

HOWLE LAW FIRM



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December 22, 2013

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

RECEIVED
DEC 27 2013
S.C. Supreme Court

IN RE: Ronald Francis Cameron vs. State
Case No.: 2012-CP-16-0642

Daniel:

Please find enclosed a Notice of Appeal, Motion, and Certificate of Service in reference to the above captioned matter. Although this matter was heard in July, and the Order was signed in October, I did not receive a filed copy of the Order until December 17, 2013, despite repeated requests from my office to both the Judge and the office of the Attorney General. As such, I have filed a Motion requesting that any time limitations in regards to same be waived, as any delay in regards to this Notice of Appeal is no fault of my own. Please contact me should you need anything further, and please do not hesitate to contact me with any questions or concerns.

With warmest, personal regards, I remain,

Yours very truly,

Parker E. Howle
PARKER E. HOWLE

PEH:abs
Enclosure(s)

CC: Karen C. Ratigan; Robert M. Dudek; Honorable Alan Wilson; Ronald F. Cameron

THE STATE OF SOUTH CAROLINA

SUPREME COURT

NOTICE OF APPEAL FROM DARLINGTON COUNTY
Court of General Sessions

R. Ferrell Cothran, Jr., Circuit Court Judge

Case No.: 2012-CP-16-0642

RECEIVED
DEC 27 2013
S.C. Supreme Court

Ronald Francis Cameron,
S.C.D.C. No.: 279627

v.

Appellant

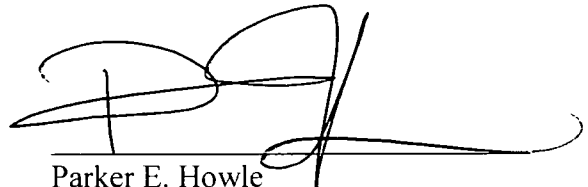
State of South Carolina,

Respondent.

STATEMENT PURSUANT TO RULE 203(d)(1)(B)(iv)

Appellant's application for Post-Conviction Relief was heard on July 16, 2013 and dismissed by Order of the Court dated October 15, 2013. Undersigned counsel files this appeal at the request of Appellant and pursuant to *In re Anonymous Member of the Bar*, 303 S.C. 306, 400 S.E.2d 483 (1991), as well as *Weathers v. State*, 319 S.C. 59 (1995). Counsel knows of no issue that can be reviewed on appeal.

Date: December 22, 2013



Parker E. Howle
Attorney for PCR Applicant
Post Office Box 186
Darlington, SC 29540

THE STATE OF SOUTH CAROLINA

SUPREME COURT

RECEIVED

DEC 27 2013

MOTION

Case No.: 2012-CP-16-0642

S.C. Supreme Court

Ronald Francis Cameron,
S.C.D.C. No.: 279627

v.

Appellant

State of South Carolina,


Respondent.

STATEMENT PURSUANT TO RULE 203(d)(1)(B)(iv)

This matter is before the Court in regards to an Application for Post-Conviction Relief, filed by Appellant on July 20, 2012. This matter was heard by the Honorable R. Ferrell Cothran, Jr. on July 16, 2013. This matter was taken under advisement, and an Order of Dismissal was signed by the Court on October 18, 2013. Said Order was filed on October 23, 2013 and was not received by Counsel until on or about December 17, 2013, despite repeated request by Counsel for Appellant. At this time, Appellant requested for this Notice of Appeal be filed on his behalf. Counsel requested any time limitations be waived and this Notice of Appeal be submitted on Appellant's behalf, because, as stated above, Appellant's Counsel did not receive a signed copy of the Order of Dismissal until the date listed above.

Date: December 22, 2013

I SO MOVE:



Parker E. Howle
Attorney for PCR Applicant
Post Office Box 186
Darlington, SC 29540

THE STATE OF SOUTH CAROLINA

SUPREME COURT

NOTICE OF APPEAL FROM DARLINGTON COUNTY
Court of General Sessions

RECEIVED

DEC 27 2013

Case No.: 2012-CP-16-0642

S.C. Supreme Court

Ronald Francis Cameron,
S.C.D.C. No.: 279627

v.

Appellant

State of South Carolina,

Respondent.

CERTIFICATE OF SERVICE

I, Parker E. Howle, certify that I have, this 22nd day of December, 2013, served a copy of this Notice of Appeal, Motion and Certificate of Service in connection with the above matter upon the parties to this action listed below by depositing same in United States Regular Mail, postage pre-paid and addressed as follows:

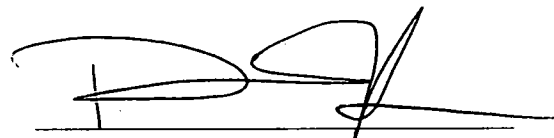
Daniel E. Shearhouse
Clerk of Court
Supreme Court of South Carolina
Post Office Box 11330
Columbia, SC 29211

Robert M. Dudek
Chief Appellate Defender
Office of Indigent Defense
1330 Lady St., Suite 401
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Karen C. Ratigan
Assistant Deputy Attorney General
Post Office Box 11549
Columbia, SC 29211

The Hon. Alan Wilson
SC Attorney General
Post Office 11549
Columbia, SC 29211

Ronald Francis Cameron
SCDC No.: 279627
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210



Parker E. Howle
Attorney for PCR Applicant
Post Office Box 186
Darlington, SC 29540

COPY

STATE OF SOUTH CAROLINA)
)
COUNTY OF DARLINGTON)
)
Ronald Francis Cameron,)
S.C.D.C. No. 279627,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)

IN THE COURT OF COMMON PLEAS

2012-CP-16-0642

ORDER OF DISMISSAL

FILED
2013 OCT 23 PM 12:04
SCOTT B. SUGGS
CLERK OF COURT
DARLINGTON COUNTY, S.C.

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed July 20, 2012. The Respondent made its return on October 8, 2012. An evidentiary hearing into the matter was convened on July 16, 2013 at the Darlington County Courthouse. The Applicant was present at the hearing and represented by Parker E. Howle, 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, Tonya Copeland-Little, Esquire. The Court had before it the trial transcript, the Darlington 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 Darlington County Clerk of Court. The Applicant was indicted at the October 2008 term of the Darlington County Grand Jury for petit larceny (2008-GS-16-1314) and first-degree burglary (2008-GS-16-1315). He was represented by Tonya Copeland

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Little, Esquire.

After the State called the case to trial, the Applicant was found guilty. On September 23, 2009, the Applicant was sentenced by the Honorable Howard P. King to concurrent terms of thirty days for petit larceny and twenty-five years for first-degree burglary.

A notice of appeal was filed on the Applicant's behalf at the South Carolina Court of Appeals. Kathrine H. Hudgins, Esquire of the South Carolina Office of Appellate Defense perfected the appeal in the form of an Anders¹ brief. The Court of Appeals dismissed the appeal. State v. Cameron, Op. No. 2012-UP-254 (S.C. Ct. App. filed May 2, 2012).

ALLEGATIONS

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

1. Ineffective assistance of trial counsel:
 - a. "Failure to challenge the unlawfully obtained D.N.A."
2. Ineffective assistance of appellate counsel:
 - a. "Failure to challenge the unlawfully obtained D.N.A. on appeal."
3. "[E]rroneous advice."

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).

¹ Anders v. California, 386 U.S. 738, 87 S. Ct. 1396 (1967).

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Ineffective Assistance of Trial Counsel

The Applicant alleges he received ineffective assistance of trial 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 had numerous meetings with trial counsel and they discussed his version of events and some of the State’s evidence. The Applicant stated they discussed that his DNA matched that found in the house. The Applicant stated he told plea counsel how his blood ended up in the victim’s house and why he had cuts on his hands. The Applicant admitted he testified at trial in order to explain this to the jury. The Applicant stated trial counsel should have challenged the DNA test in this case.

Trial counsel testified she filed discovery motions in this case, received those materials, and reviewed them with the Applicant. Trial counsel testified she explained how the evidence regarding the ring was harmful to their case and that the DNA evidence was “devastating.” Trial

counsel testified they discussed the Applicant's version of events and that the Applicant said he had been framed by the police. Trial counsel testified there was an initial DNA swab in this case, but that it was suppressed because the Applicant did not consent. Trial counsel testified there was then a Schmerber² hearing and the subsequent test indicated the Applicant's DNA was a match. Trial counsel testified she did not object to the DNA report at trial because there was no arguable reason to object. Trial counsel testified the State made a twenty-year plea offer in this case but that the Applicant rejected it and asked her to make a counter-offer for a ten-year, non-violent sentence – which the State rejected.

This Court finds the Applicant's testimony is not credible, while also finding trial counsel's testimony is credible. 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 should have challenged the DNA report. Trial counsel testified the initial DNA swab was suppressed. Trial counsel testified a Schmerber hearing was conducted and, while she argued against it, the State prevailed. Trial counsel testified there was no legal basis to challenge the admission of the DNA report at trial. This Court finds trial counsel's testimony is credible. This Court finds the Applicant has failed to meet his burden of proving trial counsel did not properly handle the DNA issue because he failed to articulate a legal basis upon which trial counsel could have challenged the admission of the DNA evidence at trial. See Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (holding that, in a post-conviction relief proceeding, the applicant bears the burden of proving the allegations in their application). Regardless, the State presented additional

² Schmerber v. California, 384 U.S. 757, 86 S. Ct. 1826 (1966).

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DARLINGTON COUNTY, SC

evidence of his guilt. A distinctive ring stolen from the victim's home – and recovered in a pawn shop – was traced back to the Applicant. (Trial transcript, pp.42-43; pp.62-63; pp.79-81). The Applicant was also identified as having bleeding cuts on his hands (and the victim's home had broken glass and blood on the floor). (Trial transcript, pp.36-37; p.39; p.43; p.61; pp.79-81; p.105). As such, the Applicant cannot prove he was prejudiced by the admission of the DNA evidence at trial. 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 overwhelming evidence of guilt).

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 174.³

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.

³ This Court notes the Applicant alleged ineffective assistance of appellate counsel in his PCR application but did not present any evidence or testimony regarding this issue at the PCR hearing. As such, this Court finds the issue has been abandoned.

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CONCLUSION

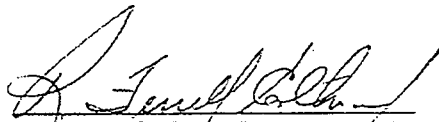
Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient and the Applicant was not prejudiced by counsel's representation. Therefore, this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

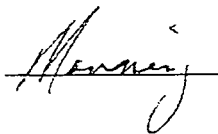
This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate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

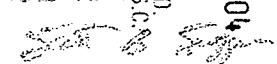
IT IS THEREFORE ORDERED:

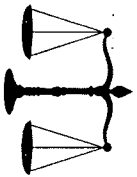
1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 18 day of Oct, 2013.


R. Ferrell Cothran, Jr.
Presiding Judge

 South Carolina.

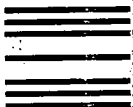
FILED
2013 OCT 23 PM 12:04
SCOTT B. SHERROD
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