

The Supreme Court of South Carolina

John Allen Randolph, Jr., Petitioner,

v.

State of South Carolina, Respondent.

The Honorable Edgar W. Dickson
Orangeburg County
Trial Court Case No. 2010-CP-38-00932

ORDER

For good cause shown, the request for an extension until May 2, 2012 to serve and file the Petition for Writ of Certiorari and Appendix in this matter is granted. Pursuant to this Court's order dated March 18, 2009, any further extension request must show the existence of extraordinary circumstances, state what measures are being taken to insure that no further extension will be required, and be signed by the appropriate attorneys.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY



Clerk

Columbia, South Carolina

April 2, 2012

cc: Appellate Defender Dayne C. Phillips
Assistant Attorney General Mary S. Williams

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Orangeburg County
Edgar W. Dickson, Circuit Court Judge

JOHN ALLEN RANDOLPH,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,


RESPONDENT

MOTION FOR AN EXTENSION OF TIME
IN WHICH TO FILE THE PETITION FOR WRIT OF
CERTIORARI AND APPENDIX

(3)

Counsel for John Allen Randolph respectfully requests an extension of a **final** thirty (30) days in which to file the petition for writ of certiorari and appendix in this case. This motion is made pursuant to the Order of the South Carolina Supreme Court dated March 18, 2009. This is a third request for an extension. In support of this request, counsel shows:

1. The petition for writ of certiorari and appendix is due to be served and filed with the Court on **April 2, 2012**.
2. Counsel for Mr. Randolph respectfully submits that extraordinary circumstances exist which warrant the granting of an additional extension of time. Given the number of extensions previously granted and the order in which counsel attempts to manage his caseload, counsel hopes that no further extension requests will be required.
3. On March 26, 2012 counsel filed the petition for writ of certiorari in the Court of Appeals and appendix in State v. Bradley Scott Senter. On March 21, 2012 counsel filed the petition for


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APR 02 2012
S.C. Supreme Court

writ of certiorari and appendix in Tina Sumter v. State. On March 19, 2012 counsel filed the petition for writ of certiorari and appendix in Cedric Perkins v. State. On March 13, 2012 counsel filed the petition for writ of certiorari and appendix in Billy S. Tucker v. State. On March 6, 2012, counsel filed the petition for writ of certiorari and appendix in Victor Brown v. State.

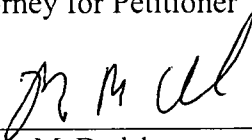
4. Counsel makes this request in good faith and not for purpose of delay.
5. As indicated by signature below, Mary Williams, of the South Carolina Attorney General's Office, does not oppose this request.

WHEREFORE, the undersigned counsel would respectfully request a **final** thirty day extension, in which to file the petition for writ of certiorari and appendix in this case based upon the above exigent circumstances. Counsel requests that time limits for filing the petition be held in abeyance pending a ruling on this motion.

Respectfully submitted,



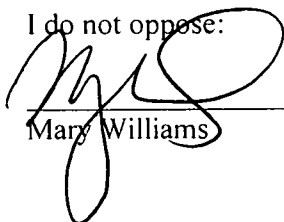
Dayne C. Phillips
Appellate Defender
Attorney for Petitioner



Robert M. Dudek
Chief Appellate Defender

April 2, 2012

I do not oppose:



Mary Williams

The Supreme Court of South Carolina

John Allen Randolph, Jr., Petitioner,

v.

State of South Carolina, Respondent.

The Honorable Edgar W. Dickson
Orangeburg County
Trial Court Case No. 2010-CP-38-00932

ORDER

For good cause shown, the request for an extension until April 2, 2012 to serve and file the Petition for Writ of Certiorari and Appendix is granted. Pursuant to this Court's order dated March 18, 2009, any further extension request must be based on a showing of good cause and must be signed by the appropriate attorneys.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY *Brenda J. Shealy*
Clerk

Columbia, South Carolina *Chief Deputy*

March 2, 2012

cc: Appellate Defender Dayne C. Phillips
Assistant Attorney General Mary S. Williams

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

 ORIGINAL

Certiorari to Orangeburg County
Edgar W. Dickson, Circuit Court Judge

RECEIVED

MAR 01 2012

JOHN ALLEN RANDOLPH,

PETITIONER,

S.C. Supreme Court

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

MOTION FOR AN EXTENSION OF TIME
IN WHICH TO FILE THE PETITION FOR WRIT OF
CERTIORARI AND APPENDIX

(2)

Counsel for John Allen Randolph respectfully requests an extension of thirty (30) days in which to file the petition for writ of certiorari and appendix in this case. This motion is made pursuant to the Order of the South Carolina Supreme Court dated March 18, 2009. This is a second request for an extension. In support of this request, counsel shows:

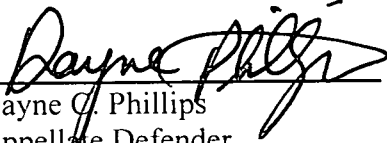
1. The petition for writ of certiorari and appendix is due to be served and filed with the Court today, March 1, 2012.
2. Counsel for Mr. Randolph respectfully submits that extraordinary circumstances exist which warrant the granting of an additional extension of time. Given the number of extensions previously granted and the order in which counsel attempts to manage his caseload, counsel hopes that no further extension requests will be required.
3. On February 16, 2012 counsel filed the petition for writ of certiorari and appendix in William Head v. State. On February 13, 2012 counsel had an oral argument in State v. Adrian

Eaglin. On February 8, 2012 counsel filed the initial brief of appellant and designation of matter in Robert Lee Banks v. State. On February 2, 2012 counsel filed the initial brief of appellant and designation of matter in Dan Williams v. State. On January 26, 2012 counsel filed the petition for writ of certiorari and appendix in Joshua Manning v. State. On January 18, 2012 counsel filed the petition for writ of certiorari and appendix in Jeffrey Higgins v. State. On January 17, 2012 counsel filed the petitions for writ of certiorari and appendices in Billy James Lupo v. State and Stanley O. Williams v. State. On January 9, 2012 counsel filed the petitions for writ of certiorari and appendices in Joseph Samuel Whitt v. State and Edward Thompson v. State. On January 5, 2012 counsel filed the petition for rehearing in State v. Bradley Scott Senter. On January 3, 2012 counsel filed the petition for writ of certiorari and appendix in Willie James v. State.

4. Counsel makes this request in good faith and not for purpose of delay.
5. Counsel for the Attorney General's office has been informed of this request.

WHEREFORE, the undersigned counsel would respectfully request a thirty day extension, in which to file the petition for writ of certiorari and appendix in this case based upon the above exigent circumstances. Counsel requests that time limits for filing the petition be held in abeyance pending a ruling on this motion.

Respectfully submitted,


Dayne C. Phillips
Appellate Defender

Attorney for Petitioner

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Orangeburg County
Edgar W. Dickson, Circuit Court Judge

JOHN ALLEN RANDOLPH,

PETITIONER,

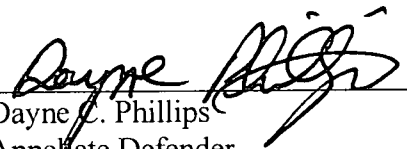
V.

STATE OF SOUTH CAROLINA,

RESPONDENT

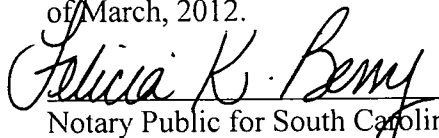
CERTIFICATE OF SERVICE

I certify that a true copy of the motion for an extension of time in which to file the petition for writ of certiorari and appendix in the above case has been served upon Mary Williams, Esquire, this 1st day of March, 2012.


Dayne C. Phillips
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 1st day
of March, 2012.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: June 21, 2020.

The Supreme Court of South Carolina

John Allen Randolph, Jr., Petitioner,

v.

State of South Carolina, Respondent.

The Honorable Edgar W. Dickson
Orangeburg County
Trial Court Case No. 2010-CP-38-00932

ORDER

The request for an extension until March 1, 2012 to serve and file the Petition for Writ of Certiorari and Appendix is granted. Pursuant to this Court's order dated March 18, 2009, any further extension request must be based on a showing of good cause.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY *Wanda J. Shealy*
Clerk

Columbia, South Carolina *Chief Deputy*

February 1, 2012

cc: Appellate Defender Dayne C. Phillips
Assistant Attorney General Mary S. Williams



ORIGINAL

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

January 31, 2012

RECEIVED

JAN 31 2012

S.C. Supreme Court

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

Re: John Allen Randolph v. State of South Carolina

Dear Mr. Shearouse:

The petition for writ of certiorari and appendix in the above-referenced case are due to be served and filed today. Because of my present workload, I respectfully request a thirty-day extension of this deadline. No prior extensions have been requested in this case.

By copy of this letter to Assistant Attorney General Mary Williams, I am informing her of this request.

Thank you for your assistance in this matter.

Sincerely,

Dayne C. Phillips
Assistant Appellate Defender

DCP/fkb

cc: Mary Williams, Esquire



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1343
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

December 5, 2011

RECEIVED

DEC 5 2011

The Honorable Daniel E. Shearouse
Clerk, S.C. Supreme Court
Post Office Box 11330
Columbia, SC 29211

S.C. Supreme Court

Dear Mr. Shearouse:

The following case falls under the 60 day rule for appeals, and the date we received the transcript is listed to the side.

John Allen Randolph, Jr. v. State of South Carolina

12/2/2011

I would appreciate you beginning our time limits from the above date, and if you need additional information, or have any questions please contact me.

Thank you for your assistance in this matter.

Sincerely,

Sharon A. Graham
Administrative Coordinator



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
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Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

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SEP 15 2011

September 15, 2011

S.C. Supreme Court

Ms. Harry A. Walker
Circuit Court Reporter
P O Box 127
Rowesville, SC 29133-9133

Dear Ms. Walker:

Please provide us with the following transcript:

John Allen Randolph, Jr. v. State of South
Carolina

Case #: 10-CP-38-00932

County: Orangeburg

Date of Trial: March 8, 2011

Presiding Judge: Edgar W. Dickson

To ensure prompt payment, please sign and complete the enclosed CID FORM 3500 and include the original criminal case number (Indictment number) where the space is provided.

Please number the lines on the paper from 1-25, and include any and all recorded motions, pre and post-trial. Additionally, please transcribe the jury selection, and the State and defense counsel's opening and closing arguments.

If you are aware of any co-defendants or if the Attorney General's Office has already requested a transcript, please let us know.

Sincerely,

Sharon A. Graham
Administrative Coordinator

cc: S.C. Supreme Court
Attorney General's Office

The South Carolina Court of Appeals

~~George~~ John Allen Randolph, Jr.,
#338722,

Appellant,

v.

State of South Carolina,

Respondent.

The Honorable Edgar W. Dickson
Spartanburg County
Trial Court Case No. 2008-CP-42-00315

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AUG 23 2011

S.C. Supreme Court

ORDER

The appeal in the above captioned matter is transferred to the South Carolina Supreme Court under the filing provisions of Rule 243 of the South Carolina Appellate Court Rules.

IT IS SO ORDERED.

JOHN CANNON FEW, CHIEF JUDGE
For The Court

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc: James B. Jackson, Jr., Esq.
Chief Appellate Defender Robert M. Dudek
Assistant Attorney General Robert D. Corney
The Honorable Daniel Shearouse

FILED
8/22/11

NESTER & JACKSON, P.A.
Law Offices

James B. Jackson, Jr.
Attorney at Law

P. O. Drawer 349
631 Bass Drive
Santee, SC 29142

(803) 854-4484
Fax (803) 854-4485
jay@nesterjackson.com

August 17, 2011

The Honorable Jeanette Barber
Clerk, South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

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AUG 23 2011

S.C. Supreme Court

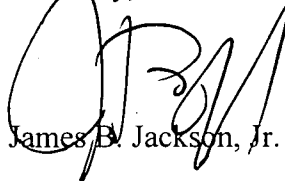
RE: State of South Carolina, Respondent
John Allen Randolph, Jr., Appellant
Case No. 2010-CP-38-0932

Dear Ms. Barber:

Enclosed please find for filing in the above referenced case the original and one copy of a Notice of Appeal, together with the Proof of Service and a copy of my appointment as Attorney for John Allen Randolph, Jr. and the Order of Dismissal. I would appreciate your filing the originals and returning a true copy to me in the envelope provided herein. By copy of this letter, I am serving these documents on Robert D. Corney of the Attorney General's Office, and on the Appellate Defense Commission. The Court reporter for the hearing held on March 8, 2011 was Harry Dot Walker.

With kind regards, I am

Sincerely,


James B. Jackson, Jr.

JBjr/jh
cc: Robert D. Corney, Esq.
Appellate Defense Commission

RECEIVED

AUG 18 2011

SC Court of Appeals

RECEIVED

AUG 23 2011

S.C. Supreme Court

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
South Carolina Court of Common Pleas

Edgar W. Dickson, Circuit Court Judge

Case No. 2010-CP-38-0932

FILED FOR RECORD
WINNIFER B. CLARK
CLERK OF COURT
ORANGEBURG, SC
2011 AUG 17 P 2:42

The State,Respondent.

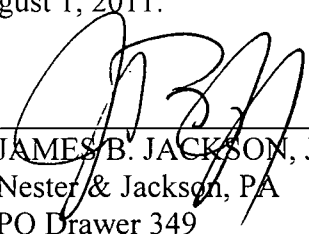
vs.

John Allen Randolph, Jr.,Appellant.

NOTICE OF APPEAL

John Allen Randolph, Jr. appeals denial of his post-conviction relief application in this case. The application was denied by Order of The Honorable Edgar W. Dickson dated July 8, 2011, which was received by counsel on August 1, 2011.

August 17, 2011



JAMES B. JACKSON, JR.
Nester & Jackson, PA
PO Drawer 349
Santee, SC 29142
(803) 854-4484
Attorney for Appellant

Other Counsel of Record:
Robert D. Corney, Esq.
Office of the Attorney General
PO Box 11549
Columbia, SC 29211-1549
(803) 734-3970
Attorney for Respondent

RECEIVED

AUG 18 2011

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

RECEIVED

AUG 23 2011

S.C. Supreme Court

APPEAL FROM ORANGEBURG COUNTY
South Carolina Court of Common Pleas

Edgar W. Dickson, Circuit Court Judge

Case No. 2010-CP-38-0932

FILED FOR RECORD
WINNIEA B. CLARK
CLERK OF COURT
ORANGEBURG, SC

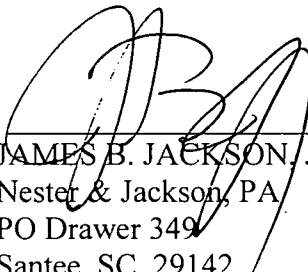
2011 AUG 17 P 2 49

The State, Respondent.
vs.
John Allen Randolph, Jr., Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Robert Corney, Esq., by depositing a copy of it in the United States Mail, postage prepaid, on August 9, 2011, addressed to The Attorney General's Office at PO Box 11549, Columbia, SC 29211-1549.

August 17, 2011



JAMES B. JACKSON, JR.
Nester & Jackson, PA
PO Drawer 349
Santee, SC 29142
(803) 854-4484
Attorney for Appellant

RECEIVED

AUG 18 2011

COURT OF APPEALS

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ORANGEBURG)
)
 John Allen Randolph, Jr., #338722,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS

2010-CP-38-0932

FILED FOR RECORD
 JAMES B. JACKSON
 CLERK OF COURT
 2011 JUL 18 P 2 32

ORDER OF DISMISSAL

This matter comes before the Court by way of an Application for Post-Conviction Relief filed June 29, 2010. An evidentiary hearing into the matter was convened on March 8, 2011, at the Orangeburg County Courthouse. The Applicant was present at the hearing and was represented by James B. Jackson, Esquire. The Respondent was represented by Mary S. Williams of the South Carolina Attorney General's Office.

At the hearing, the Applicant testified on his own behalf. Also testifying were Kelly Burbage, Esquire, ("Solicitor") and Carl Grant, Esquire ("Counsel"). This Court had before it the records of the Orangeburg County Clerk of Court and the Applicant's records from the South Carolina Department of Corrections. Pursuant to a letter from court reporter Harry A. Walker dated September 24, 2010, the court reporter was unable to locate her records from the Applicant's plea. Therefore, the parties reconstructed the guilty plea record. While the absence of a transcript is always of concern to the court, I find that the testimony developed at PCR hearing was sufficient to permit this court's review.



ATTEST: TRUE COPY
Winnifred B. Clark
 CLERK OF COURT
 ORANGEBURG COUNTY, SC

PROCEDURAL HISTORY

The records before this Court indicate that the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Orangeburg County Clerk of Court. The Applicant was indicted for Trafficking in Cocaine (100-200 grams) (2009-GS-38-0767), Unlawful Carrying of Pistol (2009-GS-38-0768), Trafficking in Methamphetamine or Cocaine Base (10-28 grams) (2009-GS-38-0766), Possession with Intent to Distribute ("PWID") Marijuana (2009-GS-38-0770). Carl Grant, Esquire, represented him. On January 4, 2010, the Applicant pled guilty. He was sentenced by the Honorable James C. Williams, Jr. to eight (8) years for Trafficking in Cocaine (28-100 grams), to one (1) year for Unlawful Carrying of a Pistol, to eight (8) years for Trafficking in Cocaine Base (10-28 grams), and to five (5) years for PWID Marijuana.¹ Applicant did not appeal his conviction and sentence.

In his application for post-conviction relief (PCR), Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - a. "Counsel failed to [undergo] a thorough investigation on the appellant's case."
2. "Denial of right to direct appeal after imposition of time sentence."
 - a. "Counsel failed to explain appeal process."
3. "Violation of due process of law with process of criminal indictment."
 - a. "Due process Violation: appellant did not receive all of Rule 5 motion of discovery."

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 at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony

¹ According to Clerk's records, four (4) additional charges of PWID within Proximity of a School or Park, one charge of Possession of Cocaine, and a charge of Unlawful Pistol were dismissed pursuant to the plea.

accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80.

Ineffective Assistance of 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) (citing Rule 71.1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland, supra). Second, counsel's deficient performance must have prejudiced the Applicant such 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, 386 S.E.2d at 625. "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). With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

Failure to Investigate

Applicant testified that he met with Counsel two (2) or three (3) times and that he spoke with Counsel by telephone two (2) or three (3) times. Applicant stated that he discussed with Counsel his right to a jury trial. He also discussed aspects of the case he felt were important such as the failure of the officers to read his Miranda rights. Applicant stated that he asked for Counsel's opinion regarding trial; Applicant did not like Counsel's answer and chose to plead guilty. Applicant was gravely concerned with the possibility of a lengthy sentence if convicted at trial. Applicant stated that had been a risk he did not want to take.

Counsel reiterated Applicant's grave concern that he faced a minimum of twenty-five (25) years if convicted at trial. Counsel stated that he was retained on February 24, 2009. Counsel stated that his practice is to meet with a new client to discuss the client's version of facts. Counsel stated that he provides discovery to his clients upon receipt so that they may review the evidence and present questions and concerns. Counsel reviewed his file and noted numerous meetings with Applicant. Counsel stated that the decision to plead guilty was Applicant's, and he made sure that Applicant made an informed decision. Counsel explained that pre-trial motions to suppress evidence

could be made, but if unsuccessful Applicant risked a twenty-five (25) year minimum sentence. Counsel discussed the police report and the consent to search. Based on Applicant's trepidation with the lengthy sentence, Counsel engaged in plea negotiations, highlighting positive aspects such as Applicant's lack of criminal record and prior military service. The eight (8) year recommendation was the best deal he was able to negotiate. The solicitor further noted that trial was not imminent.

I find that counsel's performance was not deficient under these circumstances. Applicant, having discussed the possibility of a jury trial with Counsel, freely sought to pursue an advantageous plea offer that would minimize his sentence exposure. I further find that Applicant has failed to demonstrate what additional investigation would have yielded and that any such evidence would have affected his decision to plead guilty, especially given his concern with the potential sentence. See Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998) (no prejudice where claim of failure to investigate is supported only by mere speculation as to the result). For these reasons, I find that counsel was not ineffective with regard to his investigation.

Direct Appeal

Applicant further asserts that Counsel's failure to advise him regarding a direct appeal constitutes ineffective assistance of counsel. Counsel has a constitutionally-imposed duty to consult with a defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal, or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. Roe v. Flores-Ortega, 528 U.S. 470, 120 S.Ct. 1029 (2000). Applicant testified that Counsel did not consult with him about an appeal and that he later attempted to contact Counsel about an appeal. Counsel, however, testified that he informed Applicant about the ten (10)

day window in which to file an appeal, noting that there was no reason to appeal where Applicant received the beneficial sentence. Counsel stated that Applicant gave no indication that he wanted to appeal. I find Counsel's testimony to be credible. The plea offer was for eight (8) years, and he in fact received an eight (8) year sentence. There is no evidence that any nonfrivolous appealable issue was raised during the plea. Under these circumstances, I find Counsel's failure to consult with Applicant about an appeal in this case not unreasonable. Therefore, I find that Applicant has failed to carry his burden of showing that he is entitled to a belated direct appeal.

Other Allegations

No other allegations were raised at the PCR hearing. Therefore, any additional allegations are deemed waived because no evidence was presented.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

This Court advises Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order to secure the appropriate appellate review. His attention is also directed to South Carolina Appellate Court Rule 227 for appropriate procedures after notice has been timely filed.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be DENIED

AND DISMISSED WITH PREJUDICE; and

2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 8th day of July, 20 11.



EDGAR W. DICKSON
Presiding Judge
First Judicial Circuit

Orangeburg, South Carolina.

DEFENSE OF INDIGENTS ACTS

FORM NO. IV

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA

ORDER OF APPOINTMENT OF LEGAL
COUNSEL FOR INDIGENT DEFENDANT

VS

John Allen Randolph

The defendant contends that (s)he is indigent and in need of services of an Attorney as contemplated by law. THEREFORE, Jay Jackson Attorney-at-Law, is appointed as counsel for the defendant.

CHARGES: PCR 2010-CP-38-0932

WARRANT #

CHARGE

RECEIVED

AUG 18 2011

SC Court of Appeals

James B. Jackson, Jr., Esq.
Nester & Jackson
PO Drawer 349
Santee, SC 29142

COLUMBIA SC
17 AUG 2011 PM



*George
John
Allen
Randolph, Jr.*

Jeanette Barber, Clerk
South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

29211+1629

