT: So.

7 THE COURT: Well, Ms. Jones says she and Mr. Cheek
8 have been representing you since February of this year. Is
9 that accurate?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: During that time have you had plenty of
12 opportunity to talk with them about your case as well as
13 your apparent decision to plead guilty?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Did they go over this indictment with you
16 and explain to you what the state claims that you did?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: This indictment, 2008-5632, charges you
19 with the crime of assault and battery with intent to kill.

20 The state alleges that on or about July the 19th of
21 2008 you did with malice aforethought commit an assault and
22 battery upon one Terry Lamar Sims by shooting him with a
23 handgun with the intent to kill him.

24 If convicted of that crime you could receive a
25 sentence of up to 20 years in jail. Or has that changed?

1 MR. BARNETTE: No, sir.

2 THE COURT: Still 20 years.

3 Do you understand what the charge is?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you understand the potential
6 punishment?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And Mr. Cheek and Ms. Jones have explained
9 to you what the state has to prove before you can be
10 convicted of assault and battery with intent to kill?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And they explained to you what the
13 potential sentence could be?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: And did you tell them everything you know
16 about these allegations?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: And did you and your lawyers discuss
19 whether or not you have some defense to this charge?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Do you know of any defense that you have
22 to it?

23 THE DEFENDANT: I do, Your Honor, but I don't think
24 that it, it would, it would proceed in the trial of the
25 court.

1 THE COURT: You don't think it would be convincing?

2 THE DEFENDANT: Yeah, yes, sir.

3 THE COURT: Well, what? What defense do you believe
4 that you do have?

5 THE DEFENDANT: I mean, that I, that I did not shoot,
6 shoot the man.

7 THE COURT: Well, that's an absolute defense. You
8 deny having shot Mr. Sims?

9 THE DEFENDANT: Yes, sir, but I take part of my
10 actions because it was a gunfight. It, it, it was a
11 gunfight, but somebody, between somebody else, somebody
12 else shooting at me, and I shot back at them.

13 THE COURT: Well, do you think you were acting in
14 self-defense?

15 THE DEFENDANT: Yes, sir, yes, Your Honor.

16 THE COURT: Well, do you understand, do you
17 understand -- and I assume your lawyers have discussed it
18 with you -- self-defense is a complete defense to a charge
19 of unlawful homicide?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: And if a jury believed you acted in
22 self-defense or if they had a reasonable doubt as to
23 whether you did or not --

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: -- they'd have to resolve that in your

1 favor.

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Have your lawyers explained that to you?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Do you understand that when you plead
6 guilty you give up your right to assert any defense to the
7 extent that it would absolve you of any criminal
8 culpability?

9 In other words, you can tell me about it, you can
10 explain it to me. But if I accept your plea of guilty
11 you'll be receiving a sentence just as if you had admitted
12 you committed the crime with no defense or just as if a
13 jury had considered all of the evidence and found you
14 guilty.

15 THE DEFENDANT: Uh-huh.

16 THE COURT: Do you understand that?

17 THE DEFENDANT: ~~I understand that~~, Your Honor.

18 THE COURT: ~~In other words, there's no possibility~~
19 ~~that you'll leave here being found not guilty when you~~
20 ~~enter a plea of guilty, whether you have a defense or not,~~
21 ~~because you, you waive your right to have that defense~~
22 ~~absolve you of responsibility.~~

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Do you fully understand that?

25 THE DEFENDANT: I understand, Your Honor.

1 THE COURT: Your lawyers have explained that to you?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And do you still wish to go forward?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Did your lawyers explain to you that you
6 do have a right to remain silent?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: That means you don't have to say anything,
9 you don't have to make a statement, you don't have to
10 answer any questions about these charges, including the
11 questions I'm asking you right now unless you want to plead
12 guilty.

13 Then you have to answer my questions because these
14 questions are required in order for me to determine whether
15 your decision to plead guilty is freely and voluntarily
16 made. So I have to ask the questions in order to make that
17 determination.

18 So if you want to plead guilty you must answer my
19 questions. But you don't have to answer them if you don't
20 want to. But if you don't want to we'll have a jury trial.
21 Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you wish to remain silent or do you
24 wish to answer my questions?

25 THE DEFENDANT: I wish to answer your questions, Your

1 Honor.

2 THE COURT: Do you also understand that you have a
3 right to confront any witness that would offer evidence
4 against you?

5 And that just means that you have a right to require
6 the state to bring any witness that would offer testimony
7 or other evidence tending to prove your guilt. They'd have
8 to bring them to court and have them take the witness stand
9 and testify in your presence under oath so you could see
10 who they are, you could hear what they have to say and your
11 lawyers could examine those witnesses on that testimony in
12 order to test that witness' reliability and the credibility
13 of the information they provided.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Now, when you plead guilty there may be
16 some witness in court, but they don't take the witness
17 stand. They don't testify. They're not placed under oath.
18 And nobody is going to examine them on their statement. Do
19 you understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: But you have a right for that be
22 accomplished. But if you do it'll have to be during a jury
23 trial.

24 Do you understand your right to confront the state's
25 witnesses?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you understand when you plead guilty
3 you give that right up?

4 THE DEFENDANT: Yes, yes, Your Honor.

5 THE COURT: And you wish to give that right up or not?

6 THE DEFENDANT: I wish to give it up, Your Honor.

7 THE COURT: And do you also understand that you have a
8 right to have a jury trial?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: And if you elect to have a jury trial you
11 and your lawyers help select the jury. Twelve are chosen
12 from a larger panel or pool of jurors. And once those 12
13 are selected they sit over there in the jury box.

14 They listen to all of the testimony presented by the
15 state. They listen to any testimony or other evidence
16 presented by you if you choose to present any.

17 And based upon that evidence they decide what they
18 think the facts are as they relate to these allegations.
19 In other words, they decide what they think occurred on
20 July the 19th of 2008 as it relates to this charge.

21 Once they decide the facts they apply the law that I
22 provide them. They determine whether or not you're guilty
23 of assault and battery with intent to kill.

24 Now, before a jury could find you guilty all 12 jurors
25 have to be convinced of your guilt beyond a reasonable

1 doubt. And the burden is on the prosecutor to convince
2 them of that fact.

3 The burden is not on you to prove that you are not
4 guilty or to prove that you're innocent. The burden is on
5 the state to prove that you are guilty.

6 And so you can have a jury trial and still remain
7 silent and not testify or say anything or call any
8 witnesses.

9 You'd have that choice. That'd be up to you. You'd
10 have to make that decision.

11 Do you understand your right to have a jury decide
12 whether or not you're guilty?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you understand when you plead guilty a
15 jury doesn't make that determination?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you wish to have a jury trial or not?

18 THE DEFENDANT: No, Your Honor.

19 THE COURT: You wish to go forward and plead guilty?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Has anybody promised you anything that
22 caused you to make that decision?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: Has anybody threatened you in any way?

25 THE DEFENDANT: No, sir.

1 THE COURT: Anybody coerced you or placed any pressure
2 upon you that caused you to make that decision?

3 THE DEFENDANT: No, sir.

4 THE COURT: Are you pleading guilty freely and
5 voluntarily?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Was it your decision?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Are you today under the influence of any
10 alcohol or any other intoxicating type of substance that
11 might prevent you from understanding fully what you're
12 doing?

13 THE DEFENDANT: No, sir.

14 THE COURT: Have you ever been treated for any type of
15 substance abuse or addiction?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: Have you ever been treated for any type of
18 mental illness or emotional disturbance?

19 THE DEFENDANT: No, sir.

20 THE COURT: Do you suffer from any such condition
21 today?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: How long have you been in jail?

24 THE DEFENDANT: 581 days, Your Honor.

25 THE COURT: And is that since you were arrested on

1 this charge?

2 THE DEFENDANT: No, sir.

3 THE COURT: What are you in jail for?

4 THE DEFENDANT: I'm currently doing a sentence on a
5 burglary second.

6 THE COURT: Okay. You are in the Department of
7 Corrections?

8 THE DEFENDANT: Yes, yes, Your Honor.

9 THE COURT: And what kind of sentence did you get?

10 THE DEFENDANT: ~~A 15-year suspended to ten~~

11 THE COURT: Suspended to ten?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And when did you receive that sentence?

14 THE DEFENDANT: September 11th of '08.

15 MR. BARNETTE: Your Honor, actually it was
16 June 24th of 2009.

17 THE DEFENDANT: Yeah. That's when I received it, but
18 I got time credit for September.

19 THE COURT: But you pled guilty?

20 THE DEFENDANT: June 24th of 2009.

21 THE COURT: June of 2009.

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: On the burglary charge.

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: All right. And you're 20 years old.

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: How far did you go in school?

3 THE DEFENDANT: Eleven years.

4 THE COURT: Are you married?

5 THE DEFENDANT: No, sir.

6 THE COURT: Do you have any children?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And what kind of work can you do?

9 THE DEFENDANT: Well, I was, I was doing clerk work at
10 Kentucky Fried Chicken before I was incarcerated.

11 THE COURT: Okay. I'm going to ask the solicitor to
12 tell me about the facts that relate to your case.

13 THE DEFENDANT: All right.

14 THE COURT: Listen to what he tells me, because when
15 he's through I'll ask you if you agree or disagree. If you
16 disagree you'll have to tell me what you do not agree with.
17 Okay.

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: All right. Mr. Barnette.

20 MR. BARNETTE: Okay. Your Honor, this occurred on
21 July 19th of 2008, Your Honor, approximately 3:27 in the
22 morning at 620 West Blackstock Road in Spartanburg, South
23 Carolina, which is in Spartanburg County, Your Honor. It's
24 called Club Hush.

25 Your Honor, Deputy Turner with the sheriff's

1 department was at the incident location on unrelated call.
2 He heard gunshots coming from behind the club. At this
3 time he dispatched a shots-being-fired. He went
4 particularly to his patrol car and went back to the back of
5 the club.

6 Approximately 30 seconds after the shots was fired he
7 exited his vehicle. He found the victim, a Terry Lamont
8 Sims. He'd been shot through his -- I'm trying to remember
9 which shoulder -- right shoulder, Your Honor. And it was
10 covered in blood.
11 He asked him to have a seat and remain calm, an
12 ambulance was on the way. He asked him what the shooter
13 looked like. He said that he's a black male wearing a
14 white T-shirt and blue jeans shorts, said that he fled the
15 scene on foot and ran through the apartment complex located
16 across the street from the club.

17 After putting that out Deputy Noburg proceeded to the
18 complex where he saw a male matching the description. He
19 advised the subject had what appeared to be a handgun in
20 his left hand, which Noburg advised he had lost the subject
21 still in the complex. Sergeant Cockrell was also in the
22 complex and advised he had spotted the suspect and was
23 chasing him on foot.

24 All of them proceeded to Sergeant Cockrell's location.
25 He found the defendant under a white in color Chevy Tahoe

1 there in the complex, Your Honor. He was taken into
2 possession at that time, Your Honor, and found to be the
3 defendant in this case.

4 Investigators later talked to Mr. Jeter. I made it --
5 State's Exhibit 1 consists of all of the incident reports
6 involving the officers. State's Exhibit 2 was a statement
7 given by Mr. Jeter after he was Mirandized by detectives.

8 He says, now, "I was leaving Club Hush. I used a
9 man's phone to call my ride. After I was using it some guy
10 started shooting at me and I shot him one time because my
11 life was threatened. So I got away because I felt like if
12 I'd dye if I didn't shoot (sic). I dropped the gun and
13 hide (sic) it. It was all a mistake."

14 And then State's Exhibit No. 3 is Terry Sims.
15 Basically, he said that a black fellow came up to him and
16 asked to use his phone. After he hung up and gave him the
17 phone back, "He then reached under his shirt and got a gun
18 from under his waistband and pointed the gun at me and shot
19 me." And he took off from there, Your Honor.

20 I'd like to make all three of these exhibits, like I
21 say, to supplement the facts of the case, I've give the
22 Court also in this case, Your Honor.

23 Mr. Sims is present to address the Court at the
24 appropriate time.

25 THE COURT: All right. Mr. Jeter, now, you heard what

1 the solicitor told me about the facts that relate to your
2 case.

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: And he has read from a statement that he
5 contends you gave after you were either placed under arrest
6 or after officers took you into custody to investigate the
7 case.

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: And, and when you gave that statement was
10 the statement given freely and voluntarily?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: And were you advised of your
13 constitutional rights to remain silent and to have a lawyer
14 present and to stop questioning if you wanted to at any
15 time?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: And that the statement could be used
18 against you if you gave one?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: And did you understand your rights?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: And did you freely give those rights up in
23 order to make the statement?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Did anybody force you into the statement

1 or pressure you into the statement?

2 THE DEFENDANT: No, sir.

3 THE COURT: Did they promise you anything that caused
4 you to make that statement?

5 THE DEFENDANT: No, sir.

6 THE COURT: Did you do so of your own will and
7 volition?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: In other words, they asked you if you'd
10 tell them what happened and you said you would?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: And nobody forced you into it.

13 THE DEFENDANT: No, sir.

14 THE COURT: And you understood you didn't have to.

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: All right. And, now, there clearly is a
17 dispute between what you say and what Mr. Sims says
18 occurred.

19 You heard what the solicitor said that Mr. Sims
20 contends. I believe his contention was that he was at the
21 club and you came out and asked to borrow his phone and he
22 let you use the phone and then you hung up. And he says
23 you reached under your shirt and pulled out a gun and shot
24 him and took off running.

25 Do you dispute that?

1 THE DEFENDANT: I don't agree with it because I have
2 I had no reason to shoot Mr. Sims. I used his phone and
3 gave his phone back. And, and some guys started shooting
4 from nowhere. And, and to like protect me and him I just
5 fired a shot back and took off running.

6 THE COURT: All right. But you're in agreement that
7 Mr. Sims did not have a gun, is that true?

8 THE DEFENDANT: Did Mr. Sims have a gun?

9 THE COURT: Mr. Sims.

10 THE DEFENDANT: I wasn't aware.

11 THE COURT: And he didn't shoot at you, did he?

12 THE DEFENDANT: Some guys were shooting. I don't --

13 THE COURT: I'm talking about Mr. Sims.

14 THE DEFENDANT: No, sir. No, sir. He did not shoot at
15 me.

16 THE COURT: Did he threaten you in any way?

17 THE DEFENDANT: No, sir.

18 THE COURT: In other words, you asked him to use the
19 phone, and he said here, help yourself.

20 THE DEFENDANT: Yeah, yeah, that's --

21 THE COURT: That's pretty much all there was to the
22 discussion between you and he?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: So he didn't do anything that would cause
25 you to think he was threatening you in any way.

1 THE DEFENDANT: No, sir, no, Your Honor.

2 THE COURT: Did -- Solicitor, did Mr. Sims indicate
3 that there was any other shooting out there besides that
4 which was done by Mr. Jeter?

5 MR. BARNETTE: Let me -- can I take a second to ask to
6 make sure, Your Honor?

7 THE COURT: Okay.

8 (Pause.)

9 MR. BARNETTE: Your Honor, he's told me that he's not
10 aware of any other shooting. He only heard the one shot.

11 THE COURT: Okay. All right. Well, Mr. Jeter,
12 clearly there's, you know, a conflict in, in what Mr. Sims
13 says occurred and what perhaps some other witnesses may say
14 and what you say.

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: And as I've told you, you have a right to
17 present that evidence if you wanted to to a jury. And a
18 jury could decide whether or not you're guilty of assault
19 and battery with intent to kill.

20 Do you understand that?

21 THE DEFENDANT: Yes, sir, Your Honor.

22 THE COURT: You've told me that you don't want to have
23 that jury trial, that you want to go forward and plead
24 guilty. Is that true?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Are you satisfied that if your case went
2 to trial before a jury and a jury was called upon to make
3 the decision that there is some significant likelihood that
4 they would find you guilty of assault and battery with
5 intent to kill?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And based upon that view and the fact that
8 (the state has agreed to drop an additional charge) are
9 those factors that you took into consideration in arriving
10 at your decision?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: And are you satisfied with your decision
13 to plead guilty?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: One other thing with respect to the charge
16 itself.

17 Have your lawyers explained to you that assault and
18 battery with intent to kill is classified as a violent
19 offense under the law?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Do you understand the significance of that
22 classification?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: The burglary second that you pled guilty
25 to, was that a violent burglary, or a nonviolent?

1 THE DEFENDANT: Nonviolent.

2 THE COURT: Have you ever been convicted of any type
3 of crime classified as violent?

4 THE DEFENDANT: No, Your Honor.

5 MR. BARNETTE: May we approach for a second?

6 THE COURT: Yeah.

7 (Bench conference held off the record.)

8 THE COURT: Mr. Jeter, I am told by the solicitor and
9 your lawyers that at least they're under the assumption,
10 they're under the belief -- and Mr. Barnette says he could
11 get the indictments if we need to -- but he believes and he
12 contends that one of the burglaries that you pled guilty to
13 was, in fact, classified as violent because it was a
14 burglary where you went into a residence and guns were
15 stolen.

16 MR. BARNETTE: Your Honor, it wasn't a residence.

17 THE COURT: A building?

18 MR. BARNETTE: Your Honor, it was a business.

19 THE COURT: Well, you went into a building and guns
20 were stolen.

21 If, if you break into a residence or a building and it
22 involves guns in your possession, whether you take them in
23 or you take them out or you just steal them, that's an
24 aggravating factor under the burglary statute, and it makes
25 that burglary classified as a violent offense.

1 Do you understand that?

2 THE DEFENDANT: I wasn't aware of it, but I understand
3 it, Your Honor.

4 THE COURT: You understand that now.

5 And what that means is, although in this particular
6 case it's not, it's not as significant as it might be, but
7 if you've been convicted of a violent offense and you
8 subsequently are found guilty of an additional violent
9 offense on a separate occasion, it means that whatever
10 sentence is imposed is a no-parole offense.

11 Do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: So the sentence today would be a no-parole
14 offense.

15 THE DEFENDANT: Yes, Your Honor. I am aware.

16 THE COURT: And, in fact, in this case assault and
17 battery with intent to kill is itself a crime that's
18 classified as a no-parole offense.

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: So whether or not you had any prior
21 offenses this -- a conviction for assault and battery with
22 intent to kill is also a no-parole offense. Do you
23 understand that?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: And do you understand the significance of

1 that designation?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Assault and battery with intent to kill is
4 also classified as a most-serious offense.

5 Did you know that?

6 THE DEFENDANT: I wasn't aware of it, Your Honor.

7 THE COURT: Well, did y'all explain that to him? Your
8 lawyers think -- they contend they've explained that to
9 you. Perhaps you have just forgotten it.

10 THE DEFENDANT: Yes, Your Honor. They explained it to
11 me. I just didn't understand it.

12 THE COURT: But a most serious offense is significant
13 because if you are -- if you've already been convicted of a
14 no-parole offense, excuse me, if you've already been
15 convicted of a most serious offense, then the sentence on
16 this would have to be life without parole.

17 Now, I understand he's not been convicted of a most
18 serious offense.

19 MR. BARNETTE: That's correct, Your Honor.

20 THE COURT: But you have been convicted of a serious
21 offense, because the previous burglary violent -- a
22 burglary classified as violent is classified also as a
23 serious offense.

24 Have your lawyers explained to you the significance of
25 serious-offense convictions and most-serious-offense

1 convictions?

2 THE DEFENDANT: I was aware of them, but I didn't
3 quite understand it, Your Honor.

4 THE COURT: Well, in the future if you are convicted
5 of any crime that's classified as most serious you have to
6 be sentenced to the Department of Corrections for the rest
7 of your life.

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Nothing anybody can do about it. The law
10 requires you to be sentenced to life in prison. Do you
11 understand that?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Now, you've been convicted of a serious
14 offense. This is a most serious offense. If you're
15 convicted -- if you get convicted in the future of a most
16 serious offense you have to do life as I just stated.

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: If you're convicted in the future of a
19 crime that's classified as serious the state can ask the
20 Court to sentence you to life imprisonment. It's in the
21 discretion of the prosecutor to seek a life sentence.

22 With regard to two convictions for most serious
23 there's no discretion. It's mandatory. If you have three
24 serious convictions it's discretionary. The state can seek
25 a life sentence. Maybe they won't. But you understand

1 there is that possibility in the future.

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Understanding that -- do you now
4 understand that this crime is classified as violent, most
5 serious and no parole?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And you understand the significance of
8 those designations.

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Understanding that, do you still wish for
11 me to accept your plea of guilty?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: All right. Mr. Sims, wants to be heard?

14 MR. BARNETTE: Your Honor, I think he would. I think
15 he just wanted to show you where he was shot at, Your
16 Honor.

17 THE COURT: Okay.

18 MR. BARNETTE: Just pull it up so the judge can see
19 the front and the back. He was shot in the front, Your
20 Honor, and it went through and through, and went through
21 the back.

22 THE COURT: All right. Well, just a minute, just a
23 minute. Don't go back yet.

24 You're Terry Lamar Sims.

25 THE VICTIM: Yes, sir.

1 THE COURT: And you've shown me where you got shot.
2 Did you know Mr. Jeter before this day?

3 THE DEFENDANT: No. I ain't never seen him before.

4 THE COURT: Never seen him as far as you know.

5 THE DEFENDANT: No, sir.

6 THE COURT: And do you have any reason got any idea
7 why he shot you?

8 THE DEFENDANT: No, sir.

9 THE COURT: Nothing occurred out there that would have
10 instigated that?

11 MR. BARNETTE: Nah. The reason why I came out there
12 was because I had some friends, they say their car got
13 broke into. And I was coming out there to check on them.
14 When I walked around there he just asked to use the phone.

15 THE COURT: He asked to use the phone. You gave him
16 your phone. He used the phone and hung it up and handed it
17 back to you and then pulled a gun?

18 THE VICTIM: Yes, sir.

19 THE WITNESS: And you don't have any idea why.

20 THE VICTIM: Uh-uh.

21 THE COURT: Did you see anybody else out there in
22 close proximity to where you and he were standing?

23 THE VICTIM: Nah. But the people, the girls that I
24 was going to meet, they was right there. They were right
25 there.

1 THE COURT: They were there too?

2 THE VICTIM: Yeah. There was like four of them.

3 THE COURT: Okay. And did you hear anybody? Did you
4 see anybody with a gun or hear any other gunshots?

5 THE VICTIM: No, sir. When I -- when they shot me, I
6 just took off,

7 THE COURT: And you just got shot once?

8 THE VICTIM: Yes, sir.

9 THE COURT: But there were no shots fired before you
10 got shot.

11 THE VICTIM: Not that I know of.

12 THE COURT: Okay. All right. Anything else you want
13 to tell me?

14 THE VICTIM: That's it.

15 THE COURT: Okay. Thank you. Good luck to you.

16 All right. Mr. Jeter, do you still want to plead
17 guilty?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: I'll accept your plea and hear from you
20 and your lawyers.

21 MR. CHEEK: May it please the Court, Your Honor.

22 THE COURT: Mr. Cheek.

23 MR. CHEEK: Your Honor, in talking with Mr. Jeter he
24 indicated, and our records show, that we actually picked
25 him up as our client in February.

1 Your Honor, he and I had several discussions before
2 then regarding his situation. He was at that time
3 attempting to try to hire private counsel that had
4 represented him on the charges that involved the burglary.

5 So we didn't move forward with this very much until he
6 actually picked up -- or was picked up by the solicitor's
7 office -- picked up by the public defender's office.

8 And at that time, Your Honor, we began to have serious
9 discussions with the solicitor's office, because at all
10 times he indicated he wanted her to work out something with
11 this, this charge. And but I told him we couldn't do
12 anything until he made a concrete decision to hire private
13 counsel, or if he wanted the public defender's office to
14 represent him.

15 And ultimately the family let him know that they did
16 not have the funds to hire private counsel. They have a
17 great deal of respect for the gentleman that had
18 represented him before and wished they could have hired
19 him, but that just did not work out. So then we picked up
20 representation of him, Your Honor, in February.

21 Your Honor, during this period of time we had several
22 discussions about what happened out there. And, Your
23 Honor, with no disrespect to the victim in this case, Your
24 Honor, we would like to pass up a supplemental report. I
25 shared this with the -- pass up this report, a supplemental

1 attachment.

2 MR. BARNETTE: I think you have that, Your Honor. He
3 can doublecheck with you on that. I have no objection to
4 it.

5 THE COURT: That's attached to the incident report?

6 MR. BARNETTE: I think I put them all in there.

7 MR. CHEEK: And we would like to pass up the statement
8 of Mr. Kendel Sullivan that's been part of the discovery in
9 this case.

10 MR. BARNETTE: Your Honor, if we can just make, I
11 guess make it, a defense exhibit. They passed up the
12 statement.

13 THE COURT: Okay.

14 (Voluntary statement marked Defendant's Exhibit No.
15 1.)

16 THE COURT: All right. Mr. Cheek.

17 MR. CHEEK: Your Honor, a dear friend of mine in Union
18 says this quite often, that some things only make sense to
19 a fool.

20 And, Your Honor, were we to have gone forward with
21 this matter and relied strictly upon what the victim said
22 in this case we'd be trying to make sense of something that
23 only makes sense to a fool. And, Your Honor, we just ask
24 the Court to take this into consideration.

25 There's been a lot of prayer going on here and a lot

1 of investigation going into this matter separate and apart
2 from what the state did in order to try to make some sense
3 of all of this.

4 Your Honor, very clearly what happened out there that
5 night was that my client here, Mr. Jeter, was the person
6 who was the front man for somebody else to go make contact
7 about a drug transaction.

8 Mr. Jeter was very hesitant to reveal all of this, and
9 I understand why, because he didn't want to open a
10 situation where someone else would be drawn to this,
11 particularly the possibility of a family member who would
12 have been drawn into this.

13 There is from the report there, from Mr. Sullivan, the
14 statement of Mr. Sullivan -- the reports from the officer,
15 the officers, clearly states there was shots fired out
16 there, which indicates there was more than one shot fired,
17 Your Honor.

18 The victim in this case says only one shot fired, but
19 the reports, all reports, indicate there was more --
20 multiple shots fired out there.

21 When the officers pulled around beside of the building
22 some people behind that building, some witnesses who've
23 never, never gave statements and who disbursed after the
24 officers pulled around there, pointed towards the direction
25 and says that's the suspect's direction. And then the

1 supplemental report shows that, Your Honor. And we would
2 ask the Court to take that into consideration.

3 Further, Your Honor, we ask the Court to take into
4 consideration several other things that aren't really
5 apparent here.

6 Mr. Jeter is a left-handed person. And to pull out a
7 gun and shoot the victim in the way he said he was shot,
8 most probably he would have been shot, also in the left arm
9 and not the right arm because of the direction and the way
10 Mr. Jeter would have been facing him had he been shooting
11 face on.

12 Mr. Jeter acknowledges that a shooting occurred out
13 there, and he could not truthfully take the stand and say
14 that the victim in this case had a gun, but there were
15 people who approached him out there behind that building
16 who had guns.

17 And, Your Honor, in looking at all of this we would
18 ask the Court to take those things into consideration that
19 would not be admissible at trial but certainly for today's
20 hearing, for a plea. We keep praying that things can be
21 revealed that's going to help this gentleman.

22 And Mr. Sims come before the Court, and continually
23 the Court asked him -- he was arrested back in this very
24 same jurisdiction with more marijuana than my mind could
25 comprehend, which means he's a drug dealer.

1 We ask the Court to consider that this young man was
2 out there. He made the front for somebody else. Those
3 associates of Mr. Sims or somebody out there approached him
4 with a gun, obviously robbed him or robbed the relative who
5 was supposed to had some money on him to make the drug
6 transaction. The transaction did not go through and this
7 situation happened. Mr. Sims got shot. Mr. Sims did not
8 have a weapon, but others out there did have a weapon.

9 Your Honor, we just ask the Court to consider what
10 really happened out there and to sentence accordingly,
11 because what my client did was wrong. He shouldn't have
12 been out there under any circumstances.

13 Your Honor, the next day after this gentleman was
14 taken into custody Mr. Ken Sullivan -- and in that
15 statement passed up -- called a person on the phone who
16 turned out to be Mr. Jeter's brother, Antwon. And Antwon
17 is never going to come into this courtroom and say he had
18 prior contact with Mr. Sullivan or any of those people out
19 there, or Mr. Sims.

20 But they called Mr. Jeter's brother for a reason.
21 They didn't call him to say we just want to see casually
22 who was being called. They called in order to try to
23 squash things and make sure that was the end of it.

24 They said basically the same thing, the wrong person
25 got shot. We're sorry it happened. They said, Antwon

1 said, the wrong person got shot, sorry it happened. It
2 happened.

3 We just ask the Court to sentence accordingly. The
4 truth be known, I wasn't there, and I didn't see it, but
5 from everything I could learn from talking to the other
6 people who were around the club that night and people who
7 was involved in and out of this trade going on and the fact
8 that following that Mr. Sims has been arrested with a
9 substantial amount of drugs in the same jurisdiction, we
10 would ask the Court to put everything in perspective and to
11 sentence accordingly.

12 We believe had the matter gone to trial that Mr. Jeter
13 would have been able to give some argument about the
14 shooting that occurred there. But Mr. Sims did not point a
15 gun at him. Other people did. We can't prove that those
16 other people acted under the direction of Mr. Sims. We
17 can't prove that. We can't offer any testimony to show
18 that.

19 We can only say that by his own sworn statement
20 Mr. Sullivan says he called that number. And when he
21 called that number he got Antwon Jeter, Mr. Jeremy Jeter's
22 brother, on the phone. And it was a mistake made, Your
23 Honor, because what they had planned to do was rob
24 Mr. Antwon Jeter. And that didn't happen.

25 We just ask the Court to please have mercy in this

1 case as far as sentencing is concerned. We ask the Court
2 to have consideration of concurrent sentencing and ask the
3 Court to take into consideration this young man already has
4 a ~~15 year sentence~~ suspended to the service of ten years
5 that he's currently doing in the Department of Corrections.

6 Your Honor, we'd ask the Court not to extend his time
7 in the Department of Corrections one day longer than what
8 he's already got to serve because that is a substantial
9 sentence.

10 And he is facing dire consequences if he ever engages
11 in anything like this again. He and his buddies broke in
12 the gun store to steal guns, not to go rob anybody. But
13 because they armed themselves for the job, other than
14 working at Kentucky Fried Chicken, they're planning to do
15 in our community. What they planned to do was a bad thing,
16 get involved in the drug trade.

17 But this experience taught has Mr. Jeremy Jeter an
18 absolute lesson. And we're just pleading for mercy today,
19 Your Honor, in sentencing.

20 He has one brother that's at Clemson. He has another
21 brother who owns his own business here in Spartanburg. He
22 knows the right thing to do. He has support from family.
23 His mother has moved to Atlanta since all of this
24 happened because she wanted to get away from a lot threats
25 that were being made and things like that. She moved away

1 because she was not going to be involved in any more of
2 this situation. So she moved to Atlanta.

3 But she loves her son, and she's hoping at some point
4 whenever he's free that he might move and make a home with
5 her there and not be around anybody to cause any further
6 concerns or problems in this community.

7 But he does have some good role models to follow. And
8 we'd ask the Court to consider all of that as the Court
9 grants a sentence, Your Honor.

10 THE COURT: All right. Ms. Jones, anything you want
11 to add?

12 MS. JONES: No, sir.

13 THE COURT: Well, now, Mr. Cheek, I've read
14 Mr. Sullivan's statement and I don't -- maybe I'm missing
15 something. But from what I read, the way I read it, it
16 says that Mr. Sullivan called a number that Mr. Jeter had
17 called that night and got Mr. Jeter's brother on the phone.
18 And his brother said that Mr. Jeter, the defendant, had
19 been fighting at the club earlier and called him earlier
20 also and told him about it.

21 And then Mr. Sullivan goes on to say he stated that
22 his brother had mistaken Mr. -- defendant Jeter's brother
23 said that his brother had mistaken Terry Sims for someone
24 else and that was the reason he shot him. It didn't say
25 that they were in a shootout and he just missed and hit

1 somebody else. It says that he shot Mr. Sims but that he
2 thought he was somebody else.

3 MR. CHEEK: Your Honor, Mr. Jeter was in jail. He had
4 no conversation with Antwon Jeter, period, from that jail.

5 They took Mr. Jeter from Club Hush to jail. He had no
6 conversations to explain to his brother anything. So all
7 of that is fabricated, Your Honor.

8 THE COURT: Oh, I thought you were handing me this to
9 corroborate your client's position that he didn't intend to
10 shoot Mr. Sims.

11 MR. CHEEK: No, sir. That's not why I passed that up.

12 THE COURT: Okay.

13 MR. CHEEK: I passed that up for the Court to see and
14 to understand why in the world would Mr. Sullivan call that
15 number except to try to squelch everything. And he just
16 had to give some explanation because he knew that if
17 Mr. Antwon Jeter reported that he got a phone call from him
18 trying to squelch everything, then he'd have some
19 explanation up front and why he even bothered to call this
20 man's phone.

21 THE COURT: Okay.

22 MR. CHEEK: No reason to have called that phone
23 whatsoever because they were not involved in anything. If
24 they had information they should have turned it over to the
25 police and let the police follow up on it. Instead, they

1 called themselves to say to Mr. Antwon, Mr. Jeremy Jeter's
2 brother, man, let this all be over with, we're sorry it
3 happened, sorry that the wrong person got shot, we're sorry
4 it happened, just squelch this, probably thinking they
5 could do business in the future, Your Honor, is all I'm
6 saying.

7 THE COURT: Well, okay. I see what you're saying.

8 Okay. All right. Mr. Jeter, anything you want to add
9 to what your lawyers told me?

10 THE DEFENDANT: Anything, do I want to add?

11 THE COURT: Yeah. Do you want to tell me anything
12 before I sentence you?

13 THE DEFENDANT: I just want to say I, I'm sorry to
14 the, to the courtroom and to everybody who, who felt like
15 they was in harm by, by my actions in any way. And, Your
16 Honor, I just hope to put this in the past and go on the
17 right track.

18 MR. BARNETTE: Your Honor, do you need his prior
19 record?

20 THE COURT: Okay.

21 MR. BARNETTE: Your Honor, he has that burglary second
22 degree nonviolent, two counts. One of them received
23 suspended to ten years. All of these are concurrent. Ten
24 years suspended to five years probation.

25 Two counts of grand larceny, ten years. Possession of

1 stolen vehicle, ten years. And petty larceny, 30 days.

2 All ran concurrent, pled at the same time.

3 And he was represented by Tam Boggs on those charges,

4 Your Honor, not the public defender's office.

5 THE COURT: Mr. Jeter, I don't know how you got

6 started off on the wrong foot, but you're only 20 years

7 old.

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: And you've already got a substantial,

10 serious criminal record. I'm not sure why you got involved

11 in all of that, but it's going to follow you the rest of

12 your life.

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: On Indictment 2008-5632, Sentence of the

15 Court is you, Jeremy Jamond Jeter, be confined to the South

16 Carolina Department of Corrections for a period of 20

17 years.

18 That sentence is suspended upon the service of 15.

19 You're placed on probation for five. Conditions of

20 probation, no contact with the victim directly or

21 indirectly. Pay \$500 for appointed counsel in the case.

22 And of course you get credit for any time you're

23 entitled to. But, now, if you're serving a sentence you're

24 not entitled to that. Okay.

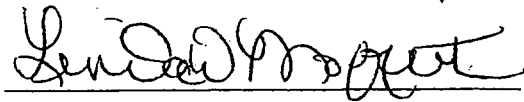
25 END OF REQUESTED TRANSCRIPT OF RECORD

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh 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 evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 13th day of April 2010.

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

March 28, 2011



Linda D. Moffitt
Circuit Court Reporter

FEB-12-2013(TUE) 11:48

596 3600

JOM

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To: 918037341345-088

RECEIPT FOR EXHIBITS

Case # 08 GS/EP-42-5632Judge ConePlaintiff StateP's ally BennettDefendant Jeremy Jeter

D's ally

Received from Linda D. Moffill, Circuit Court Reporter, the following exhibits:

51 Incident report51 Vol. Statement52 PI Waiver form53 Vol. StatementReceived by KG McKinney, DC B. Bennett, Clerk of Court

FEB-12-2013(TUE) 11:48

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To: 918037341345

CASE NUMBER

NCIC

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AGENCY I.D.
SC042000INCIDENT REPORT
SPARTANBURG COUNTY SHERIFF'S OFFICE

2008071111

INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM	
1 Assault and Battery w/ Intent to Kill		☒ YES ☐ NO	☐ YES ☒ NO	Parking Lot/Night Club		☒ Individual ☐ Business ☐ Financial Inst ☐ Government ☐ Religious Org ☐ Soc/Public ☐ Other ☐ Unknown ☐ Police Off	
2 UNLAWFUL POSSESSION OF FIREARM		☐ YES ☐ NO	☐ YES ☐ NO				
3 WARRANT # M-023025 + M-023026		☐ YES ☐ NO	☐ YES ☐ NO				
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)				ZIP CODE	WEAPON TYPE		
ad Spbrg, SC "Club Huch"				29301	Firearm		
INCIDENT DATE	24 HR CLOCK	TO	DATE	24 HR CLOCK	DISPATCH DATE/TIME (24 HR CLOCK)		LOCATION NO
07/19/08	03:27		07/19/08	03:27	DISP DATE	DISP TIME	
					07/19/08	03:27	
COMPLAINANT'S NAME (LAST FIRST MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE
Turner, Michael		ST		☒ J ☐ O ☐ U	W	M	25
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO	
Crest		Spartanburg		SC	29301	31	
VICTIM NAME (LAST FIRST MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE
Sims, Tarry Lamar		ST		☐ J ☐ O ☐ U	B	M	22
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO	
Rd.		Gaffney		SC	29341	0/J	
VICTIM WEIGHT		VICTIM HEIGHT		VICTIM HAIR		VICTIM EYES	
511		150		BLK		BRO	
FACIAL HAIR		SCARS		TATTOOS		GLASSES	
CLOTHING		PHYSICAL		PECULIARITIES		ETC	
VICTIM INJURY (VICT 1) YES ☐ NO ☐ EXPLAIN		GUN SHOT WOUND TO THE RIGHT ARM		COMPLAINT OF ANY NON-VISIBLE INJURY		YES ☐ NO ☐	
VICTIM (NO 1) USING ALCOHOL YES ☐ NO ☐ MUNK		DRUGS YES ☐ NO ☐ MUNK		TYPE			
TWO-MAN VEH		ONE-MAN VEH		DETECTIVE/SPECIAL AGENT		OTHER	
J - This Jurisdiction S - State O - Out of State U - Unknown							
SUSPECT NAME (LAST FIRST MIDDLE)		RACE	SEX	AGE	ETH	DATE OF BIRTH	HEIGHT
Jeter, Jeremy Jamal		B	M	18	N	09/28/1989	507
FACIAL HAIR		SCARS		TATTOOS		GLASSES	
CLOTHING		PHYSICAL		PECULIARITIES		ETC	
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO	
Rd.		Spartanburg		SC	29301	24	
SUSPECT (NO 1) USING ALCOHOL YES ☐ NO ☐ MUNK		ARRESTED/IN ARREST OFFENSE/AGENCY		DATE/TIME OF OFFENSE		DATE/TIME OF ARREST	
				07/19/08 3:27			
DRUGS YES ☐ NO ☐ MUNK TYPE		TOTAL # ARRESTED					
		1					
On above date and time I, Deputy Turner was at the incident location for an unrelated call when I heard gun shots coming from behind the club. At this time I advised dispatch that shots were being fired. I then went directly to my patrol car and went to the back of the club. It was approximately 30 seconds after the shots were fired that I exited my vehicle behind the club and was approached by a black male who stated that he had been shot. The male was holding his right shoulder which was now covered in blood. I advised him to have a seat and remain calm that an ambulance was on the way. I then asked the victim what the shooter looked like and he stated that he was a black male wearing a white t-shirt and blue jean shorts. He stated that the suspect fled the scene on foot and ran through the apartment complex located across the street from the club. At this time Deputy Noteboom proceeded to the complex where he advised that he was 10-80 with a male matching the description. Deputy Noteboom then advised that the subject had what appeared to be a handgun in his left hand, at which time Noteboom advised he had lost the subject still in the complex. Sgt. Cockrell was also in the complex and advised that he had spotted the suspect and was chasing him on foot. I then proceeded to Sgt.							
JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY			
TYPE (GROUP)		TOTAL VALUE					
STOLEN							
DAMAGED							
RETURNED							
RECOVERED							
REIZED							
SUBJECT IDENTIFIED		SUBJECT LOCATED		ACTIVE		ADM CLOSED	
				ARRESTED UNDER 14		EX-CLEAR UNDER 14	

FEB-12-2013(TUE) 11:48

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To: 918037341215

AGENCY I.D.
SC0420000

SUPPLEMENTARY REPORT

CASE NUMBER

2008071111

NGIC

IND LIND

☒ ORIGINAL
REPORT
☐ MODIFIES
ORIGINAL☐ SUPPLEMENTAL
REPORT
☐ CASE STATUS
CHANGE☐ ADDITIONAL
VICTIM
☐ ADDITIONAL
OFFENDERS☐ ADDITIONAL
STOLEN PROPERTY
☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 2 OF 2 PAGES

Cockrell location, meanwhile he advised that he had the suspect at gun point on the left side of the complex. Upon my arrival I observed a black male subject hiding under a white in color Chevy Tahoe, the subject was wearing a white t-shirt and blue jean shorts. At this time I exited my patrol vehicle and covered the suspect with my duty weapon while Sgt. Cockrell transitioned to his tazer. Once this was done I proceeded to holster my weapon and pull the suspect from under the vehicle. I then secured the suspect in handcuffs and placed him in the back seat of my patrol car. At this time Sgt. Cockrell advised me to escort the subject back to the Sheriff's Office. Once at the Sheriff's Office the subject was secured in an interview room where he was given water at his request. No other request were made and the subject was advised that investigators would be with him shortly. Inv. Letterman and Inv. Taylor responded to speak to the suspect. I-51 Talangeles responded to the incident scene as well as the Sheriff's Office to process evidence. Use of force report was completed.

TYPE	SUBJECT IDENTIFIED	SUBJECT LOCATED	ACTIVE	ADM CLOSD	ARRESTED UNDER 18	EX CLEAR UNDER 18
	☒ YES ☐ NO	☒ YES ☐ NO	☐ UNFOUNDED	☐ UNFOUNDED	☐ ARRESTED 18 AND OVER	☐ EX CLEAR 18 AND OVER

FEB-12-2013(TUE) 11:48

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From: FILE ROOM

596 3600

To: 918037341345-08

AGENCY I.D.
SC0420000

SUPPLEMENTARY REPORT
SPARTANBURG COUNTY SHERIFF'S OFFICE

CASE NUMBER

2008071111

NCIC

IND ENT

☐ ORIGINAL
REPORT
☐ MODIFIED
ORIGINAL

☒ SUPPLEMENTAL
REPORT
☐ CASE STATUS
CHANGE

☐ ADDITIONAL
VICTIMS
☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
STOLEN PROPERTY
☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 1 OF 1 PAGES

On 07/19/08 at approx 1900hrs I was on a car breaking call with C-53(M. Turner) at 620 West Blackstock Road(Club Hush) in Spartanburg County. While working on the car breaking report in the front parking lot I received a call from dispatch advising me that there was a large fight in the front parking lot of Club Hush. Deputy Turner and I then drove around into the front parking lot area. While out breaking up a fight we heard six to nine shots ring out from the front parking lot area that we had just left. Deputy Turner then advised dispatch "Shots Fired". As I pulled up to the front parking lot area I observed a young black male came running out from the woods holding his right shoulder with blood soaking his shirt. I then advised dispatch of the injuries and had them dispatch EMS to my location. All of the witness's at the scene stated that the black male that did the shooting had on a white t-shirt with blue jeans and he ran into the Reserve apartment complex across the street. I then proceeded to Keats Drive into the apartment trying to locate the subject. Once I drove about halfway in I noticed a black male walking at a fast pace, he had a long white shirt with blue jeans, medium length hair with a goatee, and a dark colored pistol in his left hand. The subject then looked back at me and my patrol car and began to run. I called out foot pursuit in progress and chased him back towards the storage rental buildings. I lost the subject when I had to clear blind corners before I proceeded around them. C-4(P. Cockrell) then located the subject approx 100 yards away behind the maintenance and held the subject at gun point until backup arrived. The pistol was located behind the maintenance building that C-4 located the subject behind.

End of report.

ACTIVE	SUBJECT IDENTIFIED	SUBJECT LOCATED	ACTIVE	ADM CLOSED	ARRESTED UNDER 18	EX CLEAR UNDER 18
	YES NO	YES NO	UNFOUNDED		ARRESTED 18 AND OVER	EX CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1 OFFENDER DEATH 2 NO PROSECUTION 3 EXTRADITION DENIED			4 VICTIM DECLINES PROSECUTION		5 JUVENILE - NO CUSTODY	

FEB-12-2013(TUE) 11:48

596 3600

ILE ROOM

596 3600

To: 9180373412

AGENCY I.D.
SC0420000SUPPLEMENTAL INCIDENT REPORT
SPARTANBURG COUNTY SHERIFF'S OFFICE

CASE NUMBER

2008071111

NCIC

NO ENTD

☐ ORIGINAL REPORT
☐ MODIFIED ORIGINAL
☒ SUPPLEMENTAL REPORT
☐ CAD STATUS CHANGE
☐ ADDITIONAL VICTIM
☐ ADDITIONAL OFFENDER
☐ ADDITIONAL STOLEN PROPERTY
☐ ADDITIONAL RECOVERED PROPERTY

PAGE 1 OF 2 PAGES

VICT/SUBJ I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST FIRST MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	DOB	ETH	
	☐ VICTIM #	JETER, JEREMY JAMAL					☐ J ☐ O	B	M	10	02/24/1998		
	☒ SUBJECT # 1	HEIGHT	WEIGHT	HAIR	EYES	PACIAL HAIR BEARD TATTOOS GLASSES CLOTHING PHYSICAL PECULIARITIES, ETC							
	☐ RUNAWAY	ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO	DAYTIME PHONE	EVENING PHONE					
VICT/SUBJ I.D. OVERFLOW	☐ WANTED	VICTIM NO.		VIOLENT INJURY	YES	NO	COMPLAINANT OF NON-VIOLENT INJURIES	YES	NO	VICTIM USING ALCOHOL	YES	NO	UNK
	☐ WARRANT	EXPLAIN											
	☐ ARREST	SUBJECT NO.		USING ALCOHOL	YES	NO	USING DRUGS	YES	NO	TYPE	UNK		
	☐ JAIL	NAME (LAST FIRST MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	DOB	ETH	
VICT/SUBJ I.D. OVERFLOW	☐ SUMMONS	JETER, JEREMY JAMAL					☐ J ☐ O	B	M	10	02/24/1998		
	☐ RUNAWAY	HEIGHT	WEIGHT	HAIR	EYES	PACIAL HAIR BEARD TATTOOS GLASSES CLOTHING PHYSICAL PECULIARITIES, ETC							
	☐ WANTED	ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO	DAYTIME PHONE	EVENING PHONE					
	☐ WARRANT	VICTIM NO.		VIOLENT INJURY	YES	NO	COMPLAINANT OF NON-VIOLENT INJURIES	YES	NO	VICTIM USING ALCOHOL	YES	NO	UNK
NARRATIVE	☐ ARREST	EXPLAIN											
	☐ JAIL	SUBJECT NO.		USING ALCOHOL	YES	NO	USING DRUGS	YES	NO	TYPE	UNK		
	☐ SUMMONS	NAME (LAST FIRST MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	DOB	ETH	
	☐	JETER, JEREMY JAMAL					☐ J ☐ O	B	M	10	02/24/1998		

At 0326 hours on 7/18/08 I arrived on scene of a shooting call at Club Hugh on E. Blackstock Road in Spartanburg County, SC. Immediately upon my arrival I heard Deputy M. Noteboom call out in a foot pursuit with a black male suspect wearing a white shirt and blue jeans at the back side of the Reserve at Park West apartments. I located Deputy Noteboom and he pointed out the direction the suspect had ran behind one of the apartment buildings. I drove around the left of that building, parked my vehicle in the parking lot and began searching on foot for the suspect with my service pistol drawn. As I started around the apartments "Car Care Center" located at 251 Keats Dr. I observed a black male matching Deputy Noteboom's description of the suspect lying down on the ground attempting to hide. I yelled, "Police! Stop right there!" at the suspect but he got up and took off running between the parking lot and the fence of a storage building company. I began a foot pursuit and called out my

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY

JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY

VEH/JUR/ETC. 1	STATUS	TYPE	VIN AND/OR LICENSE NO.		UPAT HULL NO AND/OR REG NO.	
	☐ STOLEN	☐ VEHICLE				
	☒ RECOVERED	☒ GUN	SERIAL AND/OR OWNER APPLIED NO.		STATUS	
	☐ FOUND	☐ BOAT	RDJ1220			
VEH/JUR/ETC. 1	☐ TOWED	☐ LICENSE PLATE	YEAR OF REGISTRATION	YEAR OF EXPIRATION	YEAR	MAKE
	☒ SUSPECT	☐ SECURITIES/BOND, STOCKS	MODEL	STYLE	COLOR	Smith & Wesson
	☐ VICTIM	☐ ARTICLE	SW40VE	AUTOMATIC	BLK/SIL	Pistol
	☐	☐	NIC NO	DESCRIPTOR	BRAND NAME	CALIBER
PROPERTY LIST	MISCELLANEOUS		BRAND NAME		CALIBER	
			BRAND NAME		CALIBER	
			BRAND NAME		CALIBER	
			BRAND NAME		CALIBER	

PROPERTY LIST	TYPE (HQUF)	TOTAL VALUE	
	STOLEN		
	DAMAGED		
	BURNED		
PROPERTY LIST	RECOVERED		
	GRIZED		

FEB-12-2013(TUE) 11:48

596 3600

9 From:FILE ROOM

596 3600

To:918037341345-08852

AGENCY I.D.
SC0420000SUPPLEMENTARY REPORT
SPARTANBURG COUNTY SHERIFF'S OFFICE

CASE NUMBER

2008071111

NCIC

INQ ENTD

☐ ORIGINAL
REPORT
☐ MODIFIED
ORIGINAL☒ SUPPLEMENTAL
REPORT
☐ CASE STATUS
CHANGE☐ ADDITIONAL
VICTIMS
☐ ADDITIONAL
OFFENDERS☐ ADDITIONAL
STOLEN PROPERTY
☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 2 OF 2 PAGES

location and direction on the radio. I watched the suspect trip and fall as he was running east towards W. Blackstock Rd. I moved out into the parking lot so I could see if the suspect came out between cars or continued running towards W. Blackstock when he got up. As I approached a white 1997 Chevrolet SUV bearing MS tag I saw the suspect lying on the ground underneath it. Since the suspect was possibly connected to the shooting at Club Hush and Deputy Noteboom had previously advised the suspect he was chasing appeared to be armed I pointed my service weapon at the suspect and ordered him to remain where he was with his hands out where I could see them. The suspect complied with my orders. Deputy Turner arrived as my backup and I had him cover the suspect with his service weapon while I transitioned to my Taser. Once the transition was completed I covered the suspect with my Taser while Deputy Turner took him into custody without further incident. The suspect was later identified as Jeromy Jamal Jeter, Spartanburg Police Department K-9 Officer Kim Parnell and her partner Riska conducted and article search in the area where I first located Jeter which resulted in the location of a black and silver colored Smith and Wesson .40 caliber pistol, Model SW40VE, serial number RBJ1220 on the ground behind and next to the "Car Care Center". The pistol was approximately 25-50 feet from where I first observed Jeter hiding and along the most probable path from where Deputy Noteboom lost sight of the suspect and where I subsequently located him. The vehicle Jeter was hiding under was not damaged and is registered to Dustin Goodwin of ID. ID Officer Talangas responded to the scene to process and collect evidence including the pistol. The pistol was checked NCIC wanted files with negative results. Deputy Turner transported Jeter to CID at the Sheriff's Office for processing and interview by detectives.

NARRATIVE

SUBJECT IDENTIFIED
☒ YES ☐ NOSUBJECT LOCATED
☒ YES ☐ NO☐ ACTIVE ☐ ADM CLOSED
☐ UNFOLLOWED☐ ARRESTED UNDER 10
☐ ARRESTED IN AND OVER☐ EX-CLEAR UNDER 10
☐ EX-CLEAR IN AND OVER

FEB-12-2013(TUE) 11:48

596 3600

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To: 918037341345-1

SPARTANBURG COUNTY SHERIFFS DEPARTMENT
Spartanburg, South Carolina

CASE NUMBER

2008071111

PRE-INTERROGATION WAIVER FORM

Name JEREMY JETER Address 420 SPARTAN, SCAge 18 Date 07/12/08 Time 0500Location 8045 HOWARD ST, SPARTANBURG, SC 29305

1. I have the right to remain silent.
2. Anything I say can and will be used against me in a court of law.
3. I have the right to talk to a lawyer and to have him present with me while I am being questioned.
4. If I cannot afford to hire a lawyer, one will be appointed to represent me before any questioning, if I so wish.
5. I have the right to stop answering questions at any point in the questioning.

The above rights have been read to me by M. B. Lethman

I have read same and I understand my rights fully.

Witness DW 7/12 Signed Jeremy Jeter

I waive (give up) my rights as explained above and agree to talk to officer

in reference to SHOOTING INCIDENT
(LEADS ON CHARGE), and my statement that I may make is of my own free will, without fear, threat or promise or favor or reward of any kind.I am able to read and write the English Language and finished 10 years in school. SPARTANBURG HIGHWitnessed DW 7/12 Signed Jeremy JeterNotarized M. B. LethmanExpiration Date 04/18/2012

FEB-12-2013(TUE) 11:48

596 3600

rom:FILE ROOM

596 3600

To:918037341345-0885

CASE# 2008071111

VOLUNTARY STATEMENT

PAGE 1 of 1

STATEMENT OF: JEREMY JAMOND JETER AGE: 18 DATE: 7-19-08

ADDRESS: RD. 57th, SC 29807

PHONE # DOR: SSN:

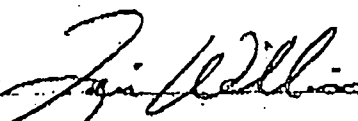
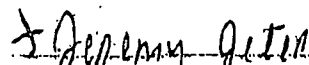
As I was leaving club Hush I used a man phone to call my ride and after I was using it some guys started shooting at me and I shot one time because my life was threatened so I got away cause I felt like I would of died if I didnt shoot. I dropped the gun and Hide. It was all a mistake.

END OF STATEMENT

I have read this statement consisting of 1 pages(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.

This statement was completed at 6 38 A M. on the 19th day of July 2008.

WITNESS:

Signature of person giving voluntary statement

SWORN to before me this

19

FEB-12-2013(TUE) 11:48

596 3600

om: FILE ROOM

596 3600

To: 91803734

CASE# 2008071111		VOLUNTARY STATEMENT		PAGE / of
STATEMENT OF: Terry Lamar Sims		AGE: 22	DATE: 07/19/08	
ADDRESS: 20 GAFFNEY SC				
PHONE#	DOB:	SSN:		

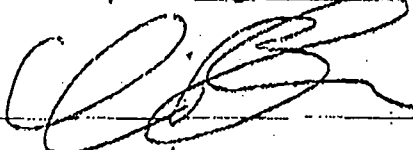
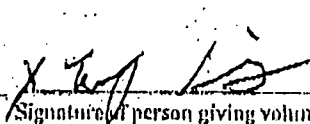
I, M.B. Letterman am writing this statement for Terry Lamar Sims in his presence and his words.

I was at Club Hunt on July 19. I had gone to back of club because a friends car had been broken into. I started walking back to the club and was beside the club when a black guy came up to me and said "you Brett, let me use your phone. I need to call my brother". I let him use my phone and he said to someone "I am at the back of the club". He hung up and gave me my phone back. He then reached under his shirt and got a gun from his waistband. He then pointed the gun at me and shot me. He took off running up the road toward the carnival. I ran toward the woods. That's when the police came up and I told him I ran up the road. He had a white t-shirt and blue jeans. One cop car took off toward the area he ran.

I have read this statement consisting of 1 page(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.

This statement was completed at 0536 A.M. on the 19 day of July 2008.

WITNESS:

 X 

Signature of person giving voluntary statement

SWORN to before me this 19

FEB-12-2013(TUE) 11:48
From: FILE ROOM 596 3600
To

CASE# 2008071111		VOLUNTARY STATEMENT		PAGE 1 of 1
STATEMENT OF: Ken Dale Sullivan		AGE: 30	DATE: 08-06-08	
ADDRESS: 1 Gaffney A.C. 29340				
PHONE: 1	DOB: 1	SSN: 1		

The day after my friend (Terry Sims) was shot, we went to a friends house that morning and we were sitting around talking about the shootings. I asked Terry what was the number that the guy shot him called. He gave it to me and I called the number. The guy answered and I asked, who is this, he asked who is this, and I told him that the guy that shot my friend had dialed this number, and we proceeded to talk, after about 2 minutes of talking he said that the guy that shot my friend was his brother. He stated that his brother had been fighting in the club earlier and had called him earlier also and told him about it. He stated, that his brother had mistaken Terry Sims for someone else, and that was the reason he shot him.

I have read this statement consisting of 1 page(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.

This statement was completed at 3:27 P M. on the 6 day of August 2008.

WITNESS: _____
Signature of person giving voluntary statement
Ken Dale Sullivan

SWORN to before me this 6
1 + 08

Transaction Report

Reception

Transaction(s) completed

No.	TX	Date/Time	Destination	Duration	P.#	Result	Mode
605	FEB-12	11:48	596 3600	0'02'57"	011	OK	N ECM

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF

Spartanburg

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

Jeremy Jamond Jeter 335454

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2011-CP-42-02

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Lieber Correctional Institution / P.O. Box 205 / Ridgewood 294
2. Name and location of Court which imposed sentence Spartanburg County
Seventh (7th) Judicial Circuit
3. Name(s) of co-defendant(s) (if any) No
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 2008G54205632 (Assault and Battery w/ Intent to Kill)

(b) _____

(c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

(a) April 13, 2010

CLERK OF COURT
SPARTANBURG COUNTY
22nd JAN 18 PM 1:04
M. HOPE BLACKLEY

(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?

No

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

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

i. 1stii. 1stiii. 1st

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

i. 1st

ii. _____

iii. _____

(c) the date of each such result:

i. _____

ii. _____

iii. _____

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

results:

i. _____

ii. _____

iii. _____

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

(a) my attorney did not file for an appeal

(b) _____

(c) _____

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

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 SEP 13 AM 9:44
M. HOPE BLANKLEY
ERROR

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 JUN 18 PM 1:04
M. HOPE BLANKLEY

- (a) Ineffective Counsel Assistant
 (b) Involuntary Guilty Plea
 (c) _____

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

- (a) I was not represented correctly
 (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. _____
 ii. _____
 iii. _____
 iv. _____
 (b) the name and location of the Court in which each was filed:
 i. _____
 ii. _____
 iii. _____
 iv. _____
 (c) the disposition thereof:
 i. _____
 ii. _____
 iii. _____

FILED
 CLERK OF COURT
 SPARTANBURG, SC
 2010 SEP 18 AM 9:44
 M. HOPE BLACK
 M. PROFFER

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

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

No

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

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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

(a) In process of Proceeding PCR Now.

(b) _____

(c) _____

was not represented by an attorney at any time during the course of:

CLERK OF COURT
SPARTANBURG
2010 SEP 14 AM 9:44
M. HOPE BLAC
ERROR

CLERK OF COURT
SPARTANBURG
2011 JAN 18 PM
M. HOPE BLAC

- (a) your arraignment and plea? yes
- (b) your trial, if any? _____
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO
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. Tanya Jones / 366 N. Church St. Suite 3000 / Spartanburg, SC
- ii. James Cheeks / 366 N. Church St. Suite 3000 / Spartanburg, SC
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. _____
- ii. _____
- iii. _____
19. State clearly the relief you seek in filing this application:
To have Part of Guilty Plea Reversed and have Conviction on
Vacated.
20. Are you now under sentence from any other court that you have not challenged?
yes

FILED
 SPARTANBURG COUNTY
 2010 SEP 15 AM 9:44
 B. HOPE BLACKEY
 ERROR

CLERK OF C
 SPARTANBURG
 2011 JAN 18 PM
 M. HOPE BLAC

STATE OF SOUTH CAROLINA

County of

VERIFICATION

I, _____, 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.

Jeremy Peter

SWORN to and subscribed before me this 8th
day of September 2010.

Sylvia Jones (L.S.)
Notary Public

My Commission Expires: 1/24/2018

CLERK OF COURT
SPARTANBURG COUNTY
2010 SEP 18 AM 9:44
M. HOPE BLECKLEY
SPARTANBURG
2011 JAN 18
M. HOPE BLECKLEY

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

I, , 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.

[Signature]
Applicant

SWORN or affirmed to and subscribed before me this
8th day of September, 2010.

[Signature]
Notary Public

My Commission Expires: 1/24/2018

CLERK OF COURT
SPARTANBURG
2010 SEP 18 AM 9:44
M. HOPE BLACI
M. HOPE BLACI

CLERK OF COURT
SPARTANBURG
2010 SEP 18 PM
M. HOPE BLACI

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Jeremy Jamond Jeter, #335454,
Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2011-CP-42-0212

RETURN

The Respondent, making its Return to the application for post conviction relief (PCR) filed January 18, 2011, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted at the September 2008 term of the Spartanburg County Grand Jury for assault and battery with intent to kill. (08-GS-42-5632)¹. Applicant was represented by Tanya Jones, Esquire, and James A. Cheek, Esquire. On April 13, 2010, the Applicant pled guilty as indicted. Applicant was sentenced by the Honorable J. Derham Cole to confinement for twenty years suspended upon the service of fifteen years and five years of probation. A Motion for Reconsideration was filed on April 14, 2010, and upon information and belief, subsequently denied. The Applicant did not appeal his conviction or sentence.

Attached herewith and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South

Carolina Department of Corrections, and the guilty plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. Ineffective assistance of counsel, in that;
 - a. "I was not represented correctly,"
2. Involuntary guilty plea.

III.

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

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

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

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

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

IV.

Respondent submits that the Applicant's allegation that his guilty plea was involuntary is without merit. In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that ((1) counsel was ineffective) and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered

conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Respondent submits that the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper v. State, 305 S.E.2d 247.

V.

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

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held on the allegations of ineffective assistance of counsel and involuntary guilty plea.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Attorney General

By: Mary J. Williams
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Dec-7, 2011.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

) IN THE COURT OF COMMON PLEAS
) SEVENTH JUDICIAL CIRCUIT

Jeremy Jamond Jeter,

2011-CP-42-0212

)
)
) Applicant,

)
) v.

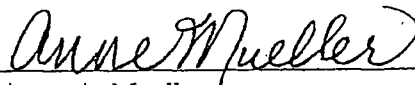
CERTIFICATE OF SERVICE BY MAIL

)
) State of South Carolina,

)
) Respondent.
)

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

Steven M. Querin, Esquire
Johnson Smith Hibbard & Wildman, LLP
P.O. Drawer 5587
Spartanburg, South Carolina 29304-5587


Anne A. Mueller
Legal Assistant for the Respondent

DATED this 7th day of December, 2011.

1 STATE OF SOUTH CAROLINA
2 COUNTY OF SPARTANBURG

) COURT OF COMMON PLEAS NONJURY

3
4 JEREMY JAMOND JETER,

5)
6) APPLICANT,

7) VS.

8 STATE OF SOUTH CAROLINA,

9)
10)
11)
12)
13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)
RESPONDENT.

TRANSCRIPT

OF

RECORD

2011-CP-42-212

June 12th, 2012
Spartanburg, South Carolina

B E F O R E :

THE HONORABLE ROGER L. COUCH, Judge.

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

HOWARD R. KINARD
ESQ.

Attorney for the Applicant

ASHLEIGH R. WILSON
ASSISTANT ATTORNEY GENERAL
Attorney for the Respondent

PAMELA E. GREEN
Circuit Court Reporter
Seventh Judicial Circuit

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

2

3 THE COURT: All right. The State may call the next
4 case.

5 MS. WILSON: Thank you, Your Honor.

6 The next case is Jeremy Jeter versus the State. It's
7 Docket Number 2011-CP-42-212, and Mr. Jeter was originally
8 indicted for assault and battery with intent, with intent to
9 kill. He pled guilty as indicted. He was sentenced to
10 confinement for 20 years, provided upon the service of 15,
11 the balance was suspended to probation for five years.

12 In his PCR application he filed January 18th, 2011,
13 he alleged ineffective assistance, assistance of counsel
14 because counsel did not represent him correctly, and the
15 attorney did not file an appeal, and he also alleges an
16 involuntary guilty plea, and I believe that Mr. Kinard,
17 Kinard has a motion that he wants to put on the record.

18 THE COURT: All right. Mr. Kinard.

19 MR. KINARD: Yes, thank you, Your Honor.

20 THE COURT: Yes, sir.

21 MR. KINARD: Howard R. Kinard on behalf of the
22 applicant in this matter---

23 THE COURT: Yes, sir.

24 MR. KINARD: ---Jeremy Jeter.

25 THE COURT: Yes, sir.

1 MR. KINARD: We'd move at this time for a continuance.
2 Mr. Jeter has informed me that the correctional facility
3 that he's currently located in, Lieber, has had a number of
4 lockdowns and security issues, and as a result of those
5 issues he was not able to bring me certain documentation
6 that he feels is important to his proceedings today. So, he
7 asked me to -- we request a continuance. I understand -- I
8 let him know that if it's not granted we're still prepared
9 to proceed today with the proceedings.

10 THE COURT: All right. Now, these are documents that
11 you expected to use in his case?

12 MR. KINARD: I'm not exactly sure. I haven't seen
13 these documents, Your Honor.

14 THE COURT: Oh, I see.

15 MR. KINARD: So, I haven't had a chance to review them.
16 So, I don't know exactly what they're, what they're
17 pertaining to, but---

18 THE COURT: Well, I'm sure he's described them to you.
19 Is there --?

20 MR. KINARD: Yes, Your Honor, he has described them to
21 me. I think they were documents that he made request to see
22 his attorney and whatnot that, you know, I told him that I
23 was prepared to go forward without these, and I think, you
24 know, barring the introduction of these documents, we would
25 still -- you know, I have the, you know, the argument going

1 forward, Your Honor.

2 THE COURT: The State's position.

3 MS. WILSON: Your Honor, it's our position that
4 Mr. Jeter's application, PCR hearing go forward today. It's
5 been continued one time already and we have all our
6 witnesses here and are ready to go.

7 THE COURT: I notice some documents were just shared
8 with you.

9 Are those the documents that you're missing?

10 MR. KINARD: I believe so, Your Honor, I did -- I
11 already have these in my files. I showed him that and he
12 believes that those are the documents that they would be,
13 you know---

14 THE COURT: So, he thinks he can go forward now?

15 MR. KINARD: I understand -- I think so, Your Honor,
16 yes, sir.

17 THE COURT: Okay. Then we'll go forward.

18 All right. Mr. Jeter has the right to call witnesses
19 first.

20 Yes, sir.

21 MR. KINARD: Yes, sir, we'd like to call Mr. Jeremy
22 Jeter to the stand at this time.

23 THE COURT: Come forward, sir, to my left and be sworn
24 in.

25 MR. Jeter, when you're there, place your left-hand on

Jeremy Jeter - Direct examination
by Mr. Kinard

1 the Bible and raise your right-hand to the best of your
2 ability.

3 JEREMY JETER, having been first duly
4 sworn, testified as follows:

5 THE COURT: Have a seat please.

6 (Witness complies.)

7 THE COURT: State your name for me.

8 WITNESS: Jeremy Jeter.

9 THE COURT: Mr. Kinard, your witness.

10 MR. KINARD: Thank you, Your Honor.

11 May it please the Court?

12 THE COURT: Yes, sir.

13 DIRECT EXAMINATION

14 BY MR. KINARD:

15 Q Mr. Jeter, can you tell me if you recall approximately
16 the date you were arrested on the charge, the charge that
17 you eventually pled guilty to?

18 A July 19th, 2008.

19 Q Okay. So, 2008 was when the incident occurred and you
20 were arrested, is that correct?

21 A Yes, sir.

22 Q Okay. And after you were arrested, where were you held
23 pending, while your charges were pending against you?

24 A Well, I, I had went to Spartanburg County, but I made
25 bond on the charge. But also I had some pending charges

Jeremy Jeter - Direct examination
by Mr. Kinard

1 that I was facing which I was incarcerated September,
2 September 2008 for.

3 Q Okay. So, since September of 2008 you were
4 incarcerated with the Department of Corrections, is that
5 correct?

6 A No, sir, I had some General Sessions bench warrants for
7 that charge, and I was placed in Spartanburg County
8 Detention Facility until June 2009.

9 Q June 2009.

10 Okay. So, you were in Spartanburg County from
11 September 2008 to June 2009, is that correct?

12 A Yes, sir.

13 Q Okay. And during that period of time did you speak
14 with anybody from the Public Defender's Office about you
15 obtaining representation by the P.D.'s Office?

16 A No, sir.

17 Q Okay. When did you first make contact with the Public
18 Defender's Office in this matter?

19 A Okay. I was incarcerated June 2009 for a ten year
20 nonviolent sentence. So, like -- probably like I say
21 February or March of 2010 -- two thousand -- yeah, 2010 I
22 came back to Spartanburg County. That's where I was
23 interviewed by the Public Defender, Public Defender's Office
24 and they asked me---

25 Q Okay.

Jeremy Jeter - Direct examination
by Mr. Kinard

1 A ---did I wish to have a public defender.

2 Q Okay. And what did you tell that person that
3 interviewed you?

4 A I told them yeah.

5 Q okay. At what point -- did you ever receive notice of
6 an attorney being appointed to you?

7 A It was like, probably like two days prior to when I
8 came over to the courthouse for these charges. I mean I
9 never went in the courtroom about it at this time. But I
10 had received notice. I did receive notice of it probably
11 like two days before I went to Court.

12 Q All right. And who, as you recall, was your attorney
13 from the P.D.'s Office who was appointed to represent you?

14 A Ms. Tanya Jones.

15 Q Okay. And, Mr. Jeter, how many times did you meet with
16 your attorney, Ms. Jones, before you pled guilty, ultimately
17 pled guilty to this charge?

18 A I never met with her before.

19 Q Okay. Did you meet with her on, on the day of the,
20 that you pled guilty?

21 A Yes, sir.

22 Q Did you meet with her beforehand?

23 A I never met with her beforehand. I met her on the day
24 that I pled guilty.

25 Q So, the first time you met your appointed attorney was

Jeremy Jeter - Direct examination
by Mr. Kinard

1 the day that you pled guilty, is that accurate?

2 A Yes, sir.

3 Q Okay. Do you recall what the, you and your attorney,
4 Ms. Jones, talked about before that guilty plea?

5 A I mean it was, it was basically like -- I mean it is we
6 up, we up for trial, we up for trial, and I, I asked what
7 was the, what was, state some basis of my cases, and she
8 couldn't, you know what I'm saying, she said she wasn't
9 fully prepared of it. She wasn't fully aware of it. But
10 --.

11 Q Okay. So, she, she indicated that she wasn't prepared
12 to go to trial.

13 Is that what you're saying?

14 A Yes, sir.

15 Q Okay. Did she indicate that she had interviewed any
16 potential witnesses for a potential trial?

17 A No, sir.

18 Q Okay. At anytime before that guilty plea, you took the
19 guilty plea, did you indicate a desire to go to trial?

20 A Yes, sir, it was around -- I had came over there to the
21 courthouse around like the first, first or second week of
22 March. Over here was -- I think the, the judge was Judge
23 Hayes, and he had asked did anybody wish, wish to go to
24 trial and I stood up.

25 Q Okay. And was what -- was that your first appearance

Jeremy Jeter - Direct examination
by Mr. Kinard

1 when you were---

2 A Yeah, that was my first appearance.

3 Q Okay. And were you represented by an attorney at that
4 first appearance?

5 Was it -- was Ms. Jones there at that first appearance?

6 A No, she was not there.

7 Q Okay. And continue on.

8 Judge Hayes made a comment, does anybody want a trial
9 or a hearing?

10 A Yeah, he first asked was anybody unsatisfied with they
11 lawyer. I then stood because I, I haven't met with my
12 lawyer or nothing. So, I had to stand up. I mean I felt
13 like I had to stand up because I hadn't met with my
14 attorney. I don't know the basis of my cases. So, then he
15 asked does anybody wish a trial. I stood up again and he
16 had wrote my name down on file by going to trial.

17 Q Okay. And, Mr. Jeter, before you, you ultimately pled
18 guilty to this, the ABWIC charge in April of 2010, did you
19 submit any request to your attorney?

20 A Yes, sir.

21 Q Okay. Mr. Jeter, I'm going to hand up to you at this
22 time, and I would move to introduce this into evidence as
23 Applicant's 1.

24 (WHEREUPON, the inmate request form was marked as
25 Applicant's Exhibit No. 1 for identification purposes only

Jeremy Jeter - Direct examination
by Mr. Kinard

1 at this time.)

2 Q Mr. Jeter, can you identify that document?

3 A You want me to read it?

4 Q Well, no, if just you could look at it and tell me if
5 you recall writing that and tell me what it, what exactly it
6 is.

7 A Yeah, this is a request form that I requested to speak
8 with Ms. Tanya Jones.

9 Q Okay. And what is the date of that form?

10 A What's the date?

11 Q Yeah, the date that's listed on it.

12 A February 22nd, 2010.

13 Q Okay. And that was before your guilty plea, correct?

14 A That was before my guilty plea.

15 Q Now, as a result of that request, did you receive any
16 correspondents from Ms. Jones after that?

17 A No, sir.

18 Q Did you receive any correspondents from anybody at the
19 P.D.'s Office?

20 A No, sir.

21 Q Okay.

22 (WHEREUPON, an inmate request form was marked as
23 Applicant's Exhibit No. 2 for identification purposes only
24 at this time.)

25 Q And, Mr. Jeter, I'm gonna hand you up another form too,

Jeremy Jeter - Direct examination
by Mr. Kinard

1 and if you could tell me the date of that form and also what
2 it is and also if you did, in fact, write that form.

3 A March 9th, 2010.

4 Q Say that date one more time. I'm sorry.

5 A March 9th, 2010.

6 Q Okay. And could, could you read for the Court the
7 contents of that form?

8 A You want me to read it?

9 Q Yes, sir, please.

10 A Ms. Jones, if there's a way you could, please get me
11 off the docket court. I have been going over to the
12 courthouse going on a week without seeing anyone. I am
13 familiar with this case, but not interested in any offer at
14 this moment, and it goes on to say about the stuff I would
15 take. Like stuff going on at the institution.

16 Q Okay. So, did you indicate in that grievance form
17 dated March the 9th that you were not interested in any
18 offers or pleas?

19 A Yes, sir.

20 Q And after you submitted that form were you contacted by
21 either Ms. Jones or anybody from the P.D.'s office?

22 A No, sir.

23 Q Okay. And, Mr. Jeter, if we go back and, to the time
24 of the guilty plea when you first met with Ms. Jones.

25 okay?

Jeremy Jeter - Direct examination
by Mr. Kinard

1 A Uh-huh. (Affirmative).

2 Q Did y'all talk about the, the option of either going to
3 trial or doing a guilty plea?

4 A I mean, I mean she stated that if, if I lose trial what
5 would I get. She did state, state that, that if I lose
6 trial I, I would be probably sentenced to the maximum of 20
7 years, what my charge carried.

8 Q Did y'all have any conversations on that guilty plea,
9 before you had the guilty plea, regarding any evidence in
10 the case?

11 Specifically the gun used in the case.

12 A No. No, sir.

13 Q You don't remember Ms., Ms. Jones saying anything
14 regarding---

15 A Yeah.

16 Q ---any evidence?

17 A The same, the day that I went to the guilty plea.

18 Q Yes, that day.

19 A It said that it was something about a gun not matching
20 or, or something. But it was never stated to me about the,
21 the whole basis of it, which is---

22 Q Okay. She said a gun wasn't, didn't match?

23 Is that what you said?

24 A Yeah, something about a gun not matching or something.

25 Q Did she show you any investigative reports or any

Jeremy Jeter - Direct examination
by Mr. Kinard

1 ballistics reports or anything like that?

2 A No, sir.

3 Q Did she show you any statements she had taken from
4 witnesses?

5 A No, sir.

6 Q Okay. Any statements from any victim, from the victim?

7 A No, sir.

8 Q Mr. Jeter, if you had additional information regarding
9 the facts of your case, witness statements, ballistic
10 reports, some SLED reports, do you, do you believe that that
11 would have changed whether you pled guilty to these charges?

12 A Yes, sir. Yes, sir.

13 Q Do you believe if you would of had an additional
14 correspondence and additional conferences with your attorney
15 that would of changed---

16 A Yes, sir.

17 Q ---what you pled guilty to?

18 A Yes, sir.

19 Q But you did, in fact, plead guilty to these charges,
20 this charge?

21 A I felt like I had no other option. I ain't have no,
22 no -- I wasn't -- I ain't had no good representation.

23 Q Did -- and also let's discuss Mr., Mr. Cheek's role as
24 well too.

25 Prior to you pleading guilty on April of 2010 did you

Jeremy Jeter - Direct examination
by Mr. Kinard

1 ever meet with Mr. Cheek?

2 A No, sir.

3 Q Okay. Was the first time you met with Mr. Cheek when
4 you pled guilty?

5 A Yes, sir.

6 Q Did you have any conversations with Mr. Cheek before
7 you pled guilty?

8 A No, sir.

9 Q Okay. Did -- Mr. Cheek didn't discuss the merits of
10 your case at all or anything before the guilty plea?

11 A No, sir.

12 Q Did anybody from the P.D.'s Office discuss any possible
13 surveillance tapes that might be out there?

14 A No, sir.

15 MR. KINARD: Okay. That's all I have of this witness,
16 Your Honor.

17 THE COURT: All right. State may cross-examine.

18 MS. WILSON: Thank you, Your Honor.

19 THE COURT: Yes, ma'am.

20 CROSS-EXAMINATION

21 BY MS. WILSON:

22 Q Mr. Jeter, did you try to hire an attorney prior to the
23 time when you requested a public defender in February you
24 said?

25 A A private attorney?

Jeremy Jeter - Cross-examination
by Ms. Wilson

1 Q Uh-huh. (Affirmative).

2 Did you try to hire one?

3 A No. No, ma'am.

4 Q So, you didn't -- but you didn't request to, to get a
5 public defender, a public defender until February 2010, is
6 that correct?

7 A No, I requested it, to get a public defender when I was
8 incarcerated from September, between the time of September
9 of, September of 2008 to 2009, June 2009.

10 Q Okay. You testified earlier today that, in
11 February 2010 when you came back to Spartanburg County, you
12 asked about a public defender?

13 A Yes, because the public -- the dude -- the interviewer
14 came and see me. That's, that's when he had I guess
15 processed my, my request form that I had before when I was
16 in the county jail, and he asked me did I still need one,
17 and I told him yeah.

18 Q So, you hadn't requested a public defender prior to
19 February 2010?

20 A Yes. Yes, ma'am.

21 Q Okay. Let's see. You said you didn't meet with Ms.
22 Jones prior to your plea.

23 what did you discuss with Ms. Jones before you pled
24 guilty?

25 A The day after, that I pled guilty?

Jeremy Jeter - Cross-examination
by Ms. Wilson

1 Q Yes.

2 A I had, I had asked her -- I had gave her some names of
3 some witnesses that we would probably call to the stand, and
4 I was asking her about my case.

5 Q Okay. And you said you told her about certain
6 witnesses.

7 what were these witnesses -- what kind of testimony
8 would these witnesses have been able to put forth on your
9 behalf?

10 A I mean they, they was out there. So, they, they seen,
11 they seen the whole case, and they could tell you that I, I
12 wasn't the man that shot Mr. Sims.

13 Q Okay. You mentioned that you went to the courthouse
14 and you spoke to Judge Hayes and you told him that -- you
15 stood up and told him you weren't requested, you weren't
16 satisfied with your attorney, is that correct?

17 A Yes, ma'am.

18 Q And then you stood up and told him that you wanted to
19 go to trial?

20 A Yes, ma'am.

21 Q Okay. And do you remember when that was?

22 A That was like -- it had to be the -- okay. I came from
23 the institution. I came from the institution probably like
24 that Friday. It had to be that, that week that I, that week
25 that I went to the courthouse, the first week that I went to

Jeremy Jeter - Cross-examination
by Ms. Wilson

1 the courthouse.

2 Q Okay. So, was this, was this before or after you were
3 brought to Spartanburg County and you requested your public
4 defender again?

5 A Okay. This was, was after the dude---

6 Q After?

7 A ---interviewed me. That was after.

8 Q And, so, you told, you told Judge Hayes that you were
9 ready to go to trial shortly after requesting a public
10 defender again?

11 A Yeah, I told him that I, that I wished for a trial.

12 Q Okay.

13 A He asked me did I wish for a trial and I stood, I stood
14 up cause I did.

15 Q And had you requested, had you already heard that Ms.
16 Jones was appointed for you when you requested to go to
17 trial?

18 A No. No, ma'am, that's, that's why I stood up. That's
19 why I stood up and said I wasn't satisfied with my lawyer.

20 Q Okay. You wrote in -- you read earlier -- well, a
21 second ago you read into the record this letter that you
22 sent on March 9th, 2010?

23 A Yes, ma'am.

24 Q Okay. And you requested -- you wrote it to Ms. Jones
25 and you requested -- you told her that you wanted to be

Jeremy Jeter - Cross-examination
by Ms. Wilson

1 returned to SCDC to pursue some classes that you were
2 taking?

3 A Yes, ma'am.

4 Q Okay. And did you -- when you wrote that letter, did
5 you realize that if you went back to SCDC that would kind of
6 decrease the chances of Ms. Jones being able to come visit
7 you?

8 A Nope. Because I had been over there -- okay. From,
9 from February the 26th, this is a couple weeks from
10 February. This is like two weeks from the 26th of
11 February till the 9th and I had been going to the courthouse
12 the whole time without seeing anybody, and I had asked
13 for -- I had stood up and said that I, I was unsatisfied
14 with my attorney and I had wished for a trial, and they
15 would still bring me over there not seeing me.

16 So, at that point that's why I had wrote, wrote that
17 request form and told me well, just, just send me back to my
18 institution because I'm not, I'm not getting represented by
19 nobody.

20 Q Okay. And, so, you said that you discussed some things
21 with Ms. Jones prior to your plea, right?

22 A That's right.

23 Q Did you discuss the evidence against you?

24 Did she, did she tell you what evidence the State had
25 to show that you were the person who was being charged and

Jeremy Jeter - Cross-examination
by Ms. Wilson

1 what kind of evidence they had to point to you as the
2 shooter, the victim?

3 A No, ma'am, that's why I had stated to my lawyer that
4 the only thing she discussed with me is about, about the
5 gun, the pistol.

6 MS. WILSON: Okay. Just a second, Your Honor.

7 THE COURT: Yes, ma'am.

8 (Pause.)

9 MS. WILSON: Your Honor, may I approach the witness?

10 THE COURT: You certainly may.

11 MS. WILSON: And I'm handing him just a copy of the
12 record of his guilty plea.

13 THE COURT: All right.

14 Q Hand that to you.

15 okay?

16 A Okay.

17 Q Okay. Mr. Jeter, can you follow along with me on Page
18 7?

19 So, can you turn to Page 7?

20 Let me know when you're there, okay?

21 A I'm there.

22 Q Okay. And we're gonna start looking at, looking at
23 Line 11.

24 A Okay.

25 Q And I'm gonna read and I want you to follow along with

Jeremy Jeter - Cross-examination
by Ms. Wilson

1 me.

2 okay?

3 A Uh-huh. (Affirmative).

4 Q It starts off on Line 11 saying -- this is what the
5 Court said to you. During that time, have you had plenty of
6 time, plenty of opportunity to talk with them about your
7 case as well as your apparent decision to plead guilty and
8 you responded yes, sir.

9 Is that accurate?

10 A Yes, ma'am.

11 Q Is that your response on that day?

12 A Yes, ma'am.

13 Q Okay. Then the Court goes on to say did you go over
14 this indictment, did they go over this indictment with you
15 and explain to you what the State claims that you did.

16 And what did you say?

17 what was your response?

18 Could you read it?

19 A I said yes, sir.

20 Q And were you being truthful that day?

21 A I was scared, to tell you, be, be honest.

22 Q But that was, was your response, that was your response
23 to the judge?

24 A That's my response.

25 Q Okay.

Jeremy Jeter - Cross-examination
by Ms. Wilson

1 A That's my response.

2 Q So, you were being truthful or you were not being
3 truthful?

4 A I mean I, I was speaking out of fear. I mean I had
5 no -- I mean --.

6 Q Prior to going -- prior to your plea when you were
7 having this discussion with Ms. Jones, did you discuss any
8 possible defenses to these charges with her?

9 A I mean I asked her the day, the day that I met with
10 her, the same day that I, of the guilty plea, I asked her
11 did she have any paperwork pertaining to my case. Well,
12 she, she said she didn't. She, she ain't really wasn't too
13 familiar with it. I mean that --.

14 Q And were you aware of any defenses that you might have?

15 A Yeah, I was aware, I was aware of defenses. But I mean
16 I, I can't just say the defenses. I would like to show them
17 on, on file. I would like to have them on file --

18 Q Okay.

19 A -- which I knew they were.

20 Q Okay. Can you turn to Page 8 of the record for me?
21 So, I guess that's the next question, next page.

22 A Yes, ma'am.

23 Q Okay. And we're gonna start -- I'm gonna start reading
24 on Line 21, and the Court says do you know of any defense
25 that you have to this, and then you responded I do, Your

Jeremy Jeter - Cross-examination
by Ms. Wilson

1 Honor, but I don't think that would, it would proceed in a
2 trial of the Court.

3 A What line you at?

4 Q And, so -- I'm sorry. On Line 21 and I read to Line
5 25.

6 A Okay. Okay.

7 Q Okay. Do you recall talking to the judge about any
8 potential defenses you may have?

9 A Did I talk to the judge---

10 Q About---

11 A ---about defenses?

12 Q Right.

13 A No.

14 Q Okay. And do you recall the judge telling you that
15 self-defense is a complete defense to a charge?

16 A Do I remember saying what?

17 Q Do you remember the judge telling you that the, the
18 defense that you said you had was a complete defense and
19 that you could go to trial and let the jury decide if that
20 was a good defense?

21 A I, I can't remember if it --

22 Q Okay. Well, turn to Page 9. Flip over I guess and
23 starting on Line 21. The Court says, and if a jury believed
24 you acted in self-defense or if that had or if they had a
25 reasonable doubt as to whether or not, whether you did or

Jeremy Jeter - Cross-examination
by Ms. Wilson

1 not, and you say yes, Your Honor. It says the Court said
2 they have to resolve that in your favor.

3 A Uh-huh. (Affirmative).

4 Q Do you remember -- do you recall that?

5 A Uh-huh. (Affirmative).

6 I recall it.

7 Q Okay. And then we're gonna turn to the next page, and
8 starting on Line 5.

9 A Uh-huh. (Affirmative).

10 Q The Court says do you understand that when you plead
11 guilty you give up your right to assert any defenses to the
12 extent that it would absolve you of any criminal
13 culpability.

14 A Yes, I, I recall.

15 Q You remember that?

16 A I recall that.

17 MS. WILSON: Okay. That's all I have for the witness,
18 Your Honor.

19 THE COURT: Redirect?

20 MR. KINARD: Briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. KINARD:

23 Q Mr. Jeter, the, the State's attorney asked you
24 regarding the date you went in front of Judge Hayes.

25 A Uh-huh. (Affirmative).

Jeremy Jeter - Redirect examination
By Mr. Kinard

1 Q When he asked you if you -- did he ask you if you
2 wanted a trial or if you were ready for a trial?

3 A He asked did I wish for, wish for a trial.

4 Q Okay.

5 A Does anybody wish a trial.

6 Q Okay. But you, but you didn't mean to, when you were
7 in front of Judge Hayes, convey the fact that or, or convey
8 that possibly you were ready for trial?

9 A Yeah, I never said that I was ready. I never stood up.

10 Q Do you believe that would of---

11 A I told him---

12 Q I'm sorry. I cut you off.

13 Go ahead.

14 A I never stood up claiming that I was ready for trial.
15 I stood up cause he asked does anybody wish for trial.

16 Q Okay. And on that date when you were in front of Judge
17 Hayes, were you represented by Ms. Jones at that time?

18 A I mean I -- she -- that's -- see, I don't know the
19 actual date of, of that, of then. But she had, she had to
20 be appointed to me then because when I first came to the
21 county jail, the Public Defender's Office had interviewed me
22 for that and said he was about, he was gonna assign me an
23 attorney. So, after that I had went to Court. So --.

24 Q Okay. And, Mr. Jeter, based on, based on your
25 conversations with your appointed attorney, based on what

Jeremy Jeter - Redirect examination
By Mr. Kinard

1 evidence and facts she was presenting to you, the only time
2 you met her, did you feel it was your only option to plead
3 guilty?

4 A Yeah, I mean I -- that was my only option then because
5 I felt like she, she was really telling me she wasn't
6 prepared and that we was gonna go to trial whether -- you
7 know what I'm saying?

8 I mean---

9 Q Okay. And when you met with her, did she give you
10 any -- I might of already asked them, but I'm clarifying.

11 Did she give you any, any evidence that she said here's
12 what we have, here's what we can present to the jury, to
13 this Court?

14 Did she show you any of that?

15 A No, she never showed me that.

16 Q Okay. And did you plead guilty on the advice of your
17 attorney?

18 A On the advice of my attorney?

19 Q Well, on the -- well, yes.

20 Did you plead guilty on, on, based on the information
21 she provided to you?

22 A I mean I did it out of, out of fear. I felt like I had
23 no, no other option. That's why I entered a guilty plea.

24 MR. KINARD: Okay. That's all I have, Your Honor.

25 Thank you.

Jeremy Jeter - Recross examination
by Ms. Wilson

1 THE COURT: Recross.

2 RECROSS EXAMINATION

3 BY MS. WILSON:

4 Q Mr. Jeter, did your lawyers explain to you about the
5 potential sentence for this charge?

6 A Yes, she, she stated -- the day of, of my guilty plea
7 she stated what the charge carried.

8 Q Okay. And knowing that, did that influence your
9 decision to plead guilty, the potential charges that you
10 were facing?

11 A I mean I still wished to, to go to trial. I mean it
12 doesn't, it didn't matter what it carried because I, I was
13 not guilty of it. It's just by that time I mean I had no
14 other option.

15 Q So, you said -- you say today that you were not guilty,
16 but you still proceeded to plead guilty and even though you
17 had a desire to go to trial, is that correct?

18 A (Witness nods affirmatively.)

19 Q Do you recall making a statement to the police about
20 your, about your involvement?

21 A Yes, ma'am.

22 Q Okay. And could you turn to Page 19 of the record for
23 me?

24 A (Witness complies.)

25 Q Okay. Are you on Page 19?

Jeremy Jeter - Recross examination
by Ms. Wilson

1 Just let me know when you get there.

2 A I'm there, ma'am.

3 Q Okay. Let's see. And we're gonna start at Line 8 and
4 follow along with me, and this -- you know, we'll start --
5 let's see. We're gonna start at Line 6, and it says State's
6 Exhibit No. 2 was a statement given by Mr. Jeter after he
7 was Mirandized by detectives, and he says -- this is, this
8 is your statement that they're reading into the record. He
9 says now I was leaving Club Hush. I used a man's phone to
10 call my ride. After I used it some guy started shooting at
11 me and I shot him one time because my life was threatened.
12 So, I got away because I felt like if I die, I die if I
13 didn't shoot. I dropped the gun and hide it. It was all a
14 mistake.

15 A I never said I shot him in my statement. If my lawyer
16 has my statement, he could, he could show you and verify
17 that I never said in my statement once that I shot him.

18 Q So---

19 A I said that I shot. I never said that I shot him.

20 Q Okay. So -- but this is what was read into the record
21 at your guilty plea, is that correct?

22 A Yes. Yes, ma'am.

23 Q And I'm gonna start reading at the bottom of Page 19 on
24 Line 25, and I'm gonna go over and it says all right, Mr.
25 Jeter, now you heard what the solicitor told me about the

Jeremy Jeter - Recross examination
by Ms. Wilson

1 facts that relate to your case, right?

2 A Hold on a second. You on---

3 Q I'm on the bottom of 19. I turned to 20.

4 A Okay. Okay. Okay.

5 Q And you say yes, Your Honor.

6 You didn't dispute, at the time, that statement that
7 was made, that was read into the record, is that correct?

8 A No, I -- no, I didn't.

9 Q So, you didn't tell the judge that that was incorrect
10 at the time of your guilty plea?

11 A No, I didn't. I did, I did try to tell my lawyer to
12 objected because I did not say in my statement that I, I
13 shot the man.

14 Q Okay. Okay. And later, on Page 22, at the top.

15 A Uh-huh. (Affirmative).

16 Q Okay. It starts off the defendant, and you say -- you
17 tell the judge that you didn't agree with the facts because
18 I have had no reason to shoot Mr., Mr. Sims. I used his
19 phone and gave his phone back, and some guys started
20 shooting from nowhere, and to like protect me and him I just
21 fired a shot back and took off running.

22 So, that's what you were saying when you told the judge
23 that you started shooting and you started running?

24 A Uh-huh. (Affirmative).

25 Q Okay. And then the Court says all right, but if you're

Jeremy Jeter - Recross examination
by Ms. Wilson

1 in agreement that Mr. Sims did not have a gun, is that true,
2 and then---

3 A But I---

4 Q Okay. I'm on, on Line 6, Page 22.

5 A Uh-huh. (Affirmative).

6 Q The Court says all right. You're in agreement that
7 Mr. Sims did not have a gun, is that true, and you say,
8 you're repeating the question, did Mr. Sims have a gun, and
9 then the Court says Mr. Sims, and you say I wasn't aware
10 that Mr. Sims, the victim, had a gun and you---

11 A Yes.

12 Q ---were shooting?

13 A Yes, I did say I wasn't aware.

14 MS. WILSON: Okay. That's all, Your Honor.

15 THE COURT: Anything further, counselor?

16 MR. KINARD: Nothing, nothing from me, Your Honor.

17 THE COURT: Just a couple of questions I have.

18 Mr. Jeter, I'm still on Page 22.

19 WITNESS: Okay.

20 THE COURT: The Court asked you, said -- you answered
21 on, on Line 12. Some guys were shooting. I don't -- and
22 the Court said I'm talking about Mr. Sims, and it says you
23 said no, sir, no, sir, he did not shoot at me. The Court
24 asked did he threaten you in anyway. You answered no, sir.
25 And then the Court said, in other words, you asked him to

1 use the phone, and you said here, help yourself, yeah, yeah,
2 and that's pretty much all there was to the discussion
3 between you and he.

4 Is that information correct as well?

5 Going back to the, 18 and reading, reading on down.

6 WITNESS: Yeah, I just used the man's phone, I just
7 used the man's phone and gave it back to him, and when I
8 gave it back to him, that's when people started shooting at
9 me.

10 THE COURT: And Mr. Sims though was the one that, that
11 you allegedly shot, is that right?

12 WITNESS: Yeah, that I -- they accused that I shot.
13 They're saying I shot.

14 THE COURT: Well -- and you pled guilty to shooting
15 him?

16 WITNESS: Yes, sir.

17 THE COURT: And it says -- you said yes, Your Honor.
18 I'm going to Line 24. So, if he didn't do anything that
19 would cause you to think he was threatening you in anyway
20 and your answer was no, sir, no, Your Honor.

21 WITNESS: That's correct.

22 THE COURT: Was that information correct then?

23 WITNESS: Yeah, that's correct because I, I didn't--

24 THE COURT: Is it correct today?

25 WITNESS: Yes, it's correct I said no, sir, because I

1 did not shoot him. He did not threaten him.

2 THE COURT: Okay.

3 All right. Anything further from either counsel?

4 MS. WILSON: No, Your Honor.

5 MR. KINARD: All right. Anything further you'd like to
6 say, Mr. Jeter?

7 WITNESS: That's it.

8 THE COURT: You may step down.

9 WITNESS: Huh?

10 THE COURT: You may step down.

11 WITNESS: Okay.

12 THE COURT: Have a seat back with your lawyer please.

13 WITNESS: All right.

14 THE COURT: Thank you.

15 All right. The applicant may call its next witness.

16 MS. WILSON: Thank you, Your Honor.

17 The applicant, at this time, calls Ms. Tanya Jones from
18 the---

19 THE COURT: Come forward, Ms. Jones, and be sworn.

20 TANYA JONES, having been first duly
21 sworn, testified as follows:

22 THE COURT: Have a seat please. Once seated, ma'am,
23 please state your name.

24 WITNESS: My name is Tanya Jones and I work for the
25 Spartanburg County Public Defender's Office.

Tanya Jones - Direct examination
by Mr. Kinard

1 THE COURT: Thank you.

2 Counselor, your witness.

3 MR. KINARD: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MS. KINARD:

6 Q Ms. Jones, did you represent -- were you appointed to
7 represent Mr. Jeter in this matter?

8 A I was.

9 Q Okay. Do you know the approximate date of when you got
10 this appointment?

11 A I do know he was interviewed by our office on
12 February 19th, 2010. So, I would have gotten the file
13 probably a week or two after that.

14 Q So, he was interviewed, I'm sorry, February 20?

15 A February 19th, 2010---

16 Q February 19th?

17 A ---by Larry Teague in our office.

18 Q Okay. And, Ms. Jones, how many times did you meet with
19 Mr. Jeter before the guilty plea in April of 2010?

20 A I do know he was on that April trial docket, and I met
21 with him that week.

22 Q Okay. Did, did you meet with him prior, any days prior
23 to the guilty plea?

24 A I don't recall. I know he was over at the old jail,
25 what we term the old jail, and I might of had some

Tanya Jones - Direct examination
by Mr. Kinard

1 conversations with him prior to that. I just don't recall
2 at this time. I actually was first up this week for trial
3 with Joshua Harris, which I think went till Tuesday.

4 Q Okay. Do you have any, any notes in your file
5 memorializing any conversations you had with Mr. Jeter?

6 A I, I do. I have notes that I talked with him. I do
7 have notes in regard to talking with him about when he was
8 initially arrested on the charge, when he bonded out, the
9 fact that he was in the DOC, the fact that this was a
10 violent most serious crime, that he could be LWOP'd on
11 anything else, that was serious and most violent.

12 He gave me the name of a witness, Chelsea Harrison, and
13 a phone number. And I also have an indication on the
14 incident report for a Terry Sims, who was the victim. I
15 have crossed out the number and put that it was no longer
16 good, which tells me that I attempt to contact Mr. Sims and
17 speak with him, but unfortunately this phone number was not
18 working.

19 Q Okay. In those conversations and the notes you have,
20 were those taken -- when were those taken?

21 Do you have a date on those of when those were taken?

22 A I don't. This obviously was a very busy trial week for
23 me, and sometimes I'm poor or bad about writing dates down.
24 But I can tell that I had a conversation with him and it
25 might of been a couple of conversations.

Tanya Jones - Direct examination
by Mr. Kinard

1 Q Okay. Do you recall, during any of those meetings that
2 you had with Mr. Jeter, discussing anything regarding the
3 gun that was used in this crime?

4 A I don't have a specific recollection of that. However,
5 I do have a SLED report in here. They evidently took a swab
6 from the Smith & Wesson .40 caliber pistol that was
7 recovered from the scene, and that indicated that Jeremy
8 Jeter could not be excluded as a possible minor contributor
9 to the mixture. It looks like they were a mixture of three
10 individuals from that swab with the gun, and certainly that
11 was in the discovery. So, I would of had a discussion with
12 him about that.

13 Q Okay. Did you ever do any investigation in regard to
14 comparing that gun that you just described and any casings
15 or, or bullet or bullets that may have been removed from the
16 victim?

17 A No, I don't recall ever having that kind of
18 conversation.

19 Q Okay. Do you -- would you agree that a comparison
20 between the gun and that bullet would have been material in
21 whether he is guilty of assault and battery with intent to
22 kill in this victim?

23 A It would of been a factor certainly. But, again, there
24 was -- he could not be excluded as a minor contributor. He
25 also indicated, wrote a statement saying he was at the

Tanya Jones - Direct examination
by Mr. Kinard

1 scene, and those items I think influenced our, our
2 discussion as to whether or not he wanted to plea or he
3 wanted a trial.

4 He was pretty high up on the trial docket, and I even
5 have notes regarding that trial list that I was actually in
6 trial with Joshua Harris. There were two other people. I
7 was up again with Roger Landford, and then the remaining
8 cases he was six down from that.

9 Q Okay. But would you agree, if, if you had ordered a
10 test on the, to compare the ballistics from the gun, and the
11 bullet and it came back, that that bullet in him, bullet
12 that came, removed from the victim did not match the gun
13 that was found on Mr. Jeter, would that still lead to a
14 charge of, and of lead to reasonable doubt of ABWIK?

15 A It certainly could. But, again -- and I'm looking at
16 the evidence sheet. I don't think they saved the bullet
17 that was taken out of Mr. Sims.

18 Q Okay. Did you ask them if they saved it?

19 A I don't recall having that conversation, but certainly
20 it would of been on the property sheet, and I'm looking at
21 the property sheet now, and there was the affidavit of photo
22 identification as well as this six person lineup, and I
23 don't have anything else to indicate that they kept the
24 bullet. And sometimes you can't get an analysis of that.
25 Sometimes it's better to find the shell casings, and I'm not

Tanya Jones - Direct examination
by Mr. Kinard

1 sure they ever recovered any shell casings from this area.

2 Q Okay. Did you interview any of the police officers or
3 investigators in prepare, in preparation for this case?

4 A I did not and I generally don't talk a lot with the
5 police officers simply because I have the report, and I'm
6 gonna be cross-examining them. So, I like, I like, often
7 times, the element of surprise.

8 Q Did you review any surveillance footage that might of
9 been taken from the club?

10 A I was not provided with any surveillance video.

11 Q In your normal course of representing the defendant, is
12 that something you would, you would inquire about?

13 A It is sometimes. Unfortunately, you know, he was
14 initially arrested on this charge of 7/19/2008. It's my
15 understanding he initially refused the Public Defender's
16 office cause he was gonna get private counsel. So, the fact
17 that I didn't get it until 2010, that's a two year lapse, so
18 any type of video that could of been preserved or could of
19 been saved is, you know, long gone.

20 Q Did you, did you ask anybody about surveillance
21 cameras?

22 A I didn't, but it was Barry Barnette on the other side,
23 and he's usually very good about providing all information
24 that he has for the case, and I do recall he was really
25 pushing this case hard. He wanted to try and resolve the

Tanya Jones - Direct examination
by Mr. Kinard

1 case, and I remember talking with Judge Cole in chambers in
2 regard to the fact that I just got the file, I, you know, I
3 haven't really had a lot of time to go over the discovery,
4 you know, and probably maybe needed a little bit more time,
5 and I -- Cole was a little bit resistant to the idea of a
6 continuance. But he indicated, you know, basically we'll
7 cross that bridge when we get there.

8 If this case gets reached, you know, we'll, we'll talk
9 about that a little bit, you know, farther on down the line
10 basically, and I did relay that to, to Mr. Jeter, the fact
11 that Mr. or Judge Cole wasn't sure whether or not he would
12 be granting a continuance. It was an older case, the fact
13 that Mr. Jeter didn't sign up for the Public Defender's
14 office for a long time.

15 So, I would of relayed that information to him, but,
16 again, we would of obviously I think -- I think I would of
17 requested a continuance cause obviously I know that that's
18 coming back if you do a trial when you're unprepared.

19 Q Okay. And if you would have gone forward with the
20 trial, things hypothetically would of been a little
21 different, and then a trial came up on the docket and went
22 forward, did you have any evidence, any statement from
23 witnesses, anything that you were gonna introduce into
24 evidence to raise it, to raise a defense to this ABWIK
25 charge?

Tanya Jones - Direct examination
by Mr. Kinard

1 A I don't recall whether or not we had specific
2 witnesses. I do know he did give me the name and the phone
3 number of somebody. I'm not sure at this point whether or
4 not I tried to call that person or not, and we would of,
5 again, discussed what defenses, if any, he would of had.

6 The problem was he had a criminal record. And, so,
7 when he -- I think he pled guilty to a couple burglaries,
8 and that always is significant in terms of the defendant
9 getting on the stand cause usually we don't want them to be
10 on the stand if they've got a felony record cause that's
11 just diminishing their credibility with the jury. So, you
12 know, it would of been hard for us to get our story in.

13 Q If, if you had some statements from witnesses,
14 additional SLED reports comparing gun analysis, and it turns
15 out that the analysis of, it's possibly that the bullet, the
16 wound in the victim did not come from a shot fired by Mr.
17 Jeter, would you have recommended he go to trial or plead
18 guilty?

19 A There was no evidence there of that. So, I can't
20 really speculate.

21 Q well, just hypothetically, if say in another case, if
22 the gun that was fired---

23 MS. WILSON: Objection, Your Honor. It calls for
24 speculation.

25 MR. KINARD: I'm asking her opinion, Your Honor. She

Tanya Jones - Direct examination
by Mr. Kinard

1 is a seasoned public defender, and she's had other instances
2 of, of representing criminal defendants, and I'm asking
3 her---

4 THE COURT: Well, I understand that, but now are you
5 asking her to speculate on something?

6 MR. KINARD: Well, yeah, it will be speculation, sure.

7 THE COURT: Okay. I'm gonna sustain the objection.
8 Let's move on.

9 MR. KINARD: Well---

10 THE COURT: If you've got some evidence that's in
11 existence or something you want to ask her about
12 specifically just asking---

13 MR. KINARD: Well, that's the thing, Your Honor. There
14 is no evidence.

15 THE COURT: I mean if the moon was blue, wouldn't
16 something be different, I mean that's speculation.

17 MR. KINARD: Sure. I understand, Your Honor.

18 Beg the Court's indulgence, Your Honor.

19 THE COURT: Yes, sir.

20 (Pause.)

21 Q Ms. Jones, have you had a chance to review the, the
22 guilty plea transcript that's been admitted into evidence?

23 A I did briefly go over it, yes, sir.

24 Q Okay. And do you have a copy up there?

25 A I do. I do.

Tanya Jones - Direct examination
by Mr. Kinard

1 Q Okay. If you could turn to, I'm sorry, Page 30 of that
2 transcript, and starting at Line 23, this is the victim
3 making the statement, he states that the girls that I was
4 going to meet they was right there. They was right there.
5 The victim references that there were apparently some
6 females who were right there at the shooting.

7 Did you get the names of those females at all?

8 A I don't think so. I don't recall that.

9 Q Okay. In your opinion, you think they would be
10 beneficial if you had spoken with them as to what they saw
11 that night?

12 A Perhaps. I mean --

13 Q Okay. They were possibly eye witnesses, correct?

14 A They possibly were. Without names it's really hard and
15 difficult to interview people, and a lot of times people go
16 by nicknames, which also makes our job very difficult in
17 terms of trying to track people down. So, I can't say for
18 sure one way or the other, and not only that, a lot of times
19 people don't want to get involved.

20 Q Okay.

21 A You hear that a lot. So, I don't know.

22 Q But you, but you could of interviewed possibly Mr. Sims
23 and gotten those names?

24 A And, again, I -- it's apparent from my notes that I
25 attempted to contact Mr. Sims and unfortunately that number

Tanya Jones - Direct examination
by Mr. Kinard

1 was not good anymore.

2 Q Okay. If you'll move over to Page 31 of that same
3 trial or plea transcript.

4 A Uh-huh. (Affirmative).

5 Q Will you, will you read -- well, I'll read it. I don't
6 know if it really matters. It states, this is the victim,
7 Mr. Sims I believe is his name, states, in responding to a
8 question, no, sir. When I -- when they shot me I just took
9 off.

10 Do you find any significance in the, his choice of
11 words with they there?

12 Is that significant to you at all since, since Mr.
13 Jeter was ultimately charged and pled guilty and possibly
14 three representations that even the victim states that,
15 that -- do you think that's significant possibly?

16 A Yeah, it certainly could be significant. I do know or
17 recall, from the discovery, that there was a discrepancy in
18 terms of how many shots were fired, whether or not there was
19 more than one gun. You know, it was basically a club, a
20 club shooting, and there's always a lot of discrepancies and
21 Mr. Jeter and I certainly would have talked about that in
22 going over some of the strengths and weaknesses of the case.

23 MR. KINARD: Okay. Beg the Court's indulgence one
24 second, Your Honor.

25 THE COURT: Yes, sir.

Tanya Jones - Direct examination
by Mr. Kinard

1 MR. KINARD: I'm sorry. I'm just getting the exhibits
2 together here.

3 THE COURT: Yes, sir.

4 (Pause.)

5 Q And, Ms. Jones, did y'all provide me with your copy of
6 your file in, in preparation or at my request for this
7 hearing?

8 A I don't know.

9 (WHEREUPON, an incident report was marked as
10 Applicant's Exhibit No. 3 for identification purposes only
11 at this time.)

12 Q Okay. Ms. Jones, I'm gonna hand you up a document at
13 this time.

14 Will you tell me if you, you recognize that?

15 A It's the incident report.

16 Q Okay. Does that look like an accurate or, or the exact
17 copy that you would have in your file?

18 A Mine is a little different.

19 Q Okay. But you do disagree that that was the incident
20 report taken that night for this matter for these, for this
21 incident?

22 A Yeah, I think that that is Mr. Turner's incident
23 report, yes, sir.

24 Q Okay. I want to direct, direct your attention to I
25 believe it's, it will be your last page. It says in the

Tanya Jones - Direct examination
by Mr. Kinard

1 report. Then it will be the last page.

2 A Okay.

3 Q And this appears to be an incident report by -- I can't
4 find the officer's name here.

5 A Notebloom.

6 Q It is Notebloom?

7 A Uh-huh. (Affirmative).

8 MS. WILSON: It's at the bottom.

9 A It's at the very bottom.

10 Q Okay. There it is. So, this apparently -- yeah,
11 Notebloom. I'm sorry. I don't look at these very often.

12 But in that report he states, in his incident report he
13 states while we were breaking up a fight we heard six to
14 nine shots.

15 Do you recall reviewing that set of facts when
16 reviewing this case?

17 A Yes, sir.

18 Q Okay. And is the fact that there was, that the officer
19 heard six to nine shots, is that significant to the charge
20 that Mr. Jeter was charged with and pled guilty to?

21 A Yes, that's significant. That is an important fact,
22 sir.

23 Q Okay. And did you ever interview Mr. Notebloom as in
24 regard to this incident report?

25 A No.

Tanya Jones - Direct examination
by Mr. Kinard

1 Q Okay. Did you ever inquire if there were other shell
2 casings that were picked up out there from these alleged
3 shots?

4 A No, because in reviewing that I believe that they did
5 not pick up any of the shell casings, which, again, is
6 something that I'm not going to talk with Mr. Notebloom
7 about over the phone. I'm just gonna ask him on the stand
8 why that wasn't done to make him look incompetent.

9 Q Okay. And do you recall ever having any conversation
10 with Mr. Jeter, be it the day of the pleading or the day of
11 the guilty plea or whatnot, indicating that the gun did not
12 match up, anything regarding that?

13 A I don't specifically recall any of that. So, I have to
14 go with what's in my file, and I did, like I said before,
15 found that SLED report, which they did Buccal swabs on the
16 gun and he could not be excluded as one of the contributors.
17 We definitely would of gone over that because obviously
18 that's important. Juries like that kind of CSI stuff, and I
19 would have no reason not to go over that with him.

20 MR. KINARD: Okay. That's all I have at this time,
21 Your Honor.

22 THE COURT: Your witness.

23 CROSS-EXAMINATION

24 BY MS. WILSON:

25 Q Ms. Jones, so you received Mr. Jeter as a client

Tanya Jones - Cross-examination
by Ms. Wilson

1 through the Public Defender's Office shortly after someone
2 from your office spoke to him about requesting a public
3 defender?

4 A No, actually from a note in the file from Judy Bogan
5 who is the court administrator. She apparently had a
6 conversation with Barry Barnette who is specifically
7 bringing Mr. Jeter back because he did not have
8 representation, and he specifically requested that we go to
9 the jail to interview him to find out whether or not he
10 qualified, and that is the note in my file, and that note is
11 written to one of our investigators who apparently did go to
12 the jail because I later became Mr. Jeter's attorney.

13 Q Okay. And after you became his attorney, did you file
14 a motion or a Rule 5 motion to get discovery from the
15 Solicitor's Office?

16 A I did.

17 Q Okay. And what did they -- what type of information
18 did they turn over in that discovery package?

19 A It looks like the incident report, the supplemental
20 report, the waiver of rights, the voluntary statements, his
21 rap sheet, the AT&T phone records, evidence sheets, and the
22 SLED request form as well as the, the DNA analysis, and that
23 was provided to me it appears at or around February 24th,
24 2010.

25 Q And as a part of the incident report that, that we just

Tanya Jones - Cross-examination
by Ms. Wilson.

1 discussed, well that you just discussed with counsel, was
2 there a statement from one of the officers in there about
3 the applicant being picked up out of, picked out, picked out
4 of a lineup?

5 A Yes, and I will note that had not been provided to me
6 at the time of the plea, and I didn't mention it to
7 Mr. Barnette because it was going to be one of the reasons,
8 if I was pushed into trial, to try and gain a continuance.
9 But, again, I don't think this was necessarily a
10 identification type case because Mr. Jeter already
11 acknowledged that he was at the scene.

12 Q So, would you have considered the information that you
13 received in the discovery, discovery packet relatively
14 strong evidence against the defendant?

15 A I don't know if I'd say relatively strong. I mean
16 there's certainly -- there was some evidence that pointed to
17 Mr. Jeter, but there were some things that, you know, the
18 discrepancy in the number of shots and different things, and
19 ultimately we always go over the strengths and the
20 weaknesses, and it's always up to our clients as to whether
21 or not they want to take the risk of trial where they might
22 risk more time or to plead to try and get mercy from the
23 Court.

24 Q And was it Mr. Jeter's decision to plead guilty?

25 A It ultimately was, and I know he testified earlier that

Tanya Jones - Cross-examination
by Ms. Wilson

1 he felt a little bit rushed in. I think that that week was.
2 It was very rushed. We were kind of getting pushed into,
3 you know, a position where we needed to resolve the case.
4 But, again, as Judge Cole ultimately thought that it was
5 more Mr. Jeter's fault in terms of not getting an attorney
6 faster, but I do think though I was able to relay the
7 information to Mr. Jeter, go over the facts and
8 circumstances of the case. He just had a shorter time
9 period in which to decide than other people in terms of
10 whether or not they're gonna go to a trial or plea.

11 Q Counsel brought out that, in the victim's statement at
12 trial, he made reference to several victim, several female
13 witnesses, and you -- is it your testimony that you'd only
14 received any evidence or potential -- let me restate that.

15 You only received information about one, one other
16 witness from the applicant prior to his plea?

17 A Yes.

18 Q Okay. And also earlier you talked about -- the, the
19 counsel brought out the testimony from the victim that he,
20 when he missed, I guess, made the statement about they shot
21 me.

22 Would the presence of other guns that night on the
23 scene of the crime have been a defense for Mr., for Mr.
24 Jeter?

25 A I'm not sure I'm following, following you. But

Tanya Jones - Cross-examination
by Ms. Wilson

1 basically I think what had happened was there was some type
2 of argument between two people and shots rang out. This is
3 kind of a classic fight at a, at a club. Obviously there
4 were probably several witnesses. That would of been part of
5 our defense in terms of cross-examining the officers as to
6 why they didn't get that information, and why they only
7 recovered one gun, and why they didn't recover any of the
8 shell casings or the bullet.

9 Those could of been things we would of obviously
10 brought out. However, my client decided to try and throw
11 himself on the mercy of the Court, and he would not have
12 been able to testify or I would of strongly encouraged him
13 not to testify, and, therefore, only the victim and the
14 police would of been testifying, and, you know, I can throw
15 as many stones as I want. But ultimately, when the jury
16 only hears one side, sometimes we know it's gonna happen.
17 I'm not sure if that answered your question really.

18 Q Ms. Jones, how long have you been practicing law?

19 A How long have I been practicing law?

20 Q Uh-huh. (Affirmative).

21 A I've been licensed since 2000.

22 Q And how much of that time has been in criminal law?

23 A I started in Georgia I think in '06, and I was hired
24 here in '08. I'm licensed in five states. And, so, I lose
25 track. I've lived a lot of places.

Tanya Jones - Cross-examination
by Ms. Wilson

1 Q Okay. Okay. Thank you.

2 Nothing further for her, Your Honor.

3 THE COURT: Yes, sir.

4 MR. KINARD: Briefly, Your Honor.

5 REDIRECT EXAMINATION

6 BY MR. KINARD:

7 Q Ms. Jones, you testified that you felt rushed that day
8 when he pled guilty?

9 A I don't know. Maybe rush is a bad, bad word. I
10 definitely felt the pressure of the solicitor and the judge
11 in terms of this case. But we often feel those kinds of
12 pressures. It's not something that intimidates me. It's
13 just something where, you know, you're -- you're gonna have
14 to spend the extra time. I'm gonna have to go to the old
15 jail. I'm gonna have to spend a couple hours. You might
16 have to skip lunch, different things like that.

17 So, I definitely felt the pressure on this case. But I
18 did try my best to give it the attention it needed, and I
19 think, if push came to shove, and Mr. Jeter simply did not
20 want to plea, simply really wanted to go for trial, and
21 sticking to his guns, I would of done my best to try to get
22 a continuance in the matter, and hopefully push it off just
23 even to the next term.

24 Q Okay. So, going back to that day, being on the trial
25 docket, knowing you're possibly gonna have to go through it,

Tanya Jones - Redirect examination
by Mr. Kinard

1 would you like to -- would you have liked to have reviewed
2 the evidence against your client more in depth?

3 A Would I have liked more time to prepare?

4 Q Sure.

5 A Yes, part of the problem was that he was in the
6 Department of Corrections. And, so, I traditionally don't
7 go down to the Department of Corrections cause I simply
8 have too much on my plate to do.

9 He might have been brought back a week before. I'm not
10 really sure. I know that Mr. Cheek was having conversations
11 with Mr. Jeter. And, so, I sort of deferred to him because,
12 based on my conversations with Mr. Barnette, he thought
13 Jeter was going to plead. So, I kind of stepped back and I
14 was the trial attorney, and I kind of stepped back and let
15 Mr. Cheek and Mr. Jeter speak and kind of do their own
16 thing. I was involved with a trial initially that week. I
17 was the first one out that week.

18 But when it looked like there might not be a plea or
19 anything like that, Mr. Cheek and I spoke. I spoke with my
20 client. We, again, went over a lot of the evidence, the
21 information. So, when it did come time to plead, I told
22 Mr. Cheek that I'd put my name on this because, you know, I
23 was helping and see what we could do for Mr. Jeter in terms
24 of a plea.

25 Q Okay. And in that plea, do you recall making any

Tanya Jones - Redirect examination
by Mr. Kinard

1 statements to the Court, any mitigating, mitigating
2 statements?

3 A I didn't because, again, Mr. Cheek knew Mr. Jeter. I
4 think he was familiar with his family. Mr. Cheek always is
5 familiar with a lot of folks here in Spartanburg. I'm not
6 from this area. So, I deferred to him and he covered the
7 bases real well. So, there was simply nothing more for me
8 to add.

9 MR. KINARD: Okay. Thank you. That's all I have, Your
10 Honor.

11 THE COURT: Anything further?

12 MS. WILSON: Nothing further, Your Honor.

13 THE COURT: You may step down.

14 Applicant may call its next witness.

15 MR. KINARD: Your Honor, that's the applicant's case.

16 THE COURT: State wish to call any witnesses.

17 MS. WILSON: Yes, sir, Your Honor.

18 I'd like to call Mr. Cheek.

19 THE COURT: Mr. Cheek, come forward and be sworn.

20 Place your left-hand on the Bible and raise your right
21 please, sir.

22 JAMES CHEEK, having been first duly
23 sworn, testified as follows:

24 THE COURT: Have a seat please, and once seated, state
25 your name.

James Cheek - Direct examination
by Ms. Wilson

1 WITNESS: James Cheek. I'm employed with the
2 Spartanburg County Public Defender's Office, Seventh Circuit
3 Solicitor's nemesis. We're working against them.

4 DIRECT EXAMINATION

5 BY MS. WILSON:

6 Q Mr. Cheek, did you have any conversations with Mr.
7 Jeter about, about giving up, entering a plea of guilty and
8 what his options were?

9 A I think I had probably two conversations with Mr.
10 Jeter. One, for some reason, he was at the jail room when
11 they brought him back from the Department of Corrections one
12 time, and I think, at that time, it was either to get him an
13 attorney appointed or to see if the Public Defender's Office
14 was representing him, and for some reason he wound up in the
15 courtroom in front of Judge Hayes. I'm not sure at the time
16 we represented him, but I did speak with him briefly and
17 told him I would look into his case and try to get some
18 information on his case.

19 But it wasn't -- it would not of been a very long
20 conversation, and then I think the night that they brought
21 him back to the Department of Corrections or the night I saw
22 him at the, at the detention facility, it was probably the
23 day before or two days before his plea. He tried to get my
24 attention, and I spoke with him. I told him -- he said his
25 family wanted to talk with me.

James Cheek - Direct examination
by Ms. Wilson

1 He was back and trying to get some information on his
2 case. I talked to his brother, Antwan Jeter, but I was
3 trying to can get in contact with some people over in
4 Gaffney to see if they get the names of those ladies who may
5 of been at the club that night or who may have seen what
6 happened behind the club that night of the shooting.

7 Q Were you able to get those names from whomever you said
8 was suppose to give them to you?

9 A No, we were not able to get the names. In fact, the --
10 it appeared, at that time, there was one female who may have
11 known Mr. Jeter or near the front of the club. I think we
12 had that name. I think her name was Harris or Sierra Harris
13 or something like that, and then we weren't able to get in
14 contact with her. But she was not behind the club, as I
15 recall, where the shooting actually occurred, and then the
16 other females who were present supposedly behind the club
17 that night would of been friends of Mr. Sims.

18 So, we really had no way of getting those names and
19 Mr. Sims, as far as I could determine, had not turned those
20 names over to the solicitor's office for any reference as
21 potential witnesses.

22 Q Mr. Cheek, do you remember, at Mr. Jeter's plea, giving
23 some mitigation evidence to the judge about, about Mr. Jeter
24 and the situation surrounding the charges?

25 A I do recall speaking regarding the situation of

James Cheek - Direct examination
by Ms. Wilson

1 mitigation. Mr. Jeter had told me that there were other
2 people shooting out that night behind the club, that he had
3 spoken to Mr. Sims, and asked to use his phone ostensibly to
4 call for a ride. I explained to Mr. Jeter it appeared that
5 there may of been more going on besides just needing a ride
6 that night.

7 I asked him was there some kind of drug activity that
8 may of been involved with other members of his family. He
9 was adamant that he had just asked to use the phone to call
10 for his ride cause he missed his ride, and I talked with the
11 Court about my review of the whole situation, and I think I,
12 if I weren't, I intended to be very clear that it was all
13 what I surmised of actually happened out behind that club
14 that night, that there were other people shooting and that
15 Mr. Jeter had no reason to shoot the victim in this case.

16 I think he was in a position where the State was
17 looking at his record, looking at potential charges they
18 could bring against him, in addition to the ones that
19 already were up for an indictment, and he did not want to be
20 in a position where he might potentially be facing an LWOP
21 situation. So, he would just was relying I think on his
22 family to come up with some names of some people who might
23 of been at the club or making contact with people over in
24 Gaffney who might have known somebody who knew somebody.

25 So, he was kind of at a decided disadvantage in getting

James Cheek - Direct examination
by Ms. Wilson

1 me the names of the people and relying upon his family, and
2 I think relying even most upon his mother making contact I
3 think. As I recall, she was in Georgia and was trying to
4 get here for the plea and get here for the trial and
5 whatever was gonna happen, and that he just, about that time
6 as I told him, he was facing kind of irrational at that time
7 about any assistance to us getting any further information
8 that might have helped him.

9 So, I did speak in mitigation and I tried to speak to
10 what I thought were the things the Court might consider in
11 order to give him any degree of mercy and leniency in
12 sentencing since he was going ahead and moving forward with
13 a plea as opposed to going to trial.

14 Q And do you think the presence of any other shooters on
15 the scene would of been a defense for Mr. Jeter?

16 A Yes, I mean Mr. Jeter asserted all along that there
17 were people shooting out there, but we could not establish
18 that and Mr. Jeter been the only person who could of
19 testified to that other than females who were all, appeared
20 to have been friends of the victim. So, I do think it would
21 of been helpful, but I don't know how we could of gotten
22 that information in a trial since we did not have that
23 information and we did not have anything from Mr. Sims
24 divulging the identity of those people.

25 The police didn't bother to try to get that

James Cheek - Direct examination
by Ms. Wilson

1 information. They didn't, they didn't interview anybody,
2 anybody else out there. The females or any males who were
3 out there. They just indicated, when they pulled up on the
4 scene, that there were a number of people out there who
5 pointed towards the direction that Mr. Jeter had run that
6 night. But there also was a statement from the victim,
7 Mr. Sims, indicating that he had run into the woods that
8 night.

9 So, it appeared a number of them ran in different
10 directions. And, so, we don't know what the police saw when
11 they got there. But we know we didn't have information or
12 any name other than Terry Sims and Mr. Jeter. That's all we
13 had to work with.

14 Am I, am I on point at all?

15 I don't know if I'm being responsive.

16 Q No, you're fine.

17 A Okay.

18 MS. WILSON: I don't have any further questions, Your
19 Honor.

20 THE COURT: Your witness.

21 MR. KINARD: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. KINARD:

24 Q Mr. Cheek, could you just clarify again, from my
25 benefit, how many times you met with Mr. Jeter before he

James Cheek - Cross-examination
by Mr. Kinard

1 pled guilty?

2 A I honestly don't recall meeting with him but once to
3 any degree that morning. I talked with him very briefly
4 that night and got his brother's phone number and tried to
5 reach his brother, Antwan. I don't recall having, having
6 another discussion with him.

7 Q Okay. And, Mr. Cheek, if you can briefly tell the
8 Court kind of what your role is in the P.D.'s Office as in
9 regard to doing guilty pleas?

10 Is that your primary---

11 A That's my only role in addition to occasional bond
12 hearings.

13 Q Okay. And would it be an accurate statement that you
14 didn't, that you just being a, taking a, guilty pleas and
15 Ms. Jones was the trial attorney, that you didn't, you
16 weren't responsible for the investigation and forming the
17 defense to Mr. Jeter's case?

18 A Not in the formation of the presentation of a defense.
19 I, I looked towards mitigation, and I do what I can based
20 upon the information I have from the discovery as well I
21 learn from the defendant and the family or any minor
22 investigation I might make into the situation.

23 Q Okay. And looking at that information, in your
24 opinion, are there certain red flags, based on the
25 information that, that you saw in regard to the facts, of

James Cheek - Cross-examination
by Mr. Kinard

1 which Mr. Jeter was charged with this, and I mean
2 specifically looking at the guilty plea where it's already
3 been pointed out that Mr. Sims referred to they?

4 A I'll try to be responsive. When you say red flags --
5 if you can be more---

6 Q Okay. Sure. I'll rephrase that.

7 A ---or give me an example and I'll try to be responsive.

8 Q Sure.

9 Do you think it would of been beneficial if there was
10 some evidence or some request for evidence of comparing the
11 bullet that shot Mr. Sims and the gun that was recovered
12 from the scene?

13 Would that of been beneficial to an attorney
14 representing Mr. Jeter?

15 A In, in discussions with my clients, particularly
16 someone in a situation that Mr. Jeter found himself, the
17 only thing I could do was review the, the discovery that I
18 had, and work with what I had.

19 Q Okay.

20 A I will tell you that I went to Ms. Jones because I felt
21 that Mr. Jeter was very ambivalent about what he needed to
22 do and very -- I don't want to use the term irrational, but
23 he was at the point of, of exasperation.

24 Q Okay. And this was before he pled guilty?

25 A Yes, and then Ms. Jones and I went and talked with him

James Cheek - Cross-examination
by Mr. Kinard

1 together---

2 Q Okay.

3 A ---about what she had to work with and the time
4 constraints as well as the discussions she had with the
5 judge about a continuance, and had we gone forward with the
6 trial, we just felt that if, if we went forward with the
7 trial, it was too great a chance that the judge was gonna
8 max him out and Mr. Jeter was concerned about that also, and
9 he was looking at a maximum sentence. And, so, the only
10 real thing to argue anything in mitigation, ask for mercy,
11 leniency in sentence, was to avoid a trial.

12 Q Okay. In your opinion, you know hypothetically if the
13 trial was coming up a month later---

14 MS. WILSON: Objection, Your Honor. This question
15 seems like it's gonna call for speculation.

16 THE COURT: Well, I'm gonna let him finish the question
17 and then we'll decide whether it's speculation or not.

18 Q Theoretically, if, if Ms. Jones had say additional
19 time, if she wasn't on the trial docket, do you think there
20 was additional information that she could have investigated
21 and researched that could of been presented to the Court at
22 a later date that would have possibly raised a reasonable
23 doubt as to Mr. Jeter's guilt?

24 MS. WILSON: Your Honor, I'd like to object based on
25 speculation.

James Cheek - Cross-examination
by Mr. Kinard

1 THE COURT: Well, what, what I think he's trying to ask
2 is what I would allow is whether or not Mr. Cheek was aware
3 of any information that was available that could of been
4 developed had there been more time.

5 Is that where we are?

6 MR. KINARD: Very good, judge.

7 A I think, in all fairness to Ms. Jones, and looking at
8 the situation, it would of been helpful if the, if the
9 police or if our investigators in our office had at least
10 followed up with the information, with the conversation with
11 Mr. Terry Sims particularly since, in Mr. Sims presentation
12 to the Court, he acknowledged something we had not had
13 before at all from the discovery or from law enforcement,
14 that there were other people, appeared to have been other
15 people who shot out there, which would of been consistent
16 with what Mr. Jeter was saying happened.

17 Mr. Jeter said he approached and used his phone, made a
18 phone call to someone who later turned out to be Antwan
19 Jeter who appeared to have some prior contact with this
20 victim, Mr. Sims, or as it appears that maybe they were, had
21 mutual home boys and knew each other. There might of been
22 some other motive involved in all of this. And, so, had Ms.
23 Jones had time I think and had support of our staff, I think
24 that she probably could have benefited from someone talking
25 with Mr. Sims. I don't know how truthful Mr. Sims would of

James Cheek - Cross-examination
by Mr. Kinard

1 been in revealing the names of those people.

2 so, again, it requires speculation and it requires that
3 there would of been a whole lot of people coming forward
4 revealing things that we didn't have at that time.

5 Q Okay. But, but that couldn't have been known unless
6 you asked him, is that correct?

7 A That's correct.

8 Q Okay. And there was, there also -- in regard to --
9 also with witnesses, there was also no request by the P.D.'s
10 office for possible surveillance tapes just to see if they
11 were out there?

12 I'm not saying they were, but just, just asked.

13 A I wasn't aware of any surveillance tapes.

14 Q Also in regard to ballistics tests, are you, are you
15 aware if there's any request or any requests by SLED to do a
16 ballistics test on any bullet, if there was any, and the gun
17 found at the crime scene?

18 A I would just say that this, this is discovery is much
19 different from most we've seen from that particular club
20 because our officers handled a couple of other cases where
21 there was surveillance and the solicitor's office and law
22 enforce provided that surveillance, and---

23 Q Okay. So, you're saying you've had previous cases
24 involving Club Hush where there has been surveillance camera
25 footage?

James Cheek - Cross-examination
by Mr. Kinard

1 A Yes.

2 Q Okay.

3 THE COURT: But let me follow-up on that.

4 Mr. Cheek, most of the cases I've seen from that
5 facility, the surveillance was in the front of the business,
6 not in the rear where this shooting took place.

7 WITNESS: That's right, Your Honor.

8 THE COURT: Is that correct?

9 WITNESS: But, Your Honor, I think there was a fight
10 inside the club, and it appeared that most of the people
11 came out, and the people who came around the side of the
12 club would of most probably come from the front of the club,
13 and that's where the---

14 THE COURT: Oh, I understand that.

15 But as far as the shooting itself---

16 WITNESS: It would not have been---

17 THE COURT: ---I haven't seen any video footage from
18 that location from the rear of the club. I just want to
19 know if you have.

20 WITNESS: No, sir, none whatsoever from the rear.

21 THE COURT: I haven't tried all of the cases that went
22 on out there. I've tried a couple.

23 WITNESS: That's right, Your Honor.

24 THE COURT: Okay. All right.

25 WITNESS: Nothing, nothing from the rear.

James Cheek - Cross-examination
by Mr. Kinard

1 MR. KINARD: Can I follow-up on that question?

2 THE COURT: Certainly. Sure.

3 Q Are you aware that there are, are you aware that there
4 are cameras in the back?

5 A No, I, I am not.

6 Q There could possibly be?

7 A I'm not aware of whether there are or not.

8 Q Okay. And, Mr. Cheek, did you interview any of the
9 officers that investigated, investigators in this matter?

10 A No, I did not.

11 Q Okay. At any point, Mr. Cheek, before Mr. Jeter pled
12 guilty, did you advise him as to your, your opinion, based
13 on your understanding of the facts in the case, of whether,
14 whether he should have a trial or plead guilty?

15 A I told him I wanted him to have a conversation with his
16 trial attorney before I would take him in a plea.

17 MR. KINARD: That's all I have.

18 A And sometimes -- I rarely do that, but in this
19 particular case I felt like he needed to have a conversation
20 with his trial attorney before I took him before a plea.

21 MR. KINARD: That's all I have, Your Honor.

22 THE COURT: Mr. Cheek, one question I have.

23 In your review of the discovery that you saw, was there
24 an indication that this was a through shot that went all the
25 way through the victim?

James Cheek - Cross-examination
by Mr. Kinard

1 It seems like I saw that somewhere in here and I
2 haven't been able to find it again.

3 MR. CHEEK: Your Honor, I don't---

4 THE COURT: I'm asking if you recall that.

5 WITNESS: I don't recall, Your Honor. But I do know
6 that---

7 THE COURT: It hit him in the shoulder.

8 WITNESS: It hit him in his shoulder, and from what I
9 recall, even from what the, the victim testified to, Mr.
10 Jeter was standing right up on him and right next to him.
11 And, so---

12 THE COURT: It's possible?

13 WITNESS: It's possible. I don't recall from the
14 discovery, Your Honor.

15 THE COURT: It just seemed like somewhere I saw in one
16 of the police officer statements that he came up on a guy
17 that had been shot through the shoulder, and --.

18 MR. KINARD: Your Honor, I can look and---

19 THE COURT: Well, I just hadn't been able to find it
20 again. It seems like I saw it when I first read through it,
21 but, you know, I'm kind of a speed demon when I first look
22 at them.

23 WITNESS: I think the incident report says, Your Honor,
24 that officers -- I went directly to my patrol car and went
25 to the back of the club. It was approximately 30 seconds

James Cheek - Cross-examination
by Mr. Kinard

1 after the shots were fired that I exited my vehicle behind
2 the club and was approached by a black male who stated he
3 had been shot. The male was holding his right shoulder,
4 which is now covered in blood, and I advised him to have a
5 seat and remain calm.

6 THE COURT: Yeah, I reread that and I didn't see
7 anything about a through shot. Maybe I read that myself
8 into it.

9 All right. Just wondered if you remembered seeing
10 that.

11 All right. Anything further from the State from this
12 witness?

13 MS. WILSON: Just a few questions, Your Honor.

14 THE COURT: Yes, ma'am.

15 REDIRECT EXAMINATION

16 BY MS. WILSON:

17 Q Mr. Cheek, so was it Mr. Jeter's decision to plead,
18 plead guilty that day?

19 A There were a lot of influences. It would be hard to
20 say that a person was exercising their own ultimate
21 decision. I know his brother was very impacted. His mother
22 was very impacting. It was a very emotional moment. I'm
23 not sure whether he was in complete control of his faculties
24 when he moved forward with that plea, to be fair to him and
25 to our representation.

James Cheek - Redirect examination
by Ms. Wilson

1 Q And you made that statement earlier that Mr. Jeter
2 could of been, benefited from a talk with Mr. Sims relating,
3 regarding any other witnesses, is that correct?

4 A Our office had some discussion with Mr. Sims---

5 Q Yes.

6 A ---I don't know. I don't know Mr. Sims that well. So,
7 I don't know how truthful he would of been with us in, in
8 revealing the names of those other witnesses. It appears
9 that he probably would be the only contact we would of had
10 to know who else was out there. But he did say, at the
11 plea, they shot me. And, so, I don't know why law
12 enforcement didn't interview him previously to find out who
13 they were, who the other people possibly would of been
14 involved in this shooting.

15 Q Do you recall whether you tried or you knew of Mr. Sims
16 trying to be contacted or you attempted to contact Mr. Sims
17 for getting information?

18 A I wasn't involved in any of that.

19 Q Okay.

20 A What I did suggest to the families was, to his mother
21 over the phone that night, and this was probably like 11:30
22 or twelve o'clock at night that they called me, and I said,
23 you know, at this point in time maybe you need to try to
24 find out something about this family over in Gaffney and see
25 if they might be amenable to, to working something out

James Cheek - Redirect examination
by Ms. Wilson

1 because apparently the solicitor's office hadn't done that
2 then. I -- the impression I got from the solicitor's office
3 was that they really hadn't had that much contact with
4 Mr. Sims and they didn't know if Mr. Sims was gonna show up
5 for trial or not. So, I just have a lot of problems with
6 how the solicitor's office handled that whole thing.

7 Q And you testified that you, you advised Mr. Jeter that
8 he should talk to Mr. Jones, Ms. Jones before pleading
9 guilty, is that correct?

10 A I did.

11 Q And did he talk to Ms. Jones prior to his plea?

12 A Yeah, we were together.

13 Q Thank you.

14 That's all I have for this witness, Your Honor.

15 THE COURT: Anything further, counselor?

16 MR. KINARD: Nothing from me, Your Honor. I'd like to
17 move to introduce all the exhibits.

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

19 WITNESS: Thank you.

20 THE COURT: Any objection to the exhibits that have
21 been marked being introduced?

22 MS. WILSON: No, Your Honor.

23 THE COURT: All right. They'll be introduced into the
24 record.

25 (WHEREUPON, Applicant's Exhibit Nos. 1 through 3 were

1 received into evidence at this time.)

2 THE COURT: Anything further from the---

3 MR. KINARD: Your Honor, briefly?

4 THE COURT: I believe the State called this witness.
5 Do you have any other witnesses you'd like to call?

6 MS. WILSON: No, Your Honor.

7 THE COURT: All right. Now, yes, sir.

8 MR. KINARD: Very briefly, Your Honor.

9 Based on the testimony that's been presented today, we
10 would ask that the guilty plea entered by Mr. Jeter was not
11 voluntarily and intelligently given based on the evidence he
12 had in front of him, based on what, the representation that
13 was given to him by his whole defender.

14 I understand the Public Defender's Office is very busy,
15 that they, you know, they are under some short period of
16 time of when they were appointed and when this trial came up
17 on the docket. But I don't think that's any excuse for,
18 for, you know, denying Mr. Jeter his, his fair shake in, in
19 Court and investigating all potential defenses and
20 mitigating evidence that could of possibly been out there,
21 and---

22 THE COURT: Now, you haven't presented anything that
23 the Court shows whether any of this possibly mitigating
24 evidence is, in fact, mitigating evidence.

25 MR. KINARD: That's correct, Your Honor. But I, but I

1 think there hasn't, there was no investigation done at all
2 or hardly at all by the Public Defender's Office. So, the
3 fact that there was no investigation done leaves open the
4 fact that, you know, what's possibly out there. So, I think
5 even that raises to a level of, that he couldn't of
6 knowingly entered into that, that plea without his
7 attorneys, who are appointed to represent him, have fully
8 investigated the case.

9 THE COURT: Yes, I'll hear from the State.

10 MS. WILSON: May it please the Court, Your Honor.

11 Related to the applicant's claim and guilty plea being
12 involuntary, a guilty plea is made knowingly and
13 involuntarily if the defendant was advised of his
14 Constitutional rights and he was told that he was waiving
15 these rights, rights against self-incrimination, right to a
16 jury trial, and a right to confront his accusers, and the
17 record clearly reflects that the applicant was advised of
18 his rights before he pled guilt, and the record also
19 reflects that he was aware of the maximum minium penalty of
20 the offense, and, Your Honor, the defendant waited two years
21 after he was charged to retain the Public Defender's Office,
22 and it was through no fault of the public defender. Really
23 the applicant, that his charges were brought up for trial
24 almost within a couple of months of him being, of the Public
25 Defender's Office---

1 THE COURT: The case was two years old.

2 MR. KINARD: Yes, Your Honor.

3 THE COURT: Uh-huh. (Affirmative).

4 MS. WILSON: And also, Your Honor, related to the claim
5 of ineffective assistance of counsel based on failures
6 counsel, failure of counsel to investigate certain possible
7 defenses or any of those type of things, they -- the -- it
8 was the trial counsel's testimony that she investigated,
9 investigated the witness that, the one name of the witness
10 that was given her. She also attempted to call the victim,
11 but his number wasn't a correct number.

12 I think that the State -- it's the State's position
13 that the applicant is speculating about what evidence could
14 have been discovered specifically related to the gun
15 ballistics, and speculation isn't, mere speculation isn't
16 enough to support a claim of failure to investigate by trial
17 counsel for post-conviction relief purposes, and the State
18 requests that you deny the applicant's post-conviction
19 relief application.

20 THE COURT: Anything further?

21 MR. KINARD: Nothing from the applicant, Your Honor.

22 THE COURT: All right. I'll take the matter under
23 consideration.

24 Thank you very much.

25 MR. KINARD: Thank you, Your Honor.

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MS. WILSON: Thank you, Your Honor.

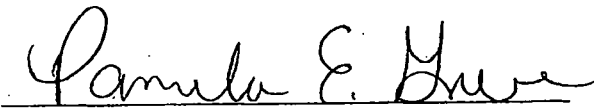
* * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Spartanburg County, South Carolina, on the 12th day of June, 2012.

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

November 11th, 2012



PAMELA E. GREEN, Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Case No. 2011-CP-12-212

Plaintiff(s) Steven J. Lee
vs.
Defendant(s) State

PLAINTIFF'S EXHIBITS	DEFENDANT'S EXHIBITS	COURT'S EXHIBITS
1 <u>miracle map from</u>	1	1
2 <u>11</u>	2	2
3 <u>documents</u>	3	3
4	4	4
5	5	5
6	6	6
7	7	7
8	8	8
9	9	9
10	10	10
11	11	11
12	12	12
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16	16	16
17	17	17
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19	19	19
20	20	20

Court
Reporter Debra M. ...
Clerk of Court A. Seaver & A. Brader

Fwd: Tanya R. Jones
(Public Defender)

INMATE GRIEVANCE / REQUEST FORM

TJ 61620

INMATE'S NAME (PRINT) Jeremy Jeter

YOUR CELL # 6-6 TODAY'S DATE Feb-26-13

IN KEEPING WITH THE DIRECTOR'S POLICY OF OPEN COMMUNICATIONS BETWEEN THE STAFF AND INMATES, THIS FORM IS TO BE USED BY ANY INMATE WHO WISHES TO CONVEY A COMPLAINT, GRIEVANCE, OR SPECIAL REQUEST. IF THE SITUATION CAN BE RESOLVED IMMEDIATELY BY AN OFFICER, A REPLY WILL BE MADE ON THIS FORM, AND RETURNED TO THE INMATE AS SOON AS POSSIBLE. IF THE OFFICER CANNOT RESOLVE THE SITUATION, THE INMATE COMPLAINT, GRIEVANCE, OR REQUEST WILL BE FORWARDED TO THE SUPERVISOR AND/OR THE DIRECTOR FOR HIS REVIEW.

DESCRIBE THE COMPLAINT, GRIEVANCE, REQUEST, ECT. (NOTE: USE BACK IF MORE ROOM IS NEEDED.)

I Request to speak with you as soon
as possible

INMATE'S SIGNATURE [Signature]

RECEIVED BY OFFICER

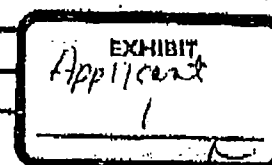
DATE

TIME

INMATE SHOULD NOT WRITE BELOW THIS LINE

TO BE COMPLETED BY JAIL STAFF MEMBER (ONLY CHECK IN APPROPRIATE BOX AT BOTTOM OF PAGE WHEN FORWARDING TO ANOTHER PERSON AND/OR AGENCY.)

ACTION/RESPONSE



DIRECTOR/ STAFF MEMBER'S SIGNATURE

DISTRIBUTION:

() INMATE

() INMATE'S FILE

() DIRECTOR

() OTHER DEPT/INDIVIDUAL

SPARTANBURG COUNTY DETENTION FACILITY

SHERIFF'S ID NO.:

LOC:

BIN #

791

TO BE COMPLETED BY ARRESTING OFFICIAL

NAME: Jerter Jeremy Jama ALIASES: _____
LAST FIRST MIDDLEADDRESS: _____ PHONE: (804) _____AOB: 20 D.O.B. _____ RACE BLK SEX: M HT: 6'0" WT: 173 HAIR: BLK EYES: BRN

S.S.N. _____ DR. LIC. NO. _____ ISSUING STATE: _____

EMPLOYER: _____

NEXT OF KIN: Beverly Jerter RELATIONSHIP MotherADDRESS: _____ PHONE #: (804) _____

CHARGE(S)	WARRANT/TICKET	ISSUING JUDGE	TRIAL DATE	TIME
1. <u>Agg Bt / Poss Intentional Kill (PTFC)</u>				
2. _____				
3. _____				
4. _____				
5. _____				

HOLD (Explain): _____

VEHICLE IMPOUNDED; TOWED BY _____

IN LIEU OF AN ARREST WARRANT, I HEREBY REQUEST, BY AFFIXING MY SIGNATURE, THAT THIS DETENTION FACILITY HOLD THE ABOVE SUBJECT ON THE ABOVE LISTED CHARGE. I WILL OBTAIN A WARRANT AT THE EARLIEST OPPORTUNITY AND I UNDERSTAND THAT THE FACILITY WILL CARRY THE SUBJECT BEFORE THE MAGISTRATE AT THE NEXT ARRAIGNMENT HEARING.

OFFICER'S SIGNATURE: Charles Rivera Jr.AGENCY: Tyger RiverOFFICER'S NAME (PRINT): Charles Rivera Jr.
SEDC
(804) 583-6017
BOOKED BY: Metraff SEARCHED BY (if different): _____TYPE OF SEARCH (check): NONE ☐ FRISK ☒ STRIP ☐ (explain if not being housed in facility)BOOKING: JAIL NO. 10-024106 DATE IN: 2/19/10 TIME: 0745

TO BE COMPLETED BY MAGISTRATE ARRAIGNMENT

DATE: _____ TIME: _____ MAGISTRATE: _____

M/C BOND _____

C/S BOND _____

BOND REDUCTION: _____ REASON: _____

JUDGE: _____ DATE: _____

BOND ADJUSTMENT: _____ REASON: _____

JUDGE: _____ DATE: _____

BASED UPON THE BELOW FACTS, A P/R BOND [] WILL NOT REASONABLY ASSURE APPEARANCE.

[] WILL RESULT IN AN UNREASONABLE DANGER TO THE COMMUNITY.

WARRANT # JUDGE SENTENCE

1. _____

2. _____

3. _____

4. _____

5. _____

RELEASED BY: _____ DATE: _____ TIME: _____

(JUDGE'S SIGNATURE)

IF RELEASED OTHER THAN BY COURT: REASON: _____

Fwd: Tanya R. Jones

INMATE GRIEVANCE / REQUEST FORMINMATE'S NAME (PRINT) Jeremy JeterYOUR CELL # P016-6 TODAY'S DATE 3-9-10

IN KEEPING WITH THE DIRECTOR'S POLICY OF OPEN COMMUNICATIONS BETWEEN THE STAFF AND INMATES, THIS FORM IS TO BE USED BY ANY INMATE WHO WISHES TO CONVEY A COMPLAINT, GRIEVANCE, OR SPECIAL REQUEST. IF THE SITUATION CAN BE RESOLVED IMMEDIATELY BY AN OFFICER, A REPLY WILL BE MADE ON THIS FORM, AND RETURNED TO THE INMATE AS SOON AS POSSIBLE. IF THE OFFICER CANNOT RESOLVE THE SITUATION, THE INMATE COMPLAINT, GRIEVANCE, OR REQUEST WILL BE FORWARDED TO THE SUPERVISOR AND/OR THE DIRECTOR FOR HIS REVIEW.

DESCRIBE THE COMPLAINT, GRIEVANCE, REQUEST, ECT. (NOTE: USE BACK IF MORE ROOM IS NEEDED.)

Mrs. Jones if there's a way could you please get me off the Docket (court) I have been going over to the Court house for going on a week w/o seeing anyone. I am familiar with my case but not interested in any aspect of this moment. And I have College Courses that I obtain a way instid. which I have been making so if you could I ask that you if you can do something about this would thank you for your time and appreciating it.

INMATE'S SIGNATURE Jeremy JeterRECEIVED BY OFFICER [Signature] DATE 3-9-10 TIME 2:26**INMATE SHOULD NOT WRITE BELOW THIS LINE**

TO BE COMPLETED BY JAIL STAFF MEMBER (ONLY CHECK IN APPROPRIATE BOX AT BOTTOM OF PAGE WHEN FORWARDING TO ANOTHER PERSON AND/OR AGENCY.)

ACTION/RESPONSE _____

EXHIBIT
Applicant
2

DIRECTOR/ STAFF MEMBER'S SIGNATURE _____

DISTRIBUTION: () INMATE () INMATE'S FILE
() DIRECTOR () OTHER DEPT/INDIVIDUAL

RECEIVED

P19

AGENCY I.D.
SC0420000

 INCIDENT REPORT
SPARTANBURG COUNTY SHERIFF'S OFFICE

CASE NUMBER

2008071111

NCIG

IND ENT

INCIDENT TYPE		COMPLETED	FORCED ENTRY	PRIMOR TYPE	UNITS ENTERED	TYPE VICTIM
1. Assault and Battery w/ Intent to Kill		☒ YES ☐ NO	☐ YES ☒ NO	Parking Lot/Night Club		☒ Individual ☐ Business ☐ Pleasure ☐ Government ☐ Religious ☐ Sex/Porn ☐ Other ☐ Unknown ☐ Police OR
2.		☐ YES ☐ NO	☐ YES ☐ NO			
3.		☐ YES ☐ NO	☐ YES ☐ NO			
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND HOUSE, STREET NAME AND NUMBER)				ZIP CODE	WEAPON TYPE	
620 W. Blackstock Road Spdbg, SC "Club Rush"				29301	Firearm	
INCIDENT DATE	24 HR CLOCK	TO	DATE	24 HR CLOCK	DISPATCH DATE/TIME	LOCATION NO.
07/19/08	03:27		07/19/08	03:27	07/19/08 03:27	31
COMPLAINANT'S NAME (LAST FIRST MIDDLE)		RELATIONSHIP TO SUSPECT		SUSPECT RACE	DOB	DAYTIME PHONE
Turner, Michael		ST		B	25	803-456-1234
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.
1 Street		Spartanburg		SC	29301	31
VICTIM NAME (LAST FIRST MIDDLE)		RELATIONSHIP TO SUSPECT		SUSPECT RACE	DOB	DAYTIME PHONE
Sims, Terry Lamar		ST		B	22	804-467-9942
HEIGHT	WEIGHT	HAIR	LYNS	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL ABILITIES ETC		
511	158	BLK	BRO			
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.
Rd.		Gaffney		SC	29341	0/J
VICTIM INJURY (VICT 1) YES ☐ NO ☒ EXPLAIN: Gun shot wound to the right arm				COMPLAINT OF ANY NON VIOLENT INJURIES: YES ☐ NO ☒		
VICTIM INJURY (VICT 2) YES ☐ NO ☒ EXPLAIN: DRUGS: YES ☐ NO ☒ TYPE:						
TWO MAN VCH ☐ ONE MAN VCH ☐ DETECTIVE/SPECIAL AGENT ☐ OTHER ☐ ALONE ☒ ARRESTED				J - This Jurisdiction S - State O - Out of State U - Unknown		
SUSPECT NAME (LAST FIRST MIDDLE)		RACE		DOB	AGE	DATE OF BIRTH
Jeter, Jeremy Jamal		B		M	18	09/28/1989
FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL ABILITIES ETC						
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.
		Spartanburg		SC	29301	24
SUSPECT (NO. 1) YES ☐ NO ☒ DRUGS: YES ☐ NO ☒ TYPE:		ARRESTED NEAR OFFENSE SCENE YES ☐ NO ☒		DATE/TIME OF OFFENSE		DATE/TIME OF ARREST
TOTAL # ARRESTED 1		07/10/08		3:27		
On above date and time I, Deputy Turner was at the incident location for an unrelated call when I heard gun shots coming from behind the club. At this time I advised dispatch that shots were being fired. I then went directly to my patrol car and went to the back of the club. It was approximately 30 seconds after the shots were fired that I exited my vehicle behind the club and was approached by a black male who stated that he had been shot. The male was holding his right shoulder which was now covered in blood. I advised him to have a seat and remain calm that an ambulance was on the way. I then asked the victim what the shooter looked like and he stated that he was a black male wearing a white t-shirt and blue jean shorts. He stated that the suspect fled the scene on foot and ran through the apartment complex located across the street from the club. At this time Deputy Notebook proceeded to the complex where he advised that he was 10-80 with a male matching the description. Deputy Notebook then advised that the suspect had what appeared to be a handgun in his left hand, at which time Notebook advised he had lost the subject still in the complex. Sgt. Cockrell was also in the complex and advised that he had spotted the suspect and was chasing him on foot. I then proceeded to Sgt.						
JURISDICTION OF THIEF LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY		
TYPE (GROUP)		TOTAL VALUE				
STOLEN						
DAMAGED						
LOST						
RECOVERED						
SEIZED						
SUBJECT LOCATED YES ☐ NO ☒		SUBJECT LOCATED YES ☐ NO ☒		EXHIBIT Applicant 3		
ACTIVE ☐ UNFOUNDED ☒		ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER ☒		EX-CLEAR UNDER 18 ☐		

AGENCY I.D.
SC0420000

SUPPLEMENTARY REPORT

CASE NUMBER

2008071111

NO.

☒ ORIGINAL
REPORT
☐ MODIFIED
ORIGINAL

☐ SUPPLEMENTAL
REPORT
☐ CASE STATUS
CHANGE

☐ ADDITIONAL
VICTIMS
☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
STOLEN PROPERTY
☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 2 OF 2 PAI

Cockrell location, meanwhile he advised that he had the suspect at gun point on the left side of the complex. Upon my arrival I observed a black male subject hiding under a white in color Chevy Tahoe, the subject was wearing a white t-shirt and blue jean shorts. At this time I exited my patrol vehicle and covered the suspect with my duty weapon while Sgt. Cockrell transitioned to his tazer. Once this was done I proceeded to holster my weapon and pull the suspect from under the vehicle. I then secured the suspect in handcuffs and placed him in the back seat of my patrol car. At this time Sgt. Cockrell advised me to escort the subject back to the Sheriff's Office. Once at the Sheriff's Office the subject was secured in an interview room where he was given water at his request. No other request were made and the subject was advised that investigators would be with him shortly. Inv. Letterman and Inv. Taylor responded to speak to the suspect. I-51 Talangeles responded to the incident scene as well as the Sheriff's Office to process evidence. Use of force report was completed.

SUBJECT IDENTIFIED
GIVES ☐ NO

SUBJECT LOCATED
☒ YES ☐ NO

☐ ACTIVE ☐ ARM CLOSED
☐ UNFOUNDED

☐ ARRESTED UNDER 18

FOR EXCEPTIONAL CLEARANCE

☐ OFFENDER DEATH

☐ NO PROSECUTION

AGENCY I.D.
SC0420000

 SUPPLEMENTAL INCIDENT REPORT
SPARTANBURG COUNTY SHERIFF'S OFFICE

CASE NUMBER

2008071111

NCIC

INO ENTB

☐ ORIGINAL
REPORT
☐ MODIFIED
ORIGINAL

☒ SUPPLEMENTAL
REPORT
☐ CASE STATUS
CHANGE

☐ ADDITIONAL
VICTIM
☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
STOLEN PROPERTY
☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 1 OF 2 PAGES

 VICTIM #1
VICTIM #2
VICTIM #3
VICTIM #4
VICTIM #5
VICTIM #6
VICTIM #7
VICTIM #8
VICTIM #9
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VICTIM #99
VICTIM #100

☐ COMPLAINANT ☐ VICTIM # ☒ SUBJECT #1 ☐ RUNAWAY ☐ WANTED ☐ WARRANT ☐ ARREST ☐ JAIL ☐ SUMMONS		NAME (LAST, FIRST, MIDDLE) JETER, JEREMY JAMAL		VICTIM RELATIONSHIP TO SUBJECT #1 #2 #3		RESIDENT ☒ YES ☐ NO		RACE ☒ B ☐ M		SEX ☒ M ☐ F		AGE 18		DOB 09/24/1989		ETH							
HEIGHT 5'10"		WEIGHT 170		HAIR BROWN		EYES BROWN		FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC. NO TATTOOS, NO SCARS, NO GLASSES, NO CLOTHING, NO PHYSICAL PECULIARITIES		ADDRESS 1010 E. BLACKSTOCK RD.		CITY SPARTANBURG		STATE SC		ZIP CODE 29151		LOCATION NO. 1010		DAYTIME PHONE 803-555-1234		EVENING PHONE 803-555-1234	
☐ VICTIM NO. EXPLAIN:		☐ VISIBLE INJURY ☐ YES ☐ NO		☐ COMPLAINT OF NON-VISIBLE INJURIES ☐ YES ☐ NO		☐ VICTIM USING ALCOHOL ☐ YES ☐ NO		☐ VICTIM USING DRUGS ☐ YES ☐ NO		☐ TWO-MAN VEH. ☐ YES ☐ NO		☐ DETECTIVE/SPECIAL AGENT ☐ YES ☐ NO		☐ OTHER ☐ YES ☐ NO		☐ ADJUDICATED ☐ YES ☐ NO		☐ ALONE ☐ YES ☐ NO					
☐ SUBJECT NO. EXPLAIN:		☐ USING ALCOHOL ☐ YES ☐ NO		☐ USING DRUGS ☐ YES ☐ NO		☐ TYPE UNK		☐ UNK		☐ UNK		☐ UNK		☐ UNK		☐ UNK		☐ UNK					

At 0326 hours on 7/18/08 I arrived on scene of a shooting call at Club Hush on E. Blackstock Road in Spartanburg County, SC. Immediately upon my arrival I heard Deputy M. Noteboom call out in a foot pursuit with a black male suspect wearing a white shirt and blue jeans at the back side of the Reserve at Park West apartments. I located Deputy Noteboom and he pointed out the direction the suspect had ran behind one of the apartment buildings. I drove around the left of that building, parked my vehicle in the parking lot and began searching on foot for the suspect with my service pistol drawn. As I started around the apartments "Car Care Center" located at 251 Reata Dr. I observed a black male matching Deputy Noteboom's description of the suspect lying down on the ground attempting to hide. I yelled, "Police! Stop right there!" at the suspect but he got up and took off running between the parking lot and the fence of a storage building company. I began a foot pursuit and called out my

STATUS ☐ STOLEN ☒ RECOVERED ☐ FOUND ☐ TOWED ☒ SUSPECT ☐ VICTIM		TYPE ☐ VEHICLE ☒ GUN ☐ BOAT ☐ LICENSE PLATE ☐ OCCUPANCY/GOODS STOCKS ☐ ARTICLE		VIN AND/OR LICENSE NO. RDJ1220		BOAT HULL NO. AND/OR REG. NO. RDJ1220		SERIAL AND/OR CHASSIS APPROVED NO. RDJ1220		STATE SC	
YEAR OF REGISTRATION 2008		YEAR OF EXPIRATION 2011		MAKE Smith & Wesson		MODEL Pistol		COLOR BLACK		BRAND NAME Smith & Wesson	
SERIAL NO. RDJ1220		AUTOMATIC YES		GUN/BLK 1000		SECURITY DATE 10		CALIBER 9MM		TOTAL VALUE 100	
TYPE (GROUP) STOLEN		TYPE (GROUP) DAMAGED		TYPE (GROUP) BURNED		TYPE (GROUP) RECOVERED		TYPE (GROUP) SEIZED		TYPE (GROUP) OTHER	
SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☒ YES ☐ NO		☐ ACTIVE ☐ ADM. CLOSURE ☐ UNFOUNDED		☐ ARRESTED UNDER 10 ☐ ARRESTED 10 AND OVER		☐ EX CLEAR UNDER 10 ☐ EX CLEAR 10 AND OVER		REASON FOR EXCEPTIONAL CLEARANCE ☐ OFFENDER DEATH ☐ NO PROSECUTION	

AGENCY I.D.
SC0420000

SUPPLEMENTARY REPORT
SPARTANBURG COUNTY SHERIFF'S OFFICE

CASE NUMBER
2008071111

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☐ ORIGINAL REPORT	☒ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY	PAGE 1 OF 1 PAGES
☐ MODIFIED ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY	

On 07/19/08 at approx 1900hrs I was on a car breaking call with C-53(M. Turner) at 620 West Blackstock Road(Club Hush) in Spartanburg County. While working on the car breaking report in the front parking lot I received a call from dispatch advising me that there was a large fight in the front parking lot of Club Hush. Deputy Turner and I then drove around into the front parking lot area. While out breaking up a fight we heard six to nine shots ring out from the front parking lot area that we had just left. Deputy Turner then advised dispatch "Shots Fired". As I pulled up to the front parking lot area I observed a young black male came running out from the woods holding his right shoulder with blood soaking his shirt. I then advised dispatch of the injuries and had them dispatch EMS to my location. All of the witness's at the scene stated that the black male that did the shooting had on a white t-shirt with blue jeans and he ran into the Reserve apartment complex across the street. I then proceeded to Keats Drive into the apartment trying to locate the subject. Once I drove about halfway in I noticed a black male walking at a fast pace, he had a long white shirt with blue jeans, medium length hair with a goatee, and a dark colored pistol in his left hand. The subject then looked back at me and my patrol car and began to run. I called out foot pursuit in progress and chased him back towards the storage rental buildings. I lost the subject when I had to clear blind corners before I proceeded around them. C-4(P. Cockrell) then located the subject approx 100 yards away behind the maintenance and held the subject at gun point until backup arrived. The pistol was located behind the maintenance building that C-4 located the subject behind.

End of report

TRAFFIC	IDENTIFIED	EXEMPTED	ACTIVE	ADJ. CLOSED	ARRESTED UNDER 10	EX. CLEAR UNDER 10
	☐ YES ☐ NO	☐ YES ☐ NO	☐ YES ☐ NO	☐ YES ☐ NO	☐ YES ☐ NO	☐ YES ☐ NO
REASON FOR EXEMPTIONAL CLEARANCE		OFFENSE	PROSECUTION	INVESTIGATION	VICTIM	PROSECUTION

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG)

2011-CP-42-0212

Jeremy J. Jeter, #335454,

Applicant,

v.

ORDER OF DISMISSAL

State of South Carolina,

Respondent.

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed January 18, 2011. The Respondent made its Return on December 7, 2011. An evidentiary hearing into the matter was convened on June 12, 2012 at the Spartanburg County Courthouse. The Applicant was present at the hearing and represented by Howard Kinard, Esquire. Ashleigh R. Wilson, Esquire, of the South Carolina Attorney General's Office represented the Respondent.

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

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Spartanburg County. The Applicant was indicted at the September 2008 term of the Spartanburg County Grand Jury for assault and

battery with intent to kill (2008-GS-42-5632) and unlawful possession of a weapon (2008-GS-42-5633). The Applicant pled guilty to assault and battery with intent to kill. The Honorable J. Derham Cole sentenced the Applicant to confinement for 20 years provided upon the service of 15 years, the balance is suspended to probation for 5 years. The Applicant did not appeal his conviction or sentence.

ALLEGATIONS

The Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel
 - a. "I was not represented correctly."
2. Involuntary guilty plea

At the hearing, Applicant waived all grounds for relief except ineffective assistance of counsel and involuntary guilty plea.

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

At the evidentiary hearing, the Applicant testified that he was arrested in July 2008 and sent to the South Carolina Department of Corrections (SCDC) in June 2009. The Applicant testified that while in jail on the pending charges he did not request an attorney or try to hire an attorney. He testified that in February 2010 when he was returned to the Spartanburg County jail he expressed his desire to have an attorney appointed to represent him. He testified that shortly

after his request for an attorney, he went to court and requested a jury trial. The Applicant testified that shortly thereafter Tanya Jones, Esquire, was appointed to represent him. He testified that in February 2010 and March 2010 he made several requests to speak to Jones. He also testified that after Jones was appointed to represent him he asked to be returned to SCDC despite the fact that he knew counsel would be unable to visit him there.

He testified that Jones did not meet with him prior to his plea. He testified further that the day of his plea, he discussed with counsel his case being put on the trial docket. The Applicant testified that Jones could not tell him the evidence against him and told him that she was not fully prepared for trial. He testified that he gave Jones the names of witnesses that he wanted to investigate. He testified that counsel discussed with him the result if they were unsuccessful at trial. The Applicant also testified that counsel did not discuss the gun evidence and that he did not see any reports or statements. Lastly, the Applicant testified that if he had this information, he would not have pled guilty.

Tanya Jones, Esquire, was appointed to represent the Applicant and testified that she received the Applicant's file shortly after he was interviewed by her office on February 19, 2010. Counsel testified that the Applicant was first up on the trial docket in April 2010. She testified that she filed a Rule 5 discovery motion and received the Applicant's incident report, waiver of rights, statements, phone records, and a SLED DNA analysis report. Counsel testified further that she discussed the potential charges with the Applicants and went over the strengths and weaknesses of the case against the Applicant. She testified that she discussed with the Applicant the evidence that could be introduced against him at trial.

Counsel testified that she was given the name of a witness by the Applicant and told by the Applicant to contact the victim, but did not have a working phone number for the victim. She

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testified that the gun evidence received in discovery included a SLED report from a swab taken from the gun. She testified that according to the report, the Applicant could not be excluded from the mixture found on the gun. She testified that she does not recall a discussion with the Applicant regarding obtaining a comparison of the gun and bullet. She also testified that ballistics testing may have affected the Applicant's case, but that it was unlikely the bullet would have been saved if recovered. She testified that she did not receive any surveillance video and that it was unlikely that it would have been available. Counsel also testified that she did not interview any police officers because she already had their statements.

Counsel testified that she believed it was the Applicant's decision to plead guilty and that his discussion was influenced by the fact that the Applicant gave a statement to police that would have been admissible at trial. Counsel testified that any testimony or statements indicating multiple shooters would have been brought out at trial. She testified further that it would have been difficult to get the Applicant's side of the story out at trial because the Applicant's criminal record would affect his ability to take the stand. She testified that the Solicitor was ready to resolve the matter and they did not have time for additional discovery. Counsel testified that time was rushed on the matter and pushed to resolution because the Applicant did not obtain counsel early enough. Lastly, counsel testified that she did her best to give the case the attention that it needed and that she would have liked more time to prepare.

James Cheek, Esquire, represented the Applicant at his plea proceeding and testified that he had a few conversations with the Applicant about pleading guilty prior to his plea. Counsel testified that the Applicant gave him the name of a female witness to contact. Counsel testified that he was unable to contact the witness and that it is unlikely the witness' testimony would have been significant since the witness was not present at the shooting. Counsel also testified that

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his main focus was any mitigation evidence available to the Applicant. He testified that the Applicant's main mitigation evidence was that there were other shooters present. Counsel testified that while the presence of other shooters could have been a defense at trial, the Applicant would not have been able to testify to the fact at trial because of his prior record. He testified that he discussed with the Applicant the evidence against him and the time constraints they were under. Counsel testified that the Applicant's family members had an influence on his decision to plea. Lastly, counsel testified that it would have been more helpful to the Applicant if he had obtained counsel during the 2 years he sat in jail while the charges were pending.

Ineffective Assistance of Counsel

The Applicant alleges that he received ineffective assistance of counsel. In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); Butler, 334 S.E.2d 813.

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

Courts use a two-pronged test to evaluate allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong,

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attorney performance is measured by its "reasonableness under professional norms." Id. at 625 (citing Strickland, 466 U.S. 668). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S. Ct. 366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leake, 287 S.C. 131, 318 S.E.2d 360 (1984)). When a defendant pleads guilty on the advice of counsel, the plea may only be attacked through a claim of ineffective assistance of counsel. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2002) (citations omitted).

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

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version of the facts, and possible defenses or lack thereof. The record reflects that Applicant's plea was entered freely, voluntarily, knowingly, and intelligently. Applicant acknowledged that he was guilty of these offenses. Applicant told the plea court that no one had threatened him or promised him anything to plead guilty. This Court finds that Applicant understood the terms of his guilty plea.

Regarding the Applicant's claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds that Applicant's attorneys demonstrated the normal degree of skill, knowledge, professional judgment, and representation that are expected of an attorney who practices criminal law in South Carolina. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977); Strickland, 466 U.S. at 668; Butler, 286 S.C. 441, 334 S.E.2d 813. This Court further finds counsel adequately conferred with the Applicant, conducted a proper investigation, and was thoroughly competent in their representation. This Court finds that counsel's representation did not fall below an objective standard of reasonableness.

This Court finds that the Applicant's guilty plea was entered knowingly and voluntarily. This Court also finds that the Applicant had a full understanding of his charges and the consequences of his plea. The plea proceeding transcript reflects that the Applicant was advised of the charge's potential sentence (T. 7, ln. 24-45), advised of his right to a jury trial (T. 13, ln. 7-25), advised of his right to remain silent (T. 11, ln. 5-7, 23-25), and advised of his right to confront his accusers (T. 23, ln. 2-14). The Applicant stated at the plea proceeding that he had not been promised anything, threatened, or coerced to plead guilty. (T. 14, ln. 21-25). The Applicant stated further that his plea was given freely and voluntarily. (T. 15, ln. 4-5). The record also reflects that the Applicant was advised as to parole eligibility (T. 26, ln. 5-12) and

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that there were no sentence recommendations from the State (T. 5, 12). This Court finds that after a thorough advisement of his rights by the plea judge, the Applicant's plea of guilty was entered freely and voluntarily.

This Court finds that the time constraint put on trial counsel at the time of the Applicant's plea had no affect on the voluntariness of the Applicant's plea. In order to sustain a claim that the applicant felt coerced to plea because counsel was not ready for trial, the applicant must show how additional preparation would have helped the applicant if the case had gone to trial. Davis v. State, 326 S.C. 283, 486 S.E.2d 747 (1997). The Applicant has put forth no evidence to show that additional preparation by counsel would have helped the Applicant if the case had gone to trial. In addition, the Applicant told the judge during his plea proceeding that he did not need any additional time with counsel and that he had plenty of time to talk to them about his case and his decision to plead guilty. (T. 7, ln. 11-14).

This Court also finds that the time constraints placed on counsel were the result of the Applicant's failure to obtain counsel until a few months before his case was set to go to trial. The record reflects that the Applicant was arrested on these charges in 2008, requested that counsel be appointed in February 2010, and shortly thereafter the Applicant requested a jury trial and was put on the April 2010 trial docket. Both of the Applicant's attorneys testified that he would have been in a better position had he obtained counsel earlier. This Court finds that this allegation is without merit and the Applicant has failed to carry his burden of proving that his guilty plea was involuntarily entered.

This Court finds that counsel was not ineffective for failing to investigate the Applicant's case before the Applicant pled guilty. This Court finds that counsel fully investigated the Applicant's case prior to the Applicant's guilty plea. Failure to conduct an independent

investigation does not constitute ineffective assistance of counsel when the allegation is supported by mere speculation as to the result. Rollinson v. State, 346 S.C. 506, 552 S.E.2d 290 (2001). The Applicant's allegation that counsel failed to conduct a full investigation of his case is only supported by mere speculation. The Applicant has put forth no evidence as to what would have resulted from further investigation by his attorneys. The record reflects that both of the Applicant's attorneys unsuccessfully attempted to contact potential witnesses provided by the Applicant.

This Court further finds that counsel was not ineffective for failing to investigate the possibility that multiple shooters were present at the crime scene. This Court finds that counsel reviewed the State's evidence with the Applicant prior to his guilty plea. Counsel testified that the presence of multiple shooters at the crime scene could have been a defense at trial. However, because of the Applicant's prior record it would have been difficult to put before the jury the Applicant's side of the story. Counsel testified further that the gun evidence they recovered did not rule out the Applicant as the shooter and that it was unlikely that the bullet would have been recovered and saved for further ballistic analysis. This Court finds that this allegation is without merit and the Applicant has failed to carry his burden of proving that counsel was ineffective for failing to investigate the possibility of multiple shooters prior to his guilty plea.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test, specifically that counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that counsel committed either errors or omissions in her representation of the Applicant. The Applicant failed to show that counsel's performance was deficient. Therefore, this Court need not address prejudice. Applicant's complaints concerning counsel's performance are without

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merit and are denied and dismissed.

All Other Allegations

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

CONCLUSION

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

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

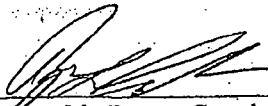
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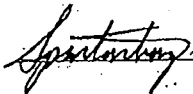
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IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 14th day of September, 2012


 The Honorable Roger Couch
 Presiding Judge
 7th Judicial Circuit

, South Carolina.

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 SPARTANBURG COUNTY
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 M. HOPE BLACKLEY

WITNESSES

[Signature]

Spartanburg County Sheriff's Office

Computer

Trey Gowdy, Solicitor

County of Spartanburg

DOCKET NO. **08-GS-42-2003**
The State of South Carolina

COURT OF GENERAL SESSIONS

ARREST WARRANT NUMBER

Computer

TERM

M023025

THE STATE
VS.

ACTION OF GRAND JURY

Jeremy Jeter

Foreperson of Grand Jury
Date: 9-19-08

VERDICT

Indictment for

ASSAULT AND BATTERY
WITH INTENT TO KILL

Foreperson of Petit Jury
Date:

SC Code: 16-3-620
CDR Code: 014
Class FEL-CM

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STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

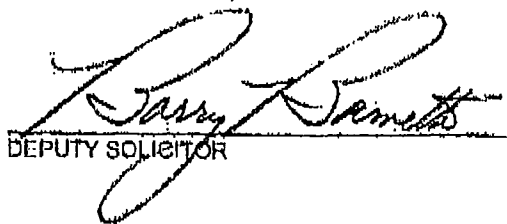
INDICTMENT

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

ASSAULT AND BATTERY WITH INTENT TO KILL

That the deferidant, Jeremy Jeter, did in Spartanburg County on or about July 19, 2008, with malice aforethought commit an assault and battery upon one Terry Lamar Sims, by shooting him in the right shoulder with a handgun, with the intent to kill the said victim, in violation of §16-03-620, of *THE 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

IN THE COURT OF GENERAL SESSIONS

SPARTANBURG

VS.

Jeremy Jamal Jeter

INDICTMENT/CASE# 2008CS42056A

A/W# M023025

Date of Offense: 7/19/2008

S.C. Code § 16-03-0620

CDR Code # 0014

Sex: M Age: 20

SS#

Address

City/State/Zip

Spartanburg, SC 29303

DL#

SID#

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was TO: Assault / Assault and battery with intent to Kill (ABWIK)

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0620

of the S.C. Code of Laws, bearing CDR Code # 0014

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) § 17-25-45

The charge is ☒ As Indicted ☐ Lesser Included Offense ☐ Defendant Waives Prisonment to Grand Jury (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation ☐ Negotiated Sentence ☐ Recommendation by the State

ATTEST: Barnette Barry 13039 SC Bar#

Jeremy Jeter Defendant

Barry J. Jeter Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 20 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 5 days/months/years and/or payment

of \$; plus costs and assessments as applicable; the balance is suspended with probation for 5

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 any other § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

PTUP

 days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/II 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:

no contact w/ victim directly or indirectly

☒ Appointed PID or appointed other counsel.

§ 47.12 requires \$500 be paid to Clerk during probation.

Recipient:

*Fine:

§ 14-1-206 (Assessment 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-280 (DUI Breath Test)

§ 47.12 (Public Def/Prob)

§ 14-1-212 (Law Enforcement Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (DUI Breath Test Fee)

§ 56-5-2942(D) (Vehicle Assessment)

§ 40-7 (SCCA Surcharge)

3% to County (if paid in installments)

TOTAL

	\$	
	\$	
	\$100	\$ 100.00
	\$100	\$
	\$12	\$
	\$25	\$ 25.00
	\$500	\$ 500.00
	\$25	\$
	\$100	\$
	\$50	\$
	\$40/en	\$
	\$5	\$ 5.00
	\$	\$ 18.90
	\$	\$ 648.90

Presiding Judge

William O. [Signature]