

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Spartanburg County

Honorable William A. McKinnon, Circuit Court Judge

AMY BERRIDGE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-001244

APPENDIX

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S.C. SUPREME COURT

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3

4 THE STATE OF SOUTH)
CAROLINA)
5) TRANSCRIPT OF RECORD
-vs-) 2018-GS-42-01366
6)
7 AMY LOFTIS BERRIDGE,) SEPTEMBER 21, 2018
SPARTANBURG, SOUTH CAROLINA
8 DEFENDANT.

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B E F O R E:

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THE HONORABLE J. MARK HAYES, II, JUDGE.

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

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BARRY BARNETTE, SOLICITOR
ATTORNEY FOR THE STATE

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STEVEN EPPS, ESQUIRE
ATTORNEY FOR THE DEFENDANT

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MICHAEL R. WATTS
CIRCUIT COURT REPORTER

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WITNESSES

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(NO WITNESSES CALLED)

		EXHIBITS		
	NO.	DESCRIPTION	ID.	EV.
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2				
3	S-1	CASE NOTEBOOK		9
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1 (PROCEEDINGS, SEPTEMBER 21, 2018)

2 (Case Notebook marked as State's Exhibit No. 1 for
3 identification).

4 (Photographs marked as State's Exhibit No. 2 for
5 identification)

6 (Serology Report marked as State's Exhibit No. 3
7 for identification).

8 (DNA Analysis marked as State's Exhibit No. 4 for
9 identification).

10 (Case Report marked as State's Exhibit No. 5 for
11 identification).

12 (Autopsy Report marked as State's Exhibit No. 6
13 for identification).

14 MR. BARNETTE: Amy Berridge.

15 May it please the court, Your Honor?

16 THE COURT: Yes.

17 MR. BARNETTE: This is the case of the State
18 versus Amy Loftis Berridge, Your Honor.

19 She is going to plead guilty on Count I of this
20 indictment, 18-GS-42-1366, Your Honor. It's an indictment
21 for murder. She's pleading guilty straight up to voluntary
22 manslaughter, Your Honor, under Alford -- North Carolina v.
23 Alford, Your Honor.

24 This case has been True Billed by the grand jury.

25 Your Honor, there is a Count II on the indictment

1 that would be dismissed at a later date, Your Honor, from
2 there after another event occurs.

3 I do have six exhibits I shared with the
4 defendant, Your Honor, shared in discovery. I will be
5 making that part of the record, part of the facts in this
6 case, Your Honor.

7 May I approach the bench?

8 THE CLERK: Raise your right hand, please.

9 AMY LOFTIS BERRIDGE: Having been first duly
10 sworn, testified as follows:

11 THE DEFENDANT: I do.

12 THE COURT: You are Ms. Berridge?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And, ma'am, it is your intent to enter
15 a plea to the charge that was just announced?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: How old are you?

18 THE DEFENDANT: Thirty-six.

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

20 THE DEFENDANT: I graduated.

21 THE COURT: Are you married, single, divorced,
22 widowed?

23 THE DEFENDANT: Separated.

24 THE COURT: Do you have children?

25 THE DEFENDANT: I have three.

1 THE COURT: How old is your oldest?

2 THE DEFENDANT: Fifteen.

3 THE COURT: And your youngest?

4 THE DEFENDANT: Eleven.

5 THE COURT: Prior to your arrest on this charge
6 did you have a job outside of the home?

7 THE DEFENDANT: Not at the time of my arrest, but
8 right prior to that.

9 THE COURT: How were you supporting yourself
10 financially?

11 THE DEFENDANT: I worked at Fatz Cafe up until
12 about a month before.

13 THE COURT: Ever served in the military?

14 THE DEFENDANT: No.

15 THE COURT: How long have you been in jail on this
16 charge?

17 THE DEFENDANT: Since January the 9th, 2018.

18 THE COURT: Within the last twenty-four hours have
19 you consumed any type of substance that's adversely
20 affecting your ability to understand what we are doing
21 today?

22 THE DEFENDANT: No, sir.

23 THE COURT: In the past have you ever been treated
24 for any type of substance abuse issues for drug or alcohol
25 problem?

1 THE DEFENDANT: No, sir.

2 THE COURT: Are you satisfied with the work that
3 your lawyer has done for you?

4 THE DEFENDANT: Very much, yes, sir.

5 THE COURT: Has anybody perhaps come to you and
6 threatened you in any way or made you any promises in order
7 to get you to ask me to accept this plea?

8 THE DEFENDANT: No, sir.

9 THE COURT: Am I correct to conclude that your
10 decision to enter the plea, that it is a free and voluntary
11 decision on your part?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Ma'am, I need for you to understand that
14 under the law you are presumed innocent of this charge and
15 you have a right to have a jury trial on this charge.

16 At any jury trial that would take place it would
17 be the State that has the burden of proof and the State
18 would have to convince all twelve members of a jury that you
19 are, in fact, guilty beyond a reasonable doubt.

20 Now, do you understand that you have a right to
21 that jury trial?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And do you wish to have a jury trial
24 on this charge?

25 THE DEFENDANT: No, sir.

1 THE COURT: Ma'am, I need you to understand that
2 there are other very important Constitutional Rights that
3 you are entitled to, but that you have to give up in order
4 to enter this plea.

5 You have to give up your right to confront and
6 cross-examine the State's witnesses. You also have to give
7 up your right to present evidence which you or your lawyer
8 might feel would establish a defense, and you have to give
9 up your right of subpoena, as well as your right to remain
10 silent.

11 Do you understand all those rights?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And you wish to give up all those
14 rights and go forward with the plea?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Ma'am, if you would, please listen to
17 the solicitor. He's going to provide us with the facts.

18 MR. BARNETTE: Thank you, Your Honor.

19 Before I go into the facts, Your Honor, I would
20 like to enter my exhibits.

21 The first one is State Exhibit 1, Your Honor.
22 This is a notebook that was made by Investigator Andy Walton
23 on the case. It consists of mostly all the reports and
24 everything in here. From there then it was provided to the
25 defense in this case, Your Honor.

1 State Exhibit 2, Your Honor, is the pictures in
2 this case that was obtained by the sheriff's department,
3 Your Honor. I would like to make those as an exhibit.

4 State Exhibit 3, Your Honor, is actually the
5 report where they did a -- they sent the items down to SLED
6 for testing, Your Honor, from the scene, Your Honor.
7 Serology was done on those and that was for DNA, Your Honor.

8 And State Exhibit No. 4, Your Honor, is the actual
9 DNA results from that analysis in this case, Your Honor.
10 I'll go into more detail about that in a second.

11 State Exhibit 5 is the coroner's report in this
12 case, Your Honor, from Spartanburg County coroner's office.

13 State Exhibit 6 is the autopsy report that was
14 done by Dr. Wren in this case, Your Honor, concerning the
15 victim in this case Mr. Woods.

16 I would like to submit them at this time, Your
17 Honor, and make them part of the evidence and the facts in
18 this guilty plea, Your Honor.

19 MR. EPPS: No objection, Your Honor.

20 THE COURT: Without objection.

21 (Whereupon, State's Exhibit No. 1 was entered into
22 the record as evidence).

23 (Whereupon, State's Exhibit No. 2 was entered into
24 the record as evidence).

25 (Whereupon, State's Exhibit No. 3 was entered into

1 the record as evidence).

2 (Whereupon, State's Exhibit No. 4 was entered into
3 the record as evidence).

4 (Whereupon, State's Exhibit No. 5 was entered into
5 the record as evidence).

6 (Whereupon, State's Exhibit No. 6 was entered into
7 the record as evidence)

8 MR. BARNETTE: Do you want me to hand these up to
9 you, Your Honor?

10 THE COURT: Sure.

11 MR. BARNETTE: On the facts of this case, Your
12 Honor, this occurred back on January 6th, 2018, Your Honor.

13 At approximately 5:10 p.m., Your Honor, in the
14 afternoon, Your Honor, the sheriff's department was called
15 to actually [REDACTED] Cedar Springs Road in Spartanburg, Your
16 Honor, on that case.

17 Landon Woods, Your Honor, commonly known as
18 Lannie, had been stabbed several times, Your Honor, and went
19 to his neighbor's house and was talking to the neighbors
20 when the officer got there. Actually Deputy Welsh arrived
21 there, Your Honor, and there was a Jackie Lance and Russell
22 Towery that was also on the scene, Your Honor.

23 They spoke with Mr. Woods, Your Honor. He was
24 unable to tell who was responsible for assaulting him, but
25 basically said he had got a ride in a U-Haul van, Your

1 Honor. He got a ride to get kerosene for the heater, Your
2 Honor. He got back, he got assaulted, Your Honor. He
3 actually lived at [REDACTED] Cedar Springs Road here in
4 Spartanburg, Your Honor, and they were his neighbors from
5 there, Your Honor.

6 The sheriff's department started an investigation.
7 Investigator Walton and several members of the sheriff's
8 department was involved in that, Your Honor.

9 They actually went to the outback building at [REDACTED]
10 Cedar Springs, Your Honor. They observed glasses in the
11 entrance which are believed to be the victim, Mr. Woods
12 glasses, Your Honor. They saw blood in the entrance of the
13 outbuilding, Your Honor. Collected several items that were
14 sent down to SLED for testing, Your Honor.

15 In talking there originally, Your Honor, they
16 looked at some other suspects, Your Honor. A Bobby Jumper
17 was originally one of the suspects. They went in and
18 eliminated him and found out he was actually in Gaffney.
19 When they went and interviewed another person, Polly Woods,
20 that confirmed they were at the Gaffney Outlet at the time
21 that this assault occurred, Your Honor. He was eliminated
22 at that standpoint.

23 Later on they started looking around the Cedar
24 Springs area, Your Honor. Investigator Guess from the
25 sheriff's department obtained a video from Britt Automotive,

1 295, and Get Go on Cedar Springs Road, Your Honor. They was
2 able to see Mr. Woods walking towards the Spinx with a red
3 gas can, Your Honor. It did not show him coming back after
4 purchasing that item, Your Honor. So it showed he did not
5 walk back that way, Your Honor.

6 And basically there was a Jackie Lance that was
7 with him, too, during that time and had said they had walked
8 together from the house, went up and she had actually went
9 to McDonald's and was supposed to meet him back and never
10 did, Your Honor.

11 Later on the sheriff's department received a call
12 from a witness, Your Honor. He was at the traffic light and
13 witnessed a subject fitting the description of the victim,
14 Mr. Woods in this case, Your Honor, getting in a U-Haul with
15 a small red gas can, Your Honor. He said the U-Haul was
16 pulled in the entrance of the Little Cricket on 295 at Anita
17 Drive, Your Honor. He saw the suspect with the red gas can
18 come around the vehicle, get in the passenger's side of the
19 vehicle, Your Honor.

20 They actually went and got a video at this point,
21 Your Honor. The video that they received from that
22 location, Your Honor, showed that there was a small box
23 U-Haul traveling on 295 to Cedar Springs towards the Spinx
24 around the time the victim would have been there, Your
25 Honor.

1 The U-Haul had a distinct picture of an animal on
2 the side of it. It was believed to be a red panda.

3 The vehicle entered the parking lot of Spinx, Your
4 Honor, and leaving the parking lot in the direction the
5 victim would have been walking, Your Honor.

6 The vehicle was again seen from the video at Britt
7 Auto traveling back 295 towards Cedar Springs Road.

8 And, again, the victim was not seen walking back,
9 so they believed that he had gotten in the U-Haul at that
10 point, Your Honor.

11 And the U-Haul in the video at Spinx was
12 approximately 4:57, Your Honor. The original call to 911
13 was 5:09. So obviously it's very close in proximity, Your
14 Honor.

15 They sent a BOLO of the photo of the U-Haul to the
16 deputies, Your Honor.

17 Basically they made a traffic stop actually a day
18 before this event occurred on 2313 Greenville Road on the
19 night of January the 5th, Your Honor, in the morning of
20 January 6th. He identified, the officer did, in that Deputy
21 Shew that it was Amy Berridge and Roy Sutherland were the
22 two individuals, Your Honor. He remembered Mr. Sutherland
23 had a couple knives on him, multiple knives on him. He did
24 issue a warning citation to Ms. Sutherland -- or not Ms.
25 Sutherland, but Ms. Berridge in this case.

1 He did have his body cam video, Your Honor. He
2 did get the number of the truck, which is TM6125R, Your
3 Honor, was able to -- there was a red panda on the side of
4 the U-Haul, Your Honor.

5 They checked with U-Haul, Your Honor, and found
6 out that it had actually been rented by Ms. Berridge -- or
7 Wanda Loftis, Your Honor, in this case and it was rented
8 from Kingston Storage, Your Honor, here in Spartanburg.

9 A BOLO was put out for that information, Your
10 Honor. And later on there was a stop made in this case.

11 Deputy Branson conducted a traffic stop, Your
12 Honor, and found Amy Berridge was driving the vehicle. She
13 was charged with no driver's license in possession, Your
14 Honor. She was taken into custody.

15 She gave a statement in this case admitting that
16 her and Mr. Sutherland had picked up the victim in this
17 case, Mr. Woods, Your Honor. They basically saw him
18 walking. They went to the house off Highway 56, Your Honor;
19 went to the back of the house, Your Honor; was talking about
20 drugs, and they wanted to do a drug deal and basically get
21 drugs in that case. She said that she was basically talking
22 to Mr. Woods. At that time Mr. Sutherland came in and told
23 her to get back in the car. She saw him have a crowbar in
24 his hand. She went back and got in the U-Haul and was
25 actually moving it when she saw Mr. Woods run out and had

1 blood all -- blood on him; ran to the neighbor's house. Mr.
2 Sutherland came out and told her to drive and to leave. He
3 had blood on him at that time.

4 Later on they went back and was at his mother's --
5 or her mother's house and his mother's house at some point,
6 Your Honor.

7 Later on the sheriff's department was able to get
8 a pair of tennis shoes from that location. One of them had
9 the victim's blood on that, as well as there was the
10 victim's blood in the U-Haul, Your Honor, in this case. And
11 that's where the SLED DNA comes in.

12 I know it's more longer than usual, but the
13 sheriff's department did a lot of work on these pieces
14 together and I wanted to make sure it was on the record.

15 I do have Deputy Walton if you have any questions
16 about the facts in the case.

17 The victim's family is here. They do not want to
18 speak at this time, but obviously they would like to speak
19 at sentencing, whenever that is done.

20 MR. EPPS: Thank you, Your Honor.

21 There is a lot more of the discovery that isn't
22 part of an exhibit right now.

23 Your Honor, in speaking with my client, I believe
24 she believes as well, I know you will have to ask her if
25 there is a reasonable belief the jury could convict her of

1 the charge of murder, as well as possibly the charge of
2 voluntary manslaughter, Your Honor, and at this time she
3 would plead guilty under North Carolina v. Alford under the
4 reasonable basis the jury could convict her and said she
5 would like to take the offer presented to her and plead
6 straight up to voluntary manslaughter with sentencing at a
7 later date.

8 THE COURT: Ma'am, do you agree with the
9 statements just made by your lawyer?

10 THE DEFENDANT: I do.

11 THE COURT: And, ma'am, you do understand that on
12 this particular charge of voluntary manslaughter that I
13 could sentence you up to --

14 MR. BARNETTE: Thirty years.

15 THE COURT: I could sentence you up to thirty
16 years on this charge?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Ma'am, do you also understand that
19 this particular offense of voluntary manslaughter, that it
20 is classified as both a violent and also as a most-serious
21 offense?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And you have been able to talk to your
24 lawyer as to the consequences and ramifications of this
25 offense being classified as both violent and most serious?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And you still wish to enter the plea?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Ma'am, in regards to this charge of
5 voluntary manslaughter, do you believe that the State could
6 produce sufficient evidence to prove your guilt of this
7 charge beyond a reasonable doubt and that if you went to
8 trial a jury would most probably find you guilty of this
9 charge?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Ma'am, have all of your answers to my
12 questions today been truthful and honest?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Discovery been shared with the
15 defense?

16 MR. BARNETTE: Yes, sir.

17 THE COURT: Anything else before I accept the
18 plea?

19 MR. BARNETTE: Your Honor, I don't think they have
20 any objection to the six exhibits I entered as part of the
21 facts and evidence in this case.

22 THE COURT: Right, I believe you had stated that
23 and I have accepted them as part of the record.

24 I find that there is a substantial factual basis
25 for the plea and that the defendant's decision to enter the

1 plea is made freely, voluntarily, knowingly and
2 intellectually by her. Therefore, I will accept the plea.

3 Ma'am, please stay in touch with your lawyer.
4 Continue to cooperate with him and we will get you back just
5 as soon as we can to finish the case.

6 Good luck to you, ma'am.

7 THE DEFENDANT: Thank you very much.

8 MR. BARNETTE: Thank you, Your Honor.

9 (END OF REQUESTED TRANSCRIPT OF RECORD)

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CERTIFICATE

I, the undersigned, Michael R. Watts, 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 the evidence introduced in the trial of the captioned case in the Court of General Sessions for Spartanburg County, South Carolina, on the 21st day of September, 2018.

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

OCTOBER 19, 2018



Michael R. Watts
Circuit Court Reporter

I N D E X O F W I T N E S S E S

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(WHEREUPON, there were no exhibits marked during this hearing.)

P R O C E E D I N G S

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THE COURT: All right. When I call your name, if you're sitting over in the jury box, please raise your hand. Let me eyeball where you are.

If, by chance, you're in the gallery, when I call your name, please come forward, and have a seat in the jury box.

Amy Berridge.

(WHEREUPON, the Defendant raises their hand.)

THE COURT: Okay. John Hayes.

(No response.)

THE COURT: John Hayes.

THE DEFENDANT: Right here.

THE COURT: Okay. Alex Kearns.

(WHEREUPON, the Defendant raises their hand.)

THE COURT: Leslie Park.

(WHEREUPON, the Defendant raises their hand.)

THE COURT: Karlin Rogers.

(WHEREUPON, the Defendant raises their hand.)

THE COURT: Tayonna Shannon.

(WHEREUPON, the Defendant raises their hand.)

THE COURT: Marcus Smith.

(WHEREUPON, the Defendant raises their hand.)

THE COURT: Michael Thompson.

(WHEREUPON, the Defendant raises their hand.)

1 THE COURT: Jerry Browder.

2 MR. SNYDER: He told me yesterday he was gonna be here,
3 and he has not shown up.

4 THE COURT: Need to get a bench warrant. We can
5 call -- Mr. Alford, at the break, call his name.

6 THE BAILIFF: Yes, sir.

7 THE COURT: Bennie Ellis.

8 MR. SNYDER: He is in the Department of Corrections,
9 and was not brought over.

10 THE COURT: All right. We'll move him to the next
11 term.

12 Brandon Frazier.

13 MR. SNYDER: I had trouble reaching him, Judge. So,
14 I'm---

15 THE COURT: All right. Need to call that name as well,
16 Mr. Alford.

17 THE BAILIFF: Yes, sir.

18 THE COURT: Karion Garcia-Williams.

19 (WHEREUPON, the Defendant stands.)

20 THE COURT: Brandon Littlejohn.

21 (WHEREUPON, the Defendant stands.)

22 THE COURT: Larry Stafford.

23 (WHEREUPON, the Defendant stands.)

24 THE COURT: All right. Mr. Stafford, you're a deferred
25 sentence. You can just have a seat right there.

1 Amanda Tapp.

2 MR. SNYDER: I spoke with her yesterday and told to
3 come. She is not here.

4 THE COURT: All right. Mr.---

5 THE BAILIFF: Yes, sir.

6 THE COURT: Albert Cohen.

7 (WHEREUPON, the Defendant stands.)

8 THE COURT: Come on up, sir.

9 Amy Adcock.

10 (WHEREUPON, the Defendant stands.)

11 THE COURT: Dustin Varn.

12 (WHEREUPON, the Defendant stands.)

13 THE COURT: All right. Is there anybody sitting on
14 this side of the courtroom whose name I did not call?

15 (WHEREUPON, a Defendant responds.)

16 THE COURT: What's your name, sir?

17 THE DEFENDANT: Joshua Rice.

18 THE COURT: Okay. We're probably not gonna have time
19 to do you today, but I'll go ahead and qualify you if
20 there's no objection to that.

21 Mr. Cheek.

22 MR. BOGGS: I'll sit in for him.

23 THE COURT: Okay.

24 All right. Anybody else?

25 (WHEREUPON, there was no response.)

1 THE COURT: All right. I need for all of y'all to
2 please listen to me for a few moments.

3 I've been told that each one of you has one or more
4 matters that are presently pending in the Court of General
5 Sessions. I've also been told that each one of you has
6 expressed a desire or an intent to want to enter a plea to
7 those matters.

8 I need to let you know that, as part of every plea that
9 is presented in front of me, we make a recording. This lady
10 who's sitting over here to my right, she's a court reporter.
11 She's taking down everything that's said. I tell you that
12 because, if ever during this process now or later today, if
13 you need to speak to me, I need you to speak up loud enough
14 so that both she and I can hear you because, if we can't
15 hear you, I cannot accept your plea. But, likewise, if ever
16 during this process if you cannot hear me, immediately let
17 me know, and I'll speak up as well.

18 Now, in just a few moments I'm gonna ask you a series
19 of questions. I'm gonna ask you these questions as a group,
20 but I do not wish for you to think nor conclude that simply
21 because I'm asking you these questions as a group that, for
22 some reason, these questions are not important because these
23 questions are very important. The questions that I ask you
24 and the answers you give me to these questions help me
25 decide whether or not I can, in fact, accept your plea. So,

1 please listen to them.

2 If you need to respond to the questions, I'm gonna ask,
3 if you would, to please stand up and let me call on you one
4 at a time. Just don't everybody speak out at once, but let
5 me call on you one at a time.

6 Now, if ever during this process, if any of you feel
7 the need to want to speak with your lawyer, you just let me
8 know, and I'll allow you to talk to your lawyer in private.

9 I'm now gonna call your names one more time. This
10 time, when I call your name, I'm gonna ask, if you would, to
11 please stand up and remain standing. After everybody's
12 names have been called and the court reporter has your names
13 written down, the lady on this side of the courtroom, the
14 Clerk of Court, she's gonna swear you in. So, please
15 respond out loud when she asks you to do so.

16 All right. We've got John Hayes.

17 (WHEREUPON, the Defendant stands.)

18 THE COURT: Alex Kearns.

19 (WHEREUPON, the Defendant stands.)

20 THE COURT: Leslie Park.

21 (WHEREUPON, the Defendant stands.)

22 THE COURT: Karlin Rogers.

23 (WHEREUPON, the Defendant stands.)

24 THE COURT: Tayonna Shannon.

25 (WHEREUPON, the Defendant stands.)

1 THE COURT: Marcus Smith.

2 (WHEREUPON, the Defendant stands.)

3 THE COURT: Michael Thompson.

4 (WHEREUPON, the Defendant stands.)

5 THE COURT: Joshua Rice.

6 (WHEREUPON, the Defendant stands.)

7 THE COURT: Karion Garcia-Williams.

8 (WHEREUPON, the Defendant stands.)

9 THE COURT: Brandon Littlejohn.

10 (WHEREUPON, the Defendant stands.)

11 THE COURT: Albert Cohen.

12 (WHEREUPON, the Defendant stands.)

13 THE COURT: Amy Adcock.

14 (WHEREUPON, the Defendant stands.)

15 THE COURT: Dustin Varn.

16 (WHEREUPON, the Defendant stands.)

17 THE COURT: Ms. Berridge, you've already been

18 qualified. So, you can just sit there.

19 okay?

20 (WHEREUPON, the Defendant nods affirmatively.)

21 THE COURT: Please raise your right-hand.

22 (WHEREUPON, all defendants were placed under oath at
23 this time, and the qualification process for all Defendants
24 was completed at this time.)

25 SOLICITOR BARNETTE: Amy Berridge.

1 May it please the Court, Your Honor.

2 This is the case of The State versus Amy Loftis
3 Berridge, Your Honor. She pled guilty in front of Your
4 Honor back on September 21st, 2018. She pled on
5 Indictment 18-GS-42-1366, Your Honor. She was indicted for
6 murder, Your Honor. She pled guilty to voluntary
7 manslaughter, and Count Two was the -- is gonna be nolle
8 prosequi after the sentencing, Your Honor.

9 I do have the six exhibits, Your Honor, that was
10 entered in. There was a trial notebook that was entered in,
11 Your Honor.

12 State Exhibit 2, Your Honor, is numerous pictures that
13 was taken in the case. State Exhibit 3, Your Honor, is the
14 DNA report that was done in this case. State Exhibit 4,
15 Your Honor, is a toxicology or, no, another DNA report, Your
16 Honor. State Exhibit No. 5 is the coroner's report, Your
17 Honor, and State Exhibit 6 is the autopsy done of the victim
18 in this case, Lanham Wood, Your Honor.

19 May I approach the bench, Your Honor, and give these
20 items to you?

21 (WHEREUPON, the Court nods affirmatively.)

22 SOLICITOR BARNETTE: And, Your Honor, we do have
23 numerous folks that would like to speak on behalf of the
24 victim at the appropriate time.

25 THE COURT: I've already accepted the plea.

1 Is there any prior record?

2 SOLICITOR BARNETTE: No, sir, there's not.

3 THE COURT: And did you say you did have people that
4 wish to address the Court on behalf of the deceased?

5 SOLICITOR BARNETTE: Yes, sir, I do.

6 I'd like to call Tiny Ford -- let me do this.

7 Everybody that's here on behalf of Lanham Wood, please
8 stand up for us.

9 (WHEREUPON, a group of people in the audience stand at
10 this time.)

11 SOLICITOR BARNETTE: Thank you. Please have a seat.

12 Your Honor, I think Tina Ford would like to address the
13 Court first. That's the sister of Mr. Wood.

14 And, Your Honor, do you need anything on the facts or
15 anything?

16 I think I went over that at the plea.

17 THE COURT: I think I've got it right now.

18 SOLICITOR BARNETTE: Yes, sir.

19 THE COURT: Ma'am, I just need to let you know we are
20 making a recording of everything that happens here. So,
21 please speak up loud enough so that both the court reporter
22 and I can hear you. Just start by giving us your full name.

23 MS. FORD: My full name is Patina Wood Ford, but I go
24 by Tina.

25 THE COURT: Yes, ma'am.

1 MS. FORD: Your Honor, I am Tina Ford, sister of the
2 victim Lanham Wood, Lannie, which is what we call him.
3 Lannie had a big heart, and would give the shirt off his
4 back to help anyone. He was there to help when our dad and
5 stepmother were sick during the times I was not able to be
6 there.

7 Last year was one of the hardest years of my life. My
8 brother's death didn't just affect him. I have anxiety
9 attacks due to my brother's life being taken. I lost
10 14 pounds due to a lack of appetite.

11 Lannie doesn't get to continue to live his life due to
12 the choice that Amy Berridge made on January 6th, 2018. She
13 was there and didn't try to help my brother nor did she call
14 9-1-1. God knows the whole truth of what happened on
15 January 6th, 2018, and there's no hiding it from him. And
16 the day will come when he will pass his judgment.

17 Your Honor, due to her pleading to a lesser charge, she
18 has already benefited from this. Therefore, I respectfully
19 request that Amy Berridge receives the maximum sentence of
20 30 years. Thank you.

21 THE COURT: Thank you, ma'am.

22 SOLICITOR BARNETTE: Your Honor, Renee Johnson. She'd
23 like to address the Court, Your Honor.

24 THE COURT: Ma'am, if you would, just speak up loud
25 enough so that both the court reporter and I can hear, and

1 just start by giving us your full name.

2 MS. JOHNSON: Yes, sir. Your Honor, I am Renee---

3 THE COURT: Can I have---

4 MS. JOHNSON: ---Johnson.

5 THE COURT: Thank you.

6 MS. JOHNSON: Lannie Wood was my only brother. He is
7 missed by many people. He had a kind heart and did good
8 deeds for his neighbors. His 90-year old neighbor misses
9 the services that he performed for her such as cutting the
10 grass, lifting all of her heavy objects, and everything.

11 My sister and I no longer have our brother due to Amy
12 Berridge's thoughtless act on January 6th, 2018. I feel she
13 deserves the maximum sentence possible from this Court.

14 Thank you.

15 THE COURT: Thank you, ma'am.

16 SOLICITOR BARNETTE: Your Honor, Sharon Peeler would
17 like to address the Court. She's a cousin of Mr. Wood.

18 MS. PEELER: Thank you, Your Honor, for giving us this
19 time to speak for Lannie.

20 My name is Sharon Peeler, and Lannie was my cousin. We
21 were two years apart, and I spent many a summers with him at
22 my grandmother's house, camping with his family, everything.

23 Lannie, he was a kind person, he's fun loving, and he
24 would do anything for anyone as Tina and Renee have both
25 said. He took care of his dying father and his stepmother

1 whenever they were sick. He was there with them when that
2 all took place. And I'm so grateful to have the memories
3 that I have of him.

4 No matter what was going on in Lannie's life, he is
5 never lost his trait of being kind to other people whether
6 it be his friends or family members or anything.

7 On January the 6th, 2018, two people picked up Lannie,
8 and drove him back to his house, Roy Sutherland, who is from
9 the Greer/Greenville area, and Ms. Berridge, who lived in
10 the trailer park across from Lannie's house. In my heart, I
11 do not believe that he was randomly picked up that evening.
12 We learned throughout this ordeal that he was attacked with
13 two objects. He was beaten about the head with a blunt
14 object believed to be a crowbar and he was also stabbed.
15 It's for this reason that we would ask the Court for the
16 maximum jail time for Ms. Berridge.

17 You know, as time passes, you expect to lose family
18 members to age or illness, but you're never prepared for
19 losing a love one in this violent way. Lannie's gone and we
20 are only left with our memories of him. But, unfortunately,
21 we have a new memory now, January the 6th, 2018, the day
22 Lannie was murdered. This is a forever crime to us, and has
23 us members of the judicial system not by our choice. But
24 know that we will always be here to speak for Lannie, and
25 represent him on any future proceedings.

1 Lannie did nothing that day but accept a ride from two
2 people who had evil intent. He did not deserve what
3 happened to him that day. I appreciate this opportunity
4 very much for the opportunity to stand up for him, and to
5 see that the persons that are responsible for this are held
6 accountable. And, for this reason, we are asking for the
7 maximum time for Ms. Berridge.

8 Thank you.

9 THE COURT: Thank you, ma'am.

10 SOLICITOR BARNETTE: Your Honor, Brenda Kershaw's also
11 here as she's an aunt, and Bill Ravan and Ash Craft is also
12 in here. They're family friends, Your Honor, in support.

13 Your Honor, I did enter the six exhibits as part of the
14 facts of the case as well as the evidence in the case. I
15 know you'll review those, and, if you need anything else
16 from the State concerning this, Your Honor.

17 THE COURT: Can you brief, briefly review the facts?

18 SOLICITOR BARNETTE: Yes, sir, I can.

19 Your Honor, this happened back on January 6th, 2018.

20 Your Honor, Mr. Wood lived at [REDACTED] Cedar Springs Road here in
21 Spartanburg, Your Honor.

22 He had went with Jackie Lance, that was a girlfriend of
23 his, and went walking. And she went to McDonald's there on
24 295, Cedar Springs. He went to the Spinx to get kerosene.
25 He went into the -- we actually got him on video going in

1 the store buying the kerosene, going to get the kerosene,
2 Your Honor.

3 Meanwhile, the Defendant, along with Roy Sutherland,
4 Your Honor, was in a U-Haul van. She -- they had rented
5 this U-Haul van. Actually, in this case, Annie Lawson here
6 from the Sheriff's Department was one of the detectives.
7 They all did a really excellent job. They actually got the
8 video footage, and was able to see the picture of the panda.
9 Started looking for that U-Haul, Your Honor, and the U-Haul
10 was actually -- they'd been using it for a while. It was
11 rented by a -- Ms. Berridge's mother in this case.

12 They actually went to the U-Haul place, got the video
13 of the -- where the U-Haul was rented by her mother, her,
14 and Mr. Sutherland, where Mr. Sutherland and her drove it
15 away from the location. They'd been driving around earlier
16 that day before all this happened. The U-Haul was stopped
17 acting very strangely by the Sheriff's Department, Your
18 Honor. We actually got the body cam videos showing that she
19 was the driver of the U-Haul, that he was in the passenger
20 side.

21 He had several knives with him that was shown in there,
22 Your Honor. One of the knives, later on when he was stopped
23 at a later date, was missing. And we've alleged that that
24 was probably the weapon that was used in this case. But
25 they had that U-Haul, and we was able to show, through the

1 Sheriff's Department investigation, that the -- this is the
2 U-Haul that they used to pick him up in. They took him,
3 which is not that long distance, Your Honor. It's about
4 5:01 when you see him, and we actually -- they went and got
5 several videos. Britt Automotive's there. There's other
6 locations where they actually got the videotapes so you
7 could see it.

8 He actually walked to the Spinx, you can see him, and
9 he never walked back from the Spinx. Then you see the
10 U-Haul coming and going. You actually see the U-Haul go
11 through the Spinx and where he had walked towards the
12 direction there. There's like a -- I don't know if it's a
13 Li'l Cricket, but there's a little store right beside the
14 Spinx there, and picked him up. And we actually -- the
15 Sheriff's Department put out a BOLO concerning any
16 information. We had a witness come forward that saw that
17 Lannie was -- a man was actually picked up by the U-Haul
18 there.

19 When they got to the location, Your Honor, they went to
20 the back. He had a shed in the back area, Your Honor.
21 At -- and this is where it differentiates. She had pled
22 guilty -- and she had met with our office talking about this
23 case with her. We talked about using her as testimony, but,
24 after we talked -- well, what happened was, we got ready to
25 try Mr. Sutherland, and Jackie Lance was put on their

1 witness list. We actually had somebody go talk to her, and
2 she said that she knew the Defendant. And she admitted in
3 our talkings and discussions of -- about her testimony, she
4 said she did not know him. And we felt like it was too big
5 a risk to put her on the stand from that standpoint cause,
6 obviously, we have a -- we're suppose to put truthful
7 information up.

8 And so we went strictly with the circumstantial case
9 based off the blood DNA that was found later, but her --
10 the -- she did give a statement. In her statement, she said
11 she initially went in with him first, that he wanted her to
12 go in. That was -- that they were gonna talk about drugs
13 and everything, and several discussions or several comments
14 were made.

15 At that time, Mr. Sutherland came back, told her to get
16 back in the U-Haul, Your Honor, and she went back in the
17 U-Haul, was in the U-Haul. At that time, Mr. Wood came out
18 shortly after that, rushing out, went to the neighbor's
19 house. He was -- had blood on his face. He had obviously
20 been attacked, stabbed, and hit on top of the head. He went
21 to his next door neighbor, knocked on the door. His next
22 door neighbor actually found him on the sidewalk at the
23 house there. Asked him who did this to him. He said they
24 did this to me. They robbed me.

25 We used that statement in Court. They left the

1 location, went back to her grandmother's house. Through the
2 investigation, the Sheriff's Department, once they located
3 which U-Haul they was looking for, they found it two or
4 three days later on January the 9th. At that time, she was
5 the driver when they walked up to the location. He was in
6 the passenger's side. He did have knives on him. He didn't
7 have the one knife that, that the Sheriff's Department was
8 asked about three days earlier from there.

9 It was processed by the Sheriff's Department. There
10 was blood found up on the door, up on the door and wind up
11 being Mr. Wood's blood. Later on they did a search warrant
12 at her grandmother's. It showed that there was a trailer
13 they was kind of moving into. They found a pair of shoes
14 that he was wearing. That's how we know that is in the
15 video that he was stopped before all this happened. He was
16 wearing those shoes. We was able to take still photos of
17 that, and that located back to the victim in that case from
18 there, Your Honor.

19 And one of the concerns we had, and like Ms. Peeler was
20 telling the Court, there was two different weapons used in
21 this case. There was a crowbar appear or blunt force
22 instrument was used to the head of him, and then he was
23 stabbed with a knife in the side. And I -- you have the
24 autopsy report. It could tell you about the wounds and so
25 forth about that, Your Honor, in this case.

1 And based off that, they were arrested. Mr. Sutherland
2 was tried back and found guilty of murder on November 30th,
3 was sentenced to life, Your Honor, and it was based off his
4 prior record, but he was facing obviously 30 to life with
5 that, Your Honor.

6 THE COURT: Thank you.

7 SOLICITOR BARNETTE: Thank you.

8 THE COURT: Yes, sir.

9 MR. EPPS: Thank you, Your Honor.

10 Possibly in reverse order, I'm not gonna have Ms.
11 Berridge just speakers speak, but I do want --.

12 SOLICITOR BARNETTE: May I approach, Your Honor?

13 MR. EPPS: If you are in the gallery here for Amy
14 Berridge, if you would, just stand please.

15 (WHEREUPON, a group of people in the gallery stand at
16 this time.)

17 THE COURT: Your Honor, we have a -- thank you. You
18 may be seated.

19 In the gallery, Your Honor, is a number of Amy's family
20 and friends. Her elderly grandmother is here. Very ill.
21 Her grandfather passed away recently while Amy was in jail.
22 That's her Nanny and Papa.

23 Nanny and Papa have been somewhat of a home base for
24 Amy, and I know that was an extreme difficulty for her while
25 she was in jail. One of the issues that I have in

1 presenting this case, and it's the one I'm worried the most
2 about, usually, when I'm up here, I'm advocating on behalf
3 of a client where there's maybe a drug transaction or a
4 property theft or breaking into a home or something of
5 nature.

6 This is a situation where the victim is not the State
7 or the, the sanctity of the peace of this State. It is a
8 life, and Lanham Wood's not coming back, and we know that.
9 I hope you will take into consideration that my advocacy
10 of my client and what my client will say is not to minimize
11 the extreme loss that's happened.

12 There are always two sides to every story. No matter
13 what story is said here today, Lanham Wood is dead, and
14 there's not gonna be anything to change that, and we know
15 that. My client knows that.

16 Your Honor, so, Nanny and Papa were always a home base
17 of sort for Amy growing up. Lived in the same location.
18 She is a product of a mother and father who have divorced.
19 Primarily was with her mother. Her mother is not here
20 today. Her mother's recently had some very severe health
21 issues with her legs. She has mobility problems, and could
22 not be here today.

23 Amy has three children. Two of which are in the
24 gallery. She has another daughter who is not here today who
25 just doesn't -- didn't think she can make it, and I, I can

1 understand that. But there are aunts. There are uncles,
2 friends who are like family. There's also her chaplain at
3 the jail who will speak later. And co-workers.

4 For record purposes, I'll tell you Amy's been in jail
5 for 388 days. I was appointed to represent her very soon
6 after she was initially arrested on January 9th. When I
7 first met her, she was a meth head, and I knew that because
8 I've represented a few. And she, she was still coming off
9 of it.

10 I point that out because my experience has been, when I
11 meet with clients like that, and they're still under the
12 influence or coming off of it, even worse, under withdrawal,
13 their story is usually X, and months and months later it
14 becomes a variation of Y where X gets kind of twisted
15 around.

16 Amy's story, in my opinion, has never changed from the
17 first time I met her, and that, to me, is, is very telling
18 as we look at the facts of what's happened here. Danny is
19 who she knew Roy Sutherland to be. He used an alias even
20 with her. Amy met Danny around November, maybe Thanksgiving
21 of '17 timeframe. She had gone through a little bit of a
22 rough time in her life. She did not have what I would call
23 secure housing. She was living in a trailer that yes, was
24 very close to Lannie Wood's home.

25 She had her three children with her there. She was and

1 had been a single mother. I point that out because her son,
2 oldest son now, is 16. She has a 16 and 13 and a 12 year
3 old. She was doing that by herself. She was supporting
4 them, and it was not a luxurious existence, but she was
5 doing as best she could.

6 Unfortunately, around the time she met Danny, and just
7 a little bit before, she had fallen into meth. And, and I
8 say that. It sounds kind of flippant, and I don't mean it
9 to be that way, but she started using meth. And, as I've
10 seen with other clients of mine, once you get into that
11 process, you start to develop contacts with people that also
12 use it, sell it, et cetera. And, unfortunately, one of the
13 contacts she met was Danny, who was Roy, and Roy latched on
14 to her, for some reason, and she latched on to Roy mostly
15 because he was a supplier, and a source of money for someone
16 who had a very insecure income.

17 She lost her home, and by that, not her home. She got
18 disinvited to stay in the trailer she was staying in, and
19 had to move. She was using her vehicle, her van. Danny was
20 driving it. They were in a wreck. Danny has a bad record,
21 and he's on probation. And so she -- and that -- this will
22 be in the solicitor's file. There's a, a medical record
23 incident from the wreck where she, Amy, says she's the
24 driver. From day one, she has told me that Danny was the
25 driver, but he needed her to take it because he didn't have

1 a license, and there was some other heat falling him that
2 just didn't need to be reported on an accident report where
3 he was the driver.

4 So then they didn't have a vehicle. They needed to
5 move, and Amy got her mom to rent them a U-Haul. They used
6 that U-Haul for transportation, but also to move items back
7 and forth from where she was staying over very close to the
8 victim's home to her Nanny and Papa's house over at the
9 other end of 295.

10 As she tells me, the day this all happened, Danny
11 wanted to pick up, or Roy I should use his name is the
12 proper name, Roy wanted -- he needed a fix. They were
13 headed back towards the trailer, towards the intersection of
14 Cedar Springs Road and 295, and Danny happened to notice
15 Lannie.

16 Now, I'll be honest with you here. This is the point
17 of the story, and Ms. Peeler just pointed it out, that I've
18 had a question in my head. Amy lived very close to Lannie.
19 From day one, she has said she did not know him or know him
20 like that.

21 Let's say she did. My, my curiosity, my issue with
22 this case from the get go has always been intent. This is
23 not a burg first that resulted in death. This is not a gun
24 shooting that resulted in death. This is not, in my
25 opinion, a robbery that resulted in death.

1 From day one, Amy has told me she was a passenger.
2 Danny, Roy, leaned out the window, got Lannie's attention.
3 They, in their drug speak, discussed a drug transaction, and
4 Lannie went and got around on the passenger side of the
5 U-Haul. Amy was sitting there. She slid over. Lannie got
6 in, and they drove to Lannie's house. Amy has also said
7 that, and just about every time I ask her, she was eating an
8 oatmeal cream pie. She knows what she was eating.

9 They go to Lannie's house. It's a short distance.
10 They pull in front ways, and they go into the back of this
11 building. Amy doesn't want to go in. Lannie says, if she's
12 not getting out the truck, there's not gonna be a deal, and
13 Amy says, you know what, whatever.

14 Okay. So, Amy gets out on his side, and they go into
15 this outbuilding behind the house. I know that there is the
16 evidence box there. I don't know if your Court -- if the
17 Court is inclined to review it. I probably should of
18 brought it today, and I didn't. I apologize. But if the
19 Court is inclined to review it, I would ask the Court look
20 at Amy's statement.

21 In her statement, she says they go into the house.
22 Lannie makes some statements to her, which are suggestive
23 with probably be a mild way to put it. Made her feel
24 uncomfortable. It apparently made Roy feel very
25 uncomfortable. Amy was told to leave, and something

1 happened. Amy got in the U-Haul as she was told to leave.
2 She backed it up about six to eight times because it's a big
3 truck in a small space. And, as she is getting it backed
4 up, Lannie comes running out of the building, and he's got
5 blood running down his face.

6 Soon thereafter, Danny, Roy, comes out. He dusts
7 himself off, and he makes a statement to the effect of we
8 won't have to worry about him trying to rape anyone else
9 again.

10 Intent has been my issue. The problem is, first of
11 all, we have a plea, Your Honor. She and I discussed the
12 intent issue for days. We also have the glue of a criminal
13 activity that I don't know that she could be removed from
14 with Danny and Roy or Donnie/Roy.

15 The other issue is she saw a man running in front of
16 her who had blood running down his face. She admits it in
17 her statement.

18 As society, what is it that we want people to do when
19 they're faced with that situation?

20 We want them to call 9-1-1 if they don't have the
21 presence of mind just to not be in that situation to begin
22 with. She didn't do that.

23 Now, I'd like to, for the Court's consideration, I need
24 to show the solicitor this. Excuse me, Your Honor.

25 (Pause.)

1 MR. EPPS: Your Honor, I hand these up. I don't know
2 that you have a color copy of the first item then. This is
3 Amy's booking photo when she was arrested for this crime.
4 The second item is her rap sheet.

5 Your Honor, you can see the shiner on her eye. She
6 tells me that was from Danny. Danny was no shrinking
7 violet. By all accounts, he was a pretty violent guy. As
8 my client has told me, he beat her pretty badly.

9 Should she have run away?

10 Yes.

11 Should she have called the police?

12 Absolutely.

13 And it -- it's probably a blessing, no matter how she
14 lives her life, that she is actually alive right now. I
15 think, if Roy had a chance and heard about this, she would
16 of been dead too.

17 But, Your Honor, the second thing I handed up, if the
18 Court would be inclined to review it, is her rap sheet.
19 There are three items on there before you get to the murder.
20 There are two shopliftings, and a driving a vehicle without
21 a license. Those items have all been resolved except for
22 the murder charge, which is what we're here for today.

23 Your Honor, that all occurred, as a lot of meth addicts
24 do, Amy was shoplifting to obtain things to support her
25 habit. At times she was told what to shoplift by Danny and

1 Roy.

2 Now, all of this is going to be -- it's going to sound
3 like me putting all of this on Roy. Amy's a big girl.
4 She's standing on her own two feet. She messed up in a very
5 bad way, and, as a result, someone died. Whether by her
6 just not calling 9-1-1, and saying please, EMS, come help
7 this man or, as I believe the, the State would like to
8 infer, that she played possibly a bigger role. We'll never
9 know what it is. We do know she did not call 9-1-1. We do
10 know she was involved with Roy Strickland (sic), Danny.

11 Since she's been arrested, she's met with me a number
12 of times. She's also met with Andy Lawson. We went out
13 there with Rick Gregory up and down 295 trying to find a
14 weapon. She's tried to help. She's met with the
15 solicitor's Office. She's had no problem with that.
16 Frankly, we would of done it sooner. I didn't know if the
17 solicitor's Office really needed her, and it turns out they
18 probably did not.

19 Your sentence discretion is wide. My client's 36 years
20 old. She has three children. You have the potential to
21 sentence her in such a way that her youngest child will be
22 much older than her when she gets out of prison.

23 We're looking for mercy, and I know there are many in
24 this room that, that don't believe she deserves that, and I
25 can understand that sentiment.

1 what I would ask the Court to consider is this. She's
2 got three children. She does have a grandfather she lost in
3 jail, and a grandmother that is very ill, and a mother who's
4 got declining health. She would appreciate the ability to
5 be involved in the lives of her family at some point in the
6 future.

7 Now, I would request, and, and we make no mistake about
8 the fact that there's going to be a sentence here. But the
9 opportunity to have a sentence structure where a sentence is
10 suspended, at some point, with a long probation because,
11 frankly, she's gonna need that over her head. Once you're
12 an addict, you're always an addict.

13 You know all too often the criminal justice system is
14 about rest -- retribution and restitution to try and write
15 the wrong. I would ask that you also leave room for a
16 rebirth and a recreation.

17 I know Ms. Berridge would like to speak as well as
18 we've got some others.

19 SOLICITOR BARNETTE: May we approach the bench for one
20 second, Your Honor?

21 (Whereupon, a bench conference was held at this time.)

22 THE COURT: Ms. Berridge, do you agree with the
23 statements made by your lawyer?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And did you say you did have some folks who

1 wish to address the Court?

2 MR. EPPS: I do, Your Honor.

3 Maybe just for -- Kelsey Taylor.

4 THE COURT: Just come right up here and stand beside
5 the police officer. Just need to let you know we are making
6 a recording of everything that happens here. So, please
7 speak up loud enough so that both the court reporter and I
8 can hear you. Just start by giving us your full name.

9 MS. TAYLOR: My name's Kelsey Taylor.

10 THE COURT: Yes, ma'am.

11 MS. TAYLOR: Amy has worked for me for about a year and
12 a half. She is an, overall, she's a great person. This
13 come out completely out of character. She's always shown
14 up, did her job. She's a foloist (phonetic). Everybody at
15 work loved her. She had customers that come in request to
16 sit with her. She always went above and beyond to know that
17 she could go home to provide for her kinds. We were all
18 just shocked at -- when we found out this happened.

19 THE COURT: Thank you, ma'am.

20 MS. TAYLOR: Thank you.

21 MS. LOFTIS: Angela Loftis.

22 THE COURT: Just stand, stand right here beside the
23 police officer. Just need to let you know we are making a
24 recording of everything that happens. So, please speak up
25 loud enough so that both the court reporter and I can hear

1 you. Start by giving us your full name.

2 MS. LOFTIS: My name's Angela Lee Loftis. She's been
3 my sister my whole life. She's a great sister. She's been
4 there for me. My parents would argue. She would bring me
5 in the room. She's brought me food and money when I needed
6 it. She's the best mother. I really honestly think she got
7 mixed up with the wrong person. Didn't even know who he
8 was, and I just pray that she gets a chance to be with her
9 kids again.

10 THE COURT: Thank you, ma'am.

11 MR. EPPS: And, lastly, Pat Gotautas.

12 THE COURT: Ma'am, if you would, just stand beside the
13 police officer, and start by giving us your full name.

14 MS. GOTAUTAS: Your Honor, I'm a part-time chaplain at
15 the detention center. I met Ms. Berridge in, in March.

16 I believe fully that she -- I know that she is
17 terribly, terribly upset by what happened. She has cried a
18 lot. She has -- we have prayed about this a lot. She
19 desperately wants to be back with her family. She misses
20 her children. She was not able to deal with the death of
21 her grandfather. She loves her mother. She loves her, her
22 grandmother very, very much.

23 I believe, from the depths of my heart, and I've, I've
24 done prison ministry for a long time. I know pretty much
25 how somebody can, can twist things. But I believe that she

1 regrets, to the bottom of her soul, what happened.

2 She wishes that she had called 9-1-1, but she didn't.
3 She was under the influence of someone else. And I ask for
4 mercy for her. I believe she's got an amazing heart, and
5 I'm hoping, when I say this, that it's not something I will
6 regret, but I don't think she'll ever be back before you
7 again or any other judge.

8 Thank you for your time, Your Honor.

9 THE COURT: Thank you.

10 And, Ms. Berridge, is there anything else that you
11 would like to say or want me to know or consider?

12 THE DEFENDANT: Yes. Please.

13 THE COURT: Yes, ma'am.

14 THE DEFENDANT: I'd like to start out by saying how
15 very sorry I am that y'all have to live the rest of your
16 lives without your loved one. I will never forget the look
17 on Mr. Wood's face as he ran from the building into the
18 neighbor's yard blood running down his face.

19 I will regret, for the rest of my life, my decision not
20 to call 9-1-1. I had no idea of knowing he had been stabbed
21 or the extent of his injuries. I, myself, had been beaten
22 severely by Roy Sutherland, and I'm extremely lucky to be
23 alive. I'm an addict and I feel as though that contributed
24 to my bad decisions especially when it came to men.

25 In addition to these charges today, I'm guilty of

1 theft, failure to call 9-1-1, and being a drug addict. I've
2 hurt a lot of people, including Mr. Wood's family, my three
3 beautiful children, my mom, my sister, my Pop and Nanny. My
4 Pop died while I was in here. These are the people who are
5 suffering from my bad choices.

6 I just pray that his family can find it in their hearts
7 to forgive me. I'm asking for any mercy the Court would
8 give me so I can serve my sentence and rebuild my family. I
9 know Mr. Woods cannot do that. But, in going through all of
10 this, I will continue to have -- I will con -- I will
11 continue to have the circumstances weighing on my heart, and
12 my -- and will teach me how to live the rest of my life.

13 THE COURT: Thank you, ma'am.

14 THE DEFENDANT: Thank you.

15 SOLICITOR BARNETTE: Your Honor, may I state one thing?
16 (The Court nods affirmatively.)

17 SOLICITOR BARNETTE: It just -- I apologize. I didn't
18 think she would say what she did, but she said theft. She
19 wasn't charged with the robbery. At this point then that
20 wasn't the nature of her -- after, after Lannie ran into her
21 -- ran into him. I'm sorry.

22 Thank you.

23 THE COURT: Thank you.

24 (Pause.)

25 THE COURT: I'll find that there's a substantial

1 factual basis for the plea.

2 On this case, it will be a 30 year sentence at the
3 State Department of Corrections. I'll suspend that upon the
4 service of 25 followed by the service of five years of
5 supervision. She gets credit for the 388 days. I've
6 indicated my desire that she receive the Addiction Treatment
7 Unit while she's at the Department of Corrections.

8 Once she is released, they'll continue to monitor her
9 drug use by developing an initial treatment plan. Need to
10 stay clean of any illegal substance cause they will be doing
11 random drug testing. There's not to be any contact with any
12 members of the victim's family.

13 Good luck to you, ma'am.

14 SOLICITOR BARNETTE: Thank you, Your Honor.

15

16

17 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

18

19

20

21

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24

25

C E R T I F I C A T E

1
2
3 I, Pamela E. Green, Official Court Reporter for the
4 Seventh Judicial Circuit of the State of South Carolina, do
5 hereby certify that the foregoing is a true, accurate and
6 complete Transcript of Record of the proceedings had and
7 evidence introduced in the trial of the captioned case,
8 relative to appeal, in the Court of General Sessions for
9 Spartanburg County, South Carolina, on the 31st day of
10 January, 2019.

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

13
14
15
16 August 1st, 2019
17
18
19

20 _____
21 PAMELA E. GREEN, Court Reporter
22
23
24
25

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)
)
 STATE OF SOUTH CAROLINA,)
)
 v.)
)
 AMY LOFTIS BERRIDGE,)
)
 Defendant.)

IN THE COURT OF GENERAL SESSIONS
 SEVENTH JUDICIAL CIRCUIT

CASE #: 2018A4210100064 and
 2018A4210100066

**DEFENDANT'S MOTION TO
 RECONSIDER SENTENCE**

TO THE HONORABLE J. MARK HAYES, II, SENTENCING JUDGE:

Defendant Amy Loftis Berridge, by and through her undersigned counsel, hereby moves before the Court to reconsider the sentence imposed upon her Thursday, January 31, 2019. The basis for Defendant's motion is that it was during the sentencing, specifically during the introduction of the last victim impact speaker, when Defendant and Defendant's counsel learned that Solicitor Barry Barnette's secretary/paralegal Sharon "Cookie" Peeler was a member of the victim's family, reported to be a cousin. Ms. Peeler produced discovery to Defendant's counsel, had various correspondence with him, coordinated meetings with Solicitor Barnette, his staff, Defendant's counsel, and Defendant during Defendant's proffer of testimony to the State.

The revelation of this fact at this ending point of the case greatly surprised Defendant's counsel and impacted his mitigation to such a degree he did not think to approach and request a continuation to examine this issue further and/or request other relief. Accordingly, any such objection or other action was not taken or requested, possibly leaving Defendant without future recourse to address the issue save for this motion.

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2-15-19

Based on the above, Defendant requests the Court reconsider its sentencing of her and schedule a hearing for resentencing.

Respectfully submitted the 8th day of February, 2018.

EPPLAW FIRM, LLC



Steven D. Epps, Esq. (SC Bar No.: 72722)

Mail to:

104-A Franklin Avenue, # 281
Spartanburg, SC 29301

Phone: 864-590-4848
steven@epplawfirm.com

Attorney for Defendant

2019 FEB -8 AM 8:32

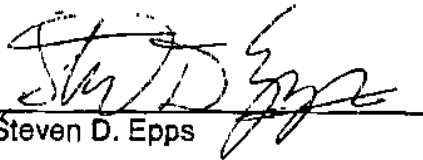
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the following has been served via hand-delivery to the below:

1. Defendant's Motion to Reconsider Sentence

The Hon. J. Mark Hayes, II	Spartanburg Clerk of Court	Seventh Circuit Solicitors Office
180 Magnolia St	180 Magnolia St	180 Magnolia St
Judges Chambers	2 nd Floor, Suite 500	3 rd Floor
Spartanburg, SC 29306	Spartanburg, SC 29306	Spartanburg, SC 29306

This 8th day of February, 2019.



Steven D. Epps

2019 FEB -8 AM 8:32

members in which the family member is a defendant to other Solicitor's offices or the Attorney General's Office. The undersigned reasonably believed Mr. Epps knew about Mrs. Peeler's relationship with the victim in this case and regret that he did not know.

The State would state emphatically that the Defendant has shown no prejudice in this case and would argue that Ms. Berridge actually received a benefit in this case through her guilty plea to the lesser included offense of Voluntary Manslaughter instead of any additional punishment for the initial charge of Murder. Therefore, the State asks this Honorable Court to deny the Defendant's Motion to Reconsider her Sentence and allow the present sentence to stand.

Respectfully Submitted by:



Barry Barnette
Solicitor
Seventh Judicial Circuit

Spartanburg, South Carolina
February 18, 2019

2019 FEB 18 PM 4:28

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS

SEVENTH JUDICIAL CIRCUIT

INDICTMENT NOS: 2018-GS-42-1366
WARRANT NOS: 2018A4210100064 & 66

THE STATE OF SOUTH CAROLINA)
)
v.)
)
Amy Loftis Berridge,)
)
_____)

**AFFIDAVIT OF SERVICE
VIA INTERNET EMAIL**

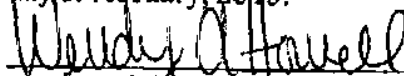
PERSONALLY APPEARED BEFORE ME the undersigned deponent who being duly sworn, states:

1. That I am employed by the Seventh Circuit Solicitor's Office, Spartanburg, South Carolina.
2. That regular communication by United States mail and/or e-mail via internet service exists throughout the State of South Carolina and beyond, and that this is a proper circumstance of service by mail and/or e-mail.
3. That I have this 18th day of February, 2019 served a copy of the State's Return to Defendant's Motion to Reconsider Sentence in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid, and/or via internet e-mail:

Steven Epps, Esquire
steven@eppslawfirm.com


SHARON O. PEELER

Sworn to before me this 18th
day of February, 2019.


Notary Public for South Carolina
My Commission Expires: 7-10-22

2019 FEB 19 AM 8:46

STATE OF SOUTH CAROLINA)
 COUNTY OF SPARTANBURG)
)
 STATE OF SOUTH CAROLINA)
 vs.)
)
 AMY LOFTIS BERRIDGE,)
)
 DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS
 SEVENTH JUDICIAL CIRCUIT

INDICTMENT NO.: 18-GS-42-1366
 WARRANT NOS.: 2018A4210100066 and 68


ORDER

The Defendant filed a Motion for Reconsideration of the Defendant's Sentence on February 8, 2019. Originally charged with Murder, the Defendant was allowed to plead to Voluntary Manslaughter by the State on September 21, 2018, and the State dismissed Possession of a Weapon during a Violent Crime (Count Two) as part of the guilty plea. On January 31, 2019, this Honorable Court gave the Defendant a sentence of thirty (30) years suspended to twenty-five (25) years with five (5) years of probation to follow. The State filed its Return to Defendant's Motion to Reconsider Sentence on February 18, 2019.

The Court reviewed the Defendant's Motion for Reconsideration as well as the State's Return to Defendant's Motion to Reconsider Sentence; this Court does not believe oral arguments will aid the Court in making its decision on this matter. While this Court is aware that an individual named Sharon Peeler works in the Seventh Circuit Solicitor's Office, when Ms. Peeler spoke on behalf of the deceased victim in this case the Court was unaware that she was the same Sharon Peeler who is employed by the Solicitor's Office.

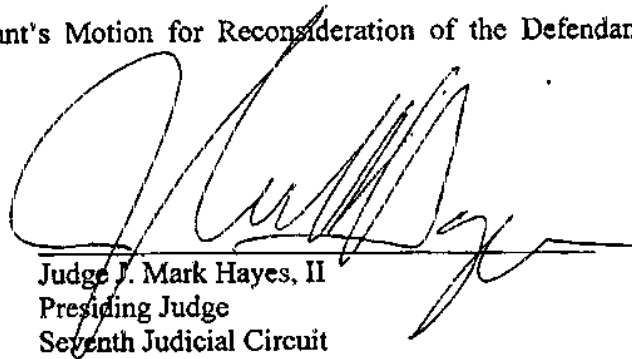
The Defendant and her attorney made an excellent mitigation presentation during the sentencing hearing. The Defendant also received a reduction in the offense charged from Murder to Voluntary Manslaughter and the dismissal of the Possession of Weapon during a Violent Crime

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 CLERK OF COURT
 SPARTANBURG COUNTY

1 

charge. The Court denies the Defendant's Motion for Reconsideration of the Defendant's Sentence in this matter.

IT IS SO ORDERED.



Judge J. Mark Hayes, II
Presiding Judge
Seventh Judicial Circuit

Spartanburg, South Carolina

April 22, 2019

2019 APR 22 AM 9:34
SOUTH CAROLINA COUNTY

FORM 5

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF)

2019 CP 42 02590

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

v.)

APPLICATION FOR

State of South Carolina)

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 each 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 Leath Correctional Institution
2. Name and location of Court which imposed sentence Spartanburg Court - 180 Magnolia S
Spartanburg SC 29304
3. Name(s) of co-defendant(s) (if any) Roy Sutherland
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2018GS4201366
 - (b) ---
 - (c) ---
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 9/21/18 - 1/31/19
 - (b) 30 years - suspended to 25 years with 5 years probation. 1



- (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 Alford/Def. Sent
- 7. Did you appeal from the judgment of conviction or the imposition of sentence?
YES
- 8. If you answered "yes" to (7), list:
 - (a) the name of each Court to which you appealed:
 - i. County of Spartanburg
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. denied
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. April 22nd 2019
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. _____ N/A
 - ii. _____
 - iii. _____
- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) _____ N/A
 - (b) _____
 - (c) _____
- 10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: - Back -

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 SPARTANBURG COUNTY
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I did not kill Mr. Woods. I did not conspire to kill Mr. Woods. I did not know my co-defendant had stabbed Mr. Woods. Mr. Woods ran out of the building alive.

After I was sentenced my lawyer Mr. Epps told me if I went to trial he could not represent me. He said he would have to be chair II. He said this the day After I was sentenced. My plea was open from 2 years - 30 years. I feel he wanted me to take the plea so I could not go to trial.

Sharon Peeler works for Barry Barnett at the solicitors office. She sat in on several of my interviews. I was told none of that could be used in court. We did not know at the time Ms. Peeler was related to the victim Mr. Woods. I feel when Ms. Peeler addressed the court she spoke of things that should not have been brought up. The only reason she knew those things was because she was there for the interviews.

- (a) _____
- (b) _____
- (c) _____

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

- (a) on back →
- (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. _____
- N/A

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

- i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- N/A

(c) the disposition thereof:

- i. _____
 - ii. _____
 - iii. _____
- N/A

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 SPARTANBURG COUNTY
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#11) I did not know Mr. Woods. I had no blood on me. Mr. Woods was running/alive last time \pm saw him.

- I have a letter from Mr. Epps saying he might wif should wif objected but did not when Ms. Peeler addressed the court.

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

i. _____
ii. _____ N/A
iii. _____
iv. _____

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

i. _____
ii. _____ N/A
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?

yes

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

(a) which grounds have been presented:

i. Ms. Peeler talking in court.
ii. _____
iii. _____

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

i. motion for reconsideration of the defendants sentence
ii. _____
iii. _____

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SPARTANBURG COUNTY
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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) _____ N/A
(b) _____
(c) _____

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

- (a) your arraignment and plea? Yes
 (b) your trial, if any? N/A
 (c) your sentencing? Yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 i. Steven Epps
 ii. 104 A- Franklin Avenue, #281
 iii. Spartanburg SC 29301
 (b) the proceedings at which each such attorney represented you:
 i. Arrestment and plea
 ii. Sentencing
 iii. appeal / Filled motion

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

Retrial or sentencing

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

NO

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 SPARTANBURG COUNTY
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STATE OF SOUTH CAROLINA)
)
)
)

VERIFICATION

County of
Amy Berridge

I, *Amy Berridge*, 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.

Amy Berridge

SWORN to and subscribed before me this 18th
day of July, 2019

Maury H. Lewis (L.S.)
Notary Public

My Commission Expires: 2-13-2029

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

Amy Berridge

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.

Amy Berridge
Applicant

SWORN or affirmed to and subscribed before me this
18th day of July, 2019

Manfred Lamb
Notary Public

My Commission Expires: 2/3/2029

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2019 JUL 22 AM 10:41

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) FOR THE SEVENTH JUDICIAL CIRCUIT
 COUNTY OF SPARTANBURG)

 Amy Berridge,) Case No.: 2019-CP-42-02590
 S.C.D.C. No. 379048,)
)
 Applicant,)
)
 v.) RETURN AND
) PARTIAL MOTION TO DISMISS
) (Counsel Appointed)
 State of South Carolina,)
)
 Respondent.)

In response to the application for post-conviction relief filed by Amy Berridge (Applicant) on July 22, 2019, Respondent would show this Court:

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to a sentence of commitment of the Spartanburg County Clerk of Court. Applicant was indicted at the March 2018 term of the Spartanburg County Grand Jury for murder and possession of a firearm during the commission of a violent crime (2018-GS-42-01366, Cts. I & II). Steven D. Epps, Esq. represented Applicant, and Barry J. Barnette, Esq., Solicitor for the Seventh Judicial Circuit, prosecuted the case. On September 21, 2018, Applicant appeared before the Honorable J. Mark Hayes, II, and entered an Alford plea to the lesser-included offense of voluntary manslaughter; the weapon charge was dismissed. On January 31, 2019, Judge Hayes sentenced Applicant to imprisonment for a term of 30 years, provided that upon service of 25 years, the balanced would be suspended with probation for 5 years.

Applicant filed a motion to reconsider the sentence on February 8, 2019, arguing that the revelation during the plea proceeding that Solicitor Barnette's paralegal, Sharon "Cookie"

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 SPARTANBURG COUNTY
 AMY W. FOX

Peeler, was a cousin of the victim was a surprise that impacted mitigation. The State filed its return on February 18, 2019. By written order filed April 22, 2019, Judge Hayes denied Applicant's request for a hearing on the motion, and denied the motion to reconsider the sentence. Applicant did not appeal her plea or sentence.

II. STATEMENT OF THE FACTS

The underlying facts of the crime for which Applicant is incarcerated were articulated by the State during the plea proceeding. In the early morning hours of January 6, 2018, the Spartanburg County Sheriff's Office responded to a call in the Cedar Springs area and found the victim, Landon Woods, had been stabbed several times before finding his way to a neighbor's house. (Plea Tr. 10, ll. 11-22). Law enforcement spoke with Woods, who could not identify his assailant, but explained he had gone to obtain kerosene for his heater and gotten a ride in a U-Haul van, and when they returned he was assaulted. (Plea Tr. 10-11). Law enforcement returned to Woods' home, where they found his glasses in the entrance and blood in the entrance of an outbuilding. (Plea Tr. 11, ll. 6-14).

After ruling out two other suspects, investigators obtained video from shops and offices along Cedar Springs Road, where they were able to see Woods walking towards the Spinx gas station with his red gas can, but could not see him return. (Plea Tr. 11-12). Law enforcement could also see Jackie Lance, who had been walking with him until they split up so she could go to McDonalds; she was supposed to meet back up with him, but that never came to pass. (Plea Tr. 12, ll. 6-10).

The Sheriff's Office received a call from a witness who saw Woods get into a U-Haul "in the entrance of the Little Cricket on 295 at Anita Drive[.]" (Plea Tr. 12, ll. 11-19). Investigators pulled additional video to corroborate the witness, and managed to track through videos a U-

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 SPARTANBURG COUNTY
 JIMMY W. COX

Haul with a red panda image on it travel towards the Spinx to which Woods' had been walking, then start traveling back towards Cedar Springs Road, from whence Woods' had come. (Plea Tr. 12-13). Timestamps on the videos placed the U-Haul at the Spinx at around 4:57 a.m., and the original call to 9-1-1 connected at 5:09 a.m. (Plea Tr. 13, ll. 11-14). The Sheriff's Office issued a BOLO for the U-Haul. (Plea Tr. 13, ll. 15-16).

Upon the BOLO, investigators learned that the U-Haul had been pulled for a traffic stop overnight from January 5 to January 6, 2018. (Plea Tr. 13, ll. 17-20). The officer involved had recorded the stop on his body camera, and identified Applicant and Roy Sutherland as the two individuals previously in the U-Haul. (Plea Tr. 13-14). In particular, he remembered Sutherland had been armed with a couple of knives, and he issued a citation to Applicant. (Plea Tr. 14, ll. 22-25). From the bodycam, law enforcement identified the truck's license plate and confirmed the image of a red panda on the side. (Plea Tr. 14, ll. 1-4).

After checking with U-Haul, investigators confirmed the truck had been rented by one Wanda Loftis from Kingston Storage in Spartanburg. (Plea Tr. 14, ll. 5-8). The Sheriff's Office put out another BOLO with the additional information, which led to the location of the U-Haul, a traffic stop, and the discovery of Applicant still driving the vehicle. (Plea Tr. 14, ll. 9-12). Applicant was arrested for driving without a license and taken into custody. (Plea Tr. 14, ll. 12-14).

Applicant gave a statement to law enforcement explaining that she and Sutherland picked Woods up and took him to a house off Highway 56, with the intention of completing a deal for drugs. (Plea Tr. 14, ll. 15-21). Applicant was in the back of the house with Woods when Sutherland entered, armed with a crowbar, and instructed her to get back in the U-Haul. (Plea Tr. 14, ll. 21-24). Applicant complied, and was moving the truck when she saw a bloodstained

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SHERIFF'S OFFICE
ANY WOODCOX

Woods flee the building to a neighbor's house. (Plea Tr. 14-15). Sutherland emerged also covered in blood and ordered her to drive. (Plea Tr. 15, ll. 1-3). The two drove to the homes of their respective mothers. (Plea Tr. 15, ll. 4-6). Law enforcement followed up on the information provided by Applicant—investigators found Woods' blood in the U-Haul, and recovered sneakers from one of the homes also tainted with Woods' blood. (Plea Tr. 15, ll. 7-11).

Upon inquiry by the plea court, Counsel explained Applicant believed there was a reasonable basis on which the jury could convict her. (Plea Tr. 15-16). Upon inquiry by the plea court, Applicant confirmed she agreed with Counsel's statements. (Plea Tr. 16-17).

III. CURRENT APPLICATION

In her post-conviction relief application, Applicant alleges she is being held unlawfully for the following reasons:

1. Actual innocence, in that:
 - a. "I did not kill Mr. Woods. I did not conspire to kill Mr. Woods. I did not know my co-defendant had stabbed Mr. Woods. Mr. Woods ran out of the building alive."
 - b. "I did not know Mr. Woods. I had no blood on me. Mr. Woods was running / alive last time I saw him."
2. Ineffective assistance of counsel, in that:
 - a. "After I was sentenced my lawyer Mr. Epps told me if I went to trial he could not of represented me. He said he would have to of been chair II. He said this the day after I was sentenced. My plea was open from 2 years – 30 years. I feel he wanted me to take the plea so I would not go to trial."
 - b. "I have a letter from Mr. Epps saying he might of should of objected but did not when Ms. Peeler addressed the court."
3. Prosecutorial misconduct, in that:
 - a. "Sharon Peeler works for Barry [Barnette] at the [solicitor's] office. She sat in on several of my interviews. I was told none of that could be used in court. We did not know at the time Ms. Peeler was related to the victim Mr. Woods. I feel when Ms. Peeler addressed the court she spoke of things that should not have been brought up. The only reason she knew those things was because she was there for the interviews."

Applicant requests relief as follows:

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 SHERMANBURG COUNTY
 ARMY W. COX

- “retrial or sentencing”

Attached to and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject conviction, Applicant’s records from the South Carolina Department of Corrections, the plea transcript, and the current application for relief. Respondent reserves the right to amend this Return upon receipt of relevant information.

IV. RESPONSE TO CLAIM OF ACTUAL INNOCENCE

Applicant’s claim of actual innocence is not cognizable under the Uniform Post-Conviction Procedure Act. Absent a proper claim of newly discovered evidence, a claim of actual innocence is not a valid post-conviction relief allegation, especially where the applicant pled guilty. Applicant waived her right to raise innocence as a defense when she pled guilty and waived her right to a jury trial. Therefore, the plea waives any non-jurisdictional defects and defenses, including challenges to the sufficiency of the evidence. Whetsell v. State, 276 S.C. 295, 277 S.E.2d 891 (1981); Rivers v. Strickland, 264 S.C. 121, 213 S.E.2d 97 (1975).

Insufficient evidence of guilt is not a valid claim to overturn a guilty plea. “Where a defendant voluntarily, intelligently, and understandingly enters a plea of guilt, this makes it unnecessary for the State to offer evidence to prove the offense charged in the warrant or indictment.” State v. Allen, 261 S.C. 448, 451, 200 S.E.2d 684, 686 (1973). This is because the guilty plea “admits all matter of fact averments of the accusation.” Id. The defendant admits all circumstances described in the indictment, leaving only sufficiency of the indictment for review and waiving all other defenses. State v. Thomason, 341 S.C. 524, 526, 534 S.E.2d 708, 710 (2000).

Additionally, PCR is not a proper mechanism to challenge the sufficiency of evidence. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974); S.C. Code Ann. § 17-27-20(a)(6); see

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also State v. Munsch, 287 S.C. 313, 314, 338 S.E.2d 329, 330 (1985) (quoting United States v. Broce, 488 U.S. 563, 569 (1989)) (“[W]hen the judgment of conviction upon a guilty plea has become final and the offender seeks to reopen the proceeding, the inquiry is ordinarily confined to whether the underlying plea was both counseled and voluntary. If the answer is in the affirmative then the conviction and the plea, as a general rule, foreclose the collateral attack.”).

For these reasons and pursuant to Rule 12(b)(6), SCRPC, the Court should dismiss the application for failing to state a cognizable claim for which relief can be granted under the Post-Conviction Relief Act.

V. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF COUNSEL

Ineffective Assistance of Plea Counsel, Generally

Applicant’s allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in her application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668, 686 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Applicant must prove that counsel’s performance was deficient. Strickland, 466 U.S. at 686; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the

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attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” Yarborough v. Gentry, 540 U.S. 1, 5 (2003) (citing Strickland, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. Cullen v. Pinholster, 563 U.S. 170, 196 (2011); Harrington v. Richter, 562 U.S. 86, 109-10 (2011). “[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” Yarborough at 6; see also Murphy v. Davis, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625.

Second, counsel's deficient performance must have prejudiced Applicant such that “there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. “The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury.” United States v. Basham, 789 F.3d 358, 371-72 (4th Cir. 2015) (quoting Elmore v. Ozmint, 661 F.3d 783, 858 (4th Cir. 2011)).

In the context of a guilty plea, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he/she would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985). Because a guilty plea is a

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solemn, judicial admission of the truth of the charges against an individual, the PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. See Blackledge v. Allison, 431 U.S. 63, 73-74 (1977) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible."). Statements made during a guilty plea should be considered conclusively, unless an Applicant presents valid reasons why he or she should be allowed to depart from the truth of his statements. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Crawford v. United States, 519 F.2d 347, 350 (4th Cir. 1975)).

Trial Preparedness

Applicant contends Counsel was ineffective because he purportedly told her the day after she was sentenced that he could not have remained her attorney if the case proceeded to trial, and that he could only have served as a second chair. Respondent is without information sufficient to admit or deny Applicant's factual claims at this time, but as a matter of law they are inadequate to show prejudice under Hill. Information not learned until after the plea was entered could not have improperly influenced into accepting the plea deal. Respondent denies Applicant is entitled to post-conviction relief by way of this allegation.

Failure to Object to Victim Impact Testimony

Applicant contends Counsel sent her a letter explaining that he should have objected to the victim impact testimony of Sharon Peeler during the sentencing phase of her proceedings. Victims of crime in South Carolina have the right under our state constitution to be informed of and present at any criminal proceedings which are dispositive of the charges where the defendant has the right to be present, and to be heard at the plea and sentencing. S.C. Const. Art. I, §§

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SOUTH CAROLINA

24(A)(3), (5). That Peeler also worked in the Seventh Circuit Solicitor's Office does not deprive her of her constitutional rights, and the information she asserted in her statement was well within the scope of public knowledge by the time of Applicant's sentencing, in light of Sutherland's trial the previous year. No basis existed upon which Counsel could sustain an objection. Respondent denies Applicant is entitled to post-conviction relief by way of this allegation.

Conclusion and Action Requested

Applicant can satisfy neither requirement of the Hill test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) ("Where an application for post-conviction relief alleges specific instances of ineffectual assistance of counsel which are not conclusively refuted by the record before the court, a question of fact is raised which can only be resolved by an evidentiary hearing.")

VI. RESPONSE TO CLAIM OF PROSECUTORIAL MISCONDUCT

Applicant contends that Solicitor Barry Barnette engaged in prosecutorial misconduct in permitting Peeler to sit in on interviews, in failing to disclose Peeler's relationship to the victim, and in permitting her to address the sentencing court. This allegation should be summarily dismissed. An application for post-conviction relief does not serve as a substitute for direct appeal, and an issue that could have been raised at applicant's plea or on appeal is not cognizable in an application for PCR. S.C. Code Ann. § 17-27-20(b); Drayton v. Evatt, 312 S.C. 4, 8-9, 430 S.E.2d 517, 520 (1993) (citing Hyman v. State, 278 S.C. 501, 299 S.E.2d 330 (1983)); Humbert v. State, 345 S.C. 332, 338, 548 S.E.2d 862, 866 (2001). Trial court error is not a cognizable claim for PCR. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001); Wolfe v. State, 326 S.C.

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 AND W. FOX

158, 485 S.E.2d 367 (1997); Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). Applicant’s allegations regarding Peeler were raised in the motion to reconsider the sentence and could have been raised thereafter on appeal. For these reasons and pursuant to Rule 12(b)(6), SCRCPP, Applicant’s allegation of prosecutorial misconduct should be dismissed as not cognizable under the Uniform Post-Conviction Procedure Act.

VII. ASSERTION OF RIGHTS TO NOTICE OF AMENDMENTS, EXPERTS

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments *will be opposed by the State at an evidentiary hearing* pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCPP; Mangal v. State, 421 S.C. 85, 805 S.E.2d 568 (2017). All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCPP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCPP.

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

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VIII. GENERAL DENIAL

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

IX. CONCLUSION

WHEREFORE, Respondent respectfully requests that this Court grant its partial motions to dismiss as set forth in Sections IV & VI, above, and thereafter convene an evidentiary hearing on the allegations of ineffective assistance of plea counsel.


Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMES
Senior Assistant Deputy Attorney General

JOHNNY ELLIS JAMES JR.
Assistant Attorney General

By: 

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

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ANY WITNESSES

Sept 24, 2019

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)
)
 AMY BERRIDGE, #379048)
)
 Applicant,)
)
 vs)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent,)
 _____)

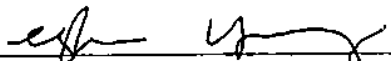
IN THE COURT OF COMMON PLEAS
 2019-CP-42-02590

AFFIDAVIT OF SERVICE BY MAIL

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

Rodney Wade Richey, Esquire
 Richey & Richey, PA
 PO Box 10916
 Greenville, SC 29603-0916

DATED this the 24th day of September, 2019.



 Meghan Young, Legal Assistant
 For Respondent

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ALAN WILSON
ATTORNEY GENERAL

September 24, 2019

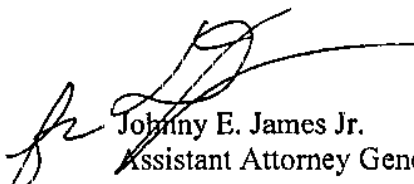
The Honorable Amy W. Cox
Clerk of Court - Spartanburg County
PO Box 3483
Spartanburg, SC 29304-3483

Re: Amy Berridge, #379048 v. State of South Carolina
2019-CP-42-02590

Dear Ms. Cox:

Enclosed please find the original **Return and Partial Motion to Dismiss of the Respondent** in the above-captioned case, for filing in your office.

Sincerely,


Johnny E. James Jr.
Assistant Attorney General

JEJ/my
Enclosure

cc: Rodney W. Richey, Esquire

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SPARTANBURG COUNTY
AMY WILSON

State of South Carolina)	
)	
County of Spartanburg)	
Amy Berridge,)	2019-CP-42-02590
)	
Plaintiff,)	
)	
v.)	Transcript
)	
The State of SC,)	of
)	
Defendant.)	Post-conviction
)	Relief Hearing
)	
)	
)	
)	
)	
)	
)	

Date: 9/13/2021

Time: 9:32 a.m.

Location: Spartanburg County Courthouse

180 Magnolia Street, Spartanburg, SC 29306

Reported by
Amber Payne, CVR

APPEARANCES

Presiding: The Honorable William McKinnon

For the Applicant: Rodney Richey, Esq.
Richey and Richey Law Firm
33 Market Point Drive
Greenville, SC 29607

For the Defendant: Chelsey Marto, Esq.
SC Attorney General's Office
1000 Assembly St. Room 519
Columbia, SC 29201

Also Present: Steven Epps, Esq.
Epps Law Firm, LLC
104-A Franklin Ave. #281
Spartanburg, SC 29301

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EXHIBITS

There were no exhibits marked during the course of this hearing.

1 PROCEEDINGS

2 THE COURT: All right. We can take it in
3 whatever order y'all are doing in.

4 MS. MARTO: Thank you, Your Honor. First, we
5 would like to call the case, Amy Berridge,
6 Docket Number 2019-CP-42 --

7 THE COURT: Uh-huh.

8 MS. MARTO: -- 02590. Your Honor, I do have a
9 copy of the pleadings, including the return of
10 the transcript. If Your Honor would like
11 it --

12 THE COURT: Please --

13 MS. MARTO: -- at this time?

14 THE COURT: -- yes. Is this a copy I can
15 keep?

16 MS. MARTO: Yes. Yes, sir.

17 (To the Deputy) Thank you.

18 THE COURT: Uh-huh. Thank you.

19 MS. MARTO: Your Honor, concerning the
20 procedural history, Ms. Berridge was indicted
21 March 2018 for murder and possession of a
22 firearm during the commission of a violent
23 crime. She was represented by Mr. Steven
24 Epps, and Barry Barnette prosecuted the case

1 on September 21st, 2018. She appeared before
2 the Honorable J. Mark Hayes and entered an
3 Alford plea to the lesser included offense of
4 voluntary manslaughter, and the weapons charge
5 was also dismissed.

6 On January 31st, 2019, Judge Hayes
7 sentenced her to imprisonment of 30 years.
8 Provided that upon service of 25, the balance
9 would be suspended for five years of
10 probation. She filed a motion to reconsider
11 the sentence February 8th, 2019, arguing that
12 they had newly discovered evidence of some
13 sort concerning Mr. Barnette's paralegal, Ms.
14 Cookie Peeler, who was a cousin of the victim;
15 and the State filed its return on February
16 18th, 2019.

17 And by a written order, April 22nd, 2019,
18 Judge Hayes denied applicant's request for a
19 hearing on the motion. She did not appeal her
20 plea or sentence. The application in this
21 case, Your Honor, was filed July 22nd, 2019,
22 and the State's return made September 24th,
23 2019.

1 And, at this point, I turn it over to Mr.
2 Richey to state the allegations.

3 THE COURT: All right.

4 MR. RICHEY: We're ready to proceed. We'll
5 call Ms. Berridge.

6 THE COURT: All right. If you don't mind,
7 before you get with witnesses, tell me what
8 your -- what you're going to be arguing, so
9 I'll know what to listen for.

10 MR. RICHEY: Your Honor, we're going -- we're
11 going to be arguing that the Counsel's
12 ineffective. That he was not prepared to go
13 forward with the trial, that he did not
14 discuss the evidence with her, and he did not
15 discuss the manslaughter elements of the
16 crime; and he didn't have a trial strategy.

17 THE COURT: Okay. Thank you.

18 MR. RICHEY: (To the Applicant) Go ahead.
19 The Judge is going to swear you. Come on in.

20 (WHEREUPON, the witness is sworn.)

21 MR. RICHEY: You can pull your mask off so we
22 can hear you talk, if you would.

23 DIRECT EXAMINATION

24 BY MR. RICHEY:

- 1 Q Can you state your name please, ma'am?
- 2 A Amy Berridge.
- 3 Q And, Ms. Berridge, are you in the South Carolina
4 Department of Corrections right now?
- 5 A Yes, sir.
- 6 Q And what are you there for?
- 7 A Murder.
- 8 Q Okay. What were you convicted of?
- 9 A Voluntary manslaughter.
- 10 Q And how much -- what kind of sentence did you
11 receive?
- 12 A Thirty years, suspended to twenty-five with five
13 years of probation.
- 14 Q And who represented you on those charges?
- 15 A Steven Epps.
- 16 Q And you filed an application with this Court for
17 post-conviction relief; is that correct?
- 18 A Yes, sir.
- 19 Q And it's your position that Counsel did not
20 effectively represent you --
- 21 A Yes, sir.
- 22 Q -- correct?
- 23 A Yes, sir.
- 24 Q This was an Alford plea; is that correct?

- 1 A Yes, sir.
- 2 Q And -- and did he explain to you what that meant?
- 3 A Sorta. Yes, sir.
- 4 Q Okay. Did -- did you know that you were pleading,
5 but you were maintaining your innocence; is that
6 correct?
- 7 A Correct.
- 8 Q And did you believe that there was sufficient
9 evidence to convict you, correct?
- 10 A No. I did not believe there was sufficient
11 evidence to convict me.
- 12 Q No. I'm just saying that was what the plea was
13 about.
- 14 A Right.
- 15 Q Okay. And that's what -- the parameters of the
16 plea. Okay.
- 17 A Uh-huh.
- 18 Q Did you discuss with your attorney about going to a
19 jury trial?
- 20 A I -- I asked several times.
- 21 Q You asked several times?
- 22 A Uh-huh.
- 23 Q And --

1 A And he talked to me about taking a plea and, you
2 know, weighing the options, and then in the end, I
3 took a plea deal.

4 Q Okay. What -- was it ever your intent to go to
5 trial on these charges?

6 A I really wish I would have, yes.

7 Q Okay. You wish you would have, but at the time
8 that you were in the case, did you have a desire to
9 go to trial?

10 A Yes.

11 Q Okay. And did you discuss that desire with your
12 lawyer?

13 A Yes.

14 Q And his response to that was --

15 A "We need to think that over. Sutherland got life.
16 I should take a plea deal."

17 Q Okay. Let's just go to just a real quick --

18 A Uh-huh.

19 Q -- kind of factual background so we can now
20 understand what happened in this case.

21 A Uh-huh.

22 Q This was a case where you were all driving a
23 U-Haul; is that correct?

24 A Yes, sir.

1 Q And then what happened then?

2 A We picked a man up walking, Mr. Woods. We went
3 back to his house.

4 Q When you say "we," who is "we"?

5 A Roy Sutherland; he was my co-defendant.

6 Q Right.

7 A He was the man who killed him.

8 Q Right.

9 A We went back to his house.

10 Q Uh-huh.

11 A I wasn't going to get out. Sutherland told me not
12 to get out.

13 Q Uh-huh.

14 A Mr. Woods said if I didn't get out, we weren't
15 going to get any drugs. The whole point was to get
16 drugs from him. I did get out. I went in.
17 Sutherland -- Mr. Woods started making advances.
18 Sutherland came in with a crowbar in his hand. He
19 told me to go get in the truck and bring it around.
20 I went back out to the truck, backed it up several
21 times, like seven or eight times to get it around.
22 Mr. Woods came out running with blood on both side
23 (verbatim) of his head and he ran to the neighbor's
24 house. Sutherland got into the vehicle and we

1 left. I did not know that he -- I knew that they
2 had been fighting. I knew that he had hit him in
3 the head with a crowbar. He hit me in the face
4 with a crowbar. You know, he was a very abusive
5 man.

6 Q Uh-huh.

7 A Three days later, we were stopped. Then I was
8 served with a murder warrant; that's when I knew
9 the man had died.

10 Q Okay. And -- and you believe on those facts that
11 your counsel should've had a jury trial?

12 A I do, yes.

13 Q Okay. Did he discuss the charges of the case with
14 you? "He" being the lawyer?

15 A Yes. The murder?

16 Q Yeah.

17 A The murder and -- and possession of a weapon during
18 a violent crime.

19 Q Okay. And did you see all of the discovery in the
20 case?

21 A No. I never saw any of the discovery. I never saw
22 any motion. I never saw any -- anything. Nothing.

23 Q Okay. So you all discussed the case -- did you --
24 did you and him discuss the case?

- 1 A Yeah. He came to -- he came to the jail --
- 2 Q Right.
- 3 A -- several times, and we did talk.
- 4 Q Okay. During those talks, did he -- did he discuss
- 5 the information the State had in the case?
- 6 A No.
- 7 Q He didn't?
- 8 A The only time I knew what the State had was when
- 9 Barry Barnette told me, and that was when I talked
- 10 to him, and he didn't tell me hardly anything; he
- 11 mostly told me what they had against Sutherland.
- 12 Q Okay.
- 13 A Not against myself.
- 14 Q When you say "Barry Barnette," who is Barry
- 15 Barnette?
- 16 A He was the solicitor in my case.
- 17 Q In Spartanburg County, correct?
- 18 A Yes, sir.
- 19 Q And he discussed the discovery with you?
- 20 A Yes. Well, he discussed Sutherland's discovery
- 21 with me.
- 22 Q Okay. And do you believe that your lawyer was
- 23 prepared to go to trial on the -- prepared --

1 A Absolutely not. Even in the transcript, it says,
2 you know, I believe it was -- can I look?

3 Q Yes. You can.

4 A Page 24 of the transcript, Verse 17 and 18
5 (verbatim), he says, "Your Honor, I had documents
6 and evidence needed in this case, but I failed to
7 bring them to court with me today."

8 Q Okay. So you believe he was not ready for the
9 guilty plea. What about the actual trial itself,
10 if you --

11 A I -- I don't even think he was qualified to
12 represent me in the trial. The day after I took my
13 plea, and I was waiting to come to prison, he -- he
14 comes and he said -- you know, I'm like, "Why did
15 you not -- why did you not object when Ms. Peeler
16 started talking?" Apparently, she was related to
17 the victim in the case.

18 And he said -- you know, he was shocked. He
19 was stunned. He didn't know what to say. And then
20 he went on to tell me that if it went to trial, he
21 was not -- he would've not been able to be Chair 1.
22 He would've had to be Chair 2, because he was not
23 qualified to represent me at a murder trial. I did

1 not know that until after I had been sentenced,
2 after the plea, after everything.

3 Q Okay. When you say "he wasn't qualified," what --
4 what does that mean?

5 A I have no idea. I don't know. He -- it just means
6 he couldn't represent me.

7 Q And you're asking this Court to grant your
8 application and give you a new trial; is that
9 correct?

10 A Yes, please.

11 Q And -- and you were originally charged with murder?

12 A Yes.

13 Q Okay. And you understand that if -- if you get
14 granted a new trial, you start over from the
15 beginning?

16 A Yes.

17 Q That this Court cannot cut your sentence during
18 that.

19 A Right.

20 Q Okay. Did -- did he ever discuss a trial strategy
21 with you at all?

22 A Never.

23 Q Well, let me just ask you this: Well, why -- why
24 did you plea guilty then? Why didn't you just tell

1 the judge at the time of the trial -- let me
2 finish. Why didn't you just tell the judge at the
3 time of the trial, "Hey, look, this guy is not
4 ready. I don't feel good. I don't want to do
5 this"?

6 A Well, at the time, I -- I was -- I kinda did feel
7 good.

8 Q Uh-huh.

9 A Sutherland had just gotten life; he got life
10 without parole.

11 Q That's the co-defendant?

12 A Every time --

13 Q Hold on.

14 A -- that was my co-defendant.

15 Q Okay.

16 A Every time that I talked to Mr. Epps, you know,
17 that we -- that's what we talked about. Every time
18 I talked to the solicitor, that's what we talked
19 about. He got life. There was two weapons. There
20 was two people. You know, even though I didn't do
21 it, you know, and there's no way they could convict
22 me of it because I didn't do it, but they -- they
23 didn't bring that up. You know, "Sutherland got
24 life. If you don't take this plea, you're gonna

1 get life. You're gonna get life." I was scared
2 out of my mind, so I took the plea.

3 Q Okay. And you're not afraid of getting life now,
4 right?

5 A You know, if -- if that happened, I would be able
6 to sleep at night. At least I would know that I
7 tried my best.

8 Q Okay. Okay. So the threat of life is, as you're
9 saying, that was inducement to get you to plea?

10 A Correct.

11 Q Okay.

12 A Yes.

13 Q And -- and you no longer have that fear now,
14 correct?

15 A Right. I no --

16 Q Okay.

17 A -- longer -- no longer have that fear.

18 Q And -- and you think your lawyer could've done a
19 better job in representing you?

20 A Yes. Or given me to someone who could've
21 represented me in it all.

22 Q Okay.

23 MR. RICHEY: Thank you, ma'am. Answer the
24 questions --

1 THE WITNESS: Thank you.

2 MR. RICHEY: -- the Attorney General will have
3 for you.

4 THE COURT: Ma'am, I have a question first.

5 EXAMINATION

6 BY JUDGE MCKINNON:

7 Q Let me ask: You -- you say that you were scared of
8 getting a life sentence, but you are not now. What
9 is the difference?

10 A Well, now that I -- I've already been in prison, I
11 -- I've already gotten the 30 years. The longer I
12 sit there and think about it, I -- I didn't kill
13 this man. I did not kill this man. You know, and
14 I do not think -- if I went to trial now and they
15 were to give me life, I -- I really feel like that
16 would be unheard of.

17 Q So you're --

18 A I just --

19 Q -- you're saying you've changed your mind about how
20 -- having the risk of a life sentence, how --

21 A Right, yes.

22 Q How is that "ineffective assistance" by your
23 lawyer?

1 A Well, I feel like he didn't give me a chance to
2 even prove that I didn't do it.

3 Q But you said under oath that you -- you took the
4 plea because you were scared of a life sentence.

5 A Right.

6 Q Okay. That's --

7 A Because he kept bringing the life sentence, right.

8 Q But you were facing a life sentence, weren't you?

9 A No. They never said that, but I guess that's what
10 it held. I guess that's what the -- the charge
11 held was life.

12 THE COURT: Okay.

13 REDIRECT EXAMINATION

14 BY MR. RICHEY:

15 Q Let me ask you a question from that, ma'am.

16 A Uh-huh.

17 Q Ma'am, did -- did you -- did you and your lawyer
18 discuss the theory of "hand of one, hand of all"?

19 A No.

20 THE COURT REPORTER: (To Mr. Richey) I'm
21 sorry. I didn't understand what you said.

22 MR. RICHEY: Okay.

23 THE WITNESS: Neither did I.

1 Q Did -- under the -- you said that you did kill the
2 gentleman, right?

3 A No, sir.

4 Q And y'all went over there and the other guy beat
5 him and all this stuff, right?

6 A Right.

7 Q And your conversation with the lawyer, did -- in
8 terms of getting you to plead to this, did he
9 discuss with you the "hand of one, the hand of all"
10 theory?

11 A No.

12 Q Or accomplice liability?

13 A No.

14 Q Okay. All right. Thank you, ma'am.

15 MR. RICHEY: Answer questions the Attorney
16 General has.

17 CROSS-EXAMINATION

18 BY MS. MARTO:

19 Q Morning, ma'am. So you said you met with your
20 attorney several times, right?

21 A Several times.

22 Q And what did you discuss during those meetings?

23 A It was usually my story.

24 Q So --

- 1 A Of what happened that day.
- 2 Q Your narrative of the facts?
- 3 A Right.
- 4 Q Did talking about the evidence in the case ever
5 come up in that?
- 6 A I asked him several times for the evidence, like
7 what -- and he would always tell me it was just too
8 much for me to see. It was too much for me to see.
9 He never brought a laptop for me to look at. He
10 never brought anything into the jail. He never
11 brought any kind of -- anything. The only thing
12 that I ever saw was from Barry Barnette, the
13 solicitor, and that was off of my Facebook page
14 that he had printed out.
- 15 Q And so you were shown the discovery by Barry
16 Barnette?
- 17 A I was not shown the discovery at all.
- 18 Q Okay.
- 19 A I was shown Facebook pages --
- 20 Q Okay.
- 21 A -- you know.
- 22 Q Now, you stated that you wanted to proceed to trial
23 leading up to that, right?
- 24 A Yes.

- 1 Q But you ultimately decided to plead?
- 2 A Yes.
- 3 Q Was that your decision at the time?
- 4 A I -- I feel like it was mine and his decision
5 together.
- 6 Q Okay.
- 7 A I just thought at the time would not get me life in
8 prison.
- 9 Q Okay. And so you plead because you were afraid you
10 would serve the same sentence as your
11 co-defendant --
- 12 A Yes.
- 13 Q -- right?
- 14 A Yes.
- 15 Q Okay. Now, you -- why didn't you stop the plea
16 when you weren't shown any of the discovery? Why
17 did you decide to still proceed forward?
- 18 A I -- even though my plea was two to thirty, it did
19 not cross my mind that I would get 30 years. It
20 did not cross my mind. I really --
- 21 Q So --
- 22 A -- it blew my mind.
- 23 Q So you thought you would get the lower half?
- 24 A I did.

1 Q And so you didn't feel the need to look at any of
2 your discovery if you were going to be sentenced?

3 A Uh-huh. I guess I trusted him.

4 Q Okay.

5 A I trusted him. Which I have a little problem with
6 trusting men, I guess, you know, yeah.

7 Q Okay. Now, you stated you heard that he was not
8 qualified to sit First Chair at trial, correct?

9 A That's what he told me.

10 Q Okay. But, again, this was a plea deal, right?

11 Not a trial?

12 A Right.

13 Q Okay. And so you stated you never discussed a
14 trial strategy, right?

15 A Right.

16 Q But that was because you were proceeding to plead?

17 A Well, I didn't know I was going to plead until the
18 very last minute.

19 Q Okay. Now, did you state that -- do you -- did you
20 think that they had sufficient evidence to convict
21 you at trial?

22 A No.

23 Q No. Not at the time you didn't think that?

24 A I -- I still -- no.

1 Q Do you remember stating, Page 17 of the plea
2 transcript --

3 A Uh-huh.

4 Q -- the Court asked you, "Could the State produce
5 sufficient evidence to prove your guilt of this
6 charge beyond a reasonable doubt if you went to a
7 trial by jury?"

8 And then you said, "Yes, sir." Do you
9 remember that?

10 A Okay.

11 Q Yeah.

12 A Right. Some things hard to remember.

13 Q Yeah. Okay.

14 MS. MARTO: No further questions, Your Honor.

15 MR. RICHEY: No other questions.

16 THE COURT: All right. Thank you, ma'am.
17 Please step down.

18 THE WITNESS: Thank you very much. I
19 appreciate all of you.

20 (WHEREUPON, the witness is excused.)

21 MR. RICHEY: We'll call Mr. Epps.

22 (WHEREUPON, the witness is sworn in.)

23 DIRECT EXAMINATION

24 BY MR. RICHEY:

1 Q Can you --

2 A And I do just so you -- we get that clear.

3 Q You said you'd --

4 A Steven --

5 Q -- okay.

6 A -- D as in "Douglas," Epps, spelled E-p-p-s, not

7 like Frank. Steven is with a "V." I consider

8 myself, though shorter than him, the better looking

9 of the Epps.

10 Q Did you represent Ms. Berridge?

11 A I did.

12 Q Okay. And I'm going to go down a list and get you

13 to comment on these issues.

14 A Sure.

15 Q Did you show her the discovery?

16 A We did go through the discovery at various times.

17 There was -- I did not take a laptop into the jail

18 with me. I took printed out material, and we also

19 had -- and I flipped through my file while I was

20 listening to Amy testify. My paralegal went

21 through her jail calls and other audio-type stuff

22 and went through the different files, so we'd have

23 the file number, the corresponding date, the

24 corresponding time, the caller if it was a jail

1 call with notes to clarify with her, and then also
2 issues with discovery on witnesses; for instance,
3 Jackie Lance, some things to try to clarify with
4 Amy, and I have my follow-up notes written in pen
5 at times on that material.

6 Q So she didn't have the actual discovery documents
7 with her?

8 A I don't know that I --

9 THE WITNESS: (To the Court) Sorry.

10 THE COURT: No worries.

11 A I don't know that I have -- that I printed out a
12 full-on copy of all of the material handed to her.
13 I honestly do not know that right now.

14 Q Okay. And do you know if she requested that from
15 you?

16 A I also don't know that.

17 Q Uh-huh.

18 A It would -- it would not be surprising, yes or no.

19 Q And there's an issue here that she brought up about
20 being qualified to try this murder case.

21 A Yeah. I'd -- I'd like to discuss that.

22 Q Okay.

23 A So this -- this conversation occurred the day after
24 she was sentenced.

1 Q Uh-huh.

2 A We had a number of issues to try and talk -- well
3 maybe not a number, we had some issues to talk
4 about. And in that discussion, I told her that if
5 they sought the death penalty, I would not be
6 qualified to represent her, because I am not death
7 penalty qualified. But I am qualified to represent
8 somebody charged with murder. I have represented a
9 number of people charged with murder and other
10 crimes. I was very qualified to represent her in
11 this case.

12 Q Where -- so she hadn't been served with any kind of
13 notice on that, right, or --

14 A No. One of my initial concerns in this case was --
15 because this was going to be a Barry-prosecuted
16 case, not a -- and I didn't know if there was a
17 "why," but rather than him handing this off to
18 maybe, Derrick, or someone else in his office, he
19 was going to prosecute it.

20 So my concern was if you go in the solicitor's
21 office, there's some pictures of Barry -- he
22 prosecuted a guy named -- I think it was Ricky
23 Blackwell, and I think that was a death penalty
24 case. I'm not sure. Terrible facts. It was a

1 horrible case. But, anyway, my concern was this
2 might be a death penalty case for some reason, I
3 didn't know why, and so I early on said, "Barry, is
4 this a death penalty situation, because, if so, I
5 need to know, because I'm -- I'm not death penalty
6 qualified or certified or whatever." And he
7 assured me it was not. And so I -- I said, "Okay.
8 I got my marching orders. Let's go."

9 Q Okay. Do you, under this theory of
10 murder/manslaughter --

11 A Uh-huh.

12 Q -- that -- this was a "hand to one, hand of all"
13 case?

14 A It -- well --

15 Q Or --

16 A -- maybe.

17 Q Okay.

18 A So here -- here's -- here's one issue: I don't
19 know -- I -- I don't think I did show this aspect
20 of the discovery with Amy. Frankly, I don't know
21 that I -- there were aspects of the discovery I
22 discussed with Amy, and I got her shade or story on
23 what it meant or was.

24 Q Right.

1 A Sometimes that was credible, and sometimes it,
2 frankly, just -- maybe it was the God's honest
3 truth, but I didn't think a jury would believe it.

4 There is an image of Amy with a cut after the
5 incident, and I'm trying to remember if it was -- I
6 think it was body cam. So I think by all accounts,
7 ours or the State's, there was a tussle between
8 Lany (phonetic) Wood and Roy Sutherland in which
9 Amy was either partially/early on involved or was
10 there. I think our case, or our theory of the
11 case, would've been before any official tussle
12 began, Amy was shortly there and headed out to move
13 the -- the truck around.

14 My concern was and I -- I had seen this early
15 on, I didn't know if the State knew about it until
16 very late in this case. And Rick Gregory mentioned
17 it to me, and I tried to keep my poker face as best
18 as possible. But I knew at that point, if we went
19 to trial, we'd be in some concerning areas.

20 Anyway, with that image, I think they could
21 make -- "they" being the State -- could make an
22 argument for a jury that Amy was part and partial
23 involved in the assault that took place on Lany
24 that ultimately caused his death.

1 Q So when you discussed that with her, you discussed
2 with her that she was a -- she was a principal in
3 it?

4 A I -- I did not. So let me make this point clear:
5 I do not believe I ever said, "Amy, they got this
6 evidence that may show you as a -- an actual
7 participant. Maybe you weren't swinging a crowbar.
8 Maybe you weren't stabbing with a knife or doing
9 whatever it was. Maybe you were just there, but it
10 may look like you were more there than you
11 weren't."

12 The reason I didn't is because I know -- I
13 knew what her story was. She was -- she was -- her
14 story did not really ever change. And, frankly,
15 the way our case was going, I did not see getting
16 into the weeds on that issue was going to benefit
17 us more from a defense standpoint unless it was a,
18 "Listen. Damn the torpedoes. We're going to
19 trial." Which part and partial to that was "hand
20 in one, hand of all." Did we -- and I hadn't
21 answered that part of your question, the earlier
22 question -- "Did we discuss that," you betcha.

23 I've been doing research on accomplice
24 liability since I was a first-year student working

1 for John White, and he had a murder case in front
2 of Gary Clary. I can remember John chewing my
3 rear-end out, and I had to stand there red-faced
4 and say, "I hate to tell you this, Mr. White, but
5 the law in this state is accomplice liability.
6 Your client can be found guilty of murder."

7 Q So --

8 A And in -- yeah. In this case, absolutely was it an
9 issue from day one. Was it something we discussed?
10 Absolutely.

11 Q Okay. So -- so she -- you discussed with her that
12 not only she'd be found guilty on the "hand of
13 one -- hand of one, hand of all," but also as a
14 principal because of the image you had?

15 A No.

16 Q Okay.

17 A We -- we discussed "hand of one is hand of all."

18 Q Okay.

19 A We did not discuss -- I -- I do not recall ever of
20 showing or discussing the video or -- or image, I
21 should say, with her. And I didn't have that
22 video, I'll say for a while. I didn't have it in
23 my initial discovery. I'm not saying I didn't have
24 it for months or years or anything, but it wasn't

1 in my initial discovery packet. Usually, the
2 initial discovery packet is paper. There was more
3 than enough in the paper where I knew this was
4 going to be at least a "hand of one is hand of all"
5 case. And that if we went to trial, we would be
6 going to trial on murder at least on "hand of one
7 is hand of all."

8 Q So -- so you were prepared to try the case if the
9 case was going to trial?

10 A Sure. Do -- do I think it would've been a smart
11 idea, no. But that's not my decision to make.

12 Q Okay. And so would you agree or not agree that her
13 concern about getting life was -- was one of the
14 reasons why she plead?

15 A Well, yeah. I think that just about every
16 defendant's part of their consideration is, how
17 much time am I going to get? Well, I -- I don't
18 know -- I -- I guess I've answered that question.
19 I don't really know exactly what you're looking
20 for. Was it the only one, no, I don't think it
21 was.

22 MR RICHEY: One moment, Your Honor.

23 THE COURT: Sure.

24 Q These -- these documents that you had --

1 A Uh-huh.

2 Q -- can you tell me the method of which you
3 presented them to her? Did you -- let's say, "Hey,
4 this is what they got." How did the documents get
5 shown to her?

6 A Normally, and -- and here's the thing, you know,
7 rewinding life, I don't have a body cam of my own.
8 Normally, what I do is I put my material in a file
9 such as this, and I will go through certain aspects
10 of incident reports, for instance, or things like
11 that. Now, can I say unequivocally, beyond a
12 shadow of a doubt, that I did that all the time?
13 No. I can't. So I -- I don't specifically know
14 exactly what I did for Amy. Did we go over the
15 discovery? Yeah.

16 MR. RICHEY: (To Mr. Epps) Answer the
17 questions the Attorney General has for you.

18 THE WITNESS: Certainly. Thank you.

19 CROSS-EXAMINATION

20 BY MS. MARTO:

21 Q Good morning, sir.

22 A Good morning.

1 Q Now, if this case had proceeded to trial, she
2 would've proceeded to trial based upon a murder
3 charge, right? Not the voluntary manslaughter?

4 A Correct. It would've been murder and possession of
5 a weapon during a violent crime.

6 Q And was that another consideration you all talked
7 about in your discussions that . . .

8 A Yes. I mean, Amy, like a lot of clients I have in
9 this situation, had the mindset of, "I didn't kill
10 him. I didn't kill him. I didn't kill him. They
11 can't find me guilty for murder." And my response
12 to that is, "Yeah. They can." We talk -- I mean
13 that -- if that's not a perfect segue into
14 accomplice liability/hand in one, hand of all, I
15 don't know what is. So there's that aspect of it.

16 But there's also the aspect of everybody wants
17 to know their time. Murder is minimum 30, day for
18 day. So it's not this complicated algorithm of --
19 it's 30 years times 365 days minus the days you
20 have already served "minimum" as opposed to, you
21 know, it -- under voluntary, it's an 85 percent
22 (verbatim) of the crime. By the way, the
23 possession's getting kicked. That's a mandatory,

1 day for day, five years, that's not going to be
2 there. So, yeah, that was an aspect.

3 But going into the, "I didn't kill him. I
4 didn't" -- you don't have to be -- I don't really
5 know if it was always -- if the State always had
6 the position that, "She stabbed him with a knife,
7 and that is what lead to his injuries that caused
8 his death." But I think the State absolutely would
9 -- would and would be able to make a case that she
10 was a direct participant in the activity that
11 caused his death.

12 Q So you think there was sufficient enough evidence
13 to convict at trial, correct?

14 A Absolutely.

15 Q And if she was convicted at trial, she inherently
16 would've been facing, probably, a decent number of
17 years more in prison than she did by pleading,
18 right?

19 A Sure. I mean, at minimum --

20 Q Yeah.

21 A -- 30 --

22 Q Right.

23 A -- you know, and then -- oh, my goodness. I'm
24 having to think.

1 On possession of a weapon during a violent
2 crime, I'm thinking if you get life from that,
3 obviously, it doesn't really apply, but I don't
4 know if you'd only get 30 or something less than
5 life if they can't tack on the consecutive five.
6 But, anyway, that's an exercise we don't have to do
7 today.

8 Q Okay. Now, you discussed the charges and the
9 elements with her during your meetings, correct?

10 A We did. And I -- I will -- so I do with my client
11 files, I prepare what's called -- what I call a
12 "case info sheet," and it lists the parties or the
13 people involved in this case: Amy and Roy
14 Sutherland; Roy's attorney, Suzanne White, who she
15 and I knew each other well and had a number of
16 discussions about the case; Amy's mother; Andy
17 Lawson, who is an investigator we met early on.
18 But it also goes through the crimes she is charged
19 with and the elements and murder. It's such a long
20 statutory provision, but it's all in here. It
21 looks like it takes up four or five pages and
22 that's ten-point font. We went through all of that
23 because, to me, it is helpful at the onset to go
24 through the elements with a client. For instance,

1 if you're looking at enhancement property crime or
2 drug, which I know is not involved here, it's
3 helpful to go over the enhancement statutes with a
4 client. It's helpful to go over certain aspects of
5 any statute, criminal statute with a client, and we
6 did that here.

7 Now, I do not have an updated version of a
8 case info sheet with voluntary manslaughter. I --
9 I know we discussed it. My recollection of us
10 discussing that statute was that it's a two to
11 thirty sentence range, which means you can get two,
12 but you can also get thirty. It is -- your
13 sentence exposure is 85 percent as opposed to day
14 for day. It is the voluntary act of killing a
15 person and does not have the same strict
16 requirements as murder, but it involves either
17 participation in or "hand of one, hand of all,"
18 participation in someone's death. And we would be
19 doing an Alford plea where she is not admitting
20 guilt, but she reasonably believes that a jury will
21 find her guilty based on the evidence that's able
22 to be presented by the State.

23 Q And did she seem to have any lingering questions
24 about the plea process, but --

1 A Time.

2 Q Okay.

3 A Sorry to cut you off.

4 Q No. You're good.

5 A Listen, we were -- we were all hopeful. We really
6 were. We met with the investigators early on.

7 There was an allegation of Roy Sutherland, the
8 co-defendant, getting out of the U-Haul to burn
9 some items. We went up and down 295 Southport
10 Road, which I know you're not from here, but it's a
11 fairly lengthy road. I was doing all of this in an
12 effort to try to show the State that she was "in it
13 to win it" with my understanding being this may not
14 get us anywhere, but it doesn't hurt to try. But,
15 yeah, she was concerned about the time.

16 Q But nothing she didn't technically understand about
17 the process itself, right?

18 A Well, the -- the story of, "I didn't do it. I
19 didn't kill that man," has -- is from start to
20 finish was her response.

21 Q Uh-huh.

22 A Okay. You know, "Amy, they don't have to prove
23 that you, Amy Berridge, killed Lany Wood with a
24 knife or a stick or your hands or whatever. They

1 would have to prove under accomplice liability that
2 you were an accomplice in the act that killed him.
3 I think they got that" --

4 Q Okay.

5 A -- "they may have more than that, but I think they
6 at least got that."

7 Q And it was her decision to plead, right?

8 A Sure. I mean, I can't force anyone to do anything.
9 I mean, my goodness, I can't force my kids to pick
10 up their clothes.

11 Q Okay.

12 A It was her decision. And I will say this, since
13 we're making a record of this, if I had to do this
14 a hundred times again, there might be some minute
15 things I'd change, I'd do what I've done 200 times
16 out of a hundred.

17 Q Now, you discussed all of the discovery in the case
18 with her, right?

19 A When you use the word "all" --

20 Q Uh-huh.

21 A -- can I say every single -- no. I know for a fact
22 we didn't discuss every single piece of discovery.
23 Did we discuss the relevant discovery? Did we go
24 through her jail calls? Did we go through the

1 interviews? Yes. We did. Did we discuss certain
2 aspects of the interviews where I had questions and
3 she gave an answer and I would go, "Amy, that just
4 doesn't make a whole lot of sense. Now, it doesn't
5 matter to me, I'm not your jury. But you gotta
6 understand, 12 people from Spartanburg County who
7 don't know you and aren't going to have any
8 background on this case is going to listen to this
9 and have to make a decision in that moment of time
10 and I don't know that that's gonna fly." So we --
11 we had all of that.

12 Q And you, still to this day, think pleading was her
13 best decision as opposed to proceeding to trial?

14 A Yes.

15 Q Okay.

16 A Absolutely.

17 MS. MARTO: No further questions, Your Honor.

18 THE COURT: (To Mr. Epps) Just a couple.

19 MR. EPPS: Sure. Good to meet you, by the
20 way.

21 EXAMINATION

22 BY JUDGE MCKINNON:

23 Q Very nice to meet you, Mr. Epps. Mr. Epps, I
24 believe you said that you did not discuss with Ms.

1 Berridge the image that showed a cut on her after
2 the incident?

3 A I don't believe I did. Several reasons --

4 Q I'm sorry. Go ahead.

5 A Well, it took the -- the --

6 Q Let me ask my follow up and then you --

7 A Yeah, ask your follow-up, sure.

8 Q So at the time Ms. Berridge made her decision to
9 plead guilty --

10 A Yes.

11 Q -- the case against her was even stronger than she
12 knew?

13 A I mean -- very. Yes.

14 Q Because that was a very --

15 A Yeah.

16 Q -- that was a damaging piece of evidence that she
17 was not aware of that would've put her in an even
18 worse position had she known, correct?

19 A Correct.

20 Q Okay.

21 A It -- it was not exculpatory. It was very much
22 inculpatory. And the reason I did not go into it
23 with -- if -- I do not think we went into that.

24 Q Okay. That's all I have.

1 A But -- well. That's all right. Go ahead.

2 THE COURT: Mr. Richey, I guess.

3 THE WITNESS: (To the Court) Sorry.

4 MR. RITCHEY: I'd like to call questions off
5 of that.

6 THE COURT: Sure.

7 REDIRECT EXAMINATION

8 BY MR. RICHEY:

9 Q This image that you're referring to, they took that
10 image the day they stopped in the questions about
11 this, right? (verbatim)

12 A I couldn't -- what --

13 Q When the image -- when was the image was taken? It
14 was not taken on the date that the incident
15 occurred, right?

16 A No. No, no, no. It was after.

17 Q It was taken three days after, correct?

18 A Correct.

19 Q I --

20 A To -- to the best of my knowledge, yes.

21 Q So -- so really that image could've happened the
22 day before that guy was assaulted?

23 A And -- and -- go ahead.

24 Q So -- so my question is this --

1 A Uh-huh.

2 Q -- that image of itself did not prove that she was
3 in that altercation?

4 A Correct.

5 Q Okay. And -- and the reason why that image was not
6 important in the case was because there's no
7 determination of when that cut or anything
8 happened, correct?

9 A Well, there's the rub. Okay. So Amy and Roy were
10 stopped in this U-Haul; it's got a red panda on the
11 side. U-Haul puts different images and whatnot on
12 the sides of their vehicles. Theirs had a red
13 panda. It makes it pretty distinctive.

14 They were stopped prior to this incident
15 occurring, and there's a body cam of that stop.
16 Amy doesn't have the cut on her finger then. They
17 are, obviously, stopped after the incident leading
18 to their arrest and that's when the cut is shown.
19 Now, there is no body cam immediately after the
20 incident with Lany Wood showing her finger. So,
21 no, there's no specific evidence showing that she
22 got a cut there. Could that argument have been
23 made? Yes.

1 Q This guy was not "knifed to death," was he? He
2 wasn't stabbed to death, right?

3 A I believe he was both stabbed and beaten.

4 Q With a sledgehammer, what's called a --

5 A Crowbar. And also -- I mean, he died in the
6 operating room, but he had stab wounds and was
7 blunt force trauma, so . . .

8 MR. RICHEY: Thank you.

9 MS. MARTO: No further questions, Your Honor.

10 THE COURT: Thank you, Mr. Epps.

11 MR. EPPS: Thank you, Your Honor.

12 (WHEREUPON, the witness was excused.)

13 MR. RITCHEY: No other witnesses.

14 THE COURT: All right. Any witnesses from the
15 State?

16 MS. MARTO: No, Your Honor.

17 THE COURT: (To Mr. Richey) Can we hear
18 arguments?

19 CLOSING ARGUMENT

20 MR. RICHEY: Thank you, Your Honor. May it
21 please the Court. Your Honor, in this case,
22 my client made the position that she did not
23 see all of the discovery. And I think Counsel
24 testified that there was some image he did not

1 show her, that he -- he couldn't testify
2 whether she saw all of the stuff, that he went
3 over the relevant stuff. It's going to be Ms.
4 Berridge's position that Counsel should have
5 shown her all of the discovery, good or bad,
6 indifferent, went over all of it with her in a
7 murder case, because this is not a shoplifting
8 case. This is a murder case. He --

9 THE COURT: But how would that have altered
10 her decision? I mean, all of the evidence
11 that I have heard that he didn't show was
12 something that's inculpatory evidence, why --
13 if she made the decision to plead without
14 knowing that, how would it have made any
15 different with it?

16 MR. RICHEY: Well, I don't -- I -- well,
17 characterizing that evidence as -- as
18 inculpatory, I wouldn't agree with that
19 characterization, because the -- that evidence
20 was taken three days after this incident; and
21 -- and I heard no testimony from Counsel of
22 the State that the State had connected this
23 and used this as part of the case. I heard no
24 testimony of that.

1 THE COURT: At least it was not exculpatory.

2 MR. RICHEY: Right. Well, yeah. And - and
3 so, Your Honor, that evidence, I -- well, I'm
4 not going in hypotheticals, but I just believe
5 that evidence should've been gone over with
6 the client. I mean, that's just --

7 THE COURT: Well, if it's not exculpatory, how
8 would that have changed her decision to plead?

9 MR. RICHEY: Your Honor, I don't know if it's
10 not exculpatory, because I think the -- the
11 testimony states that the co-defendant was a
12 very violent person. A very violent person.
13 My client testified that he had beaten her
14 too. So we don't know whether that evidence
15 could've been shown that it was a violence
16 against her by the co-defendant. But -- but I
17 don't think you can say, "Hey, I'm just going
18 to tell you -- I'm going to show you this
19 evidence, okay, and I'm going to determine
20 whether it's good or bad in your case." I'm
21 just saying that the -- the client -- the
22 clients should see all of the evidence, good
23 or bad. It doesn't matter. I -- I don't
24 believe the lawyer can say, "Look, I think

1 this hurts your case. I'm not going to show
2 it to you." I don't -- I don't think
3 that's -- I don't think that's how it should
4 be. I think the client should get all
5 evidence of their case, good, bad, or
6 indifferent. Whether it's exculpatory,
7 inculpatory, it doesn't matter, the client
8 should see the evidence in their case. And I
9 don't think the lawyer should be the person to
10 decide what type of evidence the client sees,
11 because that file excludes the client's
12 material, and the client should see all of it.

13 And I think -- I think, here's where we
14 get into the issue of a "hand in one, hand of
15 all theory," okay? I -- Ms. Berridge
16 testified that she didn't -- she never heard
17 of that. I mean, she -- I mean, that's her
18 testimony, okay? And I think if you -- if the
19 photo is that strong against you -- if it's
20 that strong against you, that you sit this
21 this lady down and say, "Listen, it don't
22 matter. Here's this photo right here. You're
23 out. You're out. You're out." And that was
24 not done in this particular case.

1 THE COURT: Let me ask you the question this
2 way. I think -- or I'm talking in circles. I
3 mean, I'm --

4 MR. RICHEY: Yeah.

5 THE COURT: I'm not doing a good job asking.
6 What evidence would've changed her mind? She
7 chose to plead guilty knowing what she knew
8 then. So what evidence do you say she didn't
9 have in front of her that would've made her
10 not plead guilty and go to trial?

11 MR. RICHEY: Well, I -- I think the -- the
12 evidence in the case, Your Honor, is that she
13 testified that she didn't see all of the
14 evidence.

15 THE COURT: I understand.

16 MR. RICHEY: And then again --

17 THE JUDGE: But you have to identify what
18 evidence would be in a -- in a --

19 MR. RICHEY: Well, Your Honor, it is my
20 position that if the client doesn't see all --
21 all of the evidence, how is she in a position
22 to plead guilty or have a trial? If you -- if
23 you're the client and you don't see all of the
24 evidence in your case, you are not prepared to

1 do a guilty plea or trial if you don't see all
2 of the evidence. If you just don't -- if the
3 lawyer says, for some reason, and I'm not
4 using this particular case. I'm just saying
5 if the client doesn't see all of the evidence
6 in their case, they're not in a position to
7 plead or go to trial, period. Even that --
8 even if that evidence is bad, even if it's
9 against their client, if that client does not
10 see all of the evidence in their case, they're
11 not in a position to make a -- an informed
12 decision.

13 THE COURT: What is the case law that tells me
14 that?

15 MR. RICHEY: Well, Your Honor, I -- Your
16 Honor, I think case law is that the -- the
17 client has a right to review the discovery. I
18 mean, I think --

19 THE COURT: I understand. But I'll state my
20 understanding of the law is in order for you
21 to win a PCR on this ground, you've got to
22 show that there's some exculpatory evidence
23 that would've made her think the case was not
24 as strong and would've changed her decision.

1 MR. RICHEY: Well --

2 THE COURT: And the only specific piece of
3 evidence I've heard about is in the Court's
4 opinion, inculpatory evidence.

5 MR. RICHEY: Well -- and -- and I believe the
6 client's position that she didn't understand
7 the "hand to one, hand of all," I -- I think
8 she may -- she didn't understand that theory
9 of law, because the evidence as she said was
10 not shown to her. She testified, "Hey, I -- I
11 don't understand the 'hand to one to hand of
12 all.' I didn't understand." Because when she
13 was talking, I asked her specifically, "Did
14 you go over the accomplice liability/hand to
15 one, hand of all?" She said, "I -- I didn't
16 go over that."

17 THE COURT: But she told the Judge at the
18 guilty plea that she believed the State had
19 enough evidence to prove that she was guilty.

20 MR. RITCHEY: I understand, but her position
21 today is that she believed that she should've
22 had the evidence in her case. That is her
23 position today.

1 THE COURT: So your -- your argument is the
2 law is if there's one sheet of paper that's
3 not shown to the defendant, the guilty plea is
4 invalid?

5 MR. RICHEY: No. My -- my argument is -- is
6 that Counsel must show the evidence to the
7 client. They must show all evidence to the
8 client, and especially as -- as this evidence
9 is being characterized as, you know, "Hey.
10 That's the smoking gun." I don't know how you
11 cannot show a client -- the way this evidence
12 is characterized, it's characterized as, "This
13 is the thing that's going to get you. Look,
14 this right here, you're out, okay." I just
15 don't know if you cannot show a client that
16 evidence. I -- I just don't, I don't know how
17 the -- I just don't understand. You cannot
18 show -- and if that's one piece of paper, and
19 that's the most damning thing on -- against
20 you, I don't know how you don't show that.

21 I just don't know how -- if it's the most
22 damning thing and your client is telling you,
23 "I'm innocent." She's doing an Alford plea
24 saying she's innocent. If she's saying she's

1 innocent, and they've got the gun, I just
2 think it's reasonable to say, "Look, Ms.
3 Berridge, you see this evidence right here,
4 you're out. You're gone. It's over. All
5 this Alford plea and all of this, it's gone."
6 Now, not to show her that, you know, I mean
7 that -- that is her position, to not to show
8 her that evidence.

9 So under the theory of -- the Counsel --
10 Counsel can say, "This piece of paper right
11 here, okay, I'm not showing it to you. Sorry.
12 Sorry. Over with." I -- I don't -- I don't
13 think that's -- I don't think that's the
14 correct way of looking at it; and that's her
15 position is she should've been shown all of
16 the evidence. All of it. All of it.

17 THE COURT: Are there any other bases to grant
18 the PCR? I want to make sure. I don't want
19 to limit your argument, other than the not
20 disclosing to her the image of the cut.
21 Anything else?

22 MR. RICHEY: And not disclosing the
23 discovery to the client. Not going over and
24 discussing the discovery with the client, and,

1 therefore, the client did not have an informed
2 decision on whether to plea or go to trial.

3 THE COURT: Okay. All right. Anything else,
4 Counsel?

5 MR. RICHEY: No, sir. Thank you.

6 THE COURT: I'll give you a reply after. (To
7 the State) Yes, ma'am.

8 CLOSING ARGUMENT

9 MS. MARTO: Thank you, Your Honor. May it
10 please the Court. Now, concerning the
11 discovery, I think Counsel credibly testified
12 he discussed much of the discovery with the
13 applicant. And concerning that image itself,
14 I -- I have heard two plausible theories as to
15 how it relates to the case, either it's
16 exculpatory or it's irrelevant. If it's
17 exculpatory, that would've led her to probably
18 jump on the gun when it came to the plea
19 hearing a bit sooner if anything else, and if
20 it was --

21 THE COURT: You mean, if it's inculpatory.

22 MS. MARTO: Right, yes. Thank you, Your
23 Honor. Yeah, if it's inculpatory, then she
24 probably would've felt more strongly about the

1 plea process and not wanted to go to trial.
2 And if it was irrelevant, then that presumably
3 wouldn't have changed her opinion at all
4 concerning whether or not the plea was in her
5 self-interest.

6 Now, she might wish she went to trial
7 now, but I think she testified that she, at
8 the time, thought that the plea was the best
9 option for her given the advice of counsel,
10 and she should not be permitted to withdraw
11 that now.

12 Also, concerning the notes, the elements
13 and the charges of the crime and the "hand of
14 one, hand of all" theory, I think Counsel very
15 -- in a very detailed way pointed towards
16 pretty extensive notes -- case notes, where he
17 laid out the elements of murder, talked her
18 through, I think he said, four or five pages
19 worth of notes concerning the charges. He
20 talked about accomplice liability, stated he
21 discussed that with her, that she would be
22 charged under accomplice liability, which
23 would be the "hand of one, hand of all," and
24 that that's what the plea was likely entered

1 under. And so it is, for these reasons, we
2 would request you deny relief. Thank you.

3 THE COURT: All right. (To Mr. Richey) Yes,
4 sir.

5 MR. RICHEY: I stand by my original arguments.

6 THE COURT: All right. Counsel, I'll take
7 this matter under advisement.

8 (Whereupon the within hearing was
9 concluded at 10:24 a.m.)

10 (*This transcript may contain quoted material.
11 Such material is reproduced as read or quoted
12 by the speaker.)

STATE OF SOUTH CAROLINA)
 COUNTY OF SPARTANBURG)
)
 Amy Berridge, #379048)
 Applicant,)
))
 v.)
))
 State of South Carolina,)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE SEVENTH JUDICIAL CIRCUIT

Case No.: 2019-CP-42-02590

ORDER OF DISMISSAL

This matter comes before this Court by way of Applicant's post-conviction relief application filed July 22, 2019. Respondent made its return on September 24, 2019, requesting an evidentiary hearing be convened. An evidentiary hearing was held on September 13, 2021, at the Spartanburg County Courthouse. Rodney W. Richey, Esquire, represented Applicant. Assistant Attorney General Chelsey F. Marto represented Respondent.

Applicant testified on her own behalf at the evidentiary hearing. Counsel Steven D. Epps, Esquire, also testified. After reviewing all records and evidence before this Court, this Court finds Applicant cannot meet her requisite burden of proof of establishing she is entitled to post-conviction relief and denies and dismisses this application with prejudice. Findings of fact and conclusions of law are set forth below.

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. In March 2018, the Spartanburg County Grand Jury indicted Applicant for murder and possession of a firearm during the commission of a violent crime (2018-GS-42-01366, Cts. I & II). Steven D. Epps, Esquire represented Applicant. Solicitor Barry Barnette prosecuted the case. On September 21, 2018, Applicant entered an *Alford* plea to the lesser-included offense of voluntary manslaughter

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before the Honorable J. Mark Hayes, II, circuit court judge. On January 31, 2019, Judge Hayes sentenced Applicant to thirty years' imprisonment, provided that upon service of twenty-five years, the balance would be suspended with probation for five years.

Applicant filed a motion to reconsider the sentence on February 8, 2019, arguing that the revelation during the plea proceeding that Solicitor Barnette's paralegal, Sharon "Cookie" Peeler, was a cousin of the victim was a surprise that impacted the mitigation of Applicant's sentence. The State filed its return on February 18, 2019. By written order filed April 22, 2019, Judge Hayes denied Applicant's request for a hearing on the motion and denied the motion to reconsider the sentence. Applicant did not appeal her conviction or sentence.

Summary of Relevant Facts

On January 6, 2018, the sheriff's office was called to respond to a stabbing. (Tr. 10). Landon Woods was stabbed several times. (Tr. 10). He went to his neighbors to wait for the police to arrive. (Tr. 10). Officers spoke with Woods, who stated he was unsure who assaulted him, but stated they took a ride in a U-Haul. (Tr. 10-11). Woods got a ride in the U-Haul when he returned to his house he was assaulted. (Tr. 11).

The sheriff's office started an investigation. (Tr. 11). Officers went to the outback building, where they observed glasses in the entrance, believed to belong to Woods. (Tr. 11). They saw blood in the outbuilding and collected several items from the home, which they sent for testing at SLED. (Tr. 11).

Officers looked at several other suspects before identifying the actual perpetrators. (Tr. 11-12). Officers ultimately received a call from a witness, who described Woods getting in a U-Haul with a small red gas can. (Tr. 12). The witness stated he saw the suspect with a red gas can come around the vehicle and get in the passenger's side of the vehicle. (Tr. 12). The U-Haul had

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a distinct picture of a red panda on it and was traced in the Spinx parking lot and Britt Auto in a direction consistent with what the victim described. (Tr. 13). A BOLO was put out on the U-Haul. (Tr. 13).

A traffic stop was made on the night of January 5, morning of January 6, 2018. (Tr. 13). The officer identified Applicant and her co-defendant and remembered the co-defendant had multiple knives on him. (Tr. 13). A warning citation was issued on Applicant. (Tr. 13). The officer's bodycam was on and in the video the U-Haul had a picture of a red panda on it. (Tr. 14). A BOLO was put out for the information and a stop issued. (Tr. 14). Applicant was found driving the vehicle and was taken into custody. She admitted to picking up Woods with co-defendant for drugs. (Tr. 14). She stated she talked with Woods when the co-defendant came in and told her to get back in the car. (Tr. 14). She stated she saw a crowbar in his hand when she went in the vehicle and began moving it. (Tr. 14). She then saw Woods running to the neighbor's house with blood on him. (Tr. 14-15). The perpetrators went to their respective mothers' houses at some point and a pair of tennis shoes with the victim's blood was found at a house and the victim's blood was found in the U-Haul. (Tr. 15).

Current Action before this Court

In her current PCR application, Applicant alleges she is being held in custody unlawfully because of ineffective assistance of counsel in that:

1. Actual innocence, in that:
 - a. "I did not kill Mr. Woods. I did not conspire to kill Mr. Woods. I did not know my co-defendant had stabbed Mr. Woods. Mr. Woods ran out of the building alive."
 - b. "I did not know Mr. Woods. I had no blood on me. Mr. Woods was running / alive last time I saw him."
2. Ineffective assistance of counsel, in that:
 - a. "After I was sentenced my lawyer Mr. Epps told me if I went to trial he could not of represented me. He said he would have to of been chair II. He said this

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the day after I was sentenced. My plea was open from 2 years – 30 years. I feel he wanted me to take the plea so I would not go to trial.”

- b. “I have a letter from Mr. Epps saying he might of should of objected but did not when Ms. Peeler addressed the court.”
- 3. Prosecutorial misconduct, in that:
 - a. “Sharon Peeler works for Barry [Barnette] at the [solicitor’s] office. She sat in on several of my interviews. I was told none of that could be used in court. We did not know at the time Ms. Peeler was related to the victim Mr. Woods. I feel when Ms. Peeler addressed the court she spoke of things that should not have been brought up. The only reason she knew those things was because she was there for the interviews.”

At the PCR hearing, Applicant proceeded forward on the following allegations:

- 1. Ineffective assistance of counsel:
 - a. Failure to prepare for trial;
 - b. Failure to discuss the evidence and discovery with Applicant;
 - c. Failure to discuss the elements of the crimes charged with and pled to and;
 - d. Failure to develop a trial strategy.

All other allegations raised in her initial application and amendments are deemed waived and abandoned and, accordingly, will not be addressed in this order.

Summary of the Testimony

Applicant Testimony

Applicant testified that she was charged with murder and convicted of voluntary manslaughter. Applicant stated she was represented by Mr. Steven Epps at the plea hearing. She stated she is now seeking post-conviction relief for ineffective assistance of counsel. Applicant testified that the *Alford* plea was partially explained to her. She stated she knew she pled while maintaining her innocence. Applicant stated she did not believe there was sufficient evidence to convict her and asked for a jury trial instead several times. Applicant stated Counsel told her about a plea and spoke with her about weighing the options. She stated Counsel encouraged her to plead because her co-defendant was sentenced to life imprisonment before her matter was resolved. She stated she now wishes she would have gone to trial.

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Applicant stated Roy Sutherland was her co-defendant. She testified they picked up the victim on the side of the road, put him in a U-Haul, beat him with a crowbar, and hit him in the head. Applicant stated she and her co-defendant were stopped three days later and she was later charged with murder.

Applicant stated that Counsel discussed the charges with her but never provided her with her discovery. Applicant stated they never discussed the evidence the State had against her. Instead, they only discussed the evidence they had against her co-defendant. Applicant stated Counsel was not prepared and at one hearing he did not bring relevant documents to court. Applicant stated he was not qualified to represent her and told her he could only sit second chair if the case went to trial, not first. Applicant testified Counsel told her he was not qualified to handle a murder trial. Applicant testified he did not object when a State witness spoke at the plea hearing. She stated she did not proceed to trial because she did not want to be sentenced to life imprisonment. She testified Counsel never discussed hand of one hand of all or accomplice liability.

On cross-examination, Applicant stated that she discussed her narrative of the crime during meetings with Counsel. She stated she asked Counsel for the evidence, who told her it was too much for her to see. Applicant stated he never brought anything to the prison with him during their meetings. She stated the only discovery she was shown was from Solicitor Barnette. Applicant stated she wanted to go to trial, but she and Counsel both decided pleading was the best option instead. Applicant stated she proceeded forward with the plea because she did not think she would receive thirty years' imprisonment, despite being told she could receive up to thirty years' imprisonment.

Applicant acknowledged that even if Counsel could not handle a murder trial, she pled to

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voluntary manslaughter instead. However, she testified that she did not intend to plead until the last minute. Applicant stated she understood she could have been convicted at trial, but did not think she would actually be found guilty of murder.

Counsel Testimony

Counsel stated he represented Applicant leading up to the plea hearing. Counsel stated that they reviewed discovery at various times. Counsel stated he did not take a laptop into the jail, but took the printed materials with him to the jail to review with Applicant. He stated he did not know if he printed a full copy of all discovery materials or if Applicant requested she be provided with a full copy. Counsel stated that his paralegal went through the call logs and took notes about discovery issues with witnesses. Counsel testified that he normally puts everything in a file and goes through certain aspects of the case, but cannot say with absolute certainty what he did in this case.

Concerning his qualifications, Counsel stated he spoke with Applicant the day after she was sentenced about how he is not qualified to try a death penalty case, but is qualified to represent someone charged with murder and had done so before representing Applicant. Counsel stated he was qualified to represent her on this case. Counsel stated that his initial concern was that this case was going to be prosecuted by Solicitor Barnette. He stated he was initially concerned that they may pursue the death penalty but, after discussing this concern with Solicitor Barnette, he was assured early on that they would not seek the death penalty.

Counsel stated that Applicant may have been charged under hand of one hand of all. However, Counsel stated that there was an image from a bodycam video where Applicant had a cut on her hand, indicating she may have been more involved than she otherwise indicated. Counsel stated this would be problematic at trial because with that image the State could have

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argued that Applicant was directly involved in the assault that caused the victim's death. He stated he did not discuss this image or its implications with her because he knew her story, which did not line up with the evidence but was still unwavering. He stated he did not think that getting into the weeds on this issue would benefit the defense.

Counsel stated they discussed hand of one hand of all. He stated he has thoroughly researched that theory and it was an issue in this case that was discussed. He stated he did not discuss principal liability with her.

Counsel stated he would have been prepared for trial if she chose to reject the plea offer, even though it would have been a bad idea. Counsel stated Applicant pled to avoid life imprisonment.

On cross-examination, Counsel stated that he discussed the murder and weapon possession charges with Applicant. Counsel testified that Applicant stated she did not commit the crime and could not be found guilty. Counsel stated he told Applicant there was sufficient enough evidence to convict. He stated he told her she was facing a minimum thirty years' imprisonment for murder, which would have to be served day-for-day. He stated he told her voluntary manslaughter carried less time. He stated he believed that the State could show that she was direct participant in the activity that caused his death. Counsel stated he discussed the elements of the charges originally charged with and pled to. He stated he prepared a case information sheet on the murder charge for Applicant that had this information on it and that he reviewed the entire statute with her. He stated he discussed the elements and sentence for voluntary manslaughter, even though it was not on the sheet.

Counsel stated he told her what an *Alford* plea was. Counsel stated that her concern with the plea process was the amount of time she would serve. He testified they were hopeful at first

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because they felt showing the State that she was confident she would be found not guilty would be helpful. Counsel stated that it was Applicant's decision to enter the plea and he still believes that that was the best option. Counsel stated that they did not discuss all discovery, but discussed all relevant discovery.

Counsel stated that Applicant's argument from start to finish was that she did not kill the victim. However, Counsel stated that the State did not have to prove she was the killer, but that she was guilty under accomplice liability. Counsel stated he warned Applicant when her story did not make sense and warned her about putting such a narrative in front of the jury.

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. Before this Court are the Spartanburg County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the plea and sentencing transcripts, and this PCR action's records. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusion of law as required by South Carolina Code Annotated Section 17-27-80 (2003).

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984);

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Butler, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. See also Rule 71.1(e), SCRPC ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence"). Reasonableness is determined by the "variety of circumstances faced by defense counsel, the range of legitimate decisions regarding how to best represent a criminal defendant," and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny of counsel's performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually "countless" ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel's deficient performance must have prejudiced the applicant so 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. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695.

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Realistically, this matters “only in the rarest case” because “[t]he likelihood of a different result must be substantial, not just conceivable.” *Harrington v. Richter*, 562 U.S. 86, 111-12 (2011) (quoting *Strickland*, 466 U.S. at 697).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

Invalid Plea

In the context of a guilty plea, the applicant must show there is a reasonable probability that, but for ineffective assistance of counsel, he or she would not have pled guilty but, instead, would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Applicant’s right to contest the validity of a plea is usually, but not invariably, foreclosed because of the inherent solemnity and truthfulness included in the guilty plea process. See *Blackledge v. Allison*, 431 U.S. 63, 73-74 (1977) (“Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible.”). Absent valid reasons why the applicant is entitled to depart from previous judicial admissions made at the plea hearing, statements made during the original proceeding remain conclusive. *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

For a plea to be valid, the applicant must have been aware of the nature and crucial

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elements of the offense the maximum and minimum penalties, and the rights she is waiving by accepting the plea. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Roddy v. State*, 339 S.C. 29 (2000).

A plea is not knowing or voluntary if a defendant "lacks knowledge of material evidence in the prosecution's possession." *Gibson v. State*, 334 S.C. 515, 523, 514 S.E.2d 320, 324 (1999).

A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." *Roddy v. State*, 339 S.C. at 34, 528 S.E.2d at 421 (citing *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). "[T]he voluntariness of a guilty plea is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing." *Dalton*, 376 S.C. at 138, 654 S.E.2d at 874 (quoting *Harres v. Leeke*, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984)).

Further, "guilty pleas, freely and voluntarily entered, act as a waiver of all non-judicial defects and defenses, including claims of a violation of a constitutional right prior to the plea." *Whetsell v. State*, 276 S.C. 295, 297, 277 S.E.2d 891, 892 (1981).

This Court finds Applicant's plea was entered freely, knowingly, intelligently, and voluntarily. After being sworn in, Applicant stated she intended to plead and was not on any substance impacting her decision or ability to understand the decision. (Tr. 5-6). Applicant stated she was satisfied with Counsel, that no one threatened or promised her into pleading, and that the decision was made freely and voluntarily. (Tr. 6-7). Applicant stated she intended to waive the right to a jury trial, where she would be presumed innocent and the burden of proof would be on the State to prove she was guilty beyond a reasonable doubt and where the jury would have to find her guilty by a unanimous verdict. (Tr. 7). She stated she understood she was waiving her

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right to call and confront witnesses, to subpoena witnesses or evidence, to present favorable evidence, to establish a defense, and to remain silent. (Tr. 8). She stated she understood that she could be sentenced to up to thirty years' imprisonment, that the crime pled to was violent and most serious, and that she understood the consequences of such a distinction. (Tr. 16). Applicant stated she still wanted to plead, that she thought there was sufficient enough evidence for her to be found guilty at trial, and that all of her answers at the plea hearing were truthful and honest. (Tr. 17). The prosecutor stated that they shared the discovery with the defense. (Tr. 17). Accordingly, this Court finds that the plea was freely, knowingly, intelligently, and voluntarily entered and thus cannot be withdrawn now.

Failure to Prepare for Trial/Develop Trial Strategy

Applicant claims Counsel was ineffective for failing to prepare for trial and for failing to develop a trial strategy. However, because Applicant freely, knowingly, intelligently, and voluntarily entered the plea, waiving her right to a jury trial and to establish a defense at trial, Counsel was not ineffective on this ground. Counsel stated that he would have been prepared to go to trial if Applicant decided not to plead, but that the decision to plead was her own and in her best interest. Accordingly, this claim is without merit and relief denied on this ground.

Failure to Review Evidence with Applicant

This Court finds Applicant's allegation that Counsel failed to review the evidence with her is without merit. Testimony at the PCR hearing indicates the relevant discovery was shown to Applicant prior to the plea. Applicant conceded she was provided a copy of the discovery by Solicitor Barnette. Counsel credibly testified that he brought all printed materials into the jail with him to discuss with Applicant, but did not share the image of Applicant with a cut on her arm. Counsel stated that he reviewed all relevant discovery with Applicant prior to the plea. See

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Gibson v. State, 334 S.C. 515, 523, 514 S.E.2d 320, 324 (1999)(finding a plea is not knowing or voluntary if a defendant “lacks knowledge of material evidence in the prosecution’s possession.”). Applicant has failed to show what discovery was not shown to her or how it was material to the case. She has also failed to show how the discovery of such evidence, specifically the image, would have led her to deciding to go to trial instead. Thus, this Court finds this allegation is without merit and denies relief on this ground.

Failure to Discuss Elements of Crimes

This Court finds Applicant’s allegation that Counsel was ineffective for failing to discuss elements of the crimes charged with and pled to is without merit. At the plea hearing, Applicant stated she intended to enter a plea to voluntary manslaughter. (Tr. 4-5). She stated she understood that she could be sentenced to up to thirty years’ imprisonment for voluntary manslaughter, that the crime pled to was violent and most serious, and that she understood the consequences of such a distinction. (Tr. 16). Applicant stated she still wanted to plead, that she thought there was sufficient enough evidence for her to be found guilty at trial, and that all of her answers at the plea hearing were truthful and honest. (Tr. 17). At the PCR hearing, Counsel stated that he discussed the murder and weapons possession charges with Applicant. He stated he told her she was facing a minimum thirty years’ imprisonment for murder, which would have to be served day-for-day. He stated he told her voluntary manslaughter carried less time. He stated he believed that the State could show that she was direct participant in the activity that caused his death. Counsel stated he discussed the elements of the charges originally charged with and pled to. He stated he prepared a case information sheet on the murder charge for Applicant that had this information on it and that he reviewed the entire statute with her. He stated he discussed the elements and sentence for voluntary manslaughter, even though it was not on the sheet. Counsel

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SOUTH CAROLINA

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stated that he told Applicant that the State did not have to prove she was the killer, but that she was guilty under accomplice liability. Counsel credibly testified they discussed ~~one~~ hand of all. Thus, this Court finds that Applicant was sufficiently advised of and understood the elements of the charges indicted with and pled to. Accordingly, this claim is without merit and relief is denied on this ground.

Conclusion

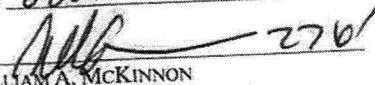
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant her application. Therefore, this PCR application must be denied and dismissed with prejudice.

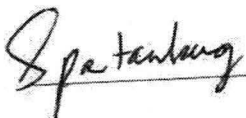
This Court notifies Applicant that she must file and serve a notice of appeal within thirty days of receipt by counsel of the judgment entry's written notice to secure appropriate appellate review. See Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has the right to appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate appellate procedures.

IT IS THEREFORE ORDERED:

1. The PCR application be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 12 day of October, 2021.


WILLIAM A. MCKINNON
Presiding Judge
Seventh Judicial Circuit

 Spartenburg, South Carolina.

WITNESSES OF
Computer

1. SENTENCE MADE
3. REPORT ENTERED
Spartanburg County Sheriff's Office

INDEXED
CHECKED WARRANTS
CHECKED INDEXES
ASSIGNED HAND
PUB CARD INFO
TRAFFIC VIOLATION/COM

ARREST WARRANT NUMBER

2018A4210100066

2018A4210100064

ACTION OF GRAND JURY

MAR 23 2018

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. **18-GS-42-1366**

The State of South Carolina
County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAR 26 2018

TERM

THE STATE

v.

AMY LOFTIS BERRIDGE

Indictment for

MURDER (Count 1)

SC Code 16-03-0010, 0020

CDR Code 116

Class: FEL-EXM

POSSESSION OF FIREARM

DURING COMMISSION OF A VIOLENT

CRIME (Count 2)

SC Code: 16-23-490

CDR Code: 549

Class: FEL/F

COUNT TWO - PWDVC - NP - dismissed - Defendant pled to
Voluntary Manslaughter on 9/21/2018 in front of
(COUNT ONE) Judge Mark Hayes and was sentenced on 1/31/2019
to 30 years and to 25 years in prison and
5 years of Probation to follow the 25 year jail sentence.
Barry Barnette - 2/8/2019.

FILED
MAR 23 2018

MAR 23 2018

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STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

2018 03 03

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


COUNT ONE - MURDER

That the Defendant, Amy Loftis Berridge, did in Spartanburg County on or about January 6, 2018, feloniously, willfully, and with malice aforethought, kill one Lanham Joseph Wood, by beating him about the head and/or stabbing him with a knife, and the victim died as a proximate result thereof, all in violation of Section 16-3-0010, 0020, Code of Laws of South Carolina, (1976, as amended).

**COUNT TWO - POSSESSION OF FIREARM DURING COMMISSION
OF A VIOLENT CRIME**

That the Defendant, Amy Loftis Berridge, did in Spartanburg County on or about January 6, 2018, visibly display a knife during the commission or attempted commission of a violent crime, to-wit: Murder, in violation of Code §16-23-490, *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.



SOLICITOR