

The Brooks Law Office, LLC

CHARLES T. BROOKS, III, ATTORNEY AT LAW

IRMA R. BROOKS, ATTORNEY AT LAW

309 BROAD STREET ~ SUMTER, SOUTH CAROLINA 29150
POST OFFICE BOX 3512 ~ SUMTER, SOUTH CAROLINA 29151

(803) 418-5708

FAX: (803) 934-9618 TOLL FREE: (877) 770-8792

Email: cbrooks@ctbrooks.com

July 14, 2014

RECEIVED

JUL 15 2014

South Carolina Supreme Court
PO Box 11330
Columbia, SC 29211

S.C. Supreme Court

RE: Ronald H. Mack, 342556 v State of South Carolina
2011-CP-45-0383

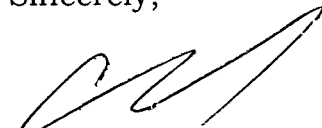
Dear Sir or Madam:

Enclosed herewith you will find the **Notice of Appeal, Order of Dismissal**, along with a **Proof of Service** in reference to the above named Applicant.

If you have any questions or concerns, please contact my office at the number stated above.

With kind regards, I am

Sincerely,



Charles T. Brooks, III
CTB/srw

Enclosed as stated

cc: J. Croom Hunter, Office of Attorney's General
South Carolina Office of Appellate Defense
Ronald H. Mack, 342556

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM WILLIAMSBURG COUNTY

Court of Common Pleas
Honorable R. Ferrell Cothran, Jr., Circuit Court Judge

Case No: 2011-CP-45-0383

Ronald H. Mack.....Appellant
S.C.D.C. 342556

v.

The State..... Respondent

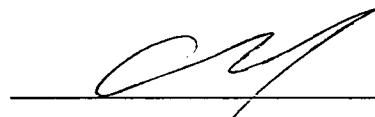
RECEIVED

JUL 15 2014

S.C. Supreme Court

NOTICE OF APPEAL

Ronald H. Mack, appeals his Denial for Post Conviction Relief in this case. The order of Dismissal was imposed and signed by the Honorable R. Ferrell Cothran, Jr., June 24, 2014, which I, Charles T. Brooks, III, received on July 11, 2014.



Charles T. Brooks, III
309 Broad Street
Post Office Box 3512
Sumter, South Carolina, 29151
(803) 418-5708
Attorney for Appellant

Other Counsel on Record:
J. Croom Hunter, Esquire
Assistant Attorney General
Post Office Box 11549
Columbia, SC 29211-1549
(803) 734-3970

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM WILLIAMSBURG COUNTY

RECEIVED

JUL 15 2014

Court of Common Pleas
Honorable R. Ferrell Cothran, Jr., Circuit Court Judge

S.C. Supreme Court

Case No: 2011-CP-45-0383

Ronald H. Mack.....Appellant
S.C.D.C. 342556

v.

The State.....Respondent

PROOF OF SERVICE

I, the undersigned, do hereby certify that on this 14th day of July, 2014, I served the foregoing **Notice of Appeal, Order of Dismissal**, as well as **Proof of Service** in this matter by depositing a true copy of it in the United States Mail, postage prepaid, on July 14, 2014, addressed to the following as indicated below:

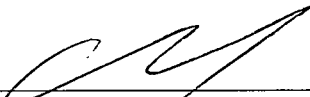
South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

South Carolina Office of Appellate Defense
1330 Lady Street, Suite 401
PO Box 11589
Columbia, SC 29211-1589

Office of Attorney's General
Attn: J. Croom Hunter, Esquire
Post Office Box 11549
Columbia, South Carolina 29211-1549

Ronald H. Mack, 342556
Lee Correctional Institution
990 Wisacky Highway
Bishopville, SC 29010

Dated: July 14, 2014


Charles T. Brooks, III
Attorney for the Appellant
309 Broad Street
Sumter, South Carolina 29150
(803) 418-5708

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)

IN THE COURT OF COMMON PLEAS)
FOR THE THIRD JUDICIAL CIRCUIT)

Ronald H. Mack, #342556,)

Case No. 2011-CP-45-0383)

Applicant,)

v.)

ORDER OF DISMISSAL)

State of South Carolina,)

Respondent.)

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on August 5, 2011. Respondent made its return on May 18, 2012. An evidentiary hearing into the matter was convened on May 27, 2014, at the Sumter County Courthouse. Applicant was present at the hearing and was represented by Charles T. Brooks, Esquire. Respondent was represented by Assistant Attorney General J. Croom Hunter of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The records before this Court indicate Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Williamsburg County Clerk of Court. The Applicant was indicted for (1) Murder, (2) Burglary – First Degree, (3) Conspiracy, and (4) Possession of a Weapon During Violent Crime (2009-GS-45-0180). Applicant was represented by William Legrand Carraway, Esquire. On August 24, 2010, the Applicant pled guilty before the Honorable Clifton Newman. Judge Newman sentenced Applicant to concurrent terms of fifty (50) years imprisonment for Murder and thirty (30) years imprisonment for Burglary – First Degree. Applicant did not appeal.

ALLEGATIONS

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

1. Ineffective assistance of counsel.
 - a. Failure to prepare, present any motions or petitions.
2. Involuntary guilty plea.
 - a. "Coerced into pleading guilty.

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. The State presented testimony from plea counsel, William LeGrand Carraway, Esquire (Counsel). This Court also had before it a copy of the plea transcript, the Williamsburg County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, and the return.

During the evidentiary hearing, Applicant testified that he was represented at his plea by William LeGrand Carraway, Esquire. Applicant testified that he pled guilty but wants a new trial. Applicant testified he was eighteen (18) years old when he pled guilty. Applicant testified that his mother had nothing to do with the crime. Applicant testified he did not understand what was going on, but then he testified that he did remember the plea judge asking him if he understood everything. Applicant testified Counsel met with him twice prior to the guilty plea. Applicant testified they did not discuss discovery or possible defenses. Applicant testified he did not give Counsel any leads or witnesses to investigate. Applicant testified that no one promised him anything or forced him to plead guilty. Applicant testified he was satisfied with Counsel's services. Applicant testified he was guilty of the crimes to which he pled guilty.

Following Applicant's testimony, William LeGrand Carraway, Esquire (Counsel) was called to testify. Counsel testified he has been practicing for twenty-three (23) years. Counsel testified he was appointed to Applicant's case. He testified he met with Applicant between three (3) and five (5) times in jail prior to the Applicant's plea. Counsel testified he obtained discovery from the solicitor. Counsel testified they did not talk about defenses because Applicant always told him exactly what happened, and Applicant did not have any defenses. Counsel testified Applicant never denied being present at the murder. Counsel testified that Applicant confessed his guilt when he was in custody. Counsel testified the evidence against Applicant was overwhelming, and that Applicant had no competency issues.

INEFFECTIVE ASSISTANCE OF COUNSEL

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel 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, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea

counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 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. 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).

This Court finds Applicant failed to demonstrate that Counsel's performance was deficient in any way. This Court further finds that Applicant presented no evidence to show any prejudice resulting from Counsel's representation. Additionally, this Court finds Counsel's testimony credible.

During the evidentiary hearing, Applicant testified that Counsel met with him multiple times prior to the guilty plea. Applicant further testified that he was guilty of the crimes to which he pled guilty. Finally, Applicant testified he was, in fact, satisfied with the services Counsel rendered.

Counsel testified that he met with Applicant multiple times prior to the guilty plea. He further testified that he obtained discovery from the solicitor. Counsel testified that Applicant never denied his involvement in the victim's murder and that the evidence of Applicant's guilt was overwhelming.

Accordingly, this Court finds Applicant did demonstrate any deficiencies in Counsel's

representation. This Court finds that because Counsel's representation was well within the range of competence required in criminal cases, Applicant has further failed to make any showing that but for Counsel's alleged deficiencies, the result of Applicant's case would have been any different.

INVOLUNTARY GUILTY PLEA

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969). In Boykin, the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. Id. at 243, 89 S. Ct. at 1712. Specifically, the accused must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers. Id. Moreover, a criminal defendant entering a guilty plea "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999) (citation omitted). A criminal defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "must be established by a complete record, and may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)).

When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leeke,

282 S.C. 131, 318 S.E.2d 360 (1984)).

This Court finds Applicant has failed to demonstrate that his guilty plea was entered involuntarily.

Applicant testified that he recalled the plea judge going over his rights with him prior to his guilty plea. Applicant further testified that no one promised or threatened him in order to make him plead guilty. Applicant testified he was satisfied with Counsel's services. Applicant testified he was, in fact, guilty of the crimes to which he pled guilty.

Counsel testified Applicant never denied his guilt, and the evidence against Applicant was overwhelming. Counsel further testified that he did not see any legitimate defenses that Applicant could have raised at trial. Counsel also testified that Applicant did not seem to have an mental health or competency issues.

Accordingly, this Court finds Applicant's guilty plea was knowingly and voluntarily entered. This Court finds that the evidence presented at the evidentiary hearing as well as contained within the guilty plea transcript clearly supports a finding that the guilty plea was not coerced or involuntary; rather, it was freely, knowingly, and voluntarily entered. This Court finds Applicant was informed of the nature and elements of the offenses with which he was charged and to which he pled guilty. This Court further finds that Applicant was fully apprised of the rights he was forfeiting in order to plead guilty and that Applicant decided to go forward with his guilty plea.

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, the Court finds Applicant failed to present sufficient evidence regarding such allegations. Accordingly, the Court finds Applicant has

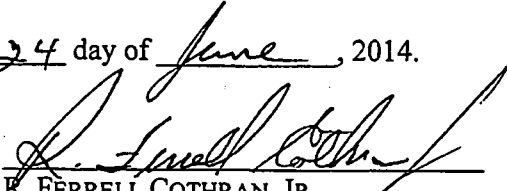
Plea counsel rendered effective assistance in regard to the claims raised by Applicant. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt 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, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on 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 24 day of June, 2014.


K. FERRELL COTHAN, JR.
Presiding Judge
Third Judicial Circuit

, South Carolina

