

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

Honorable Edgar W. Dickson, Circuit Court Judge

Case No.: 2011-CP-02-00729

Chad Everette Williams, #303225,Petitioner,

v.

State of South Carolina,Respondent.

NOTICE OF APPEAL

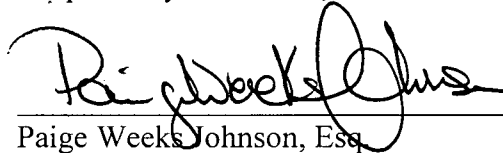
The Petitioner, Chad Everette Williams, appeals the Honorable Edgar W. Dickson's April 9, 2014 Order of Dismissal denying post-conviction relief to the Petitioner. Undersigned counsel received notice of entry of the order on April 14, 2014. A copy of the Order of Dismissal on appeal is attached to this notice.

RECEIVED

APR 18 2014

S.C. SUPREME COURT

Respectfully Submitted,



Paige Weeks Johnson, Esq.
P.O. Box 2619
117 Pendleton Street, NW
Aiken, SC 29802
(803) 649-5338

Date: April 15, 2014

Other counsel of record:

Daniel Francis Gourley, II, Esq.
SC Attorney General's Office
P.O. Box 11549
Columbia, SC 29211-1549

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

Honorable Edgar W. Dickson, Circuit Court Judge

Case No.: 2011-CP-02-00729

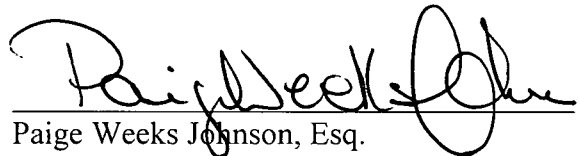
Chad Everette Williams, #303225,Petitioner,

v.

State of South Carolina,Respondent.

PROOF OF SERVICE

I, Paige Weeks Johnson, certify that I have today served the within notice of appeal upon the Respondent by depositing a copy of it in the United States Mail, postage prepaid, addressed to its attorney of record, Daniel Francis Gourley, II, SC Attorney General's Office, P.O. Box 11549, Columbia, SC 29211. I further certify that all parties required by Rule to be served have been served this 15th day of April, 2014.



Paige Weeks Johnson, Esq.
P.O. Box 2619
117 Pendleton Street, NW
Aiken, SC 29802
(803) 649-5338

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
FOR THE SECOND JUDICIAL CIRCUIT

Chad Everett Williams, #303225,)

Case No. 2011-CP-02-00729

Applicant,)

v.)

ORDER OF DISMISSAL

State of South Carolina,)

Respondent.)

4.14.2014
Liz Loder
Deputy Clerk
Anita Knoepfle
Deputy Clerk

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on April 1, 2011 and amended on January 9, 2014. Respondent made its return on September 12, 2011. An evidentiary hearing into the matter was convened on January 21, 2014, at the Aiken County Courthouse. Applicant was present at the hearing and was represented by Brett Lancer, Esquire. Respondent was represented by Assistant Attorney General Daniel Gourley of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The records before this Court indicate the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Aiken County Clerk of Court. The Applicant was indicted at the July 2007 term of the Aiken County Grand Jury for Murder (2007-GS-02-1308) and Burglary in the First Degree (2007-GS-02-1309). David Miller, Esquire, represented him. On October 20-22, 2008, Applicant proceeded to a jury trial before the Honorable R. Ferrell Cothran, Jr., Applicant was found guilty and on October 22, 2008, Applicant was sentenced to life imprisonment for Murder and twenty-five years imprisonment for Burglary, First. All sentences were to be served concurrently.

A timely Notice of Appeal was filed on Applicant's behalf and an Anders brief was perfected by Joseph L. Savitz, III, Esquire. The Applicant submitted a Brief of Appellant on December 4, 2009. The South Carolina Court of Appeals dismissed the Applicant's appeal. State v. Williams, Op. No. 2010-UP-505 (S.C. Ct. App. filed November 12, 2010). The Remittitur was sent on December 23, 2010.

ALLEGATIONS

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on the following allegations:

1. Ineffective Assistance of Counsel.
 - a. "Counsel failed to object to the introduction of certain pieces of evidence that should have been objected to and therefore prejudiced the applicant."
 - b. "Counsel failed to object to the jury charge instructing that malice may be inferred from the use of a deadly weapon."
 - c. "Counsel failed to properly object to the introduction of the confession during the Jackson v. Denno hearing."
 - d. "Counsel was ineffective of advising application to confess to the crimes of Murder and Burglary as the confession was used to convict applicant at trial."
 - e. "Counsel failed to request the jury instruction of accessory after the fact."
 - f. "Counsel failed to adequately prepare for trial and develop a trial strategy."
 - g. "Brady violations."
 - h. "Counsel failed to object to testimony of state witnesses and failed to object to testimony of state witnesses and failed to effectively cross examine the state witnesses."

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. The State presented testimony from trial counsel, David Miller, Esquire (Counsel). This Court also had before it a copy of trial transcript, the Aiken County Clerk of Court records, Appellate Records, the Applicant's South Carolina Department of Corrections records, the PCR application, and the

ES

return.

During the evidentiary hearing, Applicant testified that David Miller (Counsel) was his attorney and represented him during trial. Applicant stated he met with Counsel approximately five times. Applicant recalled reviewing discovery with Counsel. Applicant stated he did not discuss any defenses with Counsel because they were waiting on the SLED DNA results. Applicant stated there was a plea deal offered, but he refused to accept it because the sentences were going to be run consecutively. Applicant stated he went to trial four days after refusing the plea deal. Applicant stated he was convicted and sentenced on October 22, 2008. Applicant stated he was convicted of Murder and Burglary-First Degree. Applicant stated he was sentenced to life without the possibility of parole for Murder and twenty-five years for Burglary-First Degree with the sentences to run concurrently.

Regarding the first allegation, Applicant stated Counsel should have objected to certain pieces of evidence that were introduced at trial. Specifically, Applicant stated that a pair of white socks was introduced at trial. Applicant stated his DNA was found on this pair of white socks and he was unaware of the socks prior to trial. Applicant alleged that it amounted to a Brady Violation.

Regarding Applicant's second issue, Applicant argues that the jury charge was improper because the trial court instructed the jury on inferred malice. Specifically, the court instructed the jury that malice can be inferred from the use of a deadly weapon. Applicant argued under State v. Belcher, 385 S.C. 597, 685 S.E.2d 802 (2009) that the jury instruction that malice may be inferred from the use of a deadly weapon is no longer good law in South Carolina. Applicant argued that the jury charge as given was burden shifting and Counsel should have objected to this charge as instructed.

Concerning Applicant's third issue, Applicant stated Counsel should have objected to the introduction of the confession during the Jackson v. Denno hearing because he was taking fifteen milligram Lorazepam. Applicant further stated that six to seven months prior to his confession he had been taking antipsychotic medication because a doctor prescribed the medication while at Aiken County Detention center. Applicant stated the jail gave him the pills and the Doctor would come to see him once or twice a month. However, Applicant could not recall the Doctor's name. Applicant stated he gave two separate statements on July 2, 2008. Applicant stated the statements were not knowingly and voluntarily given due to the medication. Applicant stated the pills would "mellow him out." However, Applicant stated he never told Counsel that he was on medication. Applicant concluded that Counsel should have objected to the admission of the confession.

Regarding Applicant's fourth allegation, Applicant alleged that Counsel was ineffective for advising him that he should plead guilty. Applicant stated Counsel advised him that he would ultimately be found guilty and the best possible scenario was to confess to the crime in hopes of getting an offer. Applicant stated when he confessed there was no offer on the table and that Counsel hoped the State would offer something once Applicant confessed to the crime. Applicant stated he agreed to give confession. Applicant stated he confessed in hopes of getting an offer to avoid the possibility of life without parole. Applicant stated four days later they went to trial and the State's case was stronger due to the confession.

Concerning Applicant's fifth allegation, Applicant stated Counsel should have requested the jury instruction of accessory after the fact. Applicant stated his assistance in the crime was to dispose of the evidence. Applicant argued that Crystal Jackson's (Jackson) testimony stated Applicant went to go get lighter fluid to burn the evidence. ~~for~~

Regarding Applicant's sixth allegation, Applicant stated Counsel sole skill and strategy centered around getting Applicant to plead guilty. Applicant stated that Counsel failed to put up an adequate defense. Applicant stated he did not feel comfortable going to trial, but Counsel stated that he was prepared to go to trial. Applicant stated that months leading up to trial he wanted a fast speedy trial, but they were waiting on SLED. Applicant stated he felt Counsel should have presented a better defense. Applicant stated he felt Counsel was not prepared. Applicant stated they wanted last argument so they didn't put up any evidence. Applicant stated he wanted to pursue a bond. Applicant stated he was denied bond because he could not pay the 1.5 million bond.

Concerning Applicant's seventh and eighth allegation, Applicant stated counsel failed to object to Lilly Gallman testimony regarding the introduction of certain pieces of DNA evidence. Applicant stated that there was a hair found on a sock. Applicant argued Counsel should have objected to the DNA found on the sock because it was a Brady Violation.

Following Applicant's testimony, Counsel was called to testify by the State. Counsel stated he has been practicing law since November 2004. Counsel stated he was appointed to represent Applicant in late 2007. Counsel stated he communicated with Applicant through various jail visits, collect calls, and written letters. Counsel stated he had Roger Sharpe (Investigator Sharpe), an investigator, helping with the case. Counsel could not recall who Investigator Sharpe investigated and stated his involvement was limited. Counsel stated he went to the detention center six to ten times to meet with Applicant. Counsel stated there may have been additional meetings, because it was his typical practice to meet with all clients when he visited the jail. Counsel stated he first met the Applicant in jail and they discussed Applicant's version of the facts. Counsel stated he explained the process and Applicant was very adamant

that he wanted to get out of jail. Counsel stated Applicant had decided that he had to get out of jail and requested a bond hearing. Counsel stated Applicant was initially denied bond. Counsel stated he filed for a motion for a speedy trial on February 14, 2008. Counsel stated once that time period expired, he again filed for a bond hearing and it was heard in May 2008 before the Honorable Doyet A. Early, III. Counsel stated Judge Early set a bond for 1.5 million. Counsel stated Applicant became irate and yelled at Judge Early and eventually withdrew his motion for a bond thereby ending the possibility of receiving a bond.

Counsel stated during their first meeting he had not obtained discovery material. Counsel stated he filed Rule 5 and Brady motions and reviewed the material with Applicant in subsequent meetings. Counsel stated they did not physically see the white socks, but reviewed the DNA report regarding the socks. Counsel stated the DNA evidence came in on September 17, 2008. Counsel stated on September 24, 2008, he went to the jail and reviewed both the DNA results and the video recording of Police digging up the burnt evidence with Applicant. Counsel stated he also reviewed the taped interviews with Applicant. Counsel stated he had to get special permission to go into a big intake room to be able to play the videos and discuss the evidence with Applicant.

Counsel testified the evidence against Applicant was overwhelming. Specifically, Counsel stated the Victim was found dead in his home. Counsel stated law enforcement arrived and found that there was no sign of forced entry. Counsel stated Victim was hit in the head with two blunt objects. Counsel stated the police were able to link the occupants of a nearby house and eventually connected Applicant.

Counsel stated the major problem with Applicant was attempting to convince him that Crystal Jackson (Jackson) would be testifying against him at trial. Counsel stated Applicant did

not believe Jackson would testify against him. Counsel stated Applicant alleged Jackson was lying and came up with various reasons as to why she would be lying. Counsel stated Applicant's reasoning was not beneficial.

Counsel stated Applicant gave multiple versions of what occurred the night of the incident. Counsel stated Applicant's version of events would change when Counsel confronted him with the various "holes" in his version. Counsel stated ultimately Applicant gave a fourth version that in Counsel's opinion was very strong. Counsel stated, Applicant explained, that Jessie James Quarles (Quarles) committed the murder. Counsel stated Applicant admitted that both he and Jackson were scared of Quarles and as a result Jackson was lying. Counsel stated he could not find anything to contradict Applicant's version of events and felt that Applicant was finally telling the truth. Counsel stated he asked Investigator Sharpe to hear Applicant's story and Applicant again told a very detailed and similar story to Investigator Sharpe. Counsel stated he and Investigator Sharpe ultimately concluded Applicant was telling the truth. Counsel felt the story amounted to a complete defense.

Additionally, Counsel stated he discussed with Applicant about the possibility of taking a polygraph. Counsel stated Applicant agreed and he contacted the Solicitor office to arrange for a Polygraph test. Counsel stated on July 2, 2008 Applicant again told his story to Counsel, Investigator Sharpe, Bill Weeks (Solicitor), Bill Fleury, and Platt (polygraph administrator). Counsel stated Applicant and Platt went into a room to take the polygraph. Counsel stated while in the room Bill Fleury (Solicitor) stated he did not believe the story because Jessie Quarles was in prison in Edgefield County during this incident. Counsel stated Applicant ultimately failed the polygraph and admitted that he was lying. Counsel stated Applicant was concerned and did not know what to do next. Counsel stated he advised Applicant that if he did not cooperate with

the State then they have no reason help him. Counsel stated as a result, Applicant sat down and told the truth. Counsel stated it was very detailed and quick. Counsel stated Applicant explained that Jackson was with him the entire time and they were looking for money and drugs. Counsel stated Applicant recalled going to the back bed room and a dog barked arousing the Victim. Counsel stated Applicant said the Victim reached underneath his pillow and Applicant kept hitting him as a result. Counsel stated Applicant said Jackson came in and saw what happened and fled. Counsel stated Applicant said they bagged the clothing, dug a hole, and burned it. Counsel stated Applicant's confession was significant because it contradicted Jackson's statement to the police. Counsel stated it was always his belief that Jackson played an integral role in the murder of the Victim.

Counsel stated Applicant was indicted for Burglary First and Murder, but was not indicted for accessory after the fact and therefore he could not request a jury charge on accessory after the fact. Counsel stated that after the Quarles story fell through the goal was to get an offer. Counsel felt that if Applicant pled guilty straight up that there was a strong possibility that he would receive life in prison because Applicant had a previous Burglary-2nd (violent). Additionally the circumstances surrounding the death of the Victim did not lead to a favorable sentence in Counsel's opinion. Counsel stated the State offered Applicant a plea deal after his confession, where Applicant would receive thirty years for murder and fifteen years suspended to ten years for Burglary -First Degree to run consecutively. Counsel stated Applicant ultimately refused to accept the plea deal because he did not feel the sentences should run consecutively.

Counsel stated the State set the case for trial four days later. Counsel stated he was prepared for trial and had been preparing the case for six months. Counsel stated if he was not prepared he would have requested a continuance. Counsel stated he felt he adequately cross-

examined the State's witnesses. Counsel stated his trial strategy was to attack the credibility of the State's witnesses and point out the inconsistencies of their stories. Counsel stated he did not want to cross-examine Lilly Gallman concerning the DNA evidence, because he did not want to point out to the jury, yet again, that Victim's DNA was found on Applicant's clothing.

Counsel stated he did not feel he had any basis for an objection regarding the jury charge on inferred malice. Counsel stated the trial was held October 20-21, 2008 and the Belcher decision was not decided until approximately one year later. Counsel stated the Belcher decision overturned twenty plus years of precedent in South Carolina. Counsel stated regardless there was no evidence that would excuse, justify or mitigate the use of a deadly weapon. Counsel clarified stating there was no self-defense claim. Counsel stated he advised Applicant of his right to testify and Applicant ultimately chose to testify and present a defense. Counsel stated he did not want Applicant to testify because he had a horrible prior record, had already given a confession admitting to the crime, and felt that Applicant would "fold like a cheap suit" during the State's cross examination. Counsel stated Applicant never told him that he was on any type of medication.

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 accordingly. Specifically, this Court finds that Counsel's testimony is very credible while Applicant's testimony is ^{not} ~~less~~ credible. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

In a post-conviction relief action, the Applicant has the burden of proving the allegations

in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). 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, (1984); Butler, 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, 286 S.C. 441, 334 S.E.2d 813 (1985). Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989):

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. 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). 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.

INEFFECTIVE ASSISTANCE OF COUNSEL

Counsel failed to object to the introduction of certain pieces of evidence and to Lilly Gallman's testimony.

This Court finds Applicant's allegation that he was denied effective assistance of counsel for failing to object to the introduction of certain pieces of evidence that should have been objected is without merit. This Court finds that it is unclear from the hearing whether there were

any legitimate issues with the introduction of this evidence, but Applicant stated that there were inconsistencies in the record about where the sock was found. Counsel stated that he did not cross-examine the DNA expert's testimony relating to the sock because he did not want to draw more attention to the fact that the Applicant's and victim's DNA were on the sock. The decision not to object to the introduction of the sock was reasonable. The Court does not believe that even if there was anything improper about the admission of the sock as evidence, the result of the proceeding would have been different had trial counsel objected. Furthermore, Applicant failed to show sufficient prejudice as a result of Counsel's alleged deficiency. As a result, this Court finds the allegation should be denied and dismissed with prejudice.

Counsel failed to object to the jury charge instructing that malice may be inferred from the use of a deadly weapon.

This Court finds Applicant's allegation that he was denied effective assistance of counsel for failing to object to the jury charge instructing that malice may be inferred from the use of a deadly weapon is without merit. Counsel stated he did not feel he had any basis for an objection regarding the jury charge on inferred malice. Counsel stated the trial was held October 20-21, 2008 and the Belcher decision was not decided until approximately one year later. Counsel stated the Belcher decision overturned twenty plus years of precedent in South Carolina. Counsel stated, regardless there was no evidence that would excuse, justify, or mitigate the use of a deadly weapon. Counsel clarified stating there was no self-defense claim. This Court finds Applicant's case was held on October 20-21, 2008. The Belcher decision was not decided until October 2009. This Court finds Counsel's actions reasonable. See Gilmore v. State, 314 S.C. 453, 445 S.E.2d 454 (1994) (attorney is not required to be clairvoyant or anticipate changes in the law which were not in existence at time of trial), overruled on other grounds by Brightman v.

State, 336 S.C. 348, 520 S.E.2d 614 (1999).

Counsel failed to properly object to the introduction of the confession during the Jackson v. Denno hearing.

This Court finds Applicant's allegation that he was denied effective assistance of counsel for failing to properly object to the introduction of the confession during the Jackson v. Denno hearing because Applicant was on medication is without merit. Applicant testified that he was taking Lorazepam and therefore his confession was not knowingly, voluntarily, and intelligently given. However, Applicant testified that he did not tell Counsel that he was on Lorazepam. Furthermore, Counsel confirmed Applicant's testimony, stating that Applicant never informed him he was on medication. Counsel further stated Applicant appeared cogent during his confession. It is generally accepted that trial counsel cannot be held ineffective for failing to anticipate every possible event or outcome. Reasonable efforts and performance are all that is required of trial counsel. See Thornes v. State, 310 S.C. 306, 426 S.E.2d 764 (1993) (finding trial counsel was not ineffective for failure to interview the victim who already gave a damaging statement to the police - counsel, "unless clairvoyant, could not have reasonably known that any additional benefit would accrue to his client"). This Court finds Counsel's actions reasonable. Furthermore, Applicant failed to show sufficient prejudice as a result of Counsel's alleged deficiency. As a result, this Court finds the allegation should be denied and demised with prejudice.

Counsel was ineffective of advising Applicant to confess to the crimes of Murder and Burglary as the confession was used to convict applicant at trial.

This Court finds Applicant's allegation that he was denied effective assistance of counsel for advising Applicant to confess to the crimes of Murder and Burglary is without merit. Counsel stated Applicant wanted to receive a plea offer. Counsel informed Applicant that in order to

receive a plea offer he was going to have to cooperate. Counsel explained that the evidence was overwhelming and the State had no reason whatsoever to offer Applicant any type of plea deal. Counsel further stated he had grave concerns about pleading straight up due to the factual circumstances of the case. This Court finds Counsel's actions were reasonable given the overwhelming evidence against Applicant and his hopes for a plea deal. See Ford v. State, 314 S.C. 245, 442 S.E.2d 604 (1994).

Counsel failed to request the jury instruction of accessory after the fact.

This Court finds Applicant's allegation that he was denied effective assistance of Counsel for failing to request the jury instruction of accessory after the fact is without merit. Counsel testified that Applicant had not been indicted for accessory after the fact. Furthermore, after a thorough review of both the record and testimony presented during the post-conviction relief hearing, this Court does not believe that the decision not to request this jury charge was unreasonable, as there appears to be little evidence that would support such a charge. In any case, such a charge would not likely have changed the result of the proceeding. Therefore, this Court finds Counsel's action reasonable and Applicant has failed to allege sufficient evidence to show any resulting prejudice. As a result, this Court finds the allegation should be denied and dismissed with prejudice.

Counsel failed to adequately prepare for trial and develop a trial strategy.

This Court finds Applicant's allegation that he was denied effective assistance of counsel for failing to adequately prepare for trial and develop a trial strategy is without merit. Counsel testified it was his trial strategy to cross-examine the State's witnesses and attack their credibility. Counsel further clarified that Applicant had no legitimate alibi or defense claim. Our courts are understandably wary of second-guessing defense counsel's trial tactics. Where

counsel articulates valid reasons for employing a certain strategy, counsel's choice of tactics will not be deemed ineffective assistance. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 530 (1992). See also Dempsey v. State, 363 S.C. 365, 610 S.E.2d 812 (2005) and McLaughlin v. State, 352 S.C. 476, 575 S.E.2d 841 (2003). This Court finds Counsel articulated valid strategic reasons. The Applicant has not shown that counsel was deficient in that choice of tactic. As a result, this Court finds this allegation should be denied and dismissed with prejudice.

Brady Violations

This Court finds Applicant's allegation that Counsel was ineffective for failing to object to certain Brady violations is without merit. Counsel stated that he filed a Brady motion. Counsel further stated that he did not believe any Brady violation had taken place. This Court finds Applicant has failed to introduce any evidence of an alleged Brady violation. This Court finds Applicant's bare assertions that the State committed a Brady violation insufficient. As a result, this Court finds that the allegation is dismissed and denied with prejudice.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by plea counsel's performance.

The Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance.

ALL OTHER ALLEGATIONS

Except as discussed above, this Court finds that the Applicant affirmatively waived the

remaining allegations set forth in his application at the hearing. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

[Signature block on following page]

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 notes that that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

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 9th day of April, 2014.



EDGAR W. DICKSON
Presiding Judge
Second Judicial Circuit

Orangeburg, South Carolina

Law Offices
JOHNSON, JOHNSON, WHITTLE & LANCER



Attorneys P. A.
Post Office Box 2619
117 Pendleton Street, N.W.
Aiken, South Carolina 29802-2619

Telephone
(803) 649-5338

Facsimile
803-641-4517

April 15, 2014

B. Henderson Johnson Jr. (Retired)
James E. Whittle Jr.
Todd J. Johnson

Barry H. Johnson (1954-1995)
Paige Weeks Johnson
Bret H. Lancer

RECEIVED

APR 18 2014

S.C. SUPREME COURT

Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211

Re: Chad Everett Williams, #303225 v. State of South Carolina
Case No.: 2011-CP-02-00729

Dear Sir or Madam:

Please find enclosed an original and two copies of a Notice of Appeal and Proof of Service. Please file the original and return two certified copies to my office in the self addressed stamped envelope provided.

With best regards, I am

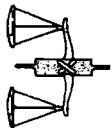
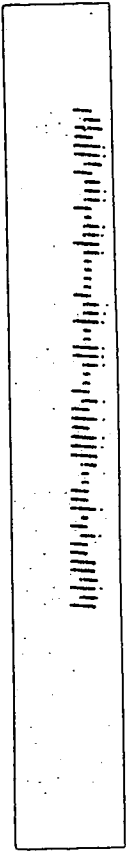
Sincerely,

Paige Weeks Johnson

BHL/tr

cc Daniel F. Gourley, II, Esq.
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29201

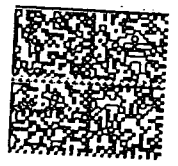
Office of Appellate Defense
1330 Lady Street, Suite 401
Columbia, SC 29201



Law Offices
Johnson, Johnson, Whittle and Lancer

Attorneys P. M.
P. O. Box 2619
117 Pendleton Street, N. W.
Aiken, South Carolina 29802-2619

Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211



UNITED STATES POSTAGE
02 1R
0002006364
MAILED FROM ZIP CODE 29801
\$ 03.080
APR 15 2014
PRIME ROW®
FIRST CLASS PERMIT NO. 1000 COLUMBIA SC

