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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Hon. Deadra L. Jefferson, Circuit Court Judge

Case No.: 2013-CP-10-4286

Reginald Murray, Appellant,

v.

State of South Carolina, Respondent.

NOTICE OF APPEAL

Reginal Murray 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 Deadra L. Jefferson on June 16, 2014.

Otober 27, 2014

Rodney D. Davis
400 Faber Place Drive, Suite 300
Charleston, SC 29405
(843) 323-4353
Davis@LowcountryLawOffice.com
Attorney for Appellant

Other Counsel of Record:
Ashleigh Wilson, Assistant Attorney General
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Attorney for Respondent

THE STATE OF SOUTH CAROLINA
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APPEAL FROM CHARLESTON COUNTY
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Hon. Deadra L. Jefferson, Circuit Court Judge

Case No.: 2013-CP-10-4286

Reginald Murray, Appellant,

v.

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 October 28, 2014.

October 28, 2014

Rodney D. Davis
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Attorney for Appellant

Other Counsel of Record:
Ashleigh Wilson, Assistant Attorney General
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Attorney for Respondent

STATE OF SOUTH CAROLINA	)	IN THE SUPREME COURT OF SOUTH CAROLINA
	)	
COUNTY OF CHARLESTON	)	
	)	Case No.: 2013-CP-10-4286
	)	
REGINALD MURRAY,	)	
Applicant.	)	
	)	
-versus-	)	REQUEST FOR REPRESENTATION ON APPEAL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	

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

October 28, 2014
Charleston, South Carolina.

STATE OF SOUTH CAROLINA)
) **VERIFICATION**
COUNTY OF CHARLESTON)

PERSONALLY appeared before me, Rodney D. Davis, being first duly sworn, deposes and says that he has read the foregoing *Request for Representation on Appeal* and the same is true of his knowledge except those matters alleged on information and belief, and as to those matters, he believes them to be true.

Rodney D. Davis
South Carolina Bar #: 12396

SWORN to and subscribed to me
this 28 day of October, 2014.

Notary Public for South Carolina
My Commission expires My Commission Expires May 05, 2024

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	2013-CP-10-4286
	)	
	)	
Reginald Murray, #354882,	)	
	)	
Applicant,	)	
	)	
v.	)	**ORDER OF DISMISSAL**
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

Presiding Judge:	Hon. Deadra L. Jefferson
Applicant's Attorney:	Rodney Davis, Esquire
Respondent's Attorney:	Ashleigh R. Wilson, Esquire
Plea Counsel:	Andrew Grimes, Esquire
Date of Hearing:	June 16, 2014
Court Reporter:	Karen V. Andersen

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed July 23, 2013. The Respondent made its Return on or about February 6, 2014. An evidentiary hearing into the matter was convened on June 16, 2014 at the Berkeley County Courthouse. The Applicant was present at the hearing and represented by Rodney Davis, Esquire. Ashleigh R. Wilson, Esquire, of the South Carolina Attorney General's Office represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. The Applicant's plea counsel, Andrew Grimes, Esquire, was also present and testified at the hearing. This Court had before it the guilty plea transcript, the records of the Charleston County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections, the PCR application, and the Respondent's Return thereto.

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PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Charleston County. The Applicant was indicted at the August 2012 term of the Charleston County Grand Jury for Trafficking Cocaine 28–100 Grams-First Offense[1] (2012–GS–10–4521), Possession with Intent to Distribute Cocaine within the Proximity of a School[2] (2012–GS–10–4522), and Possession of a Weapon during the Commission of a Violent Crime[3] (2012–GS–10–4523). Andrew Grimes, Esquire, represented the Applicant. The Applicant pled guilty to the lesser included offense of Trafficking Cocaine 10–28 Grams-First Offense,[4] Possession with Intent to Distribute Cocaine within the Proximity of a School, and Possession of a Weapon during the Commission of a Violent Crime. The Honorable R. Markley Dennis, Jr. sentenced the Applicant to five (5) years concurrent on all charges. The Applicant did not appeal his convictions or sentences.

ALLEGATIONS

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

[1] The offense of Trafficking Cocaine, 28–100 Grams-First Offense is a serious, violent felony punishable by a mandatory minimum term of imprisonment for seven (7) years, a mandatory maximum term of imprisonment for twenty five (25) years, and a twenty five thousand dollar ($25,000.00) fine, none of which may be suspended, nor probation granted. See S.C. CODE ANN. § 44-53-370(e)(2)(b) (2012); S.C. CODE ANN. § 16-1-60 (2012); S.C. CODE ANN. § 17-25-45 (2012).

[2] The offense of Possession with Intent to Distribute Cocaine within Proximity of a School is a serious felony punishable by up to ten (10) years' imprisonment and/or a ten thousand dollar fine ($10,000.00). See S.C. CODE ANN. § 44-53-445(D)(1) (2012); S.C. CODE ANN. § 17-25-45 (2012).

[3] The offense of Possession of a Firearm during the Commission of a Violent Crime is punishable by a mandatory term of imprisonment for five (5) years, in addition to the punishment provided for the principal crime. See S.C. CODE ANN. § 16-23-490 (2012). Service of the five-year sentence is mandatory unless a longer mandatory minimum term of imprisonment is provided by law for the violent crime. Id. The court may impose this mandatory five-year sentence to run consecutively or concurrently. Id. Except as provided, the person sentenced under this section is not eligible during this five-year period for parole, work release, or extended work release. Id.

[4] The offense of Trafficking Cocaine, 10–28 Grams-First Offense is a serious, violent felony punishable by a mandatory minimum term of imprisonment for three (3) years, a mandatory maximum term of imprisonment for ten (10) years, and a twenty five thousand dollar ($25,000.00) fine, none of which may be suspended, nor probation granted. See S.C. CODE ANN. § 44-53-370(e)(2)(b) (2012); S.C. CODE ANN. § 16-1-60 (2012); S.C. CODE ANN. § 17-25-45 (2012).

1. Ineffective assistance of counsel.
    a. Counsel failed to vacate the indictment.
2. Involuntary guilty plea.
3. Unlawful search and seizure.

At the hearing, the Applicant proceeded on the following claims:

1. Ineffective assistance of counsel.
    a. Failure to investigate.
    b. Failure to advise the Applicant that his sentence would be served "day for day."
2. Involuntary guilty plea.

This Court finds the Applicant failed to present any testimony or evidence in support of any other allegations raised in his application. This Court deems abandoned all allegations other than those addressed by the Court in this order.

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 his or her 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).

Summary of the Testimony

The Applicant was present and testified he was represented by Andrew Grimes, Esq. at his guilty plea. He testified Andrew Grimes replaced his previous attorney Robert Howe, Esq. He testified he met with counsel twice before pleading guilty. He testified he reviewed the discovery materials with counsel on their second visit. The Applicant testified he and counsel discussed possible defenses and the suppression of evidence. He testified he and counsel discussed moving to suppress his statement to police and challenging the search of his home. The

Applicant testified counsel advised him that he did not think a challenge of the search would be successful if he pursued it and went to trial. He testified he also spoke with counsel about the potential seven (7) year mandatory minimum sentence he was facing if he was convicted at trial.

The Applicant testified he discussed pleading guilty with counsel and counsel advised him to plead guilty. The Applicant testified he pled guilty to receive the lowered five (5) year mandatory minimum sentence. He testified he understood the benefit of the reduction of the drug charge. The Applicant testified it was his decision to plead guilty and he recalled waiving his constitutional rights at his guilty plea. The Applicant testified he also recalled telling the court that he was satisfied with counsel's representation.

The Applicant testified when he pled guilty he did not understand what "day for day" meant. He testified counsel never explained to him what five (5) years "day for day" meant and they never discussed the amount of time he would serve in prison. The Applicant testified he recalled the court advising him that his sentence would be served "day for day." He testified had he known that "day for day" meant five (5) years incarceration he would not have pled guilty. The Applicant testified he did not understand what "day for day" meant until he was told by the Department of Corrections.

Andrew Grimes, Esquire, plea counsel for the Applicant, testified he has been practicing law since 1995. He testified he has been practicing criminal law exclusively since he joined the Charleston County Public Defender's Office in 2006. Counsel testified he was appointed to represent the Applicant in February 2013 and that a bench warrant was issued for the Applicant due to a miscommunication with his prior counsel. He testified his records documented that he met with the Applicant on February 20th, February 26th and February 27th and possibly two (2) more times prior to the Applicant's guilty plea. Counsel testified that although he was not sure

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whether the Applicant's prior attorney filed Brady and Rule 5 motions on the Applicant's behalf, he requested and received the discovery materials from the State. He testified he reviewed the discovery materials he received with the Applicant but that he had to clarify what the Applicant's prior attorney had told him. Counsel testified he discussed with the Applicant the elements of the charges he was facing, his constitutional rights, range of penalty, the State's burden of proof and what the State had to prove to convict him. He testified he also discussed with the Applicant his version of the facts and possible defenses.

Counsel testified that during the February 26th meeting and during subsequent meetings he discussed with the Applicant challenging the search of his trash can and moving to suppress his statement to police. Counsel testified the Applicant's statement included a threat and similar allegations, which he attempted to use to get the Solicitor off of the gun charges, based on State v. Whitesides, 397 S.C 313, 318–19, 725 S.E.2d 487, 490 (2012) (crime of Possession of a Firearm During the Commission of a Violent Crime requires proof of nexus between the violent crime and actual or constructive possession of the firearm), but the drugs and gun were found with each other and the mandatory five (5) year gun charge became the Applicant's biggest problem. The offer seemed favorable at the beginning of the Applicant's case, Counsel testified, but then Counsel deduced that the best deal he could obtain for his client was five (5) years imprisonment, which he successfully argued for at the Applicant's plea. He testified based on his legal research, he did not feel he had a strong argument to challenge the search of the "trash pull" because the Applicant did not have a reasonable expectation of privacy, but that he felt he was required to pursue suppression. Counsel testified he assumed the Applicant understood when he was advising him of the possibility of success on challenging the search warrant. He testified that the defense needed to "point the finger" at someone else—unfortunately, that left only his wife,

daughter, and son. Counsel testified he fully explained the sentencing range to the Applicant.

Counsel testified he did not have to do much investigation in the Applicant's case because when he received the case it was already in a guilty plea versus trial posture and the Applicant's favorable plea offer was extended while the Applicant was represented by prior counsel. Counsel testified he discussed a trial with the Applicant, but the Applicant said he wanted to plead guilty, although the Applicant never said "plea, plea, plea" and he was not adamant about going to trial. Counsel testified the State reduced the Applicant's trafficking charge and he told the Applicant the best he could get was the five (5) year minimum mandatory sentence. He testified he told the Applicant the sentence was "day for day" and argued that penalty to the Applicant's benefit during mitigation. He testified the Applicant never said he did not understand anything, worked at Boeing, and appeared competent. Finally, Counsel testified his time with the Applicant was "brief" because the case was already in progress.

Ineffective Assistance of Counsel

I. Standard

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "the burden of proof is on the applicant to prove his allegation by a preponderance of the evidence." Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 622, 300 S.E.2d 482, 483 (1983)). Where the Applicant 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, 686, 104 S. Ct. 2052, 2064 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814 (citing Strickland, 466 U.S. at 686, 104 S. Ct. at 2064).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. See Strickland at 690, 104 S. Ct. at 2066. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. See id. The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (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. See id. at 117–18, 386 S.E.2d at 625. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Id. at 117, 386 S.E.2d at 625 (citing Strickland, 466 U.S. at 668, 104 S. Ct. at 2052). 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." Id. at 117–18, 386 S.E.2d at 625 (citing Strickland, 466 U.S. at 694, 104 S. Ct. at 2068). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland, 466 U.S. at 694, 104 S. Ct. at 2068). When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 52, 106 S. Ct. 366, 366 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citing Lockhart, 474 U.S. at 52, 106 S. Ct. at 366; Jackson v. State, 342 S.C 95, 535 S.E.2d 926 (2000); Thompson v. State, 340 S.C. 112, 531 S.E.2d 294 (2000); Rayford v. State, 314 S.C. 46, 443 S.E.2d 805 (1994)).

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991) (citing State v. Hazel, 275 S.C. 392, 394, 271 S.E.2d 602, 602 (1980)). 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. Rolen v. State, 384 S.C. 409, 413, 683 S.E.2d 471, 474 (2009) (citing Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 650 (2000). See Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)). When a defendant pleads guilty on the advice of counsel, the plea may be attacked through only a claim of ineffective assistance of counsel. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2002) (citing Al-Shabazz v. State, 338 S.C. 354, 363–64, 527 S.E.2d 742, 747 (1999)).

This Court finds counsel is a criminal practitioner who has extensive experience in the trial of serious offenses. Counsel conferred with the Applicant on numerous occasions. During conferences with the Applicant, counsel discussed the pending charges, the elements of the charges and what the State was required to prove, the Applicant's constitutional rights, the range of penalty, the Applicant's version of the facts, and possible defenses or lack thereof.

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's testimony credible and the Applicant's testimony not credible. This Court finds that the Applicant's attorney demonstrated the normal degree of skill, knowledge, professional judgment, and representation that are expected of attorneys who practice criminal law in South Carolina. State v. Pendergrass, 270 S.C. 1, 5, 239 S.E.2d 750, 752 (1977); Strickland, 466 U.S. at 687–88, 104 S. Ct. 2052,

2064–65; Butler, 286 S.C. at 442, 334 S.E.2d at 814 (citing Strickland, 466 U.S. at 687–88, 104 S. Ct. at 2064–65, Turner v. Bass, 753 F.2d 342, 348 (4th Cir. 1985), *rev'd on other grounds*, Turner v. Murray, 106 S. Ct. 1683 (1986); Marzullo v. Maryland, 561 F.2d 540, 543 (4th Cir. 1977)). This Court further finds counsel adequately conferred with the Applicant, conducted a proper investigation, and was thoroughly competent in his representation. This Court finds that counsel's representation did not fall below an objective standard of reasonableness.

A. Failure to Investigate

The Applicant claims counsel was ineffective for failing to investigate the Applicant's case prior to his guilty plea.

Our Courts have 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) (citing Pauling v. State, 31 S.C. 606, 503 S.E.2d 468 (1998); Glover v. State, 318 S.C. 496, 458 .E.2d 538 (1995); Underwood v. State, 309 S.C. 345, 495 S.E.2d 768 (1998)). The Applicant's mere speculation as to what a witness' testimony would have been by itself cannot satisfy the Applicant's burden of showing prejudice. Id. (citing Glover, 318 S.C. at 498–99, 458 S.E.2d at 540). See Edwards, 392 S.C. at 457, 710 S.E.2d at 65 ("So long as a defendant's attorney conducts a reasonable investigation, including interviewing potential witnesses when it is reasonable to do so, his performance will not be deficient."); Simpson v. Moore, 367 S.C. 587, 597, 627 S.E.2d 701, 706 (2006) (citing Strickland, 466 U.S. at 691, 104 S. Ct. at 2066) ("Counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.").

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This Court finds that trial counsel was not ineffective for failing to investigate 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), *overruled on other grounds*, Walker v. State, 407 S.C. 400, 756 S.E.2d 144 (2014). "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, 123 S. Ct. 2527, 2535 (2003).

This Court finds the limited nature of Counsel's investigation of the case did not result in deficient performance in light of the Applicant's early interest in pleading guilty and lack of a viable defense. This Court also finds the Applicant has failed to show what exactly Counsel should have investigated. The Applicant has also failed to show what any additional investigation in the Applicant's case would have yielded and this Court will not speculate as to the result of further investigation by Counsel. This Court also notes the Applicant agreed with the facts as presented by the State during his guilty plea. (Tr. 10:10–15). Further, both Counsel and the Applicant affirmed for the plea court that after his investigation of the case, Counsel agreed with the Applicant's decision to plead guilty. (Tr. 5:24–25, 6:1–14). This Court finds this allegation is without merit and the Applicant has failed to carry his burden of proving counsel was ineffective for failing to investigate the Applicant's case.

B. Failure to Advise of Penalty

The Applicant also claims Counsel was ineffective for failing to advise the Applicant that his sentence would be served "day for day." This Court finds this allegation is wholly without merit. This Court finds credible Counsel's testimony that he advised the Applicant of the range of penalty and that his sentence would be served "day for day." This Court further finds the Applicant's testimony that he did not understand what the term "day for day" meant is not credible. This Court finds the Applicant's testimony is particularly incredible in light of the basic nature of the term "day for day," the Applicant's high level of education, and the Applicant's prior experience with drug convictions. This Court finds it is very unlikely that the Applicant did not understand the term "day for day" meant he had to serve all five (5) years of his five (5) year sentence. This Court finds "day for day" is not a difficult concept to understand and the Applicant never indicated to the Court that he did not understand the concept during his guilty plea proceeding.

This Court finds and the record reflects an extensive discussion regarding the "day for day" nature of the Applicant's potential sentence took place during his guilty plea. During plea counsel's statement to the Court in mitigation, counsel told the Court that a minimum five (5) year day for day sentence was a "big jump" from the Applicant's past sentence of one (1) year. (Tr. 11:19–25; 12:1–4). The Court also stated during sentencing that the Applicant who was 45 years old at the time would be 50 when he was released. (Tr. 11:5, 24–25; 14:24–25). This Court finds most telling the Applicant's colloquy with the Court during his guilty plea proceeding. The Applicant told the plea court that counsel explained to him that his possession of a firearm charge was a day for day sentence. (Tr. 2:10–24) and that, although the Applicant indicated that Counsel had not advised him of the possible penalty ranges, that misunderstanding was clarified

on the record along with the Court's additional advisement with possible penalty ranges and how the time is served. (Tr. 3:12–25; 4:1–25; 5:1–9). This Court finds the Applicant has not shown a basis for this Court to depart from the statements the Applicant made to the Court during his guilty plea. This Court finds the Applicant has failed to carry his burden of proving Counsel was ineffective for failing to advise him that his sentence would be served day for day.

C. Involuntary Guilty Plea

A defendant knowingly, freely, voluntarily, and intelligently pleads guilty when the defendant has a full understanding of the consequences of his plea and the charges against him. Boykin, 395 U.S. at 243–44, 89 S. Ct. at 1712. Defendant's knowing and voluntary waiver of statutory or constitutional rights 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) (quoting State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). "A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed." Dalton v. State, 376 S.C. 130, 137–38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 73–74, 97 S. Ct. 1621, 1629–30 (1977)). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347, 350 & n.1 (4th Cir. 1975), *overruled on other grounds*, United States v. Whitley, 759 F.2d 327, 331.

This Court finds further and the record reflects the Applicant was thoroughly advised of the waiver of his constitutional rights by both trial counsel and the plea judge. The record reflects the Applicant was advised of the charges, the potential sentences, and their classifications as

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serious offenses, he was facing. (Tr. 2:6–25; 3:1–25; 4:1–23). The Applicant was also advised of and waived of his right to jury trial (Tr. 6:15–19) his right to remain silent (Tr. 7:8–15), and his right to confront his accusers (Tr. 6:15–19). The record reflects that the Applicant told the Court that he had not been promised or threatened by anyone to get him to plead guilty. (Tr. 7:16-19). The Applicant told the Court he wished to plead guilty and he had no complaints with counsel's representation. (Tr. 5:13–14, 5:15–20). Finally, the Applicant allocuted to the facts underlying the charges. (Tr. 9:13–25; 10:1–15). This Court finds that the Applicant had a full understanding of the consequences of his plea and the charges against him. This Court finds the Applicant's plea was freely, voluntarily, knowingly, and intelligently made.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test specifically that Counsel failed to render reasonably effective assistance under prevailing professional norms. See Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (citing Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of the Applicant. The Applicant failed to show that Counsel's performance was deficient. Therefore, this Court need not address whether the Applicant was prejudiced by counsel's representation. See id. The Applicant's complaints concerning Counsel's performance are without merit and are denied and dismissed.

All Other Allegations

As to any and all allegations that were raised in the application in this matter and not specifically addressed in this Order, this Court finds the 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.

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CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner, nor was the Applicant prejudiced by counsel's representation. Therefore, this application for PCR 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 written notice of entry of this Order 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 served and 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 16th day of Sept., 2014.

DL Jefferson

Deadra L. Jefferson
Presiding Judge
9th Judicial Circuit

Charleston, South Carolina
At Chambers

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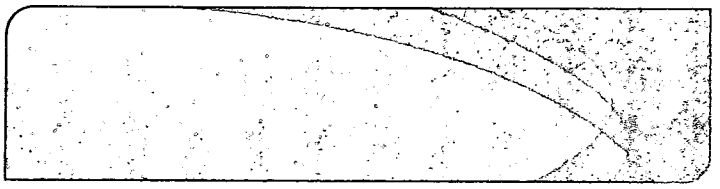

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October 27, 2014

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

RE: Reginald Murray v. State of South Carolina, Case No.: 2013-CP-10-4286

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) 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.

Sincerely,

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The Honorable Daniel E. Shearhouse
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