THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM SPARTANBURG COUNTY

Court of Common Pleas

HONORABLE WILLIAM A. MCKINNON

2021-CP-42-03644

JARED CHILDRESS, SCDC# 375636

APPELLANT,

vs.

STATE OF SOUTH CAROLINA,

RESPONDENT.

NOTICE OF APPEAL

Jared Childress appeals the denial of his Post Conviction Relief. The Post Conviction Relief Action was heard and denied by the Honorable William A. McKinnon, Circuit Judge on June 6, 2022 an Order issued on August 1, 2022 and filed on August 9, 2022. The Appellant received notice of the judgment on August 10, 2022.

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STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	IN THE COURT OF COMMON PLEAS FOR THE SEVENTH JUDICIAL CIRCUIT
Jared Childress, #375636, Applicant, v. State of South Carolina, Respondent.	Case No.: 2021-CP-42-03644 **ORDER OF DISMISSAL**

This matter comes before this Court by way of Applicant's post-conviction relief application filed October 26, 2021. Respondent made its return on February 8, 2022, requesting an evidentiary hearing be convened. An evidentiary hearing was held on June 6, 2022, at the Spartanburg County Courthouse. Rodney W. Richey, Esquire, represented Applicant. Assistant Attorney General Chelsey F. Marto represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Counsel N. Douglas Brannon also testified. After reviewing all records and evidence before this Court, this Court finds Applicant cannot meet his requisite burden of proof of establishing he 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 from the Spartanburg County Clerk of Court. During its June 2019 term, the Spartanburg County Grand Jury indicted Applicant for habitual traffic offender (2019-GS-42-3016), failure to stop at a blue light (2019-GS-42-3252), trafficking in methamphetamine (2019-GS-42-3253), and habitual traffic offender causing death (2019-GS-42-3254). During its July 2019 term, the Spartanburg County Grand Jury indicted Applicant for possession of a stolen

vehicle (2019-GS-42-3896). Applicant was represented by N. Douglas Brannon, Esquire. Assistant Solicitor Jennifer A. Jordan of the Seventh Circuit Solicitor's Office prosecuted the case. On April 19, 2021, Applicant appeared before the Honorable J. Mark Hayes, II, circuit court judge, and pled guilty to five indictments and to negotiated concurrent sentences ranging from seven to thirty years' imprisonment. Judge Hayes sentenced Applicant to thirty years' imprisonment for trafficking in methamphetamine, twenty-five years' imprisonment for failure to stop for a blue light, twenty years' imprisonment for habitual traffic offender resulting in death, and five years' imprisonment for both habitual traffic offender and possession of a stolen vehicle, sentences running concurrently. Judge Hayes also revoked Applicant's probation in full. Applicant did not pursue a direct appeal.

Summary of Relevant Facts

Concerning the habitual traffic offender without death and possession of a stolen vehicle offenses, on February 24, 2019, Applicant was driving a vehicle reported stolen earlier in the month. (Tr. 11). Applicant was driving the vehicle when seen by Deputy Barton who was at a residence on that road. (Tr. 11). The deputy was not in his vehicle and, therefore, was unable to stop Applicant. (Tr. 11). However, he conferred with several witnesses who stated Applicant left on the motorcycle in the same direction the officer saw the motorcycle. (Tr. 11). Later that day, the deputy saw the same motorcycle at the defendant's house and saw him wearing similar clothing to what he was seen in earlier. (Tr. 11). A records check showed Applicant was noticed and declared a habitual traffic offender from May 7, 2015, to 2020. (Tr. 11-12). When asked why he entered the home upon seeing the officer, Applicant stated he went inside to put his keys up, hoping he would not get charged as a habitual offender. (Tr. 12).

Two days later, former Deputy Cody Steiner received a noise complaint coming from a

trailer. (Tr. 12). He knew Applicant and Kenneth Bradley were currently living in the location. (Tr. 12-13). Previous reports indicated Applicant may have stolen a gray/black Toyota car and may be in possession of methamphetamine. (Tr. 12-13). A vehicle passed the deputy when he was sitting stationary. (Tr. 13). The vehicle immediately increased its speed and failed to stop at the stop sign. (Tr. 13). The officer began following the vehicle, which was traveling at a high rate of speed. (Tr. 13). The officer observed a large amount of black smoke coming from the passenger side of the vehicle, which was seemingly rooted in a passenger tire being blown due to the driver being unable to control the vehicle. (Tr. 13). The vehicle went left of center two times, made a right turn on a dead-end road, and travelled through a residential yard when attempting to turn around. (Tr. 13-14). The officer activated his blue lights and saw the suspect after he had wrecked his car in the middle of the intersection. (Tr. 14). When he approached, Applicant took off down the road, ultimately crashing into an 18-wheeler. (Tr. 14). Ciara Bradley was a passenger in that vehicle. (Tr. 14).

Body-camera footage was entered into evidence at the plea hearing. (Tr. 14-15). Twenty-five seconds in a crash sound occurred. (Tr. 15). The officer parked his vehicle and went up to the vehicle. (Tr. 15). The officer spotted a large amount of methamphetamine five- or six-minutes in. (Tr. 15). The baggie contained 184.56 grams of methamphetamine and an additional 10.5 grams of methamphetamine was also recovered. (Tr. 15). White powder was recovered from a purse that belonged to the victim. (Tr. 15). Passenger Ciara Bradley passed away from her injuries resulting from the crash. (Tr. 15-16).

Current Action Before this Court

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

1. Ineffective assistance of counsel.
    a. Petitioner would have accepted the State's more favorable offer of 15 years had Counsel informed Petitioner of offer.
    b. Failed to adequately communicate to Petitioner that the State 15-year plea offer would be withdrawn if the petitioner chose to attend the bond hearing, the State would recommend 25 years day for day.
    c. Failed to call character witness at plea trial.[1]
        i. Petitioner's mother, grandmother, mother of children, and friend were all there to give testimony on Petitioner's behalf.

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

1. Ineffective Assistance of Counsel.
    a. Brevity of time in consultation.
    b. Failure to properly mitigate the sentence.
    c. Failure to provide a copy of the discovery to Applicant.
    d. Failure to convey fifteen-year plea offer.
2. Involuntary plea.
    a. Failure to discuss charges.
    b. Telling him to expect a twenty-year sentence.

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

Summary of the Testimony

Mother's Testimony

Applicant's mother testified at the PCR hearing. She stated she did not speak on her son's behalf at the PCR hearing. She stated she wished she had had the opportunity to speak because she would have apologized to the victim's family. She stated she never talked to Counsel about being a mitigating witness during sentencing.

On cross-examination, Applicant's mother stated that she talked to Counsel about Applicant's sentence. However, she stated she was unaware of the sentencing range Applicant pled to. She stated she never talked to Counsel about speaking during sentencing because she did

[1] Respondent interprets this allegation as a failure to call character witnesses in mitigation of the sentence.

not know proper court procedure.

Grandmother's Testimony

Applicant's grandmother testified that she was present at the plea hearing. She stated that, if asked, she would have said positive things about Applicant during sentencing. She stated she would have said Applicant is a good father and great grandson. On cross-examination, she stated that the only conversations she had with Counsel revolved around Counsel telling her where to go for the plea hearing. She stated she did not recall being informed of the seven- to thirty-year range Applicant pled to.

Applicant Testimony

Applicant testified he believed Counsel did not effectively represent him. Applicant testified that he never had any conversations with Counsel prior to arriving at the courthouse on the day of the plea. Applicant stated he may have had one phone conversation before the plea, but that he first met Counsel the morning of the plea. He stated that they had a ten-minute conversation about the case on the Sunday before the plea. Applicant stated that he never received any discovery. Applicant stated he was unsure whether he discussed the rights he was waiving with Counsel. Applicant stated that the only charge he discussed with Counsel was the lead indictment. He stated that the drugs were found on the floor. He stated that he did not ask Counsel to suppress any of the evidence because he did not know he could ask for Counsel to do that. Applicant stated he contacted Counsel about being on the bond list because of COVID-19. He stated that Counsel took him off the bond list. He stated that Counsel spoke to his mother without his permission about the case. Applicant stated that Counsel told him to expect a twenty-year sentence about twelve ~~years~~ now prior to the plea. Applicant stated that he wanted Counsel to contact his family to speak in mitigation at the sentencing hearing. He stated that he thought this

would have led to him getting a lesser sentence.

On cross-examination, Applicant stated he pled because he trusted Counsel and thought he had his best interest in mind. Applicant stated that the day before the plea hearing Counsel told him to expect twenty years and read off the indictments. Applicant stated that he wished he received the fifteen-year offer Applicant stated he was told of. Applicant stated he knew he was pleading to a range between seven and thirty years but decided to plead anyway. He stated he was not allowed to have his discovery. Applicant stated he informed the plea court that he was pleading freely and voluntarily.

Counsel Testimony

Counsel testified that he visited Applicant at the jail about three times, one of which was the day before the plea. Counsel testified that Applicant had a probation revocation hearing at the same time. Counsel testified that he does not give his incarcerated clients a personal copy of discovery while their cases are pending to avoid their cellmates from becoming a State's witness at trial. However, he stated that discovery was shown to Applicant prior to the plea. Counsel stated that there was an argument for suppressing the evidence in this case, but Applicant decided to plead instead. Counsel testified that Applicant always wanted to plead. Counsel testified that he contacted the State about a potential fifteen-year plea offer, but this was rejected by the Solicitor's office. Counsel testified that the Solicitor's office offered a plea to a range of seven to thirty years' imprisonment. Counsel testified that he did not contact Applicant's family about speaking at sentencing because Applicant did not want the plea hearing to be about him. Counsel testified that this case was never going to go to trial.

On cross-examination, Counsel testified that his mitigation strategy at the plea hearing was to illustrate that Applicant took therapy session and obtained his GED when in jail. Counsel

testified that Applicant was dating the victim previously and felt bad for taking her life. Counsel testified he told Applicant that he was the one that made the fifteen-year offer and that this was rejected by the State. Counsel testified that Applicant seemingly understood what he was pleading to. Counsel testified that the Court informed Applicant that he was pleading to a seven- to thirty-year sentence and that he never promised Applicant a twenty-year sentence.

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 transcript, 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); *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. S*ee also* Rule 71.1(e), SCRCP ("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 or 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. 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.

Involuntary 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 elements of the offense the maximum and minimum penalties, and the rights he 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-jurisdictional 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).

Applicant claims the plea was entered freely, knowingly, intelligently, and voluntarily. Applicant stated he understood he was pleading to a negotiated range of seven to thirty years' imprisonment. (Tr. 5). He stated he intended to plead to the charges as announced. (Tr. 5-6). He stated he did not use any substances prior to the plea hearing and that he was never treated for substance abuse. (Tr. 8). Applicant stated he was satisfied with Counsel and that they had enough time to talk. (Tr. 8). Applicant stated that no promises or threats were made to get him to plead and that the plea was free and voluntary. (Tr. 9). He stated he understood he was waiving his right to a jury trial, right to call and confront witnesses, right to present evidence, right to establish a defense, right to subpoena witnesses and evidence, and right to remain silent. (Tr. 9-10). He agreed with the facts as stated by the prosecutor. (Tr. 19). He stated he understood the potential sentences on all charges and that the Court was bound to negotiations if the plea was accepted. (Tr. 19-22). He stated he understood what charges were classified as violent or serious,

and the consequences of those extensions. (Tr. 21-22). He then stated he was guilty of all charges. (Tr. 22-23). At the PCR hearing, Counsel credibly testified that he thought Applicant understood what he was pleading to. Thus, this plea was seemingly entered freely, knowingly, intelligently, and voluntarily and cannot be withdrawn now.

Brevity of Time

Applicant alleges that Counsel was ineffective for failure to maintain regular contact with him. "[B]revity of time spent in consultation with a defendant alone is not indicative of inadequate trial preparation." *Smith v. State*, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (2012). Applicant must show evidence indicating "how additional preparation or communication would have resulted in a different outcome." *Id. See Jackson v. State*, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998) (where application failed to show ineffective assistance of counsel based on lack of preparation by neglecting to show evidence of what counsel failed to discover or what defenses counsel could have pursued had he more fully prepared for the case); *Skeen v. State*, 325 S.C. 210, 214-15, 481 S.E.2d 129, 132 (1997) (where applicant failed to show ineffective assistance of counsel when he did not present evidence showing how additional preparation would have impacted the trial).

Applicant claims that Counsel did not speak with him about the case enough. However, at the plea hearing, Applicant stated that he was satisfied with Counsel and that he had enough time to talk to Counsel. (Tr. 8). Additionally, Counsel credibly testified he met with Applicant several times to discuss the case. Beyond that, Applicant has failed to show how this brevity of time spent in consultation impacted Counsel's representation of Applicant. There is no indication that the results of the proceedings or the decision to plead would have been different had Counsel conferred with him more. Accordingly, Applicant has failed to establish ineffective assistance of

counsel and this Court declines to grant relief.

Failure to Mitigate the Sentence

Applicant claims Counsel was ineffective for failing to mitigate the sentence. Counsel may be found deficient for failing to sufficiently investigate and present mitigating evidence. *See Council v. State*, 380 S.C. 159, 172, 670 S.E.2d 356, 363 (2008) (finding it unreasonable for counsel not to further investigate the defendant's background and present even minimal mitigating evidence obtained); *Wiggins v. Smith*, 539 U.S. 510, 521 (2003) (finding it unreasonable when Counsel failed to investigate mitigating evidence beyond a couple retained records, including the presentence investigation report and social service records); *Williams v. Taylor*, 529 U.S. 362, 398 (2000) (finding that Counsel was unreasonable for failing to evaluate the totality of available mitigation evidence). An applicant is prejudiced by this deficiency if there is a reasonable probability that a different sentence would have been imposed but for Counsel's failure to investigate and present mitigating evidence. *Council v. State*, 380 S.C. 159, 171, 670 S.E.2d 356, 362 (2008).

Counsel credibly testified that he did not contact Applicant's family about speaking at sentencing because Applicant did not want the plea hearing to be about him. Counsel is not deficient for failing to mitigate a sentence upon Applicant's request. That Applicant now wishes he called individuals to speak on his behalf is of no consequence.

Additionally, this Court finds the mitigation strategy deployed was reasonable. Counsel told the Court at the plea hearing that Applicant did not want to make the matter about him and that he believed the focus needed to be on the victim. (Tr. 37). He stated that Applicant took full responsibility for his actions and that he understood he needed to be held accountable. (Tr. 37). He stated that Applicant was an addict and that the drugs caused him to do what he did. (Tr. 38-

39). He stated that since being incarcerated Applicant has obtained his GED and took therapy for his drug addiction. (Tr. 39). He stated that Applicant took every class at the prison until COVID hit and the classes were stopped. (Tr. 39). Counsel stated that he never met a defendant more remorseful for his actions than Applicant. (Tr. 39). This approach was reasonable, and Counsel is not found deficient for deploying this strategy. Additionally, there has been no showing that had Counsel called his family members to speak at the plea hearing a lesser sentence would be imposed. Accordingly, no prejudice is established. Thus, relief is denied on this ground.

Failure to Review Discovery

Applicant testified Counsel was deficient for failure to provide Applicant with a copy of the discovery. Counsel credibly testified that he does not give his incarcerated clients a personal copy of discovery while their cases are pending to avoid their cellmates from becoming a State's witness at trial. This Court finds this decision reasonable and declines to find Counsel deficient. Additionally, no prejudice is found because this Court does not find it at all likely that Applicant would decide to proceed to trial instead because he received a copy of discovery already seemingly reviewed. Accordingly, relief is denied on this ground.

Failure to Convey Fifteen-Year Plea Offer

Applicant's claim of ineffective assistance of counsel for failure to convey a fifteen-year plea offer is without merit. Applicant alleges ineffective assistance of counsel because Counsel failed to present a favorable plea to Applicant before the offer expired. "[A]s a general rule, defense counsel has the duty to communicate formal offers from the prosecution to accept a plea on terms and conditions that may be favorable to the accused." *Missouri v. Frye*, 566 U.S. 134, 145 (2012). Further, ineffective assistance is given "[w]hen defense counsel allow the [plea] offer to expire without advising the defendant or allowing him to consider [the plea]." *Id.* at 145.

When determining prejudice for failure to convey a plea, a case-by-case determination is made "assessing whether but for counsels deficient performance a defendant would have accepted the State's proposed plea bargain and that he would have benefited from the offer.'" *Bell v. State*, 410 S.C.436, 443, 765 S.E.2d 4, 7 (2014). Prejudice is found if applicant "would have taken the plea offer had [he] been afforded effective assistance of counsel", if "the plea would have been entered without prosecution canceling it or the trial court refusing to accept it", and "the end result of the criminal process would have been more favorable by reason of a plea to a lesser charge or a sentence of less prison time." *Collins v. State*, 422 S.C. 250, 262, 810 S.E.2d 871, 877 (2018) (quoting *Frye*, 566 U.S. 147) (quotations omitted). Presumed prejudice is reserved to limited situations. *Bell*, 410 S.C. at 443, 765 S.E.2d at 7.

Counsel credibly testified that the fifteen-year plea offer was proposed by him, to the State. He also credibly testified that this offer was rejected by the State and the only counter offer he received from the State was to a negotiated range between seven- and thirty-years' imprisonment. Counsel also credibly testified that all of this was communicated to Applicant. Counsel was not deficient because he communicated to Applicant about his request for an offer and that this was rejected by the State. Also, because the State was unwilling to extend this offer, no prejudice is found. Accordingly, relief is denied on this ground.

Failure to Discuss Charges

Applicant alleges that Counsel was ineffective, and the plea was invalid for failure to discuss the charges with Applicant. However, Applicant was informed of the charges pled to at the plea hearing and stated he understood and wanted to enter his plea to the charges announced because he was guilty. (Tr. 5-6, 22-23). Thus, this claim is seemingly without merit and did not render the plea invalid, nor does it entitle Applicant to withdraw the plea. Accordingly, relief is

denied on this ground.

For Telling Applicant to Expect a Twenty-Year Sentence

Applicant's claim that Counsel was ineffective for telling Applicant to expect a twenty-year sentence is without merit. Applicant testified that he understood he was pleading to a range between seven- and thirty-years' imprisonment, which is supported by the record. (Tr. 5, 19). Counsel also testified that at the plea hearing the Court informed Applicant that he was pleading to a seven- to thirty-year sentence and that he never promised Applicant a twenty-year sentence. Thus, Applicant's understanding that he would receive a twenty-year sentence is seemingly rooted in wishful thinking and is not supported by any evidence in the record. Accordingly, 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 his application. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court notifies the Applicant that he 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), SCRCP 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 1 day of August, 2022.

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WILLIAM A. MCKINNON
Presiding Judge
Seventh Judicial Circuit

Spartanburg, South Carolina.