

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Appeal from Charleston County

Kristi Lea Harrington, Circuit Court Judge

---

RECEIVED

APR 13 2015

S.C. Supreme Court

WILLIAM C. DOAR, III,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001653

---

APPENDIX

---

LAURA R. BAER  
Appellate Defender

South Carolina Commission on Indigent  
Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589

ATTORNEY FOR PETITIONER

ALAN WILSON  
Attorney General

JOHN W. MCINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Senior Assistant Deputy Attorney General

ASHLEIGH R WILSON  
Assistant Attorney General  
P. O. Box 11549  
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA	COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON	2011-GS-10-1605 2011-GS-10-1611

STATE OF SOUTH CAROLINA )	TRANSCRIPT OF RECORD
-vs- )	November 28, 2011
WILLIAM C. DOAR, )	Charleston, South Carolina
Defendant. )	

B E F O R E:

The Honorable Roger M. Young, Sr., Judge.

A P P E A R A N C E S:

Debbie Herring-Lash, Assistant Solicitor  
Attorney for the State

Rodney Davis, Esquire  
Attorney for the Defendant

Amanda K. Haffenden, RPR, CRR  
Circuit Court Reporter

1 (November 28, 2011.)

2 THE COURT: Are you William Catena Doar, III?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: You're here today on two charges  
5 of criminal sexual conduct with a minor, second degree,  
6 each of which you can get up to 20 years in prison. I'm  
7 told that you want to plead guilty to these indictments.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Is that right?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Indictment 2011-GS-10-1605,  
12 criminal sexual conduct with a minor, you want to plead  
13 guilty to that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And 2011-GS-10-1611, criminal  
16 sexual conduct with a minor second degree, you want to  
17 plead guilty to that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. As I said, you have  
20 the right to a jury trial. You give up your right to a  
21 jury trial when you plead guilty. If you want a trial,  
22 stop me. We'll arrange that for you. The State then has  
23 to present enough evidence to convince 12 jurors that  
24 you're guilty beyond a reasonable doubt. All 12 jurors  
25 have to agree you're guilty in order to convict you, and,

1 if convicted, you have the right to appeal. You can  
2 challenge the State's evidence, put up evidence of your  
3 own, testify if you want, and if you don't want to  
4 testify, the judge will instruct the jury not to hold  
5 that against you while they're deliberating.

6 Do you understand those rights?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And do you wish to give up those  
9 rights and plead guilty today?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And are you pleading guilty to  
12 each of these indictments because you're guilty of them?  
13 Do you understand my question?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Are you under the influence of  
16 drugs or alcohol today?

17 THE DEFENDANT: No, sir.

18 THE COURT: Do you need any more time with  
19 your lawyer?

20 THE DEFENDANT: No, sir.

21 THE COURT: Are you satisfied with his  
22 representation?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: He's gone over the evidence the  
25 State has against you?

1 THE DEFENDANT: Yes, sir.  
2 THE COURT: And you've talked about going to  
3 trial?  
4 THE DEFENDANT: Yes, sir.  
5 THE COURT: And you've decided you don't want  
6 to go to trial; is that correct?  
7 THE DEFENDANT: Yes, sir.  
8 THE COURT: You don't want to tell the jury  
9 your side of the story?  
10 THE DEFENDANT: No.  
11 THE COURT: You don't want to challenge the  
12 witnesses that the State would offer against you?  
13 THE DEFENDANT: No, sir.  
14 THE COURT: You don't want to test the  
15 admissibility of the evidence?  
16 THE DEFENDANT: No, sir.  
17 THE COURT: This is your decision and your  
18 decision alone?  
19 THE DEFENDANT: Yes, sir.  
20 THE COURT: Now, you've reached a negotiated  
21 plea. The sentence you have asked me to impose is 15  
22 years, suspended upon seven years of active service,  
23 follow that up with three years of probation, that  
24 probation be terminated upon successful completion of a  
25 sex offender treatment program.

1           Is that what you have agreed to on the  
2 negotiated plea?

3           THE DEFENDANT: Yes, sir.

4           THE COURT: Other than that negotiated plea,  
5 has anybody promised you anything or threatened you to  
6 get you to plead guilty?

7           THE DEFENDANT: No, sir.

8           THE COURT: And how old are you?

9           THE DEFENDANT: Twenty-eight.

10          THE COURT: How far did you get in school?

11          THE DEFENDANT: Some college, sir.

12          THE COURT: Did you work before you got  
13 arrested?

14          THE DEFENDANT: I was working part time.

15          THE COURT: Are you married?

16          THE DEFENDANT: No, sir.

17          THE COURT: Do you have children?

18          THE DEFENDANT: No, sir.

19          THE COURT: Mr. Davis, does he understand  
20 what he's doing here today?

21          MR. DAVIS: Yes, Your Honor.

22          THE COURT: Do you agree with his plea?

23          MR. DAVIS: Yes, Your Honor.

24          THE COURT: Did you explain to him about the  
25 sexually violent predator program?

1 MR. DAVIS: I have, Your Honor.

2 THE COURT: Do you understand this case will  
3 be reviewed as you come up in your active time, and  
4 there's a possibility that the State may ask the Court to  
5 adjudicate you a sexually violent predator; that is,  
6 because of these crimes are an offense that qualifies as  
7 a sexually violent offense, and they may want to get  
8 expert psychiatric testimony and attempt to convince a  
9 court and/or a jury that you face a likelihood that you  
10 would reoffend and therefore ask to have you civilly  
11 committed and be detained with the Department of Mental  
12 Health. Do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: That has nothing to do with your  
15 probation, necessarily. It might mean you never actually  
16 get out, but it's a possibility. This case, I'm sure,  
17 will be reviewed through that process.

18 Do you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you still want to go forward  
21 with this plea?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. I find this plea is  
24 freely, voluntarily, and intelligently made. What would  
25 the State like to tell me?

1 MS. HERRING-LASH: Your Honor, the victims in  
2 this case are Mr. Doar's two twin sisters. In September  
3 of 2010, one of the twins came forward to her mother and  
4 said that Mr. Doar had been sexually abusing them. There  
5 had been a report by law -- to law enforcement that one  
6 of the girls had had a sexual relationship with another  
7 man. That was unfounded, but during that investigation  
8 is when she went to her mother and said that their older  
9 brother had been sexually molesting them and that it  
10 began when they used alcohol together.

11 He gave him beer and marijuana, and that is  
12 how this began. They both gave histories of sexual  
13 abuse. He is pleading for one of them to penile  
14 penetration, the other to digital penetration, and in his  
15 statement to police, that is what he acknowledged.

16 With the penile penetration, his history was  
17 that he was unable to actually perfect the penetration  
18 because of some medical conditions that he has, but the  
19 victim explained it to be enough to be legally  
20 penetration, and he acknowledged digital penetration with  
21 the other child.

22 Both girls have been depressed and kind of  
23 ambivalent about this, Your Honor. One of the threats  
24 that Mr. Doar used was if you tell, I'll go to jail, and  
25 at the beginning that was enough for them not to tell.

1 I've met with the girls and with the mother, and talked  
2 with the mother many times.

3 They decided that they thought he did need  
4 some punishment, but, of course, as you can understand  
5 from their mother, this is her child also, and that is  
6 why we have offered less than the maximum amount, even  
7 though he did acknowledge this.

8 They did want the successful completion of  
9 the sex offender treatment after his active time, and the  
10 mother didn't know whether she was going to be here today  
11 but I guess she didn't come since she's not here.

12 THE COURT: Mr. Davis?

13 MR. DAVIS: Your Honor, the only thing that  
14 Billy would like me to clarify is that it does meet the  
15 elements of the statute. We have talked in great detail  
16 about these charges.

17 The only thing I think he would want me to  
18 clear up is in his statement to police, it's actually a  
19 two-part statement, was the language he used was digital  
20 manipulation.

21 We talked long about whether he would want to  
22 dispute that in front of a jury, but I just want to be  
23 clear his statement said that. It doesn't change the  
24 fact that I believe it's his decision to plead guilty.  
25 He said yes.

1                   We would not dispute that, but that's one of  
2 the things we talked about quite a bit, his actual  
3 wording versus what the State would have to prove, but  
4 other than that, we have nothing to dispute on the facts  
5 of this.

6                   Judge, I will let you know he has served 433  
7 days in jail. He's been in since arrest, and we're  
8 hoping you're accepting of the negotiated plea. If you  
9 need more information from me, I've talked to him many,  
10 many times during this 13-month period, but we think it's  
11 a fair resolution and would ask you to accept the  
12 recommendation.

13                   THE COURT: Mr. Doar, would you like to say  
14 anything?

15                   THE DEFENDANT: I would like to say I do  
16 appreciate the State offering me this plea agreement, and  
17 I'm accepting these charges and I will see the punishment  
18 through to the end and hopefully become a productive  
19 member of society.

20                   THE COURT: All right. Well, the sentence of  
21 the Court will be 15 years suspended to successful  
22 completion of 7 years of active time, followed by  
23 successful completion of three years' probation. They'll  
24 run concurrent. You'll get credit for the 433 days that  
25 you have already served.

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You could get off probation early upon  
successful completion of a Department of Probation and  
Parole Sex Offender Treatment program. Okay? Good luck.

-----

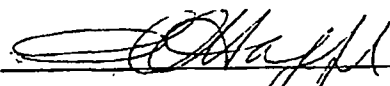
(Whereupon, the proceedings were concluded.)

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I, the undersigned Amanda K. Haffenden, RPR, CRR, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 28th of November 2011.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

June 3, 2013

  
\_\_\_\_\_  
Circuit Court Reporter

FORM 5

2012-CP-10-7605

STATE OF SOUTH CAROLINA )  
County of Charleston )  
William C. Dear III soc. 348781 )  
Full name and prison number (if any) of Applicant )

IN THE COURT OF COMMON PLEAS

Case # 2011GS1001605  
2011GS1001611

v. )  
State of South Carolina )

APPLICATION FOR  
POST-CONVICTION RELIEF

FILED  
2012 NOV 19 PM 4:29  
JULIE J. ARMSTRONG  
CLERK OF COURT

**INSTRUCTIONS - READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Allendale Correctional Institution
2. Name and location of Court which imposed sentence General Sessions - Ninth Circuit
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2011GS1001605
  - (b) 2011GS1001611

(c) 0

5. The date upon which sentence was imposed and the terms of the sentence:

- (a) 11-28-11 15 yrs. suspended to 7 and 3 yrs
- (b) probation; to be terminated upon completion
- (c) of sex offender treatment

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty yes
- (b) after a plea of not guilty N/A
- (c) after a plea of nolo contendere N/A

7. Did you appeal from the judgment of conviction or the imposition of sentence?

NO

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

- i. N/A
- ii. N/A
- iii. N/A

(b) the result in each such Court to which you appealed:

- i. N/A
- ii. N/A
- iii. N/A

(c) the date of each such result:

- i. N/A
- ii. N/A
- iii. N/A

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. N/A
- ii. N/A
- iii. N/A

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) Tried to contact attorney, attorney would not respond

(b) Wrote clerk of court, no response

(c) 0

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) insufficient counsel, no appeal filed

(b) state withheld information, rule 5

(c) did not make me understand consequences of guilty plea

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) rule 5 incomplete, no appeal filed

(b) refused info on health & health of defendant or victims

(c) still unsure

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? NO

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO

(d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. N/A

ii. N/A

iii. N/A

iv. N/A

(b) the name and location of the Court in which each was filed:

i. N/A

ii. N/A

iii. N/A

iv. N/A

(c) the disposition thereof:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(d) the date of each such disposition:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. N/A
- ii. N/A
- iii. N/A

(b) the proceedings in which each ground was raised:

- i. N/A
- ii. N/A
- iii. N/A

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) unaware that "I" could
- (b) Unaware that "I" could
- (c) Unaware that "I" could

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? yes: Rodney Davis
- (b) your trial, if any? yes: Rodney Davis
- (c) your sentencing? yes: Rodney Davis
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? None filed
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?  
yes: Rule 5

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
  - i. Rodney D. Davis Public defenders office (now private practice)  
OT Wallace office building 5<sup>th</sup> floor 101 meeting st. Chas, SC 29410
  - ii. ~~\_\_\_\_\_~~
  - iii. ~~\_\_\_\_\_~~
- (b) the proceedings at which each such attorney represented you:
  - i. Preliminary hearing
  - ii. Guilty plea
  - iii. ~~\_\_\_\_\_~~

19. State clearly the relief you seek in filing this application:

Reduction of sentence,  
~~o~~ Overtum case  
~~o~~

20. Are you now under sentence from any other court that you have not challenged?

NO  
~~o~~

STATE OF SOUTH CAROLINA )  
County of Allendale )

VERIFICATION

I, William C. Doar III, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

*William C. Doar III*

SWORN to and subscribed before me this 14 day of Nov., 2012

*Cynthia D. Sanders* (S.)  
Notary Public

My Commission Expires: 3/9/21

**APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF.**

I, William C. Doar III, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

William C. Doar III  
Applicant

SWORN or affirmed to and subscribed before me this  
14 day of Nov., 2012

Cynthia A. Sanders  
Notary Public

My Commission Expires: 3/9/11

Miss Armstrong:

11-14-12

Please find enclosed my completed & notarized P.C.R. Forms. To include my Affidavit affirming my indigent status. Please file, and return a filed copy to me. Thank you very much for your time.

Sincerely,  
William C. Doar III

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	
	)	2012-CP-10-7605
	)	
William C. Doar, III, #348781	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

The Respondent, making its Return to the application for post-conviction relief (PCR) filed November 19, 2012, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the March 2011 term of the Charleston County Grand Jury for two counts of criminal sexual conduct with a minor- second degree (2011-GS-10-1605, -1611). Applicant was represented by D. Ashley Pennington, Esquire.

On November 28, 2011, the Applicant pled guilty as indicted. Applicant was sentenced by the Honorable Roger M. Young to confinement for a period of fifteen years, provided upon the service of seven years, the balance is suspended to three years probation which will terminate upon the completion of the Department of Probation, Pardon, and Parole's sex offender treatment program. The sentences are to be served concurrently. The Applicant did not file an appeal.

Attached herewith and incorporated herein are the records of the Charleston County Clerk of Court regarding the subject convictions and the Applicant's records from the South Carolina Department of Corrections. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## II.

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

1. Ineffective assistance of counsel.
  - a. "No appeal filed."
  - b. "State withheld information, Rule 5. Refused info M-health or defendant or victims."
  - c. "Did not make me understand consequences of guilty plea."

## III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

#### IV.

Each and every allegation contained within the application not herein before either expressly admitted, qualified or explained is hereby denied.

#### V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

[Signature on the following page.]

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Senior Assistant Deputy Attorney General

ASHLEIGH R. WILSON  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211  
Telephone: (803) 734-3737

April 16, 2013.

STATE OF SOUTH CAROLINA

)

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

)

)

2012-CP-10-7605

)

)

WILLIAM C. DOAR, III #348781

)

Applicant,

)

)

vs

)

AFFIDAVIT OF SERVICE BY MAIL

)

STATE OF SOUTH CAROLINA,

)

Respondent.

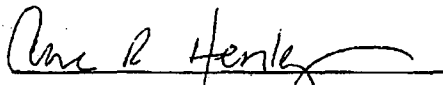
)

)

1. I am an employee of the Respondent in the above-captioned action.
  
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
  
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Joseph C. Good, III Esquire  
 255 Philip Street  
 Charleston, SC 29403

DATED this 16th day of April, 2013



Anne Henley, Legal Assistant  
 For Respondent

State of South Carolina ) In the Court of Common Pleas  
County of Charleston ) Ninth Judicial Circuit

William C. Doar, III, ) Transcript of Record  
Applicant, ) 2012-CP-10-7605

V. )

State of South Carolina, )  
Respondent. )

January 15, 2014

Charleston, South Carolina

B E F O R E:

The Honorable Kristi L. Harrington, Judge

A P P E A R A N C E S:

Joseph C. Good, III, Esquire

Attorney for the Plaintiff

Ashleigh R. Wilson, Assistant Attorney General

Attorney for the State

SHARON L. VIZER

CIRCUIT COURT REPORTER

I N D E X

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RODNEY DAVIS:

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Cross-Examination by Ms. Wilson.....23

Redirect Examination by Mr. Good.....31

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\*\* NO EXHIBITS WERE INTRODUCED \*\*

1 Wednesday, January 15, 2014

2 THE COURT: Are you William Doar?

3 THE APPLICANT: Yes, ma'am.

4 THE COURT: Mr. Good is your attorney?

5 THE APPLICANT: Yes, ma'am.

6 THE COURT: Do you know what we are doing here  
7 today?

8 THE APPLICANT: Yes, ma'am.

9 THE COURT: What are we doing here today?

10 THE APPLICANT: Scheduling another date of hearing.

11 THE COURT: Why? I don't know. We are set for a  
12 PCR hearing, correct?

13 MR. GOOD: Yes, Your Honor.

14 THE COURT: So what are we doing here?

15 MR. GOOD: Well, I have been talking extensively  
16 with my client for a while about some issues in this case  
17 and going forward, and I've also talked to Charles Brooks  
18 who handles lots of PCR cases. And when I posted some  
19 questions to him about some authority on some issues that  
20 I think are important in this case he said that, I think  
21 you ought to let me jump in and take the reins on that  
22 one because I know --

23 THE COURT: Is he here today?

24 MR. GOOD: He is not here today but he does a lot  
25 of these PCR cases and he and Ashley talk a lot, and

1 apparently he is going to be around a lot coming up so  
2 he --

3 THE COURT: Well, you are taking around some  
4 issues. What is it that you are asking today?

5 MR. GOOD: So for my motion would be for  
6 substitution of counsel which I think is in my client's  
7 best interest, and Mr. Brooks can submit it to me and I  
8 can get it signed and get it filed immediately.

9 THE COURT: Ms. Wilson?

10 MS. WILSON: Your Honor, the State doesn't take any  
11 position or have any objection to that.

12 THE COURT: How old is this case?

13 MS. WILSON: It's a 2012 case, Your Honor. I think  
14 it's only been scheduled one time previously when  
15 Mr. Davis --

16 THE COURT: Were you ready when that was scheduled  
17 previously?

18 MR. GOOD: They took forever to get us the  
19 transcript. So this is the first time we've actually  
20 been able to do it. We weren't ready last time because  
21 the State did not get us a copy of the plea transcript  
22 and it was continued for that reason and had nothing to  
23 do with any of the attorneys.

24 THE COURT: Well, at what point, Mr. Good, did you  
25 realize that you would be unable to handle this case and

1 be better for Mr. Brooks?

2 MR. GOOD: Well, I'm fine to keep going with it,  
3 Your Honor, quite frankly.

4 THE COURT: Well, then let's go. We are ready.  
5 Mr. Doar is here.

6 MR. GOOD: Okay.

7 THE COURT: Mr. Davis is here. All right.

8 Mr. Doar, we are going to go forward on your  
9 application for post-conviction relief. Mr. Good says  
10 that he is ready to proceed. Do you need any additional  
11 time to meet with your attorney?

12 THE APPLICANT: He says that he feels he's ready a  
13 couple of times. Yes, ma'am.

14 THE COURT: All right. And are you ready to go  
15 forward here today?

16 THE APPLICANT: Yes, ma'am.

17 THE COURT: Now, you were charged with -- you were  
18 indicted for criminal sexual conduct with a minor second  
19 degree, two counts, and you pled guilty; is that correct?

20 THE APPLICANT: Yes, ma'am.

21 THE COURT: And received a negotiated sentence, 15  
22 years on each count to run concurrent; is that correct?

23 THE APPLICANT: As I understand it.

24 THE COURT: Provided upon the service of seven  
25 years. The balance would be suspended for three years,

1 and then your probation would be terminated upon the  
2 completion of a sex offender treatment program. Does  
3 that sound correct?

4 THE APPLICANT: Yes, ma'am.

5 THE COURT: Now, do you understand what happens if  
6 I grant your request here today, if you get what you are  
7 asking for? Do you know what happens?

8 THE APPLICANT: It would overturn my case and would  
9 go back to being charged with those cases and retry the  
10 case.

11 THE COURT: As I understand it -- and, Ms. Wilson,  
12 correct me if I am incorrect, each count of criminal  
13 sexual conduct with a minor carries up to 20 years. So  
14 on each indictment you're facing a potential of 20 years,  
15 and if a judge ran those -- if you were either found  
16 guilty by a plea or a jury trial a judge could run those  
17 consecutive, meaning you could face 40 years in the  
18 Department of Corrections; do you understand that?

19 THE APPLICANT: Yes, ma'am.

20 THE COURT: As I understand it, 40 years is  
21 substantially larger than seven.

22 THE APPLICANT: Yes, ma'am.

23 THE COURT: Do you still wish to go forward here  
24 today?

25 THE APPLICANT: Yes, ma'am.

1 MS. WILSON: Your Honor, for the record, I believe  
2 some other charges were nolle prossed in exchange for his  
3 guilty plea.

4 THE COURT: There were some charges in exchange for  
5 the plea? Is that what you said?

6 MS. WILSON: Yes, Your Honor.

7 THE COURT: What charges were those?

8 MS. WILSON: I believe Mr. Davis can tell you  
9 better. I know there was several CSC seconds for  
10 different acts, and I think a contributing to the  
11 delinquency of a minor.

12 THE COURT: I'm looking just to make sure in the  
13 transcript that there was discussion about that.

14 MS. WILSON: Your Honor, I don't think it was  
15 discussed in the transcript, but that's just from my  
16 talking with Mr. Davis.

17 THE COURT: All right. Well, when Mr. Davis takes  
18 the stand we can discuss that issue as well.

19 Mr. Doar, do you understand that there were -- is  
20 it your recollection that there were other charges that  
21 were dismissed?

22 THE APPLICANT: Yes, ma'am.

23 THE COURT: And so you understand those charges  
24 would likely be reinstated should all of this go back?

25 THE APPLICANT: Yes, ma'am.

1 THE COURT: Because they were dismissed pursuant to  
2 your plea which is in essence a contract.

3 THE APPLICANT: Yes, ma'am.

4 THE COURT: And knowing that do you still wish to  
5 go forward here today?

6 THE APPLICANT: Yes, ma'am.

7 THE COURT: Tell me, Mr. Good, what claims you are  
8 going forward on today.

9 MR. GOOD: Your Honor, it's ineffective assistance  
10 of counsel based on the fact that Mr. Doar was not given  
11 a mental evaluation and requested one.

12 MS. WILSON: Your Honor, is this -- I guess I would  
13 like to know from the applicant if this is an amendment  
14 to his application because from what I have from the  
15 application it doesn't include any allegations about his  
16 mental health.

17 THE COURT: I'm not seeing that either. My  
18 application and the cause indicates that it was a Rule 5  
19 violation, no appeal had been filed.

20 MR. GOOD: Your Honor, I have number 11(b) on the  
21 application, refused info, M-L. I assume that means  
22 mental health or health of the defendant or victims.

23 THE COURT: Refused information regarding, that's  
24 how I read that. Refused information regarding mental  
25 health, either Mr. Doar or the victims. Did I read that

1 incorrectly?

2 MR. GOOD: I took that to mean that was information  
3 on the status of his mental health and further  
4 elaborating --

5 THE COURT: Well, I assuming you're going to put  
6 your client up. That's something we could inquire about.

7 MR. GOOD: Absolutely.

8 THE COURT: And if there is any point that  
9 something is said differently -- Ms. Wilson, how did you  
10 interpret that number 11?

11 MS. WILSON: Refused information about the mental  
12 health on the defendant or the victims.

13 THE COURT: All right. And so then we would need  
14 to discuss whether or not at this late date I will allow  
15 you to amend the information because Ms. Wilson would not  
16 be prepared to go forward on that allegation.

17 MR. GOOD: All right.

18 THE COURT: All right. Whenever you are ready,  
19 Mr. Good, call your next witness.

20 MR. GOOD: I would like to call Mr. Doar.

21 THE COURT: All right. Mr. Doar, I need you to  
22 come forward and be sworn. Thank you.

23 WILLIAM C. DOAR, III, after having been duly  
24 sworn, testified as follows:

25 THE CLERK: I'm going to ask you to state your full

1 name and spell your last, please.

2 THE WITNESS: William C. Doar, III, D-o-a-r.

3 MR. GOOD: Thank you, Your Honor. May it please  
4 the Court?

5 DIRECT EXAMINATION

6 BY MR. GOOD:

7 Q. William, do you like to go by Billy or William?

8 A. Billy.

9 Q. Billy, can you tell me what you pled guilty to that  
10 had you incarcerated when you pled guilty on November 28,  
11 2011?

12 A. Yes, sir, two counts of criminal sexual conduct  
13 with a minor second degree.

14 Q. And in the transcript of your plea -- well, can you  
15 read --

16 MR. GOOD: Your Honor, may I approach?

17 THE COURT: You may approach.

18 BY MR. DOAR:

19 Q. Can you read the highlighted portion --

20 A. Yes, sir.

21 Q. -- to the Court.

22 A. It states the defendant: I would like to say I do  
23 appreciate the State offering me this plea agreement and  
24 I'm accepting these charges and I'll receive the  
25 punishment through the end and hopefully become a

1 productive member of society.

2 Q. Thank you.

3 MS. WILSON: What page is that on, Mr. Good?

4 MR. GOOD: That is page -- second to last page,  
5 three fourths of the way down.

6 BY MR. GOOD:

7 Q. And, Billy, you accepted that plea on the record.  
8 Going back and doing this post-conviction relief and  
9 claiming ineffective assistance of counsel from Rodney  
10 Davis, Mr. Davis, what are your claims? When you applied  
11 what were your claims for that PCR?

12 A. My claims were ineffective assistance of counsel  
13 based on several items but the most important would be  
14 that I was not given the mental health and evaluation  
15 records and physical health records that are requested on  
16 several occasions, including a letter to Mr. Davis that I  
17 have today that was copied from my case file.

18 Q. In your application, as you heard us just  
19 discussing with the Court, on page three of the  
20 application, number 11 -- well, if you could tell me all  
21 of -- start with telling me all of your claims for  
22 ineffective assistance of counsel and explain them in  
23 your application as you wrote it, what you meant by it,  
24 what you wrote.

25 A. Okay. Number 10 would be to concisely state

1 grounds on which you base your allegations that you are  
2 being held in custody unlawfully. Letter A would be  
3 insufficient of counsel that no appeal was filed. The  
4 Rule 5, I felt -- Letter A. The Rule 5, I felt, was  
5 incomplete and upon reaching prison yard I was able to go  
6 to the law library, and looking through the law books and  
7 through the Georgetown -- or law journal, I felt that it  
8 was not proper procedure that no appeal was filed and I  
9 felt my Rule 5 was incomplete because information was  
10 never --

11 Q. What information was -- what information was --

12 A. My mental health evaluation records --

13 Q. Tell me about your history of mental health.

14 A. I have almost a 10 year --

15 Q. Before this case.

16 A. Yes, sir.

17 Q. Okay.

18 A. I have almost a 10-year record dating back to, I  
19 believe 2004 or 2005 when I was diagnosed with major  
20 depression by a general practitioner, and then I believe  
21 it was 2008 I went to a mental health center in Conway.  
22 I don't remember off the top of my head the name of the  
23 center there but it is a state run facility. I went to  
24 see a psychiatrist there and I was diagnosed with bipolar  
25 type two, which is an anxiety and depression disorder. I

1 was also diagnosed with major depression, posttraumatic  
2 stress disorder and obsessive compulsive.

3 Q. How much did you weigh at that time?

4 A. When I first applied I was approximately 480  
5 pounds.

6 Q. And how much do you weigh now?

7 A. 252 pounds.

8 Q. So you've lost a significant amount of weight?

9 A. Yes, sir.

10 Q. Did that contribute to your mental health, do you  
11 think?

12 A. I would assume that it does affect it. I've had  
13 several psychiatrists tell me that I needed to drop  
14 weight and it would help my chemical balance in my brain.

15 Q. As far as -- getting back on the point. As far as  
16 the issue of mental health is concerned, were there any  
17 records that you saw as a result through your defense  
18 that your attorney --

19 A. No. I never saw any records of my mental health  
20 whatsoever. I requested them several times and I was  
21 informed by Mr. Davis that the investigator for our case,  
22 who I never met, I was told was going to come and see me  
23 before he searched for those records, was going to get  
24 them.

25 Q. And so the other issue you had in your application

1 was -- that was the mental health issue. The other issue  
2 you had in your application was an appeal. It said no  
3 appeal filed. Is that correct?

4 A. Yes, sir.

5 Q. Are you clear at all from communication with your  
6 lawyer either right before the plea or right after the  
7 plea as to what you may be appealing?

8 A. No, sir.

9 Q. If there was going to be any kind of a legal  
10 appeal?

11 A. No, sir. Actually, right after the sentencing  
12 hearing or the plea hearing I was taken back to the  
13 holding cell and I have a letter with me today from  
14 Rodney explaining that it rained that night so he didn't  
15 bring the records to the county detention center, and  
16 then the next day he came to the detention center and  
17 there was a malfunction of some sort and he couldn't  
18 reach me that day, then I was shipped the following  
19 morning to R and E Center at Kirkland.

20 Q. Right. So when you said -- just trying to get back  
21 on point. When you said number 10(a) in your  
22 application, insufficient counsel, no appeal filed -- I'm  
23 sorry. 11(a), Rule 5 incomplete. Did that have anything  
24 to do with your mental health issues?

25 A. Yes, sir. That's what I was referring to and that

1 I felt it was incomplete because it had no history  
2 whatsoever of my mental health.

3 Q. Okay. Thank you.

4 MR. GOOD: That's all I have.

5 THE COURT: Ms. Wilson?

6 MS. WILSON: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MS. WILSON:

9 Q. Good morning, Mr. Doar.

10 A. Morning.

11 Q. How long did you meet with Mr. Davis before you  
12 pled guilty?

13 A. Approximately five in a 14-month time span.

14 Q. Did you review the discovery that he received from  
15 the State?

16 A. Partially, yes, ma'am.

17 Q. Well, what did you review with him?

18 A. The forensic interview with my sisters, my victims,  
19 and statements from myself and my victims.

20 Q. Do you recall discussing possible defenses with  
21 Mr. Davis?

22 A. Yes, ma'am.

23 Q. Did you give him any witnesses or people to  
24 investigate?

25 A. Yes, ma'am.

1 Q. And did he investigate those people?

2 A. I was never given any information whether or not he  
3 did.

4 Q. Did you talk to him about the plea offer that you  
5 accepted from the State?

6 A. Yes, ma'am.

7 Q. And was it your decision to plead guilty?

8 A. Yes, ma'am.

9 Q. Did you tell the plea judge that you were indeed  
10 guilty?

11 A. Yes, ma'am.

12 Q. Did you recall waiving your constitutional rights  
13 during the guilty plea, like your right to remain silent,  
14 your right to confront witnesses and your right to a jury  
15 trial?

16 A. I remember the right to a jury trial. I do not  
17 remember the other two, off the top of my head.

18 Q. Your testimony today is that you asked Mr. Davis to  
19 obtain some mental health records. I'm assuming your  
20 mental health records?

21 A. Yes, ma'am. Also those of my victims and an  
22 evaluation for myself.

23 Q. Okay. And what would those records have shown?

24 A. That I was and still am suffering from severe  
25 anxiety disorder and post-traumatic stress disorder, and

1 that I also have panic attacks when put under stress.

2 Q. Okay. And you said you were never evaluated by  
3 anybody, you never talked to any doctors?

4 A. Not in an evaluation time frame. I was spoken to  
5 on several occasions in Charleston County by their  
6 resident psychiatrist for approximately 5 or 10 minutes  
7 to ask about suicide and things like that.

8 Q. Okay. What did you say was missing from your Rule  
9 5?

10 A. The records and evaluation that I requested.

11 Q. You also say that Mr. Davis didn't file an appeal  
12 for you. Did you all discuss your right to appeal?

13 A. Yes, ma'am. We discussed an appeal but not how we  
14 would go about that.

15 Q. And after you discussed this appeal with Mr. Davis  
16 did you tell him you wanted to appeal?

17 A. I do not think that we ever discussed whether or  
18 not I wanted it and I was unclear as to when I would file  
19 that. I assumed I would file that after I was in prison,  
20 myself.

21 Q. Did you ever write Mr. Davis or call him on the  
22 phone after to tell him you wanted an appeal after you  
23 got to the prison?

24 A. I did write him to speak about several issues. I'd  
25 have to look at the letters.

1 Q. Thank you.

2 THE COURT: Mr. Good?

3 MR. GOOD: Thank you, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. GOOD:

6 Q. Can you explain what this is to the Court?

7 A. This is an inmate grievance record from 7-5-11, and  
8 the subject was request legal visit with attorney. The  
9 inmate statement was, I have not heard from Mr. Davis for  
10 five months. Please see me regarding information vital  
11 to my case.

12 Q. Okay. And this was -- if you want to, you can  
13 explain this to the Court. This was communication with  
14 your attorney, if I'm correct, which would be privileged,  
15 but if you want to share that with the Court you're  
16 welcome.

17 A. It says, Rodney, well, what happened -- this is  
18 from R and E on a half sheet of paper copied to a full  
19 sheet. I never got the paperwork. You never came and  
20 saw me after court. I still need my med and psych  
21 records as well as the sex offender registry laws in  
22 California that I had asked him for. I feel like I  
23 should have risked it all to stay out of here. Chances  
24 are I will be raped or stabbed before release. That  
25 isn't a guess. Violence is real here, so please write me

1 back and send those things.

2 Q. Same thing with that last letter.

3 MS. WILSON: Excuse me. Can I see these before he  
4 reads them in, and what was the date of the letter he  
5 just read?

6 MR. GOOD: It's note dated.

7 MS. WILSON: Okay.

8 THE APPLICANT: There should be an envelope --

9 THE COURT: Please don't talk unless there's a  
10 question posed to you. Thank you.

11 BY MR. GOOD:

12 Q. Mr. Doar, could you do the same with that letter --

13 MR. GOOD: Or do you want to see it first?

14 MS. WILSON: Yes, please.

15 (PAUSE.)

16 BY MR. GOOD:

17 Q. What is that? Who is that a letter to?

18 A. Rodney Davis. It's dated December 31st, 2010.

19 Dear Mr. Davis, this letter is to request an update on  
20 the status of my case. You informed me in October that I  
21 would hear from you the week following my preliminary  
22 hearing. I assume that first date was rescheduled. I  
23 then received letters informing me of later dates for the  
24 same reason. I am a stranger to procedure here. I would  
25 like to know the reason for the rescheduling if, in fact,

1 it has a bearing on my case. I understand that things  
2 take time but I have not heard from you in over two  
3 months. Please just let me know where we stand and the  
4 status of the discovery. I don't believe there can be  
5 any evidence other than statements of myself and my  
6 alleged victims. Thank you for your time and I apologize  
7 for the sloppiness of the letter. Sincerely, William C.  
8 Doar, III.

9 Q. So in that letter you were inquiring as to the --  
10 you were concerned and you were inquiring -- were you  
11 inquiring as to the status of the discovery?

12 A. Yes, sir.

13 Q. What part of the discovery were you concerned with?

14 A. I had not received any discovery at that point.

15 MR. GOOD: Okay. That's all, Your Honor. Thank  
16 you.

17 MS. WILSON: Briefly, Your Honor.

18 RECROSS-EXAMINATION

19 BY MS. WILSON:

20 Q. Mr. Doar, so it's safe to say that you wrote  
21 Mr. Davis frequently; is that correct?

22 A. Yes, ma'am.

23 Q. And in the letters that you -- the handwritten  
24 letters that you referenced today, you never indicated to  
25 him you wanted an appeal; is that correct?

1 A. Yes, ma'am.

2 Q. Okay. Thank you.

3 THE COURT: You may step down. Thank you.

4 MR. GOOD: Mr. Rodney Davis.

5 THE COURT: Mr. Davis, please come forward and be  
6 sworn.

7 RODNEY DAVIS, after having been duly sworn,  
8 testified as follows:

9 THE CLERK: And state your full name and spell your  
10 last name.

11 THE WITNESS: Rodney Davis, D-a-v-i-s.

12 MR. GOOD: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MR. GOOD:

15 Q. Morning, Mr. Davis.

16 A. Good morning.

17 Q. Can you -- I just want to address those points  
18 briefly that we were making with Mr. Doar when he claims  
19 none of his mental health records were discovered during  
20 the Rule 5 phase and the issue with the mental exam. Can  
21 you just explain that.

22 A. To the first part, I've got my file from the public  
23 defender's office here with me. I obviously reviewed it  
24 before today. There are notes of several discussions  
25 about his prior mental health history. There are notes

1 where I would have conveyed that to my investigator, Lee  
2 Ginn, of the public defender's office.

3           What he testified to is in this file there are no  
4 such records. I did not check with Mr. Ginn prior to  
5 this proceeding. I don't know if those were obtained or  
6 not. What I do, though, have are an e-mail chain between  
7 myself and the solicitor, Ms. Herring-Lash, that I was  
8 looking at during the testimony.

9           I flat out asked Ms. Herring-Lash if an evaluation  
10 by Dr. Burke, who primarily deals with certainly mental  
11 issues, but sexual issues, if that would make a bearing  
12 on her position or her offer. Her response was it would  
13 have no affect on the way the State would proceed on  
14 this. Certainly a mitigation factor. I would not have  
15 mentioned that to her without talking to Mr. Doar about  
16 that. Based on her response, obviously to use that in  
17 mitigation was not going to have any affect.

18 Q.       Do you have any opinion as to whether or not that  
19 would have affected his eagerness or not eagerness to go  
20 forward in a trial, whether or not he was evaluated,  
21 based on your representation of Mr. Doar?

22 A.       Based on lengthy conversations that -- I don't  
23 recall details but I recall lengthy conversations with  
24 him. He was a very good client. He was on top of the  
25 case, had pertinent questions about the facts of the case

1 and pertinent questions about procedures. I thought we  
2 might try to either block statements both of the accusers  
3 or statements that he gave. We talked at length about  
4 that. It's my belief now and my belief then that any  
5 evaluation would have gone more towards mitigation than a  
6 defense.

7 MR. GOOD: Okay. Thank you.

8 THE COURT: Ms. Wilson?

9 MS. WILSON: Yes, Your Honor. Beg the Court's  
10 indulgence just one second.

11 (PAUSE.)

12 CROSS-EXAMINATION

13 BY MS. WILSON:

14 Q. Good morning, Mr. Davis.

15 A. Good morning.

16 Q. Do you recall how long you've been practicing law?

17 A. I'm into my 18th year.

18 Q. And about how much has that been spent doing  
19 criminal law?

20 A. My whole career in one way or another.

21 Q. And do you recall when you were appointed to  
22 represent Mr. Doar?

23 A. Give me a moment.

24 The notes in the file indicate the file was opened  
25 on October the 11th of 2010.

1 Q. And do you recall how many times you got to meet  
2 with Mr. Doar?

3 A. Give me a moment again.

4 If you don't mind, Your Honor, I'll just --

5 THE COURT: Take your time.

6 A. -- indicate as I look through my notes here.  
7 October 27th, 2010 -- just briefly, the preliminary  
8 hearing was rescheduled three different times in late  
9 2010. We met again on January 4th, 2011; January 20th,  
10 2011; October 5th, 2011; November 16th, 2011; November  
11 27th, 2011. So that's at least six there.

12 Q. Did you speak with him enough to feel like you  
13 could prepare a defense on his behalf?

14 A. Yes.

15 Q. And did you file Brady or Rule 5 motions on his  
16 behalf?

17 A. Yes. That's the first thing I did on October  
18 27th -- I'm sorry, October 15th of 2010.

19 Q. And are the defendant's mental health records  
20 something that you expect to receive in Brady or Rule 5  
21 materials?

22 A. No.

23 Q. And were you aware of any mental health records  
24 from the victims?

25 A. I'm not sure as to the victims. I know we

1 discussed -- I know we discussed their upbringing, which  
2 would have given us quite a bit of ammunition on  
3 cross-examination. I don't recall mental health records  
4 as to the accusers.

5 Q. And did you review the discovery materials that you  
6 received for Mr. Doar?

7 A. Yes.

8 Q. And prior to Mr. Doar pleading guilty did you talk  
9 to him about the elements of the charges and what the  
10 State has to prove to find him guilty?

11 A. Yes.

12 Q. Did you talk to him about his version of the facts?

13 A. Yes.

14 Q. Did you talk to him about possible defenses?

15 A. Yes.

16 Q. Could you briefly characterize the State's evidence  
17 against Mr. Doar?

18 A. He testified a little bit ago and that's a good  
19 summation of it, is the accusers' statements and then his  
20 statements. This was going to be a swearing match case.  
21 We talked about that. We talked about how we would try  
22 to deal with the testimony by the accusers. We talked  
23 about how we would try to deal with statements he gave to  
24 law enforcement as well as some letters he had written  
25 post arrest. But it would have been a swearing match.

1 Q. Did he give you any potential witnesses or leads to  
2 investigate?

3 A. Not eyewitnesses. Again, we talked about his past  
4 and whether he would testify or not, and whether we would  
5 get into his prior history or the family's prior history  
6 but certainly the witness of the alleged event would have  
7 been the accusers themselves.

8 Q. And did you use the office investigator to look  
9 into anything in this case?

10 A. I always -- on nearly every case that I have, used  
11 an investigator. I believe that -- I believe I had two  
12 investigators while at the public defender's office. I'm  
13 nearly positive during this time frame it would have been  
14 Lee Ginn, G-i-n-n.

15 Q. And do you recall what type of things you all  
16 looked into before --

17 A. I both talked with you and Mr. Good prior to the  
18 hearing. I incorrectly spoke to you all about having an  
19 eval done. We talked about an eval with Dr. Burke, we  
20 talked about an eval, a psychological eval with Dr. Susan  
21 Knight at MUSC. We did not pursue either -- I did not  
22 pursue either one of those based on the -- on one, the  
23 lack of need. I believe he understood what was going on.  
24 I believe he was competent. That more would have been  
25 for mitigation and for competency.

1           As far as Dr. Knight, as far as Dr. Burke similarly  
2 when we were told -- when we floated the idea to the  
3 State to see if it would provide us any benefit either in  
4 negotiations or in the case, when that was rejected as  
5 having any influence on their position we did not go  
6 forward on that.

7 Q.       Thank you. Do you recall when you entered into  
8 plea negotiations on Mr. Doar's behalf?

9 A.       Just a moment.

10           Here's a series of entries. On January 23rd, 2011  
11 I sent the discovery packet to Mr. Doar. I would have  
12 mailed it to him at the jail. On August 17th I reviewed  
13 the file to speak with him about -- on Friday about  
14 mental health eval and criminal responsibility which  
15 would have been 8-26.

16           On 9-2 I have a note, spoke with Debbie, meaning  
17 the solicitor, Debbie Herring-Lash, and the defendant,  
18 Mr. Doar, at the courthouse. That was concerning a bond  
19 hearing, but that's my first indication that there might  
20 have been discussions.

21           Then there's a meeting on October 5th where I have  
22 notes about discussed offer, talked about sexually  
23 violent predator, talked about an Alford plea, discussed  
24 three options in response to the State's offer, which was  
25 always explained. Reject or go to trial, accept and

1 plead guilty or make a counter offer, and we talked about  
2 other issues that Mr. Doar had at that time. So it would  
3 have been September, October of 2011.

4 Q. Ultimately, what was the State's plea offer to  
5 Mr. Doar?

6 A. Well, the ultimate one was the one we accepted but  
7 there were negotiations back and forth on that. I'm  
8 looking for a -- so in continuing that, near those dates,  
9 October 26, 2011, meeting with the defendant at the jail,  
10 gave defendant State's offer which was 15 years suspended  
11 on eight years active, with three years probation and sex  
12 offender treatment. So that was the initial offer and we  
13 negotiated back and forth up until the plea about that.

14 Q. And ultimately, the offer from the State was -- or  
15 what you all agreed on was 15 years suspended to seven  
16 years of active time, plus the three years probation; is  
17 that correct?

18 A. Yes, and then credit for the time he served which  
19 was 433 days, and for probation to terminate upon  
20 completion of the treatment.

21 Q. And obviously, you communicated this offer to  
22 Mr. Doar before he pled guilty?

23 A. Yes.

24 Q. And did you talk to him about the consequences of  
25 pleading guilty?

1 A. Yes.

2 Q. Did you talk to him about what constitutional  
3 rights he was waiving, such as his right to remain  
4 silent, his right to a jury trial, and his right to  
5 confront the witnesses against him at trial?

6 A. That's my general practice in my conversation with  
7 clients. I can't tell you exactly in this case but  
8 that's my general practice.

9 Q. Did he ever indicate he didn't understand something  
10 that you all were discussing?

11 A. If he did I'm sure we would have talked about it  
12 more thoroughly. I try to remind my clients -- I now put  
13 it in practice that I ask them their educational level,  
14 if they can read and write. During that conversation I  
15 make sure they let me know if there's anything I say  
16 that's confusing or they don't understand, and to ask me.

17 Q. During the process of you preparing for --  
18 preparing Mr. Doar's case, did he ever indicate he wanted  
19 to go to trial?

20 A. That was never his choice. Did we talk about that?  
21 Certainly. We talked about how it would look if we went  
22 to trial and what we would try to do at trial. So we  
23 discussed that as an option, but did he ever ask for a  
24 trial? No.

25 Q. Were any charges dismissed in exchange for

1 Mr. Doar's guilty plea?

2 A. I'm going to shorthand by looking at the front of  
3 my file which lists all the charges when the case was  
4 open. There are one, two, three, four, five CSC with a  
5 minor second charges, and two contributing to the  
6 delinquency of minor, and he ended up pleading to --  
7 you'll correct me, I'm sure, but I believe just two.

8 Q. Yes, that's correct. Did you discuss with Mr. Doar  
9 his right to appeal?

10 A. Yes. I would have talked to him about that. In  
11 general, I'll go ahead and anticipate something. It's  
12 been my experience -- obviously, at pleas I do my best to  
13 prepare them prior to entering the plea and to pay close  
14 attention to the questions from the Court, to try to make  
15 sure nothing was omitted at a plea. There was nothing in  
16 this process that caused me concern about the guilty plea  
17 procedure.

18 Q. And did Mr. Doar ever indicate he wanted you to  
19 file an appeal on his behalf?

20 A. No, but his recollection -- and I do recall that  
21 evening torrential downpours. I do recall the letter,  
22 once he testified about it, that I did not get to the  
23 jail that evening and then the next day. I don't recall  
24 the problem with getting to see him the next day, and, of  
25 course, he was transported to the department of

1 corrections. But I received no notification from him to  
2 file an appeal.

3 Q. Thank you. And just one thing back to about the  
4 records of his mental health issue. Were you aware of  
5 his mental health background?

6 A. Yes. We discussed it.

7 Q. It's your testimony he was able to assist you in  
8 his defense?

9 A. Very much so.

10 MS. WILSON: Thank you.

11 MR. GOOD: Thank you, Your Honor.

12 REDIRECT EXAMINATION

13 BY MR. GOOD:

14 Q. Just a few questions, Rodney. Just to be clear and  
15 go back through it. Your office did not have Mr. Doar  
16 evaluated; is that correct?

17 A. We did not. There were discussions both from MUSC  
18 evaluation or a private -- Dr. Burke evaluation. My  
19 mistake was I saw a quote from MUSC. We possibly  
20 certainly would have funded that. It did not happen.  
21 That was my error in talking to both of you.

22 Q. Okay. So he was never evaluated even though he had  
23 a mental past?

24 A. Not during my representation of him, correct?

25 Q. Right. Thank you. Is it possible that an

1 evaluation based on the fact that Mr. Doar had previous  
2 mental health issues that were -- your office was aware  
3 of that could have affected his decision to go forward  
4 with a plea versus trial?

5 A. That's a tough question. It would not have changed  
6 the evidence against him. Whether it would have changed  
7 his thinking about it, I'm sorry, I can't --

8 Q. Right. But you said the State would not have moved  
9 any more on their mitigated plea even if he had had an  
10 evaluation but we can't say for certain that's not the  
11 case because he wasn't evaluated; is that correct?

12 A. That's true.

13 MR. GOOD: Thank you. That's all I have. Thank  
14 you.

15 MS. WILSON: Nothing further from the State.

16 THE COURT: You may step down. Thank you.

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: Any additional witnesses?

19 MR. GOOD: No, Your Honor.

20 THE COURT: Ms. Wilson?

21 MS. WILSON: Nothing from the State.

22 THE COURT: All right. Any rebuttal?

23 I'm sorry. Anything? Nothing else? Any  
24 additional witnesses?

25 MS. WILSON: No.

1 THE COURT: Thank you. All right. Argument?

2 MR. GOOD: Thank you, Your Honor. We would just  
3 say that based upon witness testimony and the fact that  
4 Mr. Doar did express in application for PCR the issues on  
5 the Rule 5 and through his testimony that we've heard  
6 that that -- that he meant by that relying under that on  
7 11(a) and (b) that was all really concerning mental  
8 health issues because of his past mental health and  
9 because of the fact that he felt like he needed to get  
10 evaluated.

11 Mr. Davis testified that there was discussion of it  
12 between MUSC and between Dr. Burke in Summerville who  
13 specializes in sex offender therapy and whatnot, and the  
14 fact that Mr. Doar was concerned with that and could have  
15 changed his opinion on taking a plea versus going to  
16 trial, and also the fact that even though Mr. Davis  
17 testified that the State may not have moved any more on  
18 their plea, again, and Mr. Davis agreed that we don't  
19 know because he wasn't evaluated.

20 THE COURT: Ms. Wilson?

21 MS. WILSON: May it please the Court. The State  
22 would just ask that you dismiss this application for  
23 post-conviction relief.

24 With regard to Mr. Doar's allegation that his  
25 attorney failed to file an appeal on his behalf, the

1 testimony, the credible testimony from Mr. Davis was that  
2 he discussed Mr. Doar's right to appeal and that Mr. Doar  
3 never indicated he wanted to file an appeal.

4 Mr. Doar's testimony is that he never wrote  
5 Mr. Davis to say he wanted an appeal, and also Mr. Davis  
6 testified that he didn't see anything in the guilty plea  
7 where he would expect Mr. Doar to have wanted to appeal  
8 his guilty plea.

9 With regard to Mr. Davis's failure to, I guess,  
10 one, obtain Mr. Doar's mental health records and have him  
11 evaluated, Your Honor, we don't have the mental health  
12 records here so it's really speculative for us to decide  
13 that they would have had any affect on the outcome of his  
14 guilty plea.

15 Also, Your Honor, the case law says that we can  
16 look at what counsel knew and counsel's interactions with  
17 the defendant, his client, to determine whether or not he  
18 felt that Mr. Doar, the applicant, needed to be  
19 evaluated. His testimony is today that he was able to  
20 assist in his defense and that he didn't think that he  
21 had any competency issues. So it's just the State's  
22 position that you should dismiss this application for  
23 post-conviction relief.

24 THE COURT: Any response?

25 MR. GOOD: We would only just reiterate what we

1 said earlier about the mental health evaluation, how  
2 important that would be. Nobody in the prosecutor's  
3 office, solicitor's office or in the public defender's  
4 office or mental health experts; so therefore, someone  
5 with a past mental health history, our argument, is that  
6 he should have been evaluated. It could have affected  
7 the outcome of the case. Thank you.

8 THE COURT: All right. I'll give you 10 days to  
9 submit proposed orders.

10 Good luck to you. Good luck to you, Mr. Doar.  
11 Thank you.

12 MR. GOOD: Thank you, Your Honor.

13 (WHEREUPON, the hearing was concluded.)

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C E R T I F I C A T E

I, Sharon L. Vizer, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the trial of the captioned case in Circuit Court on the 15th day of January 2014.

I do further certify that I am neither of kin, counsel nor have an interest to any party hereto.

November 11, 2014

s/Sharon L. Vizer

SHARON L. VIZER

CIRCUIT COURT REPORTER

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SOL

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHARLESTON )  
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 )  
 William C. Doar III, #348781, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 2012-CP-10-7605

ORDER OF DISMISSAL

FILED  
 2014 JAN 15 3 14 PM  
 CLERK OF COURT  
 CHARLESTON COUNTY

Presiding Judge: The Honorable Kristi L. Harrington  
 Applicant's Attorney: Joseph Cole Good, III, Esquire  
 Respondent's Attorney: Ashleigh R. Wilson, Esquire  
 Plea Counsel: Rodney D. Davis, Esquire  
 Date of Hearing: January 15, 2014  
 Court Reporter: Sharon L. Vizer

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed November 19, 2012. The Respondent made its Return on April 16, 2013. An evidentiary hearing into the matter was convened on January 15, 2014 at the Charleston County Courthouse. The Applicant was present at the hearing and represented by Joseph Cole Good, III, 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. Applicant's plea counsel, Rodney D. Davis, Esquire, also 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 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 March 2011 term of the Charleston County Grand Jury for two counts of criminal sexual conduct with a minor- second degree (2011-GS-10-1605, -1611). Rodney D. Davis, Esquire, represented the Applicant. On November 28, 2011, the Applicant pled guilty as indicted. Pursuant to a negotiated plea agreement, the Honorable Roger M. Young, Sr. sentenced the Applicant to confinement for fifteen years provided upon the service of seven years the balance is suspended to probation for three years which will terminate upon the completion of the Department of Probation, Parole, and Pardon's sex offender treatment program. The sentences were to run concurrently. The Applicant did not appeal the plea or sentence.

**ALLEGATIONS**

The Applicant alleges he is being held in custody unlawfully for the following reasons:

- 1. Ineffective assistance of counsel.
  - a. Failure to file an appeal.
- 2. "State withheld information. Rule 5. Refused info M-health or defendant or victims."
- 3. Involuntary guilty plea.
  - a. "Did not make me understand consequences of guilty plea."

At the hearing, the Applicant waived all grounds for relief except the following:

- 1. Ineffective assistance of counsel.
  - a. Counsel failed to file an appeal.
  - b. Counsel failed to obtain the Applicant and the victim's mental health records.
  - c. Counsel failed to have the Applicant mentally evaluated.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has had the opportunity to review the record in its entirety and has heard the

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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).

The Applicant was present and testified he pled guilty to two counts of criminal sexual conduct with a minor. He testified he met with his attorney five times prior to pleading guilty. He testified he reviewed the victims' forensic interviews and statements with counsel. He testified he discussed possible defenses and witnesses with counsel.

He testified counsel was ineffective for failing to have him mentally evaluated and for failing to obtain mental health records that he requested. He testified the records would have shown his mental health history along with the mental health history of the victims. He testified he suffers from anxiety, bi-polar disorder, obsessive-compulsive disorder, post-traumatic stress disorder, and panic attacks. He also testified his recent weight loss has affected his chemical balance. He testified the mental health records were also missing from his Rule 5 materials.

The Applicant testified he discussed the State's plea offer with his attorney. He testified it was his decision to plead guilty and he recalled telling the plea court he was indeed guilty. He testified he also recalled waiving his right to a jury trial. The Applicant testified he wrote his attorney frequently. The Applicant testified he discussed his right to appeal with counsel. He testified they did not discuss how to appeal and they did not discuss whether or not he wanted to appeal. The Applicant testified further in the letters he wrote to his attorney after his guilty plea he did not express his desire to appeal.

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Rodney Davis represented the Applicant at his guilty plea. He testified he has practiced criminal law for the last eighteen years. He testified he was appointed to represent the Applicant around October 11, 2010. He testified he met with the Applicant enough to fully discuss the case. He testified he filed Brady and Rule 5 motions on the Applicant's behalf. He testified he did not expect to receive any mental health records in the discovery materials. Counsel testified he discussed the discovery materials with the Applicant along with the Applicant's version of facts and possible defenses. Counsel testified the State's evidence against the Applicant included the victim's statements, the Applicant's own statements, and post-arrest letters written by the Applicant.

Counsel testified he had several conversations with the Applicant about his mental health background. Counsel testified he spoke with the Applicant about the possibility of having him evaluated by Dr. Burke to determine if he was a sexual predator and by Dr. Knight to determine if he suffered from any mental illnesses. He testified they did not pursue a mental health evaluation based on lack of need. He also testified he did not have the Applicant's mental health records, but he was aware of his mental health background. Counsel testified the Applicant was able to assist in his own defense.

Counsel testified further he discussed with the assistant solicitor assigned to the case whether or not having the Applicant evaluated would have any bearing on the State's position or offer any mitigation. He testified that based on the State's response the use of the Applicant's mental health would not have had any effect on the State's position. He testified further he had lengthy conversations with the Applicant about the facts and procedures in his case. He testified he discussed with the Applicant at length that the results of any evaluation would have gone to

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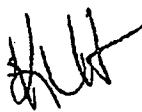
mitigation and not been a defense to present at trial.

Counsel testified he communicated the State's plea offer to the Applicant. He testified he informed the Applicant of the consequences of his guilty plea. He testified he discussed with the Applicant his constitutional rights. He testified if the Applicant indicated he did not understand something, they would have discussed it more thoroughly. Counsel testified several other criminal sexual conduct and contributing to the delinquency of a minor charges were *nolle prossed* in exchange for the Applicant's guilty plea. Lastly, counsel testified he discussed with the Applicant his right to appeal. He testified the Applicant never indicated he wanted to appeal his guilty plea.

At the start of the Applicant's evidentiary hearing, counsel for the Applicant requested that Charles T. Brooks, III, Esquire, be substituted in as counsel for the Applicant. Counsel for the Applicant stated he was prepared for the hearing, but wanted to substitute in Mr. Brooks as he was more experienced with post-conviction relief matters. The State did not object to the Applicant's request. This Court denied counsel's request and proceeded with the hearing based on counsel's representation that he was prepared to go forward with the Applicant's evidentiary hearing.

#### Ineffective Assistance of Counsel

The Applicant alleges that he received ineffective assistance of counsel. As an initial matter, this Court finds the testimony of Rodney Davis, Esquire, credible, while finding the testimony of the Applicant less credible. 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

  
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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 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). 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, 58-59 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

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 (1969);

  
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Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)). When a defendant pleads guilty on the advice of counsel, the plea may only be attacked through a claim of ineffective assistance of counsel. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2002) (citations omitted).

This Court finds that 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 Applicant's version of the facts, and possible defenses or lack thereof. The record reflects that the Applicant's plea was entered freely, voluntarily, knowingly, and intelligently. The Applicant acknowledged that he was guilty of these offenses. The Applicant told the plea court that he was satisfied with his attorney and that no one had threatened him or promised him anything to plead guilty. This Court finds that Applicant understood the terms of the negotiated sentence.

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 that 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,


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conducted a proper investigation, and provided thorough representation. This Court finds that counsel's representation did not fall below an objective standard of reasonableness.

This Court finds that counsel was not ineffective for failing to file an appeal of the Applicant's guilty plea. The United States Supreme Court has rejected a "bright-line rule that counsel must always consult with the defendant regarding an appeal." Roe v. Flores-Ortega, 528 U.S. 470, 480, 120 S. Ct. 1029, 1036, 145 L. Ed. 2d 985 (2000). They instead held that "counsel has a constitutionally imposed duty to consult with the defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal), or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing." Id. "[A]lthough not determinative, a highly relevant factor in this inquiry will be whether the conviction follows a trial or a guilty plea, both because a guilty plea reduces the scope of potentially appealable issues and because such a plea may indicate that the defendant seeks an end to judicial proceedings." Id.

This Court finds that counsel gave credible testimony that he conferred with the Applicant about his right to appeal. This Court also finds that counsel gave credible testimony that after consulting with the Applicant about his right to appeal, he never indicated he wanted to pursue an appeal. The record also reflects that the Applicant was advised of his right to appeal by the plea judge. (T. 3). This Court finds that there is no evidence that a rational defendant would have wanted to appeal or that the Applicant indicated he wanted to appeal. This Court finds that this allegation is without merit and the Applicant has failed to carry his burden of proving counsel was ineffective for failing to file an appeal of the Applicant's guilty plea.

This Court finds that counsel was not ineffective for failing to have the Applicant

  
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mentally evaluated. A defendant must be mentally competent to stand trial to assist counsel in his defense. Drope v. Missouri, 420 U.S. 62 (1975). In determining if counsel is ineffective for failing to request a competency hearing, an applicant must show that a reasonable probability exists that he would be found incompetent at the time of this trial or plea. Jeter v. State, 308 S.C.230, 417 S.E.2d 594 (1992). Counsel may reasonably rely on his own perceptions in deciding if a client is competent to stand trial. Id.

This Court finds the Applicant has failed to carry his burden of proving that he would have been found incompetent at the time of his guilty plea. This Court finds the Applicant failed to present any evidence showing he suffered from a mental illness that precluded him from assisting counsel in his defense. This Court finds most persuasive counsel's testimony that he was aware of the Applicant's mental health background and that the Applicant was active in his defense. This Court also finds persuasive counsel's testimony that the results of any evaluation would have gone to mitigation and would not have provided any defense against the Applicant's charges. This Court finds counsel was not ineffective for failing to have the Applicant evaluated.

This Court also finds that counsel was not ineffective for failing to obtain the mental health records of the victim or the Applicant. This Court finds credible counsel's testimony that he was not aware of any mental health records for the victim. Counsel also testified while he did not have the Applicant's mental health records, he was aware of the Applicant's mental health background and had discussed it with the Applicant in length. This Court finds the Applicant has failed to show how these records would have been beneficial to his case and how counsel's failure to obtain the records resulted in any prejudice. This Court finds that this allegation is without merit and the Applicant has failed to carry his burden of proving counsel was ineffective for failing to

  
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obtain the mental health records of the victims and the Applicant.

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. The Applicant failed to present specific and compelling evidence that counsel committed either errors or omissions while representing the Applicant. The Applicant failed to show that counsel's performance was deficient. Therefore, this Court need not address prejudice. 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 testimony or argument regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations. Therefore, they are hereby denied and dismissed.

#### CONCLUSION

Based on all the foregoing, this Court finds and concludes 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

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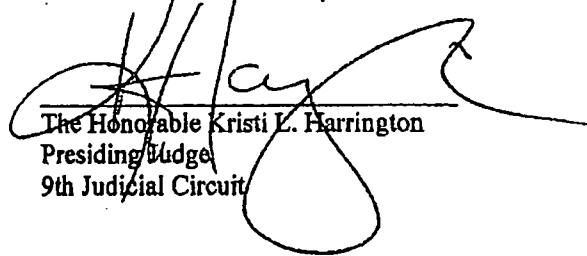
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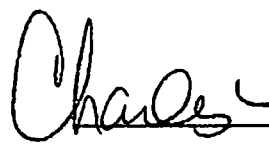
Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely served and filed.

**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 28<sup>th</sup> day of February, 2014

  
 The Honorable Kristi L. Harrington  
 Presiding Judge  
 9th Judicial Circuit

 South Carolina.

2/28/14

HER20100905014

WITNESSES

SHERI L. CHURCH  
Charleston County Sheriff

AGENCY CASE NUMBER

2010016083B

ARREST WARRANT NUMBER

K674496

DATE OF ARREST

September 21, 2010

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: MAR 27 2011

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2011GS1001605

The State of South Carolina  
County of Charleston

COURT OF GENERAL SESSIONS

March Term 2011

THE STATE

vs.

WILLIAM CUTTINA DOAR  
DOB: [REDACTED]

Indictment for

Criminal Sexual Conduct with a Minor, 2nd  
Degree

FILED

3/29/2011 9:02:06 AM  
JULIE J. ARMSTRONG  
CLERK OF COURT

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

## INDICTMENT

At a Court of General Sessions, convened on March 7, 2011 the Grand Jurors of Charleston County present upon their oath:

**Criminal Sexual Conduct with a Minor, 2nd Degree**

That WILLIAM CUTTINA DOAR, DOB [REDACTED] did in Charleston County between February 1, 2008 and September 1, 2010, engage in sexual battery upon Minor 1, DOB [REDACTED], to wit: digital penetration. This is in violation of Section 16-3-655 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
DEBORAH HERRING-LASH  
ASSISTANT SOLICITOR

HER20100905014

WITNESSES

SHERI L. CHURCH  
Charleston County Sheriff

AGENCY CASE NUMBER

2010016083B

ARREST WARRANT NUMBER

K674501

DATE OF ARREST

September 21, 2010

ACTION OF GRAND JURY

**TRUE BILL**

*[Signature]*

Foreperson of Grand Jury

Date: MAR 07 2011

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2011GS1001611

The State of South Carolina  
County of Charleston

COURT OF GENERAL SESSIONS

March Term 2011

THE STATE

vs.

WILLIAM CUTTINA DOAR  
DOB: [REDACTED]

Indictment for

Criminal Sexual Conduct with a Minor, 2nd  
Degree

**FILED**

3/29/2011 9:02:06 AM  
JULIE J. ARMSTRONG  
CLERK OF COURT

