

J. Matthew Dillon

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October 2, 2013

Daniel E. Shearouse, Clerk of Court
The Supreme Court of South Carolina
Post Office Box 11330
Columbia, SC 29211

RE: **AMENDED NOTICE OF APPEAL** (from Dismissal of PCR Petition)
Latron Bryant, #336700 v. State of South Carolina
Charleston County Case No: 2012-CP-10-2359

Dear Mr. Shearouse:

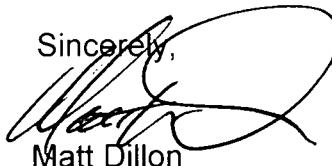
Enclosed please find one original and one copy of the **AMENDED Notice of Appeal and Proof of Service** I am filing on behalf of Mr. Latron Bryant. I have copied both Ashleigh Wilson in the Attorney General's Office, who represents the State of South Carolina, as well as Mr. David Alexander in the Office of the Appellate Defender.

I have enclosed a self-addressed, stamped envelope for your use in returning to me one clocked copy of these pleadings.

Mr. Bryant remains incarcerated and is indigent and therefore I understand no filing fee is owed.

Please feel free to contact me if there are any questions about this filing.

Sincerely,



Matt Dillon

RECEIVED

OCT 07 2013

CC: Ashleigh R. Wilson (& via email arwilson@scag.gov)
Assistant Attorney General

S.C. SUPREME COURT

Mr. David Alexander (Via email dalexander@sccid.sc.gov)
Appellate Defender

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Deadra L. Jefferson, Circuit Court Judge

Case No. 2012-CP-10-2359

RECEIVED

OCT 07 2013

S.C. SUPREME COURT

Latron Bryant, #336700, Appellant,


vs.

State of South Carolina, Respondent,

AMENDED NOTICE OF APPEAL

Latron Bryant appeals the Amended Order Granting Respondent's Motion to Dismiss issued by the Honorable Deadra L. Jefferson on September 23, 2013 and received by Appellant's undersigned appointed counsel on September 28th, 2013, a copy of which is attached hereto and incorporated hereby by reference as **Exhibit 1**.

Respectfully submitted,



J. Matthew Dillon (SC Bar# 64099)

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MattD@MattDillonLaw.com

Attorney for Petitioner, Latron Bryant

October 2, 2013

Charleston, South Carolina

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Deadra L. Jefferson, Circuit Court Judge

Case No. 2012-CP-10-2359

Latron Bryant, #336700, Appellant,

vs.

State of South Carolina, Respondent,

PROOF OF SERVICE

I, J. Matthew Dillon, counsel for Latron Bryant, certify that I have served one copy of the Amended Notice of Appeal on Counsel for Respondent by depositing a copy in the United States Mail and by emailing a copy to: Ashleigh R. Wilson, Assistant Attorney General, PO Box 11549, Columbia, SC 29211-1549 and arwilson@scag.gov.

Respectfully submitted,



J. Matthew Dillon (SC Bar# 64099)

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Mount Pleasant, SC 29464

(843) 216-0414 (Tel)

MattD@MattDillonLaw.com

Attorney for Petitioner, Latron Bryant

October 2, 2013

Charleston, South Carolina

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
)
)
 Latron Bryant, #336700,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 2012-CP-10-2359

AMENDED ORDER OF DISMISSAL

FILED
 2013 SEP 24 PM 3:13
 J. ARMSTRONG
 CLERK OF COURT
 BRYANT

Presiding Judge:	The Honorable Deadra L. Jefferson
Applicant's Attorney:	J. Matthew Dillon, Esquire
Respondent's Attorney:	Ashleigh R. Wilson, Esquire
Trial Counsel:	Mary A. Ford, Esquire
Date of Hearing:	July 23, 2013
Court Reporter:	Phyllis Norton

This matter is before the Court on an application for post-conviction relief filed April 9, 2012. The Respondent filed its Return on January 23, 2013. The Respondent filed an amended Return and Motion to Dismiss on May 30, 2013. The Respondent also submitted a Conditional Order of Dismissal to the Honorable Roger M. Young for dismissal of the application. The Applicant filed a response to the Respondent's Motion to Dismiss dated June 19, 2013 and requested a hearing be held on the Respondent's motion. A hearing on the Respondent's Motion to Dismiss was held on July 23, 2013.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Charleston County. The Applicant was indicted at the April 2011 term by the Charleston County Grand Jury for Burglary-First

¹ Amended to correct scrivener's and citation errors.

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 [Handwritten signature]

Degree (2011-GS-10-2286). Mary Ford, Esquire, represented the Applicant. The Applicant pled guilty as indicted. The Honorable L. Casey Manning sentenced the Applicant to confinement for fifteen (15) years. The Applicant did not appeal the plea or sentence.

ALLEGATIONS

In his application for post-conviction relief, the Applicant alleged he is being held in custody unlawfully for the following reasons:

1. Sentenced for the wrong charge.
2. Given too much time.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the arguments presented at the PCR hearing. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. CODE ANN. § 17-27-80 (2003).

The Respondent has filed a Motion to Dismiss the Applicant's application for post-conviction relief for failing to state to claim. This Court finds this application is summarily dismissed for failing to state a claim cognizable under the post-conviction relief statute. An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or

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[Signature]

6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy . . .

S.C. CODE ANN. § 17-27-20 (1976).

This Court finds that even if the facts alleged by the Applicant are true, the facts do not support a cognizable claim for post-conviction relief under any of the statutory grounds.

This Court also finds the Applicant's allegation is without merit. In the Applicant's Response to the Respondent's Motion to Dismiss, he states the basis for his claim is "his contention that since the gun charge was dropped, he should have plead to second degree burglary, not first degree burglary." This Court finds a plea of guilty to Burglary-First Degree does not require a correlating conviction for possession of a weapon during the commission of a violent crime. See S.C. CODE ANN. § 16-11-311(A)(1)(a), (d) (1976). This Court also finds and the record reflects the Applicant was aware that the weapons charge (2011-GS-10-2999) was being dismissed by the State in exchanged for the Applicant's guilty plea. (Tr. 11:17-24). This Court finds the facts as presented by the State during the plea proceeding indicate that Burglary-First Degree was the proper charge for the Applicant. (Tr. 14:25-15:17). The record also reflects the Applicant agreed with the facts of the burglary as presented at the guilty plea proceeding. (Tr. 15:21-16:2).

This Court finds the Applicant waived his right to challenge the nature of the charge against him by pleading guilty. (Tr. 16:3-9). This Court finds, and the record of the sentencing court's plea colloquy reflects that the Applicant's guilty plea was entered freely, voluntarily, and knowingly and was intelligently made. See id. The Applicant was advised of the potential sentences for the charges he was facing. (Tr. 6:15-7:23) and of the State's plea offer for dismissing the associated gun charge in exchange for the Applicant's plea of guilty to Burglary-

First Degree. (Tr. 11:17–23). The Applicant told the court he was not promised anything, nor offered hope of reward for pleading guilty, nor was the Applicant threatened, pressured, or intimidated into pleading guilty. (Tr. 12:3–12). Additionally, the Applicant told the court that he was pleading guilty freely and that he was satisfied with his lawyer’s services and understood his conversations with his attorney. (Tr. 12:16–13:15). Most notably, the sentencing court confirmed with the Applicant numerous times that he understood the charge of Burglary-First Degree and that the Applicant did, in fact, wish to plead guilty to the indicted offense. (Tr. 6:21–7:15; 9:25–10:7; 11:4–14; 16:19–24).

CONCLUSION

Based on the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Therefore, this application for PCR 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 written notice of entry of this Order 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 served and 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.

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[Signature]

AND IT IS SO ORDERED this 23rd day of Sept, 2013.

DL Jefferson

The Honorable Deadra L. Jefferson
Presiding Judge, Ninth Judicial Circuit

Charleston, South Carolina.

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