

TRE'VION ANDERSON

STATE OF SOUTH CAROLINA

Applicant

Respondent

Submitted by: COURT

Attorney for :  Plaintiff  Defendant  
or  
 Self-Represented Litigant

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order (formal order attached)  Statement of Judgment by the Court:

This matter comes before the Court on June 1, 2023 for a hearing concerning Applicant's successive PCR application which was filed on March 27, 2023. In a motion dated March 26, 2023 and filed contemporaneously with the successive application, counsel for Applicant moved to reopen the record and review the Applicant's supplemental petition. The order of Judge William A. McKinnon dated April 24, 2023 directed that "the motion to reopen the record and to amend and/or supplement the application should receive a full and mature consideration at the hearing." Subsequently, the Court of Appeals issued a remittitur of Applicant's appeal so that this motion could be addressed. Present at the hearing of June 1, 2023 were Fletcher Smith, Esq. on behalf of Applicant, and William Blich, Jr., Esq. on behalf of the State.

The Court interprets and addresses Applicant's motion as a Rule 59 motion. Having reviewed and compared the original and supplemental applications, the prior order of Judge McKinnon denying PCR dated March 22, 2023, and considered the applicable law, the Court finds as follows:

Many of the grounds argued in the March 27<sup>th</sup> supplemental application are duplicates of issues previously raised in the initial application. The Court focuses, therefore, on the

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handwritten addendum (pages 3-3.4) as contained in the supplemental petition. The Court will address these in turn:

Page 3, No. 10

Item A was addressed fully in the Court's order of March 22, 2023 (hereinafter "March 22<sup>nd</sup> Order");

Item B was addressed on pages 15 and 16 of the March 22<sup>nd</sup> Order;

Item C was addressed on page 12 of the March 22<sup>nd</sup> Order;

Because Item D is not specific, it does not present a valid ground to grant a successive application or hearing.

Page 3, No. 11

The YOA allegations were addressed in the March 22<sup>nd</sup> Order at page 13;

The "failure to object to continuation of guilty plea and protect the right to withdraw guilty plea and reject offer" were addressed on pages 11 and 14 of the March 22<sup>nd</sup> Order;

The motion for a continuance to allow trial preparation was addressed on pages 12-13 of the March 22<sup>nd</sup> Order;

The concern about counsel sending discovery to Applicant's parents was not specifically addressed in the March 22<sup>nd</sup> Order, but discovery issues were aired at the prior hearing and addressed on page 16 of the March 22<sup>nd</sup> Order. Furthermore, to the extent discovery may have been sent to Applicant's parents instead of him, he suffered no prejudice, and the Court on page 16 of its March 22<sup>nd</sup> Order found that adequate trial preparation and review of discovery took place;

The issue of the previous gun charge was also aired at the prior hearing and addressed on page 13 of the March 22<sup>nd</sup> Order.

Page 3.2, No. 11 (4)

Counsel's alleged failure to advise Applicant of his appellate rights was addressed on pages 14-15 of the March 22<sup>nd</sup> Order.

Page 3.3, Item B

The bond hearing issue was addressed on page 15 of the March 22<sup>nd</sup> Order. Although Applicant alludes to his desire for an "evidentiary hearing," and although such was apparently not raised in the initial application or addressed in the March 22<sup>nd</sup> Order, the Court would be surprised if the plea judge did not fully review the fact that Applicant was waiving his right to mount any legal challenge to the evidence. Furthermore, from a review of the March 22<sup>nd</sup> Order, it appears that plea counsel never alluded to the need for such a hearing. Regardless, a blanket assertion that Applicant wanted an evidentiary hearing, without more detail as to exactly what the hearing would entail, is insufficient for this Court to order that the record be reopened.

Concerning the inadequate consultation by counsel and inadequate review of discovery, these issues were addressed on pages 12-13 and 15-16 of the March 22<sup>nd</sup> Order.

Page 3.4

Item (C)(1) was addressed on page 16 of the March 22<sup>nd</sup> Order;  
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The issue concerning a bond hearing was addressed on page 15 of the March 22<sup>nd</sup> Order; The continuance and evidentiary hearing claims were not specifically addressed in the March 22<sup>nd</sup> Order. However, they also apparently were not addressed in Applicant's testimony at the PCR. Furthermore, the PCR Court found that the plea was freely and voluntarily entered, and the March 22<sup>nd</sup> Order did state on page 12 that "Applicant failed to show how further preparation would have made a difference." Again, this Court addresses the evidentiary hearing issue *supra* in this order concerning page 3.3, Item B;

Again, the YOA issue was addressed on page 13 of the March 22<sup>nd</sup> Order;

Counsel's failure "to object to being pressured/intimidated by the judge" may not have been specifically addressed in the March 22<sup>nd</sup> Order, but Judge McKinnon clearly found that the plea was voluntary. Ergo, there was no intimidation or coercion by the plea judge;

Counsel allowing the plea to continue was addressed on page 14 of the March 22<sup>nd</sup> Order;

Finally, Applicant maintains that "Counsel failed to raise defense." The Court can find no allusion to any potential defense in the March 22<sup>nd</sup> Order. However, this Court is certain that the plea judge fully reviewed Applicant's right to present a defense with him during the colloquy. Again, a naked assertion that Applicant had a defense to these charges is insufficient to reopen the record, especially when, if such allegations were true, they would have constituted the central argument of Applicant's prior PCR application.

The Court finds that, although some of the allegations in the successive application of March 27<sup>th</sup> may not have been directly addressed, they are insufficiently plead or implicitly addressed in the March 22<sup>nd</sup> Order. Accordingly, the Court finds that the allegations in the successive application do not warrant reopening the record.

The Court reminds Mr. Smith that he should file notice of intent to appeal within the requisite timeframe and then seek to transfer this matter to the Office of Appellate Defense.

Wherefore, Applicant's motion is denied.

It is so ORDERED.

**ORDER INFORMATION**

This order  ends  does not end the case.

Additional Information for the Clerk : \_\_\_\_\_

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$


*[Handwritten signature]*

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		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

**E-Filing Note:** In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

	2159	6/2/23
Circuit Court Judge	Judge Code	Date

**For Clerk of Court Office Use Only**

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney's box on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ to attorneys of record or to parties (when appearing pro se) as follows:

Fletcher Smith, Esq.  
 \_\_\_\_\_  
 ATTORNEY(S) FOR THE APPLICANT

William Blich, Jr., Esq.  
 \_\_\_\_\_  
 ATTORNEY(S) FOR THE DEFENDANT(S)

\_\_\_\_\_  
 CLERK OF COURT

**Court Reporter:** WebEx hearing. Contact South Carolina Court Administration to request a transcript (start time for hearing was at approximately 10:15 a.m. on June 1, 2023).

**E-Filing Note:** In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

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State of South Carolina  
The Circuit Court of the Eighth Judicial Circuit

Frank R. Addy, Jr.  
Judge

June 2, 2023

Greenwood County Courthouse  
528 Monument Street, Suite 210  
Greenwood, SC 29646  
Phone: (864) 943-8020  
Fax: (864) 942-8581  
faddyj@sccourts.org

The Hon. Amy W. Cox  
Spartanburg Clerk of Court  
Attn: PCR/Civil  
Post Office Box 3483  
Spartanburg, South Carolina 29304-3486

Re: Tre'vion Anderson v. State  
2020-CP-42-03171

Dear Ms. Cox,

Enclosed is an order from a PCR motions hearing held yesterday. By copy of this letter, a copy of the order is being forwarded via email to those individuals listed below.

Thank you for your attention.

Sincerely,

Frank R. Addy, Jr.

Enclosure

Cc: Fletcher Smith, Esq.  
William Blich, Jr., Esq.  
The Hon. William A. McKinnon

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