THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM GREENVILLE COUNTY

COURT O)F COMMON PLEAS
HON. G. EDWARD WELMAKER JUDGE

---

case no.2012-cp-23-5600

JOHN ALLEN HAGOOD,.....APPELLANT,

V.

THE STATE OF SOUTH CAROLINA,.....RESPONDENT,

NOTICE OF APPEALS

JOHN ALLEN HAGOOD, APPEAL THE ORDER OF THE HONORABLE, G. EDWARD WELMAKER, JUDGE

COUNSEL OF RECORDS
ALAN WILSON ATTORNEY GENERAL
MELODY JANE BROWN,ASSISTANCE
post office box 11549
Columbia, s.c. 29211-1549

John A, Hagood#123067

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

JOHN ALLEN HAGOOD,
Appellate

v,

STATE OF SOUTH CAROLINA
Respondent,

MOTION FOR A WRIT OF

CERTIORARI

Under the Ruling of Supreme court of south carolina state v,frasier jr, case no,2020-001405,437s.c.625 879 S.E.2d762 september 28,2021

(1) Police officer lacked reasonable suspicion to further detain defendant after initial traffic stop, and

(2)Defendant did not voluntanly consent to search of his person,

Appellate Review-pre-trial Hearing motion

He is going to issue a warning ticket and try to odtain con -cent to search the car,

ISSUES

(1) did the court of appeals err in affirning the trial court decision that officer Hall had reasonable suspricion to prolong the traffic stop in order to subsequently ask for censent to search?

(2) did the court of appeals err in affirning the trial court's determination that frasier gave officer hall consent to search him?

Petitioner JOHN ALLEN HAGOOD was convicted of first degree burglary and grand larceny after police discovered lap top during a traffic stop for runing a stop sign.

The questions before the court concern whether police had reasonable suspicion to prolong the traffic encounter and whether hagood consented to the search, The trial court concluded the officer had reasonable suspicion and hagood consented, and the court of appeals affirmed. in deciding these two issues, WE clarify the scope of this court's standard o of review in the fourth amendment context ultimately, WE reverse the court of appeals +629 because law enforcement lacked reasonable suspicion to prolong the traffic stop and Hagood did not consent to the search,

763 on writ of certiorari to the court of a Appeals

Thereafter, Hagood filed two motions to suppress, one contending David paramore lacked reasonable suspicion to prolong the traffic stop and the second asserting he never consented to the search, following the testimony of the officers, which was consistent with the account relayed above, Hagood argued that the lap top should be suppressed. the solicitor contended the following established reasonable suspicion to proling the traffic stop in order to obtain consent;1).

1

Hagood behavior or beening a black male evasive not answering very simple direct questions such as where they+631 were coming from2)the sense of nervousness Hagood displayed; and 3) his sweating profusely.

Hagood Contended that david paramore never wrote the warning ticket for the legal justification for the stop ended, and nothing the officer relied on established reasonable suspicion to prolong the encounter, The trial court stated that this issue is at 50/50 call ultimately, the court denied Hagood's motion to suppress, concluding the facts above supported a finding of reasonable suspicion, with the exception of Hagood's alleged 'evasive driving and taking too long to pull over. The Court found Hagood's driving reasonable, and thus, it did not take that fact into consideration,

as to Hagood's second argument-that hedid not give officers paramore consent to search him-defense counsel noted that hagood responded 'I do, but...in response to paramore whether he minded being search The Solicitor contended that, 'it was the officer's belief, as he testified earlier, that his words and actions together was[sis] consend, the trial court concluded the dashcam video unambiguously showed that Hagood consented to the search by virtue of his words ans conduct, and it denied the second motion to suppress as well.

Ultimately, the jury found Hagood guilty,and the trial court sentenced him to the mandatory minimum sentence of life without p possibleable of parole imprisonment,Hagood appealed to the court of appeals which affirmed, citing our deferential standard of review and concluding evidence supported the trial court decision Hagood subsequently filed a petion for a writ of certiorari, which the court of appeal denial.

ISSUES

(1) did the court of appeals err in affirming the trial court's decision that officer paramore had reasonable suspicion to prolong the traffic stop in order to subsequently ask for consent to search?

(2)+632 11.Did the court of appeals err in affirming the trial court's determination that Hagood gave officer paramore consent to search him?

STANDARD OF REVIEW

Before reaching the merits, WE take this opportunity to clarify our standard of review when reviewing an appeal from motion to suppress based on fourth amendment grounds. Historically, WE have repeatedly noted that appellate courts review an appeal from a mo motion to suppress based on a violation of the fourth amendment under the deferenitial any evidence 'standard.
see,e.g. state v. morris, 411 S.C.571,578,769 S.E.2d854, 858 (2015). Pursuant to this standard, our appellate court's will not reverse a trial court's finding of fact simply because it would have decided the case differently,' state v. spears,429S.C °422,433,839 S.E.2d 450, 455 (2020) (quoting state v, pichardo 3 67,S.C.84,96,623 S.E.2d840,846(ct App2005).

IN STATE V. BROCKMAN, 339 S.C.57, 528 S.E.2d661(2000). this Court declined to follow the NITED STATES SUPREME COURTs decision in ornelas v. united states,517 U.S.690,116 s.ct,1657,134 LEd 911 (1996) requiring Federal court's to employ a more rigorous two-part analysis where court's defer to the trial court's factual findings but review the ultimate legal conclusion de novo, Brockman concluded that ornelas was an advisory opinion, and thus, the court declined to implemend de novo review.Id. at64-65,528S.E.2d at 664-65, at the time this court issued Brockman.

DISCUSSION

Reasonable Suspicion to prolong the traffic stop.

Hagood contend paramore did not have reasonable suspicion to prolong the traffic stop beyond the purpose of issuing the warning for an run a stop sign, He asserts law enforcement had, at best, a unparticularized 767 suspicion or hunch, not reasonable suspicion to justify the prolong detention

Conversely, the state argues evidence supports the trial court's determination that paramore had reasonable suspicion of potential criminal activity, and therefore, the reasonable suspicion the extension of the initial traffic stop was constitutionally pertni-issible, applying the facts as found by trial court's WE disagree these finding rise to the level of reasonable suspicion.

(1) Aperson has been seized within the meaning of the fourth Amendment at the point in time when, in light of all the circumstances surrounding an indident, a reasonable person would have believed that he was not free to leave.' Robonson v. state, 407 S.C.169,181,754 S.E.2d862,868(2014). once police pull over a motor vehicle for a traffic violation,' the police may order the driver to exit the vehicle without violating fourth amenment proscriptions on unreasonable searches and seizures,' state v. pichardo,367S.C. 84,98,623 S.E.2d840, 847 (c t App 2005) citing pennsylvania v. mimms, 434 U.S. 106,98 S.Ct. 330,54 LEd,2d331 (1977),'in carrying out the stop, an officer may request a driver license and vehicle registration run a computer check, and issue a citation!id. (citing united states v. sullivan 138 F3d 126(4th cir 1998).

IN Hagood, case A police officer pulled over a vehicle on Gower street for runing a stop sign, and never wrote a warning ticketed or inother word a citation, for the traffic violation for this stop

OFFICER DAVID PARSMORE,an officer with the Greenville city police Department,testifed that on february 1, 2010. He initiated a traffic stop of the petitioner,(r.at 116-21).officer paramore testified t that petitioner gave his consent for paramore to search the vehicle and during that search, paramore found a laptop computer.(R at122 24) when paramore ran the serial number on the laptop, that number indicated the laptop had been stolen.(R at123-25).

office Erica Burgess testified that she heard officer paramore call out a traffic stop.' and she proceeded to officer paramore location.(R at130-32.) she testified that after she read petitioner his miranda rights, petitioner told her that he purchased the laptop from a man nicknamed black'' in mid december.(R at132-38).

conclusion

WE hold law enforcement lacked reasonable suspicion to prolong the traffic stop, and thus, the discovery of laptop was the product of an illegal seizure. WE also conclude that Hagood did not voluntarily consent, Accordingly. ask the court to reverse the court of appeals decisions, for a new Trial.

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

case no.2012-cp-23-5600

JOHN ALLEN HAGOOD,.....APPELLANT,

V,

STATE OF SOUTH CAROLINA,.....RESPONDENT,

PROOF OF SERVICE

I, john allen hagood, do hereby certify that I, service true copy (S) of the filed and served notice of appeals for certiorari and after- discovedd evidence motion in the orgmnial jurisdiction SOUTH CAROLINA Supreme court memorandum of law in support of the motion, by placing same in the perry correctional inst, mailroom addressed to assistance melody jane Brown, post office box 11549 Columbia, S.C. 29211-11549

date 2-1 2024.

/s/ John allen Hagood

John allen hagood#123067
perry correctional inst,
430 oaklawn Road q4b210
pelzer, S.C.29669

FORM 14 DESIGNATION OF MATTER TO BE INCLUDED THE RECORD ON APPEAL

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT
APPEAL FROM GREENVILLE COUNTY
COURT OF COMMON PLEAS
G. EDWARD WELMAKER CIRCUIT COURT JUDGE

case no;2012-cp-23-5600/2010-GS-23-3444

STATE OF SOUTH CAROLINA,.....RESPONDENT,

V.

JOHN ALLEN HAGOOD,.....APPELLANT,

APPellant pro passes the following be included in the Record on Appeals;

DEsignation of matter to be
INcluded in the Record on Appeals

(1)order of january 30, 2014.

(2) order of november 29, 2023.

(3) Letter from paul w. wickensimer clerk of court, of greenville county, october 14, 2022.

(4) officer david paremore testified R at 116-21.

(5)officer Erica Burgess R at 130-32.

(6) RECORDS of no traffic stop for february 1, 2010.

(7) order october 23, 2014.

(8) All Exhibits.

I hereby certify that this Designation of matter contains nothing which is Irrelevant to the Appeal.

date 2-1 2024.

John allen hagood#123067

EXHIBITS (A)

Office of the Clerk of Court

Greenville, South Carolina

Paul B. Wickensimer
Clerk of Court

Circuit Court Division
Greenville County Courthouse
305 East North Street
Greenville, South Carolina 29601
(864) 467-8551

October 14, 2022

John Allen Hagood #123067
Perry Correctional Institution
~~430 Oaklawn Road~~
Pelzer, SC 29669

Dear Mr. Hagood:

Your letter has been received, however we cannot assist you because the ticket numbers listed in your letter (91126FB, 91127FB) are not in our Greenville County *General Sessions* database at this time.

The function of the Clerk of Court's Office for General Sessions (Circuit) court is to keep records of Greenville County *General Sessions* cases and make them available to the public. You or your representative may view the records in our office during regular business hours. Case information may also be viewed on the Public Index at: www.13th-judicial-circuit.org. Copies may be obtained from our office for Greenville County General Sessions cases at a rate of $.25 per page or $10.25 per certified page, plus mailing costs. If you desire to view or make copies of the records, **you must provide the arrest warrant number** for each case requested. Upon request *by the defendant*, the Clerk of Court's Office will provide *to the defendant one copy* of documents in his or her *General Sessions* file at no charge. Additional copies and copies of documents in other defendant's files must be paid for in advance.

Please note that our records consist of warrants and related filings which have been served and have been transmitted to Greenville County *General Sessions* court. We therefore do not have information on cases which are under the jurisdiction of another county, magistrate, or Federal court or warrants which are outstanding.

Sincerely,
Clerk of Court
Greenville County General Sessions

FILED: November 29, 2023

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-280

In re: JOHN ALLEN HAGOOD

Movant

ORDER

Movant has filed a motion under 28 U.S.C. § 2244 for an order authorizing the district court to consider a second or successive application for relief under 28 U.S.C. § 2254.

The court denies the motion.

Entered at the direction of Judge Niemeyer with the concurrence of Judge Wilkinson and Judge Harris.

For the Court

/s/ Nwamaka Anowi, Clerk

The Supreme Court of South Carolina

John Allen Hagood, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2014-000480
Lower Court Case No. 2012-CP-23-5600

ORDER

This matter is before the Court on a petition for a writ of certiorari following the denial of petitioner's application for post-conviction relief.

Petitioner's counsel asserts that the petition is without merit and requests permission to withdraw from further representation. Petitioner has not filed a pro se petition.

After careful consideration of the entire record as required by *Johnson v. State*, 294 S.C. 310, 364 S.E.2d 201 (1988), we deny the petition and grant counsel's request to withdraw.

C.J.
FOR THE COURT

Columbia, South Carolina

October 23, 2014

cc:
Karen Christine Ratigan, Esquire
Robert M. Pachak, Esquire
John Allen Hagood, #123067

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE) C.A. No. 2012-CP-23-5600
)
John Allen Hagood,)
S.C.D.C. #123067,)
)
Applicant,)
) **ORDER OF DISMISSAL**
v.)
)
State of South Carolina,)
)
Respondent.)

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed August 29, 2012. The Respondent made its return on March 28, 2013. An evidentiary hearing into the matter was convened on December 17, 2013 at the Greenville County Courthouse. The Applicant was present at the hearing and represented by Caroline Horlbeck, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying was the Applicant's trial counsel, Amanda Lackland Wicker, Esquire. The Court had before it the trial transcript, the Greenville County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, the return, and the appellate records.

PROCEDURAL HISTORY

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Applicant was indicted at the May 2010 term of the Greenville County Grand Jury for grand larceny (2010-GS-23-3443) and first-degree burglary (2010-GS-23-3444). He was represented by Amanda Lackland

Wicker, Esquire.

After the State took the case to trial, the Applicant was found guilty. On February 9, 2011, the Honorable C. Victor Pyle, Jr. sentenced the Applicant to concurrent terms of life imprisonment without parole for first-degree burglary and ten years for grand larceny, third or greater property offense.

A notice of appeal was filed at the South Carolina Court of Appeals. Elizabeth A. Franklin-Best, Esquire of the South Carolina Office of Appellate Defense perfected the appeal. The Court of Appeals affirmed the Applicant's convictions and sentences. State v. Hagood, Op. No. 2012-UP-407 (S.C. Ct. App. filed July 11, 2012).

ALLEGATIONS

In his application, the Applicant alleges he is being held in custody unlawfully for the following reasons:[1]

1. Ineffective assistance of counsel:
   a. "[F]ailed to argue correct probable cause for traffic stop."
   b. "[F]ailed to hire handwriting expert to prove of confession and Miranda signatures were fake."

In an "Amended Petition for Post Conviction Relief" filed by PCR counsel on June 21, 2013, the Applicant makes the following allegations:

1. Ineffective assistance of trial counsel:
   a. Allowed the State to introduce an involuntary statement by the Applicant purporting to be a confession to the crimes and failing to object to the admission of same.
   b. Failed to put the State's case through adversarial testing.
   c. Failed to challenge probable cause.
   d. Failed to preserve the Applicant's Fourth Amendment issues.

[1] While the Applicant filed a document captioned "Applicant's Amendment to Original PCR Application" on April 25, 2013, as it was filed while the Applicant was represented by counsel, this Court will not consider it. See Rule 11(a), SCRCP; Jones v. State, 348 S.C. 13, 14, 558 S.E.2d 517, 517 (2002) (holding there is no constitutional right to hybrid representation either at trial or on appeal).

e. Failed to argue section 17-25-45 violated the Equal Protection Clause.
f. Failed to argue that the discretion given to the solicitor's office by section 17-25-45 regarding service of notice of intent to seek life without parole is arbitrary and capricious.
g. Failed to request a jury instruction that the Applicant faced a mandatory sentence of life without parole.
h. Failed to argue that the Applicant's Sixth Amendment rights were violated in that he was not advised of the possibility of life without parole at the time of his prior conviction.
i. Failed to argue that the Applicant's conviction and sentence were in violation of the United States Constitution and South Carolina laws.
j. Failed to object to the use of his prior unclassified convictions to enhance his sentence to life without parole.

2. Ineffective assistance of appellate counsel:
   a. Raised an issue that was not preserved for appeal.

In an "Amended Petition for Post Conviction Relief" filed by PCR counsel on December 17, 2013, the Applicant makes the following allegations:

1. Ineffective assistance of trial counsel:
   a. Failed to adequately and effectively argue the Applicant's statement was not knowingly and voluntarily made.
   b. Failed to preserve the Applicant's objection to the introduction of the Applicant's statement during the trial.
   c. Failed to adequately and effectively challenge the existence of reasonable suspicion to stop the Applicant and probable cause to arrest the Applicant.
   d. Failed to make a motion to suppress.
   e. Failed to request that the court instruct the jury that the Applicant faced a sentence of life without parole if convicted at trial.
   f. Failed to argue that the Applicant as not informed of life without parole by eligibility by previous attorneys.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Trial Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). In order to prove prejudice, an applicant must show "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052).

The Applicant stated he met with trial counsel five times and that they reviewed the evidence. The Applicant stated they also discussed the traffic stop and his version events. The Applicant stated the officer said he did not stop at a stop sign, but that there was not stop sign there. The Applicant stated trial counsel did not make a motion to suppress the evidence. The Applicant stated he never made a statement to police but that Officer Ballenger was writing things down and asking him questions. The Applicant stated he has limited reading and writing abilities and that, while he signed a document, it was not read to him. The Applicant stated trial

counsel did not request a jury instruction that he faced a sentence of life imprisonment without parole if he was convicted. The Applicant stated there was a plea offer for twenty-five years and that he discussed it with trial counsel but the offer was for something he did not do.

Trial counsel testified she filed discovery motions, received discovery materials, and reviewed those items with the Applicant. Trial counsel testified this included reviewing two statements. Trial counsel testified they also discussed the Applicant's version of the events surrounding the traffic stop – and that he contended there was no stop sign. Trial counsel testified she made a motion to suppress, which was ruled upon by the trial judge. Trial counsel testified the consent to search the Applicant's home was given by his wife and that several items from the burglary were found. Trial counsel testified they discussed the damaging effect of the State's evidence against the Applicant. Trial counsel testified the Applicant explained the circumstances surrounding the statements given to Officers Ballenger and Burgess and that she challenged the statements before trial. Trial counsel testified one of the statements was self-serving and did not object to it at trial because of trial strategy. Trial counsel testified the officers denied any promises were made to the Applicant. Trial counsel testified they discussed the notice of intent to seek life imprisonment without parole (LWOP) and that this would be an automatic sentence if the Applicant was found guilty at trial. Trial counsel testified she discussed the twenty-five year plea offer with the Applicant and that he rejected it.

This Court finds the Applicant's testimony is not credible, while also finding trial counsel's testimony is credible. This Court finds trial counsel filed discovery motions and reviewed all of the discovery materials with the Applicant. This Court further finds trial counsel adequately conferred with the Applicant, conducted a proper investigation, and was thoroughly competent in her representation.

This Court finds the Applicant failed to meet his burden of proving trial counsel did not properly handle the issues surrounding the traffic stop. Trial counsel stated the Applicant said there was no stop sign on the road in question. This Court notes trial counsel made a motion to suppress and that this motion was argued before trial. The Applicant testified at this hearing that there was no stop sign. (Trial transcript, pp.52-64). The trial judge found there was probable cause for a traffic stop and that the evidence would be admitted. (Trial transcript, p.64). The Applicant has failed to articulate what more trial counsel should have done to challenge the traffic stop and suppress the evidence from his car.

This Court finds the Applicant failed to meet his burden of proving trial counsel did not properly challenge the statements in his case. The Applicant gave two written statements – one to Officer Ballenger and one to Officer Burgess. (Trial transcript, pp.137-38; pp.167-69). The trial judge conducted a pre-trial Jackson v. Denno[2] hearing and found both statements were voluntary. (Trial transcript, pp.23-50). At trial, the Burgess statement indicated the Applicant did not know the laptop he had purchased had been stolen. (Trial transcript, pp.137-38). Trial counsel testified she did not object to the admission of this statement because it reinforced her trial strategy. This Court finds that, based on the defense put forth at trial, this was a valid strategic decision. See Roseboro v. State, 317 S.C. 292, 294, 454 S.E.2d 312, 313 (1995) (finding where trial counsel articulates a valid reason for employing a certain strategy, such conduct should not be deemed ineffective assistance of counsel). Trial counsel did not object to the admission of the Ballenger statement at trial – in which the Applicant admitted to breaking into the victim's home and stealing several items. (Trial transcript, pp.167-69). This Court, however, does not find this was deficient or prejudicial because the statement had been ruled to

[2] 378 U.S. 368, 84 S. Ct. 1774, 12 L. Ed. 2d 908 (1964).

have been given voluntarily and the Applicant failed to present any credible evidence or testimony that this ruling would have been reversed on appeal. Further, this Court notes the State presented strong evidence of the Applicant's guilt, as the stolen items were found in his car and home. See Geter v. State, 305 S.C. 365, 367, 409 S.E.2d 344, 346 (1991) (concluding reasonable probability of a different result does not exist when there is ample evidence of guilt.

This Court finds the Applicant failed to meet his burden of proving trial counsel did not properly handle the issues surrounding the notice of LWOP. Trial counsel testified she discussed the LWOP notice with the Applicant when they reviewed the twenty-five year plea offer. Trial counsel testified they discussed what the LWOP notice would mean if the Applicant was found guilty at trial. This Court finds trial counsel's testimony is credible. This Court also finds that, while the Applicant argues trial counsel should have requested a jury charge regarding the automatic imposition of an LWOP sentence upon conviction, he has failed to present any precedent to support such a jury charge. This Court finds the Applicant has failed to meet his burden of proving trial counsel should have requested this charge. This Court also finds the Applicant has failed to meet his burden of proving trial counsel should have made a constitutional argument against the imposition of the LWOP sentence. This Court further finds there is no merit to the Applicant's argument that his attorneys from his previous criminal convictions should have advised him that those convictions could be used at a later date to impose an LWOP sentence.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that trial counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that trial counsel committed either errors or omissions in her representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by trial counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

Ineffective Assistance of Appellate Counsel

This Court notes the Applicant raised the issue of ineffective assistance of appellate counsel in his first "Amended Petition for Post Conviction Relief." The Applicant, however, did not present any evidence or testimony on this issue at the PCR hearing. As such, this Court finds the Applicant has abandoned this issue.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient and the Applicant was not prejudiced by counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and

2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 30 day of Jan, 2014.

G. Edward Welmaker
Presiding Judge
Thirteenth Judicial Circuit

Richland, South Carolina.