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STATE OF SOUTH CAROLINA)
)
COUNTY OF ABBEVILLE)
)
ROBERT ORLANDO HILL, #265223)
)
Applicant,)
)
-vs)
)
STATE OF SOUTH CAROLINA,)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

2009-CP-01-0189

DISMISSAL OF ORDER OF
RECONSIDERATION

EMILY Y HOUGHAN
CLERK OF COURT

2012 SEP 10 AM 10:51

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

This matter comes before the Court by way of an application for post-conviction relief filed August 10, 2009, and amended on January 19, 2010. The Respondent made its return on March 16, 2010. An evidentiary hearing was held on this matter and this matter was dismissed by way of Order of Dismissal. The Applicant has duly filed a Motion for Reconsideration, requesting the Court reconsider its Order of Dismissal relevant to the applicant's claims of:

1. Ineffective Assistance of Trial Counsel and
2. Ineffective Assistance of Appellate Counsel.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety, and has reconsidered the testimony presented at the hearing, and have considered applicant's Motion of Reconsideration and the Court conclude as it relates to:

INEFFECTIVE ASSISTANCE OF COUNSEL

The Court, in reconsidering this matter and the applicant's claims relevant to trial counsel, determine and find that counsel was effective in all respects concerning his representation of the applicant at trial. The Court reiterates and adopts its findings of facts and

conclusions of law, as previously stated in its Order of Dismissal.

INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL

The Court, in reconsidering this matter and the applicant's claims relevant to appellate counsel determines that counsel was effective in all respects concerning representation of the applicant at the appellate level. The applicant's Motion for Reconsideration is again based on the claim that appellant counsel did not brief the issue of self-defense correctly, and that appellant counsel did not argue malice should not be inferred from the use of a deadly weapon where evidence exist which would reduce or mitigate the homicide in the appellate brief. The Court has again, carefully reviewed and reconsidered the applicant's arguments and points made at the hearing, and the Court has again reconsidered the applicable case law at the relevant time. The Court also has looked at State V. Belcher 385 S.C. 597, 685 S.E. 2d 802 (2009), and as previously stated, Belcher was not effective during the pendency of the applicant direct appeal and hence, not applicable to this case.

CONCLUSION

Based on the foregoing, a careful and through review of the file, case law, the evidence and testimony presented at the applicant's hearing, the Court cannot reverse its ruling and the Motion for Reconsideration must be denied.

This Court notifies the applicant that he must file and serve a Notice of Appeal within the applicable time period, after applicant's post conviction relief attorney, has received this denial of Order of Reconsideration and Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR.

IT IS THEREFORE ORDERED:


1. The applicant's Motion for Reconsideration is hereby denied.

2. The applicant shall remain in the custody of the Respondent.

AND IT IS SO ORDRED,

Sept 16, 2013

Greenwood, South Carolina


FRANK R. ADDY
Circuit Court Judge
Eighth Judicial Circuit