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August 13, 2014

The Honorable Daniel E. Shearhouse
Clerk, Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211

RE: Richard Deas v. State of South Carolina, Case No.: 2013-CP-10-2306

Dear Mr. Shearhouse:

Enclosed for filing is the Notice of Appeal (original and clocked copy) in the above Post Conviction Relief (PCR) case. Also enclosed are the following:

- (1) Proof of service of the Notice of Appeal on the respondent;
- (2) The Order of Dismissal &
- (3) A Request for Representation on Appeal.

The Applicant-Appellant was represented by me as an indigent pursuant to my contract with the South Carolina Commission on Indigent Defense (SCCID) to handle PCR cases. By copy of this letter, I am forwarding a duplicate set of documents to the SCCID.

The Request for Representation on Appeal and the Affidavit in Support thereof are signed by me as attorney for Applicant-Appellant. If you need anything further, do not hesitate to contact me. Thank you for your time and attention to this matter.

RECEIVED

AUG 15 2014

S.C. SUPREME COURT

Sincerely,

Rodney D. Davis
South Carolina Bar #: 12396
4000 Faber Place Drive, Suite 300
Charleston, SC 29405
(843) 323-4353
Davis@LowcountryLawOffice.com

CC: Ashleigh Wilson
Assistant Attorney General

Kimberly McCall
Appellate Division, SCCID

RECEIVED

AUG 15 2014

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

Case No.: 2013-CP-10-2306

Richard Deas,

Appellant,

v.

State of South Carolina,

Respondent.

NOTICE OF APPEAL

Richard Deas appeals the denia of his Post Conviction Relief application in this case. The Application for relief was denied, following an evidentiary hearing before the Honorable R. Markley Dennis, Jr. on April 17, 2014.

August 12, 2014



Rodney B. Davis
400 Faber Place Drive, Suite 300
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(843) 323-4353
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Attorney for Appellant

Other Counsel of Record:
Ashleigh Wilson, Assistant Attorney General
Office of the Attorney General, State of South Carolina
P.O. Box 11549
Columbia, SC 29211-1549
Attorney for Respondent

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

Case No.: 2013-CP-10-2306

Richard Deas,

Appellant,

v.

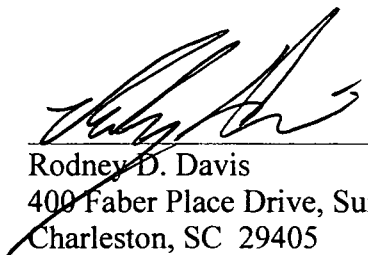
State of South Carolina,

Respondent.

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August 12, 2014


Rodney D. Davis
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Other Counsel of Record:
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Columbia, SC 29211-1549
Attorney for Respondent

FILED
2014 AUG 13 AM 11:44
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

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Richard Deas,

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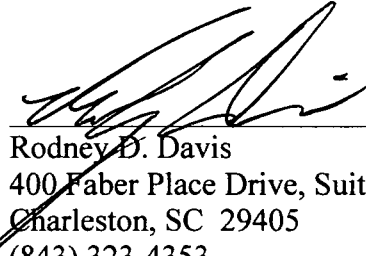
State of South Carolina,

Respondent.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State by mailing a copy of it to the address of record, Ashleigh Wilson, P.O. Box 11549, Columbia, South Carolina 29211-1549, on August 13, 2014.

August 13, 2014



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Attorney for Appellant

Other Counsel of Record:
Ashleigh Wilson, Assistant Attorney General
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Columbia, SC 29211-1549
Attorney for Respondent

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STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Richard Deas, #332943,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
2013-CP-10-2306

ORDER OF DISMISSAL

FILED
2014 JUL 16 PM 3:32
JULIE A. HARRIS, CLERK OF COURT

Presiding Judge: The Honorable R. Markley Dennis
Applicant's Attorney: Rodney Davis, Esquire
Respondent's Attorney: Ashleigh R. Wilson, Esquire
Trial Counsel: Mary Ford, Esquire
Date of Hearing: April 17, 2014
Court Reporter: Deborah Garrison

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed April 22, 2013. The Respondent made its Return on December 5, 2013. An evidentiary hearing on the matter was convened on April 17, 2014 at the Charleston County Courthouse. The Applicant was present at the hearing and represented by Rodney Davis, Esquire. Ashleigh R. Wilson, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

Also present and testifying was Mary Ford, Esquire. The Court had before it the trial transcript, the Charleston County Clerk of Court records, the Applicant's records from the South Carolina Department of Corrections, the Applicant's application, the Respondent's Return, the Applicant's appellate records, and one exhibit¹ submitted by the Applicant during the hearing.

¹ Applicant's Exhibit 1 was a letter to the Applicant from appellate counsel Robert Dudek, Esquire dated September 19, 2012.

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PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Charleston County Clerk of Court. The Applicant was indicted at the April 2008 term of the Charleston County Grand Jury for murder (2008-GS-10-3339) and possession of a firearm (2008-GS-10-3340). He was represented by Mary Ford, Esquire and Andrew Grimes, Esquire.

The Applicant proceeded to trial and was found guilty. On January 20, 2009, the Applicant was sentenced by the Honorable Deadra L. Jefferson to confinement for forty-years for murder and five years for possession of a firearm. The sentences are to be served concurrently.

A Notice of Appeal was filed on the Applicant's behalf at the South Carolina Court of Appeals. Robert Dudek, Esquire of the South Carolina Office of the Appellate Defense perfected the appeal. The South Carolina Court of Appeals affirmed the Applicant's convictions and sentences. State v. Deas, No. 2012-UP-215 (S.C. Ct. App. filed December 12, 2012).

ALLEGATIONS

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

1. Ineffective assistance of counsel.
 - a. Failure to conduct an independent investigation and review evidence with Applicant.
 - b. Failure to advise Applicant regarding possible defenses.
 - c. Failure to utilize defense witnesses.
2. Ineffective assistance of appellate counsel.

At the hearing, Applicant proceeding solely on the following allegations of ineffective assistance of trial counsel and appellate counsel:

1. Ineffective assistance of trial counsel.

- a. Failure to investigate crime scene or question witnesses.
 - b. Failure to investigate or present an alibi witness.
 - c. Failure to request a mistrial or object to early jury deliberation when the jury asked about receiving a copy of the trial transcript during trial.
 - d. Failure to request a mistrial or have the court properly question a juror who was related to the victim.
 - e. Failure to obtain the written transcript of the jail tapes and share with the Applicant.
 - f. Failure to call an expert witness on identifications.
2. Ineffective assistance of appellate counsel.
 - a. Failure to raise the issue of a juror being related to the victim's family on appeal.

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. Sec. 17-27-80 (2003).

Summary of the Testimony

The Applicant was present at the hearing and testified he was convicted of murder and possession of a weapon during the commission of a violent crime. The Applicant testified he was represented by Mary Ford and Andrew Grimes at trial and by Robert Dudek on appeal. The Applicant testified he met with Ford frequently and met Grimes the week of trial. He testified he reviewed the discovery materials with counsel and did not recall discussing possible defenses with counsel.

The Applicant testified Ford did not properly investigate his case. He testified Ford did not go to the crime scene to check the visibility of the scene at night. He testified she never provided him with any information about her investigation of the scene. The Applicant also

testified trial counsel did not investigate his alibi witnesses. He testified counsel did not discuss an alibi defense with him and she told him he had no defense. The Applicant testified he did not discuss investigating Sandra Green or Tiana Lee with trial counsel. He testified he wanted counsel to call Lee because she would have testified he was with her the night of the murder.

The Applicant testified two witnesses identified him as the shooter. He testified the witnesses were brought to the police by the victim's father. The Applicant testified counsel never questioned the witnesses about how they came to speak with police. He testified further counsel did not question Shrod Young about his bias.

The Applicant testified counsel also did not get transcripts of his recorded jail phone conversations. He testified he made a statement about police not having the murder weapons during a jail phone conversation. He testified he did not have the call transcripts until after trial. He testified that if he had the call transcripts prior to trial he would have felt more comfortable taking the stand to testify at trial.

The Applicant testified his blood sample was submitted for DNA testing and found not to match any evidence. The Applicant testified the SLED DNA person was not present to testify at trial. He testified counsel failed to present evidence that his DNA did not match at trial.

He testified the jury asked the court about receiving a copy of the trial transcript during trial. The Applicant testified counsel did not object to this request as early deliberation by the jury. He testified further a juror was excused because he was related to the victim. The Applicant testified counsel did not have the juror properly questioned and did not question the juror one on one. The Applicant testified counsel should have asked for a mistrial based on these juror issues.

Lastly, the Applicant testified he wanted appellate counsel to argue on appeal the issue with the juror being related to the victim. He testified appellate counsel told him he felt comfortable with the arguments he presented in his brief.

Also present was Mary Ford, Esquire. Counsel testified she has been practicing law as a public defender for over eight years. She testified she was appointed to represent the Applicant shortly after his arrest in October 2007. Counsel testified her notes reflect she met with the Applicant at least twelve times prior to trial. Counsel testified she filed Brady and Rule 5 motions on the Applicant's behalf and reviewed the materials received with the Applicant in detail.

Counsel testified she discussed with the Applicant the elements of the charges he was facing and what the State had to prove. She testified she discussed with the Applicant his version of the facts and he gave her Dixon, Lee, and Williams as potential witnesses. Counsel testified the Applicant spoke with police after arrest and told them he was with his girlfriend Shanique Williams the night of the murder and that he was with Lee and Dixon prior to that. Counsel testified they discussed presenting an alibi defense at trial. She testified she spoke with Lee and Dixon who said the Applicant was with them, but left at some point and they were unsure when he left. Counsel testified she spoke with Williams who confirmed her statement to police. Counsel testified the Applicant was unaccounted for at the time of the murder and did not have a solid alibi to present at trial.

Counsel testified there was no evidence of self-defense in the Applicant's case and their strategy was to attack the credibility of the State's witnesses. She testified the evidence included two eyewitness Miles and Young. She testified Miles identified the Applicant in a photo line-up

and Young identified the Applicant after being charged with obstruction of justice. Counsel testified during her investigation Miles and Young would not speak with her.

Counsel testified she used an investigator to visit the scene and track down Dixon and Lee. She testified she spoke with the Applicant's sister, Dixon, and Lee. She testified she reviewed the evidence and went to the scene during the day time and drove by the scene at night. Counsel testified she did not speak with Sandra Green, the victim's aunt, during her investigation because Green was not an actual witness to the murder. Counsel testified she did not give her investigator's reports to the Applicant.

Counsel testified she had ample time to prepare for trial and Andrew Grimes, Esquire, sat second chair with her during the Applicant's trial. She testified she recalled a juror being excused during trial because he was related to the victim. She testified the foreperson was also questioned by the Court about whether or not the excused juror had spoken to any other jurors. Counsel testified she also recalled the jury asking about access to the trial transcript during trial. Counsel testified she asked the Court to poll the jury on whether or not they had begun deliberations, but the Court refused her request. Counsel testified she did not have a basis to move for a mistrial on either jury issue.

Counsel testified she adequately cross-examined the two eyewitnesses at trial on their inconsistent statements. She testified she was able to elicit from Young that he told police whatever they wanted to hear because he wanted a low bond. She testified she also argued to the jury that Miles and Young were trying to cover for someone else based on their two different stories. Counsel testified she knew that the two eyewitnesses had been brought to police by the victim's father. She testified she brought this fact to the jury's attention in closing and argued Miles told the victim's father he did not know who the shooter was to challenge Miles'

credibility. She testified this fact was also elicited by the State on direct examination of the eyewitnesses. Counsel testified further that she did not consider obtaining an identification expert. She testified both witnesses said they knew the Applicant prior to the incident and she was able to challenge the testimony of both Miles and Young without an identification expert. Counsel testified she did not object to the witness' in-court identification of the Applicant.

Counsel testified the evidence indicated an unidentified person's DNA was found under the victim's nails. Counsel testified she agreed to allow Officer Osbourne to testify about the DNA results and did not require the State call a SLED DNA witness. She testified she felt Osbourne's testimony at trial was sufficient to show the Applicant's DNA was not under the victim's nails and she did not feel a SLED DNA witness was necessary.

Counsel testified she received a copy of the jail tapes the January before trial. She testified she had a law clerk review the tapes and the State directed her to specific calls. She testified she had enough time to review the tapes to address any issues raised by the State. Counsel testified she did not have a transcript of the jail tapes until shortly before trial. She also testified she doesn't recall if she played the tapes for the Applicant, but they discussed the tapes prior to trial.

Counsel testified a transcript of the jail tapes was given to the Court during trial as a guide and she was unable to get a copy of the transcript to the Applicant prior to trial. Counsel testified she argued to the jury that the Applicant's statement on the jail tapes about the police not having the murder weapon was true. She testified she was able to keep out the fact that the Applicant was arrested with a gun and explained to the Applicant she did not think it was worth putting up testimony about him having a gun at arrest.

Counsel testified she discussed with the Applicant his right to testify. She testified she advised the Applicant not to take the stand because he did not have a different story to give to the jury. She testified she was concerned about the statements already given by the Applicant. She testified she was also concerned that the Applicant's low-key demeanor might be received negatively by the jury.

Ineffective Assistance of Trial Counsel

The Applicant alleges that he received ineffective assistance of trial counsel. In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; 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.

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).

Courts use a two-pronged test to evaluate 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." Id. at 117, 386 S.E.2d at 625 (citing Strickland, 466 U.S. 668). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for

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counsel's unprofessional errors, the result of the proceeding would have been different." Id. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997).

Regarding the Applicant's claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds counsel provided credible testimony while finding the Applicant's testimony was less than credible. This Court finds Applicant's attorney demonstrated the normal degree of skill, knowledge, professional judgment, and representation that are expected of an attorney who practices criminal law in South Carolina. State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977); Strickland, 466 U.S. at 668; Butler, 286 S.C. 441, 334 S.E.2d 813. This Court further finds counsel adequately conferred with the Applicant, conducted a proper investigation, and provided thorough representation. This Court finds that counsel's representation did not fall below an objective standard of reasonableness.

The Applicant alleges counsel was ineffective for failing to investigate. The Applicant claims counsel did not go to the scene of the murder and did not investigate how the State's witnesses became known to police. This Court finds this allegation is without merit and counsel adequately investigated the facts of the Applicant's case. "[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Walker v. State, 397 S.C. 226, 235, 723 S.E.2d 610, 615 (Ct. App. 2012). Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result. Porter v. State, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006) (citing Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)). In any ineffectiveness case, a particular decision not to investigate must be

directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments." Wiggins v. Smith, 539 U.S. 510, 521-22 (2003).

This Court finds counsel gave credible testimony that she visited the scene of the murder during the daytime and at night. This Court also finds counsel was aware that the State's two eyewitnesses became known to police after speaking with the victim's father. Counsel gave credible testimony that she knew prior to trial that the victim's father had encouraged Shrod Young and Shoreka Miles to speak with police about what they saw the night of the murder. The record reflects the State elicited testimony from both Young and Miles about speaking to the victim's father before giving statements to police. (T. 248:8-250:4, 310:22-314:10).

After this testimony was elicited by the State, the record reflects counsel was able to impeach Miles with her multiple inconsistent statements to the victim's father and police and elicit testimony from Young that the victim's father had pleaded with him to help him by naming his son's murderer. (T. 262:20-262:10, 319:3-320:1). This Court finds counsel used the victim's father's involvement in the case to the Applicant's benefit at trial. This Court also finds the Applicant has failed to show what any additional investigation in his case by counsel would have yielded. This Court finds the Applicant has failed to carry his burden of proving counsel's performance was deficient and affected the outcome of his proceeding.

The Applicant alleges counsel was ineffective for failing to investigate or call an alibi witness at trial. This Court finds this allegation is without merit and counsel adequately investigated the Applicant's alibi and discussed the alibi defense with the Applicant. To qualify as an alibi, a witness's testimony must account for the defendant's whereabouts during the time of the crime such that it would have been physically impossible for the defendant to commit the crime. Walker v. State, 397 S.C. 226, 237, 723 S.E.2d 610, 616 (Ct. App. 2012). In order to

support a claim that trial counsel was ineffective for failing to interview or call potential alibi witnesses, a PCR applicant must produce the witnesses at the PCR hearing or otherwise introduce the witnesses' testimony in a manner consistent with the rules of evidence. Glover v. State, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). The applicant's mere speculation about what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice. Id.

This Court finds counsel provided credible testimony that she investigated the Applicant's two alibi witnesses and discussed the alibi defense with the Applicant prior to trial. Counsel testified after her investigation she concluded the witnesses given to her by the Applicant would not establish a complete alibi. This Court finds the Applicant has failed to carry his burden of proving counsel was deficient. This Court also finds the Applicant has not produced the testimony of any alleged alibi witness to carry his burden of proving prejudice resulted from counsel's decision not to present an alibi witness at trial.

The Applicant alleges counsel was ineffective for failing to object or move for a mistrial after a juror wrote a note to the Court during trial indicating he was related to the victim and one of the State's witnesses. This Court finds the juror was excused by the Court and there was no basis for counsel to object or move for a mistrial. The record reflects the jury foreman sent a note to the Court indicating Juror 137, Elmo Jackson was related to the victim and Shoreka Miles. (T. 285:25-286:7). Jackson told the Court he was closely related to the victim and Leroy and Shoreka Miles and he did not think he could be fair and impartial. (T. 287:15-288:5). Without objection from either the State or the defense, the Court excused the juror based on his representations (T. 288:9-289:10). Counsel for the Applicant expressed concern about the foreman's knowledge of the excused jurors note. (T. 289:13-20). The Court then took extra

precaution and inquired of the foreman about whom else the excused juror discussed the note with. (T. 290:8-17). The foreman indicated the excused juror only spoke with him about the note and that he could remain fair and impartial after his conversation with the juror. (T. 290:13-291:22). This Court finds this allegation is without merit and no further inquiry of the excused juror or foreperson was needed from the Court or the defense. This Court finds the Court properly excused the juror after he represented to the Court his inability to be fair and impartial based on his relationship to the victim. This Court finds the Applicant has failed to carry his burden of proving counsel's performance was deficient or affected the outcome of his proceeding.

The Applicant alleges counsel was ineffective for failing to provide the Applicant a copy of the transcript of his taped jail phone conversations. This Court finds this allegation is without merit. This Court finds the Applicant not having a copy of this transcript did not affect the Applicant's defense or counsel's representation of the Applicant at trial. Counsel provided credible testimony that she was given a copy of the jail tapes and discussed the contents of the tape with the Applicant prior to trial. This Court finds and the record reflects counsel was aware of the substance of the taped conversations and the transcript was only created to aid the trial court. Counsel also testified she received a transcript of the tapes shortly before trial and did not have a chance to provide a copy to the Applicant. This Court does not find credible the Applicant's claim that had he been able to review the transcript prior to trial it would have affected his decision to take the stand to testify during trial. This Court finds the Applicant has failed to carry his burden of proving counsel was deficient and that her performance affected the outcome of his proceeding.

The Applicant alleges counsel was ineffective for failing to call an expert witness to testify about eyewitness identifications at trial. This Court finds this allegation is without merit since the Applicant has failed to present the testimony of an expert witness at his evidentiary hearing. This Court has repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial. Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998). The applicant's mere speculation about what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice. Id. This Court will not speculate on the substance of an identification expert's testimony or its effect on the outcome of the Applicant's trial. This Court finds the Applicant has failed to carry his burden of proving counsel was deficient and that but for counsel's performance the result of his proceeding would have been different.

Ineffective Assistance of Appellate Counsel

The Applicant also alleges ineffective assistance of appellate counsel. A defendant is entitled to effective assistance of appellate counsel. Southerland v. State, 337 S.C. 610, 615, 524 S.E.2d 833, 836 (1999). Although appellate counsel is required to provide effective assistance of counsel, "appellate counsel is *not* required to raise every non-frivolous issue that is presented by the record." Thrift v. State, 302 S.C. 535, 539, 397 S.E.2d 523, 526 (1990) citing Jones v. Barnes, 463 U.S. 745 (1983). "For judges to second-guess reasonable professional judgments and impose on ... counsel a duty to raise every 'colorable' claim suggested by a client would dissuade the very goal of vigorous and effective advocacy..." Jones, 463 U.S. at 754.

Generally, in analyzing a claim of ineffective assistance of appellate counsel, the Court applies the Strickland test just as it would when analyzing a claim of ineffective assistance of

trial counsel. See Southerland v. State, 337 S.C. 610, 616, 524 S.E.2d 833, 836 (1999). Thus, in this case, we ask 1) whether appellate counsel's performance was deficient, and 2) whether Respondent was prejudiced by appellate counsel's deficient performance. Bennett v. State, 383 S.C. 303, 309, 680 S.E.2d 273, 276 (2009). To prove prejudice, the applicant must show that, but for counsel's errors, there is a reasonable probability he would have prevailed on appeal. Anderson v. State, 354 S.C. 431, 434, 581 S.E.2d 834, 835 (2003).

This Court finds appellate counsel was not ineffective for failing to raise the issue of a juror being related to the victim's family on appeal. This Court finds appellate counsel exercised discretion and raised the issues on appeal that he thought were most meritorious. This Court finds the trial court's excusal of the juror appeared to be proper in light of the juror's representations to the Court and it is unlikely the court's excusal of the juror would entitle the Applicant to reversal on appeal. This Court finds the Applicant has failed to carry his burden of proving appellate counsel's performance was deficient and that he would have prevailed on appeal had counsel raised the issue of the juror being related to the victim's family on appeal.

All Other Allegations

As to any and all allegations that were raised in the application at the hearing in this matter and not specifically addressed in this Order, this Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant abandoned such allegations \. Therefore they are hereby denied and dismissed.

CONCLUSION

Based on all the forgoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his trial, sentencing, and appellate proceedings. Trial and appellate counsel were 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 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 10th day of July, 2014



The Honorable R. Markley Dennis, Jr.
Presiding Judge
9th Judicial Circuit

Moncks Corner, South Carolina.

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STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
RICHARD DEAS,)
)
Applicant.)
)
-versus-)
)
STATE OF SOUTH CAROLINA,)
)
Respondent.)

IN THE SUPREME COURT OF SOUTH CAROLINA

Case No.: 2013-CP-10-2306

REQUEST FOR REPRESENTATION ON APPEAL

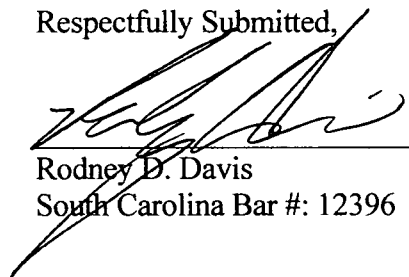
FILED
2013 AUG 13 AM 11:44
JULIE J. ARMSTRONG
CLERK OF COURT
BY

On behalf of the request of the above-named Applicant, to be represented by the South Carolina Commission of Indigent Defense, Appellate Division (SCCID), the undersigned attorney would show unto this Honorable Court that:

1. He is the attorney for the Applicant-Appellant in the above captioned case. The Applicant-Appellant was in custody during and taken into custody immediately following the Post Conviction Relief (PCR) hearing and was not available to personally sign this request;
2. The Applicant-Appellant was represented by the undersigned attorney as an indigent, pursuant to a contract with the SCCID;
3. The Applicant-Appellant has been informed that he may request assistance from the SCCID Appellate Division in perfecting his appeal;
4. A timely Notice of Intent to Appeal has been filed on the Applicant-Appellant's behalf;
5. The Applicant-Appellant has been informed that nothing requires SCCID Appellate Division to pursue this appeal unless that office's Chief Attorney is satisfied that there is arguable merit to this appeal and that he cannot afford to hire an attorney.

At this time, the Applicant-Appellant requests the aid of the SCCID Appellate Division in perfecting his appeal to the South Carolina Court of Appeals.

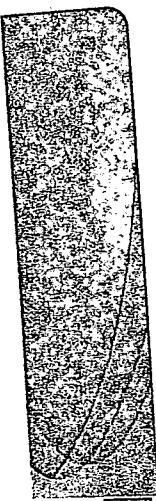
Respectfully Submitted,



Rodney D. Davis
South Carolina Bar #: 12396

August 13, 2014
Charleston, South Carolina.

Lowcountry Law Office
 Rodney D. Davis
 4000 Faber Place Drive, Suite 300
 Charleston, SC 29405



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CHARLESTON, SC 29405

PAYMENT BY ACCOUNT (If applicable)

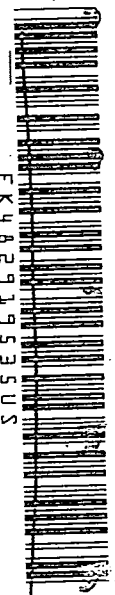
DELIVERY OPTIONS (Customer Use Only)

- SIGNATURE REQUIRED Note: The mailer must check the "Signature Required" box if the mailer: 1) Requires the addressee's signature, OR 2) Purchases additional insurance, OR 3) Purchases COD service, OR 4) Purchases Return Receipt service. If this box is not checked, the Postal Service will leave the item in the addressee's mail receptacle or other secure location without attempting to obtain the addressee's signature on delivery.
- Delivery Options**
- No Saturday Delivery (delivered next business day)
- Sunday/Holiday Delivery Required (additional fee, where available)
- 10:30 AM Delivery Required (additional fee, where available)
- Refer to USPS.com or local Post Office for availability.

TO: (PLEASE PRINT) DANIEL SHERARD HOWE

CLERK, SUMMER COURT OF SOUTH CHARINA
P.O. Box 11330
COLUMBIA, SC
 ZIP+4® (U.S. ADDRESSES ONLY) 29221

For pickup or USPS Tracking™, visit USPS.com or call 800-222-1811.
 \$100.00 Insurance included.



U.S. POSTAGE
 PAID
 MOUNT PLEASANT, SC
 29464
 AUG 13 2014
 RMOUNT
\$17.95
 00053837-10

ORIGIN (POSTAL SERVICE USE ONLY)

PO ZIP Code	Scheduled Delivery Date (MM/DD/YY)	Postage	Insurance Fee	COD Fee
29221	8/13/14	\$17.95	\$	\$
Date Accepted (MM/DD/YY)	Scheduled Delivery Time	Return Receipt Fee	Live Animal Transportation Fee	
8/13/14	10:30 AM	\$	\$	
Time Accepted	10:30 AM Delivery Fee	Total Postage & Fees		
10:30 AM	\$	\$17.95		
Weight	Flat Rate	Sunday/Holiday Premium Fee		
1.6 ozs.	\$	\$		
Acceptance Employee Initials	Employee Signature			
SP	[Signature]			
Delivery Method (MM/DD/YY)	Time	Employee Signature		
10:30 AM	8:00 AM	[Signature]		