

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas
J. Cordell Maddox, Jr., Presiding Judge

04-CP-04-2245

RICHARD KEVIN PATTERSON, 270085

Applicant,

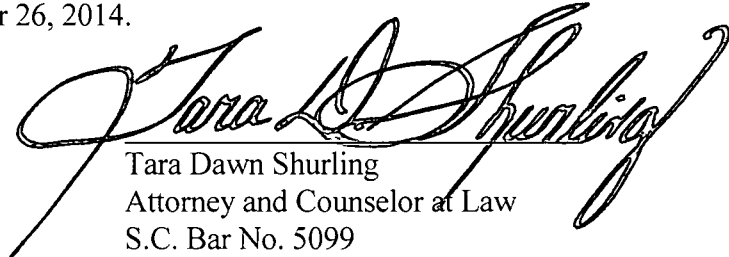
v.

THE STATE OF SOUTH CAROLINA,

Respondent.

NOTICE OF APPEAL

NOW COMES the Applicant in the above-captioned Post-Conviction Relief matter, acting by and through his undersigned counsel, giving notice of his appeal from the Order of Dismissal denying his Post-Conviction Relief filed June 16, 2014, and the Order Denying the Applicant's Motion to Alter or Amend pursuant to Rule 59(e) SCRCP which was filed with the Anderson County Clerk of Court on November 26, 2014.



Tara Dawn Shurling
Attorney and Counselor at Law
S.C. Bar No. 5099

3614 Landmark Drive, Suite A
Columbia, South Carolina 29204
(803)738-8622
(803)738-1600 FAX

ATTORNEY FOR APPLICANT

This 3rd day of December, 2014.

Other Counsel of Record:
David Spencer, Senior Assistant Attorney General
P. O. Box 11549
Columbia, SC 29211
Attorney for Respondent
(803) 734-3737

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas
J. Cordell Maddox, Jr., Presiding Judge

04-CP-04-2245

RICHARD KEVIN PATTERSON, 270085

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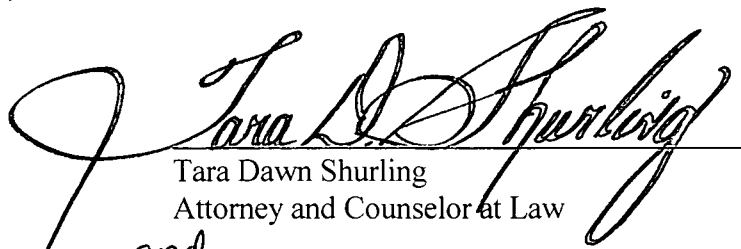
v.

THE STATE OF SOUTH CAROLINA,

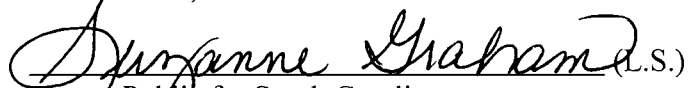
Respondent.

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that one copy of the Applicant's Notice of Appeal in the above-entitled cause has been served upon opposing counsel, David Spencer, Senior Assistant Attorney General, by mailing in an envelope properly addressed with postage prepaid on this 3rd day of December, 2014.


Tara Dawn Shurling
Attorney and Counselor at Law

SWORN TO BEFORE me this 3rd day
of December, 2014.


Suzanne Graham (L.S.)
Notary Public for South Carolina
My Commission Expires: 2/28/24



STATE OF SOUTH CAROLINA)
)
 COUNTY OF ANDERSON)
)
 Richard Kevin Patterson)
)
 Applicant,)
)
 v.)
)
 The State of South Carolina)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2004-CP-04-2245

**ORDER DENYING APPLICANT'S
 MOTION TO ALTER OR AMEND**

This matter comes before the Court on Applicant's Motion to Alter or Amend under South Carolina Rule of Civil Procedure 59(e). This Court entered an Order of Dismissal June 13, 2014. Applicant's Motion to Alter or Amend this Court's Order of Dismissal is hereby denied.

The Honorable J. Cordell Maddox, Jr.
 South Carolina Circuit Court Judge

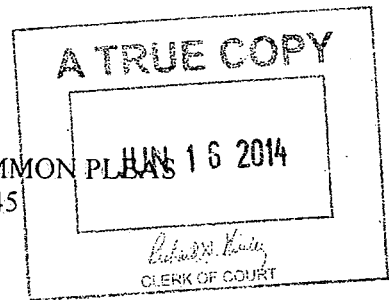
This 18th day of November 2014

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Richard M. Kinley
 CLERK OF COURT

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 COMMON PLEAS AND
 GENERAL SESSIONS

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ANDERSON)
)
 Richard K. Patterson)
 S.C.D.C. No. 270085,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS
 C.A. No. 2004-CP-04-2245



ORDER OF DISMISSAL

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 COMMON PLEAS AND
 GENERAL SESSIONS

This matter is before this Court by way of an application for post-conviction relief (PCR) filed July 26, 2004. The State made its return on October 5, 2004. An evidentiary hearing was held on June 18, 2009 before this Court. Applicant was present and represented by Tara Dawn Shurling, Esquire. The State was represented by A. West Lee of the Office of the South Carolina Attorney General. The matter was recessed during direct examination of trial counsel, James Brehm, Esquire. The matter was reconvened on February 26, 2013 before this Court at the Anderson County Courthouse. Applicant was again present and represented by Ms. Shurling. Representing the State was David Spencer of the Office of the South Carolina Attorney General. Mr. Brehm, the sole witness for the hearing, completed his testimony at this hearing.

In addition to Mr. Brehm's testimony, this Court had before it the pleadings of both parties, the trial transcript, the Clerk of Court's records regarding the subject convictions, and Applicant's records from the Department of Corrections.

PROCEDURAL HISTORY

Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Anderson County Clerk of Court's orders of commitment. The Anderson County Grand Jury indicted Applicant for Murder (2000-GS-04-1043) and Possession of a Firearm During the

Commission of a Violent Crime (2000-GS-04-1042). Applicant was represented by James Brehm, Esquire. On October 9 - 13, 2000, Applicant was tried by jury and found guilty as indicted. The Honorable J. C. Nicholson, Jr., sentenced Applicant to life imprisonment for murder and a concurrent five year sentence for the weapons conviction.

Applicant appealed the sentence and was represented on appeal by Ms. Shurling. The Court of Appeals affirmed the Applicant's conviction and sentence in an unpublished opinion. State v. Patterson, Op. No. 2003-UP-143 (S.C. Ct. App. filed February 19, 2003). The Supreme Court denied the petition for a writ of certiorari by written Order dated May 13, 2004.

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 presented at the post-conviction relief hearing. This Court has further had the opportunity to observe the witness presented at the hearing, closely pass upon his credibility and weigh his testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

Applicant makes various allegations of ineffective assistance of counsel. The burden of proof is on the applicant in a PCR proceeding to prove the allegations in his application. Bell v. State, 321 S.C. 238, 467 S.E.2d 926 (1996); Rule 71.1(e), SCRPC.

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); Judge v. State, 321 S.C. 554, 471 S.E.2d 146 (1996). In order to prove prejudice, an applicant must show that but for counsel's errors, there is a reasonable probability the result at trial would have been different. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). A reasonable

probability is a probability sufficient to undermine confidence in the outcome of the trial. *Id.* Where trial counsel articulates a valid reason for employing certain trial strategy, such conduct should not be deemed ineffective assistance of counsel. *Roseboro v. State*, 317 S.C. 292, 454 S.E.2d 312 (1995); *Stokes v. State*, 308 S.C. 546, 419 S.E.2d 778 (1992).

This Court will now address each allegation of ineffective assistance of trial counsel below:

Closing argument – Officer’s got it right.

Applicant complains that Mr. Brehm (counsel) should have objected to the solicitor’s closing argument where the solicitor commented that the officers who took Applicant’s inculpatory statement “got it right”. Applicant makes this argument by taking the comment out of context. The relevant portion of this argument is as follows:

Now how do we know this confession, this valid part about, I shot her in the head, and from the angle. Well, we know because of gunshot residue, we know because of the angle, we know because of the gun in her lap, right there at the scene. Why did he confess? He didn’t have all these lab reports, he didn’t know gunshot residue will wipe off, he didn’t know any of these things. He was told by detectives, right after the killing, still caught up in things, they did an excellent job, classic text book interview, they say, you know, he’s been told gunshot residue on his hands, he doesn’t know it can wash off. How’s he going to explain that, they did the test. They say, you know, that angle isn’t quite right, and the gun, it wouldn’t be in her lap, if the entrance wound is back here and we do this rod to show she’s facing forward, he didn’t know what I was doing, yet comes up here and describes the room, gives you details that I did this at 6:10, I did this at 5:30. He knew exactly what he was doing, the officers didn’t know any of these things, how on earth would they know any of that, most of this is just he and Leanne, she was dead, they sure didn’t talk to her. He gives a very detailed statement, and the statement is correct. **Isn’t it interesting, now he claims all this is incorrect? Isn’t it interesting, now he claims all this is incorrect, and I’m sure a lot of it is when it comes to the shooting part as to what actually happened. But isn’t it interesting that the police officers get it right, for the first page and a half, because, get it**

all wrong in the shooting, then we pick up and we get it all right down here. Everything else is accurate, according to the Defendant. What does he do, after he shoots her, now this is somebody who is too befuddled to give a statement. . . .

Trial transcript (Tr.) p. 649, line 18 – p. 650, line 22 (emphasis added).

Applicant sophistically references a small portion of this argument, out of context, to suggest that the solicitor vouched for the law enforcement witnesses. However, this argument fails when the statement is put into context. The solicitor was referring to Applicant's trial testimony where he asserted that parts of the written confession were false. During cross-examination, however, Applicant admitted that a number of details in the statement were correct. The solicitor was merely referring to this testimony to argue that the inculpatory statement was not manufactured by law enforcement but represented Applicant's version of events he voluntarily provided law enforcement.

At the PCR hearing, once put in its proper context, PCR counsel agreed that the statement was not objectionable. This Court agrees with this assessment and finds that counsel articulated reasonable professional judgment and his performance was not deficient. Additionally, this Court finds that the argument was not objectionable and therefore, Applicant was not prejudiced by the alleged deficiency.

Closing argument: wipe the gun clean

Applicant further complains that counsel should have objected to the solicitor's closing argument where she theorized that Applicant wiped the gun clean after the shooting. In Applicant's second written statement to law enforcement, he told law enforcement he went into the kitchen. From this, the solicitor theorized it was to wipe the gun clean. This Court finds that based on the record, this argument was not objectionable. This Court finds that it is a reasonable

theory based on the evidence. The solicitor's closing argument is permissible where it stays within the record and reasonable inferences to it. Humphries v. State, 351 S.C. 362, 570 S.E.2d 160 (2002). This Court finds counsel's performance was not deficient for failing to object, nor was the Applicant was prejudiced by the failure to object. This allegation is denied.

Closing argument: how to fire the weapon

Applicant alleges counsel was ineffective for failing to object to the solicitor's instructions on how to fire the weapon. However, again, this argument was an appropriate argument based on evidence before the jury. Testimony was elicited that the gun was being stored unloaded in a drawer. The clip was not loaded in the gun. Tr. p. 427. Further, the State's firearm expert provided testimony about how to fire the weapon. Tr. pp. 309-312; see PCR hearing transcript from February 26, 2013 (PCR 2013 Tr.) pp. 76-78 (counsel agreeing argument was based on firearms expert's testimony). This argument was proper and not objectionable. Further, it was not prejudicial. Applicant fails to meet either prong of Strickland, therefore the allegation is denied.

Mistrial motion for emotional outburst

Applicant alleges counsel was ineffective for not fully developing the record in regards to an emotional outburst by members of the victim's family when autopsy photographs were presented on a projector screen in the courtroom. The following is transcribed as to what occurred at trial:

Q [by solicitor]: I'm showing you State's Exhibit 21[autopsy photo] ---

(Interruption from audience.)

Court: Bailiff, would you ask her to please leave and if anyone else

would like to leave please take advantage of it at this time to leave.
Okay, Solicitor, please proceed.

[Solicitor]: Yes, Your Honor.

Tr. p. 120, lines 17-22.

Counsel then argued for a mistrial as follows:

Your Honor, I'm renewing my objection, the reason I'm objecting is I'm asking for a mistrial. And my reason is Judge I made the objection based on the grounds that these photos are prejudicial. The solicitor placed these on camera, showed them in front of the jury, showed them in front of the victim's family, the victim's family as you know, it's on the record, I'm not sure exactly who it was but there were several friends and family members that blurted out, stared crying, screaming and created a disturbance ---

* * *

There was an outburst from family and friends and had to be escorted out, and again I would ask for a mistrial, that that was highly prejudicial, that impacted the jurors, and was extremely prejudicial to show in front of the family members. Under duress, I don't think it had any purpose and I think it did prejudice the jury.

Tr. p. 125, lines 2 - 21. Note that counsel objected to Exhibit 21 initially before it was presented to the jury. Tr. p. 120.

The Solicitor disagreed with counsel's recollection of events, arguing there was no screaming, although some started crying and left the courtroom. Tr. pp. 125-126.

The trial court agreed with the solicitor's recollection, stating the following:

I think some young lady started crying when she saw the picture and I asked them to escort her out, and he escorted her out, and I'll deny your motion.

I will give the jury a curative charge as to not take any sympathy or passion as to what happens from the audience when they come back from lunch.

Tr. p. 126, lines 3-8. Then the trial court gave the following curative instruction:

Mr. Foreman and ladies and gentlemen of the jury, prior to lunch there was a crying spell from someone in the audience, and I'd just like to instruct you, your job, as jurors, is not to find anyone innocent or guilty based upon your prejudice, compassion or sympathy. Your job is to find the facts as you see them from the witness stand, and not to base that on any compassion, prejudice, or sympathy, and I would so instruct you to ignore any outbreaks from the audience and I'll try to keep it to a minimum.

Tr. p. 126, line 23 – p. 127, line 6.

Counsel testified at the PCR hearing that he felt he should have put more on the record. However, the transcript reveals counsel explicitly stated what he perceived to occur in the court room. The trial court simply did not agree with counsel's recollection of events and found the outburst was more limited than what counsel proposed. Counsel's performance was not deficient in making his objection simply because the trial court viewed the extent of the outburst differently.

It also appears that counsel never objected to the sufficiency of the curative instruction. In this regard, counsel's performance is deficient. However, Applicant was not prejudiced as a curative instruction is held to generally cure error and the decision whether or not to grant a mistrial is in the sound discretion of the trial court.

The Court of Appeals addressed this issue as follows in its unpublished opinion:

Issue II: State v. Rosemond, 335 S.C. 593, 596-597, 518 S.E.2d 588, 589-90 (1999) ("The relevance, materiality and admissibility of photographs are matters within the sound discretion of the trial court and a ruling will be disturbed only upon a showing of an abuse of discretion. . . . If the photograph serves to corroborate testimony, it is not an abuse of discretion to admit it."); State v. Harris, 340 S.C. 59, 63, 530 S.E.2d 626, 628 (2000) ("A mistrial should only be granted when absolutely necessary. In order to

receive a mistrial, the defendant must show error and resulting prejudice.”) (internal citation omitted); State v. Kelsey, 502 S.E.2d 63, 69, 331 S.C. 50, 73 (1998) (“The decision to grant or deny a mistrial is within the sound discretion of the trial judge and will not be overturned on appeal absent an abuse of discretion.”); State v. Mitchell, 330 S.C. 189, 498 S.E.2d 642 (1998) (stating a defendant cannot acquiesce in an issue at trial and then complain about it on appeal).

So it appears that the Court of Appeals found that the trial court did not abuse its discretion in denying the motion for mistrial. An appropriate curative instruction is generally considered to cure any error. State v. Dawkins, 297 S.C. 386, 377 S.E.2d 298 (1989). On appeal, a denial of a motion for mistrial will not be reversed absent a showing that the trial court abused its discretion. Id.

“A mistrial should not be granted except in cases of manifest necessity and ought to be granted with the greatest caution for very plain and obvious reasons.” State v. Wasson, 299 S.C. 508, 386 S.E.2d 255 (1989) *cited in* State v. Patterson, 337 S.C. 215, 522 S.E.2d 845 (Ct. App. 1999) (noting trial judge should exhaust other methods to cure possible prejudice before aborting a trial). This Court find that counsel was not ineffective in his motion for mistrial as the trial court simply took a different view of what occurred in the courtroom and further, the trial court did not abuse its discretion in denying the motion for mistrial. This Court also believes that the curative instruction cured any prejudice. Applicant did not meet his burden of proving prejudice.

As to Applicant’s allegation that the photographs should have been kept out of evidence, counsel did object to State’s exhibits #21 and #22, and as indicated by the Court of Appeals’ opinion, the trial court did not err in allowing the photographs into evidence. State v. Rosemond, 335 S.C. 593, 596-597, 518 S.E.2d 588, 589-90 (1999) (“The relevance, materiality and admissibility of photographs are matters within the sound discretion of the trial court and a ruling

will be disturbed only upon a showing of an abuse of discretion. . . . If the photograph serves to corroborate testimony, it is not an abuse of discretion to admit it.”). Accordingly, trial counsel was not ineffective in regards to the admission of the photographs.

Expert on Post-traumatic Stress Disorder

Applicant alleges counsel should have used an expert on post-traumatic stress disorder to explain his behavior during and after the shooting. Counsel testified that he felt his resources were better utilized with the expert pathologist that testified at trial. He was concerned that such behavioral evidence would open the door for acts concerning Applicant’s conduct with his wife and his military service. Counsel admittedly had difficulty recalling and articulating his precise trial strategy, although he testified credibly that he had a strategic reason for not retaining this kind of expert.

This Court finds that Applicant has not met his burden of proving counsel’s performance deficient. Counsel considered and rejected hiring such an expert and determined that he was better served in hiring the pathologist, Dr. Ward. The potential for opening the door when presenting evidence of a defendant’s behavior, when a defendant has had such bad behavior, is understandable. Further, there was some difficult to explain self-protective actions, like the fact that Applicant put the weapon in the deceased’s hands and that he bought two bottles of soda and two packs of cigarettes to make it look like he was away at the store when victim shot herself. Counsel was concerned that a psychiatric expert could backfire. See PCR 2013 Tr. pp. 83-88. This Court cannot say his reservations were unreasonable and therefore finds that counsel exercised reasonable trial strategy.

Further, Applicant has not met his burden of proving prejudice. Applicant submitted

deposition testimony from Dr. Thomas Martin. Dr. Martin never met with Applicant and only provided general testimony about post-traumatic stress disorder. Dr. Martin was unable to give any opinion about whether Applicant suffered from the disorder. While determining whether an applicant suffered from such a disorder at the time of the homicide may be difficult ten years after the fact, this Court notes that Dr. Martin testified that he “wouldn’t give up on it” had he been asked to evaluate Applicant. Deposition transcript (Depo Tr.) p. 14, line 23- p. 15, line 22. Dr. Martin further stated: “But I would not write off a case simply because the person is now ten years out.” Depo Tr. p. 15, lines 24-25. Regardless, Applicant failed to present expert testimony that Applicant was actually suffering from post-traumatic syndrome at the time of the offense. Accordingly, this Court finds any benefit from retaining an expert at trial speculative. This Court finds that Applicant has failed to meet his burden of proving prejudice. Accordingly, this allegation is denied.

Involuntary manslaughter charge

Applicant alleges counsel should have requested a charge on involuntary manslaughter. Counsel at one point requested the charge, but later withdrew it. Counsel testified at the PCR hearing that he did not request the charge because it was not consistent with Applicant’s defense that the victim committed suicide and he was unsuccessful in preventing it from occurring. This Court finds counsel exercised reasonable professional judgment and agrees that an instruction was not warranted based on the evidence.

Involuntary manslaughter is defined as follows:

- (1) The unintentional killing of another without malice, but while engages in an unlawful activity not naturally tending to cause death or great bodily harm or (2) the unintentional killing of another without malice, while engaged in a lawful activity with reckless

disregard for the safety of others. To constitute involuntary manslaughter, there must be a finding of criminal negligence, statutorily defined as a reckless disregard of the safety of others. Recklessness is a state of mind in which the actor is aware of his or her conduct, yet consciously disregards a risk which his or her conduct is creating. . . . The negligent handling of a loaded gun will support a charge of involuntary manslaughter.

State v. Gibson, 390 S.C. 347, 356, 701 S.E.2d 766, 771 (Ct. App. 2010) (citation omitted).

In the instant case, there was no evidence at trial that Applicant was engaging in an unlawful activity when he allegedly tried to prevent the victim from committing suicide. Further, there was no evidence that Applicant acted in a reckless disregard or otherwise acted with criminal negligence in his alleged attempt to prevent the victim from killing herself. Accordingly, this Court finds that an instruction was not warranted on involuntary manslaughter. This Court finds Applicant failed to prove either prong of Strickland.

Accident

Applicant further alleges counsel was ineffective for failing to request a charge on accident. Counsel testified that he did not think evidence supported a charge of accident. The trial court did provide a charge on suicide. Counsel testified that his theory of the case is that the victim intended to commit suicide and succeeded. This Court finds that no evidence of accident was provided to the jury. At the PCR hearing, Applicant suggested that perhaps the victim abandoned her intention to commit suicide. But this Court finds such a contention speculative and unsupported by the record. Instead, under most of Applicant's version of events (he provided several to law enforcement), the victim attempted and succeeded to commit suicide.

Further, this Court finds that overwhelming evidence supports the verdict and this defense would simply not be reasonably likely to succeed. The projectile's point of entry was

behind and above the ear and the exit wound was through the jaw. Based on the trajectory and the evidence that the gun was fired from more than 24" from the victim, in addition to Applicant's inculpatory statement admitting he shot the victim intentionally and his obviously self-protective behaviour, this Court finds evidence of guilt overwhelming. This Court finds that Applicant did not meet his burden of proving either prong of Strickland.

Motion to suppress written statement as fruit of the poisonous tree

Applicant alleges counsel should have moved to suppress a written statement he made to law enforcement because prior to the statement, Applicant gave an un-Mirandized statement. Under the case law in effect at the time of trial, the fruit of the poisonous tree doctrine would not apply to where a defendant gives a confession after Miranda warnings are given, even though there was a previous un-Mirandized custodial statement. Oregon v. Elstad, 470 U.S. 298 (1985).¹ Accordingly, trial counsel was not ineffective as counsel is not required to be clairvoyant and anticipate changes in the law.

Further, the record reflects that Applicant was not a suspect and was free to leave until he admitted shooting the victim, at which point he was given Miranda warnings. Accordingly, the written statement was admissible.

Therefore, Counsel's performance was not ineffective and this allegation is denied.

Rule 5 issue as to hair

Applicant complains counsel's performance was deficient for failing to move for a mistrial because of the State's late discovery of the victim's hair, which had been sent to SLED

¹ In Missouri v. Seibert, 542 U.S. 600 (2004), the United States Supreme Court found that Miranda warnings given mid-interrogation after a confession was given were ineffective and therefore, the post-Miranda statement should be suppressed as well.

and was later misplaced or otherwise missing until shortly before trial. Counsel testified he wanted his expert to test the hair for gun powder residue and approached the bench when the hair reappeared. Counsel admitted he failed to put his motion for continuance on the record. Counsel's performance in this regard was deficient. However, Applicant has not proven prejudice. Applicant has not sought to test the hair and there is no evidence in the record that had the defense expert tested the hair, he would have found gun powder residue on the hair.

Instead, the trial testimony suggests it was unlikely that had the hair been tested by the defense expert, gun powder residue would have been detected, which would be evidence that the gun was fired from a closer range. At trial, the State's pathologist testified he viewed the hair with magnifying lenses and did not see any gun powder residue in the victim's hair. Tr. pp. 210-211. This Court cannot speculate on the results of a test that never occurred and therefore finds Applicant has failed to meet his burden of proving prejudice. Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997) (finding one could only speculate whether counsel could have done a better cross-examination of a doctor, therefore, applicant did not meet his burden of proving prejudice). Accordingly, this allegation is denied.

Failure to subpoena victim's husband

Applicant alleged that counsel was ineffective for failing to subpoena victim's husband, but then withdrew this allegation. Accordingly, this allegation is waived.

CONCLUSION

Based on 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 advises the parties that in order to secure the appropriate appellate review, notice of appeal must be served and filed within thirty (30) days after receipt by counsel of notice of entry of this order. See Rules 203 and 243 of the South Carolina Appellate Court Rules. This Court notes that post-conviction relief counsel must advise an applicant of the right to seek appellate review of a post-conviction relief order. State v. Bray, 366 S.C. 137, 620 S.E.2d 743 (2005). Also, pursuant to Austin v. State, 305 S.C. 453, 409 S.E. 2d 395 (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), SCRCR, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a notice of appeal on an applicant's behalf.

IT IS THEREFORE ORDERED:

1. The application for Post-Conviction Relief is denied with prejudice;
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 13 day of June, 2015. *[Signature]*

[Signature]
J. Cordell Maddox, Jr.
Presiding Judge
10th Judicial Circuit

[Signature], South Carolina

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COMMON PLEAS AND
GENERAL SESSIONS

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TARA DAWN SHURLING, PA

DEC 08 2014

Attorney and Counselor at Law

3614 Landmark Drive

Suite A

Columbia, South Carolina 29204

S.C. SUPREME COURT

(803) 738-8622

(Fax) (803) 738-1600

E-Mail: tdslaw@shurlinglaw.com

December 3, 2014

David Spencer, Senior Assistant Attorney General
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211-

RE: Richard Kevin Patterson, #270085 v. State of South Carolina; 2004-CP-04-2245.

Dear Mr. Spencer:

Enclosed please find for your records a copy of the Notice of Appeal that was filed in the above-captioned matter. I have been retained by the family to handle this appeal. Please address all future communication concerning this case to my attention. I already have the PCR hearing transcripts necessary for this appeal. I anticipate getting at least one extension request to file the certiorari petition in this appeal inasmuch as the due date falls on January 2, 2015, when my support staff will still be off for the holidays. Thank you. I remain,

Sincerely yours

A large, stylized handwritten signature in black ink that reads "Tara Dawn Shurling". The signature is written in a cursive style with a large, sweeping flourish at the end.

Tara Dawn Shurling
Attorney and Counselor at Law

TDS/sg

Enclosure

cc: The Honorable Daniel E. Shearouse, Clerk, Supreme Court of South Carolina ✓
Richard Kevin Patterson, #270085
Billy & Barbara Patterson

LAW OFFICE OF



TARA DAWN SHURLING, PA

Attorney and Counselor at Law

3614 Landmark Drive

Suite A

Columbia, South Carolina 29204

(803) 738-8622

(Fax) (803) 738-1600

E-Mail: tdslaw@shurlinglaw.com

RECEIVED

December 3, 2014

DEC 08 2014

The Honorable Daniel E. Shearouse
South Carolina Supreme Court Clerk
Post Office Box 11330
Columbia, South Carolina 29211-1330

S.C. SUPREME COURT

RE: Richard Kevin Patterson, #270085 v. State of South Carolina; 04-CP-04-2245.

Dear Mr. Shearouse:

Enclosed please find for filing a Notice of Appeal on behalf of the above-captioned Post-Conviction Relief client. I would appreciate your returning two (2) clocked copies to me in the stamped self-addressed envelope provided. I have been *retained* by the family to handle this appeal. Therefore, I have courtesy copied the Appellate Division of the South Carolina Commission on Indigent Defense on this correspondence so they will make note that I am retained in this case, and won't need to send me an inquiry concerning this appeal. I have already received the transcripts of the PCR hearings held in this matter. I therefore request that the due date for the Petition for Writ of Certiorari be calendared for 30 days from the date of the filing of the Notice of Appeal. With my thanks for your assistance in this matter, as always, I remain,

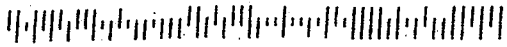
Sincerely yours,

A large, stylized handwritten signature in black ink that reads "Tara Dawn Shurling". The signature is written in a cursive, flowing style with a large initial 'T' and 'S'.

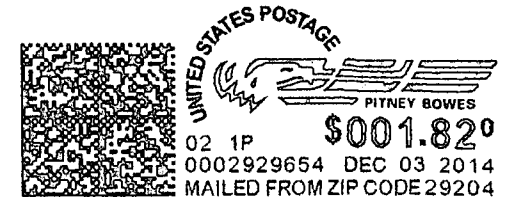
Tara Dawn Shurling
Attorney and Counselor at Law

TDS/sg
Enclosures

cc: David Spencer, Senior Assistant Attorney General
Loriene French, Legal Services Coordinator, SCCID, Appellate Division
Richard Kevin Patterson, #270085
Billy & Barbara Patterson



FIRST-CLASS



Law Office of
TARA DAWN SHURLING, PA

3614 LANDMARK DRIVE, SUITE D
COLUMBIA, SOUTH CAROLINA 29204



The Honorable Daniel E. Shearouse
South Carolina Supreme Court Clerk
Post Office Box 11330
Columbia, South Carolina 29211-1330