

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas

The Honorable Roger L. Couch, Circuit Court Judge

Case No. 2013-CP-42-00466

**RECEIVED**

JUN 19 2015

State of South Carolina

**S.C. Supreme Court**

Respondent,

v.

Jose Reyes Arevalos, #351024

Appellant.

Notice of Appeal

Jose Reyes Arevalos appeals the order of the Honorable Roger L. Couch dated May 8, 2015. Appellant received written notice of entry of this order on May 13, 2015.

June 7, 2015

Sincerely,

s/



Brandt Rucker  
Attorney for Appellant  
522 North Church Street  
Greenville, South Carolina 29601  
(864) 271-9925

cc:

Other Counsel of Record:

Suzanne White  
Office of the South Carolina Attorney General  
P.O. Box 11549  
Columbia, S.C. 29211

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY  
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Respondent,

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Jose Reyes Arevalos, #351024

Appellant.

Proof of Service

I certify that I have served the Notice of Appeal, and the Proof of Service on the State of South Carolina by depositing a copy of those documents in the United States Mail, postage prepaid, on June 7, 2015, addressed to its attorney of record, Suzanne White Office of the South Carolina Attorney General, P.O. Box 11549, Columbia, S.C. 29211

June 7, 2015

Sincerely,

s/



Brandt Rucker  
Attorney for Appellant  
522 North Church Street  
Greenville, South Carolina 29601  
(864) 271-9925

cc:

Other Counsel of Record:

Suzanne White  
Office of the South Carolina Attorney General  
P.O. Box 11549

Columbia, S.C. 29211

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

Jose Reyes Arevalos, #351024,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
SEVENTH JUDICIAL CIRCUIT

2013-CP-42-00466

**ORDER OF DISMISSAL**

SPARTANBURG COUNTY  
2015 MAY - 8 PM 4:00  
M. HOPE BLACKWELL

This matter comes before this Court by way of an application for post-conviction relief filed January 29, 2013. Respondent filed its Return on March 21, 2014. A hearing was convened at the Spartanburg County Courthouse on September 16, 2014, at which time Applicant was present in court and represented by J. Brandt Rucker, Esquire. J. Clayton Mitchell of the South Carolina Attorney General's Office represented Respondent. Applicant testified on his own behalf. Also testifying was Applicant's plea counsel, Patrick L. Mangrum, Esquire. The Court had before it the Spartanburg County Clerk of Court records, Applicant's South Carolina Department of Corrections records, the PCR application, Respondent's Return, Applicant's appellate records, and the guilty plea transcript.

**I. PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. He was indicted at the May 2010 term of the Spartanburg County Grand Jury for two counts of accessory before the fact to murder and one count of accessory before the fact to burglary - 1<sup>st</sup> degree (2010-GS-42-3083, counts 1-3, respectively). Applicant was represented by Counsel Mangrum. On July 12, 2010, the Applicant pleaded guilty to accessory before the fact to burglary - 1<sup>st</sup> degree (2010-3082,



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count 3) and two counts of accessory after the fact to murder (2010-3085)<sup>1</sup> before the Honorable J. Derham Cole. Sentencing in the case was delayed. The Honorable J. Mark Hayes II sentenced Applicant on May 23, 2012, to consecutive sentences of thirty years' imprisonment for accessory before the fact to burglary - 1<sup>st</sup> degree and fifteen years' imprisonment on each count of accessory after the fact to murder. Applicant did not appeal his conviction or sentence.

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

1. Involuntary and unintelligent guilty plea in that the translator did not translate the proceedings accurately.

## II. SUMMARY AND EVIDENCE PRESENTED AT THE PCR HEARING

### Applicant's Testimony

Applicant testified through an interpreter at the hearing as he speaks Spanish and little English. Applicant testified he pled guilty to two charges of accessory after the fact to murder and first degree burglary. He testified he was represented by Counsel Mangrum. He was originally charged with accessory before the fact to murder and pled to accessory after the fact in exchange for his cooperation in the investigation. He testified he cooperated with investigators and was the first defendant to plea guilty. He noted that two of his codefendants subsequently received life sentences. He acknowledged that he met with Counsel and the prosecuting solicitor multiple times where they discussed the facts of the case and the allegations against him and his codefendants.

Applicant testified the interpreters at the guilty plea and sentencing hearings did not accurately translate the proceedings. He alleged that the interpreter misinterpreted what the judge

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<sup>1</sup> Applicant waived presentment to the Grand Jury on these two charges and the two counts of accessory before the fact to murder were *nolle prossed*.

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was saying to him and that she also misinterpreted what he was saying to the plea court in response.

### Counsel Patrick L Mangrum's Testimony

Counsel testified he represented Applicant on the charges currently before the Court. Counsel testified he represented Applicant for around two (2) years before he pled guilty. He testified they met at least five times. He noted that the meetings were usually lengthy because he had to employ an interpreter to communicate with Applicant. Counsel testified he and Applicant met with Solicitor Barnette at least three times discussing all aspects of the case. Applicant was a cooperating witness in the cases against his codefendants. In exchange for his cooperation, Applicant pled guilty to accessory after the fact to murder charges.

Counsel testified he did not recall any concerns with the interpreter and the accuracy of the translation. Counsel testified he did not have any reason to question those communications as he and Applicant were able to effectively communicate and discuss his case. Counsel further testified he absolutely believed Applicant pled guilty voluntarily. Counsel explained that he advised Applicant that it would be best to plead guilty because his codefendants were also negotiating with the solicitor, and they would likely be witnesses against him if he chose to go to trial. He testified it was best to plead first and cooperate with the State.

### III. APPLICABLE LAW

In a post-conviction relief action, 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, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial

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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. 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 in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show 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, 59 (1985).

#### IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the guilty plea transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, the appellate records, and the legal

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SPARTANBURG COUNTY  
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arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

As a matter of general impression, this Court finds Applicant's testimony and assertions to be not credible. In contrast, this Court finds Counsel's testimony to be credible and persuasive on all matters. These credibility findings have been applied to the Court's findings and conclusions set forth below.

### Involuntary Guilty Plea

Applicant argues he did not plead guilty knowingly and voluntarily. This Court finds otherwise and concludes that Applicant's guilty plea was entered freely and voluntarily. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 23 L.Ed.2d 274 (1969). Defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 97 S. Ct. 1621, 52 L.Ed.2d 136 (1977)). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir.1975).

SPARTANBURG COUNTY  
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M. HOPE BLANKLEY

Applicant claims he did not plead guilty voluntarily because the interpreter did not accurately translate the proceedings. This Court finds this contention meritless. This Court finds the record reflects the interpreters employed at the guilty plea and sentencing hearing had been approved by the South Carolina Court Administration and could fluently speak Applicant's language. This Court finds Applicant's assertions regarding the interpreter to be incredible. The plea court's very thorough colloquy with Applicant demonstrates that he understood the consequences of pleading guilty and that he also understood the rights he was waiving by doing so. This Court finds very credible Counsel's testimony regarding his preparation and advice concerning the case. The record reflects Applicant admitted his guilt to the plea court. The record is devoid of any evidence to support his allegation that the interpreters intentionally mistranslated the court's words and Applicant's responses during the proceedings. Applicant only presented his own suspect testimony. This Court finds Applicant never brought any issues regarding the interpreter to Counsel's attention and finds credible Counsel's assertions that Applicant fully understood the proceedings. Therefore, this Court finds the plea judge correctly found Applicant's plea was freely, voluntary, and intelligently made. This allegation is denied and dismissed with prejudice.

**All Other Allegations**

As to any and all allegations that were raised in the application or at the hearing on this matter and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

SPARTANBURG COUNTY  
2015 MAY 19 PM 4:00  
M. HOPE BLACKEY

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V. CONCLUSION

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate counsels' performance was unreasonable under prevailing professional norms. Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625; Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009). Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

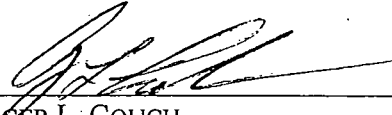
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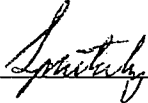
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SPARTANBURG COUNTY  
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M. HOPE BLACKLEY

**IT IS THEREFORE ORDERED THAT:**

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 9<sup>th</sup> day of May, 2015.

  
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ROGER L. COUCH  
Presiding Judge

, South Carolina

CLERK OF COURT  
SPARTANBURG COUNTY  
2015 MAY -8 PM 4:00  
M. HOPE BLACKLEY

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**RECEIVED**  
JUN 19 2015  
SC SUPREME COURT

June 15, 2015

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

RE: Notice of Appeal and Proofs of Service for Alacantara, Pearson, and Arevalos

Dear Mr. Shearouse:

Please find enclosed the Notices of Appeal, Proofs of Service, and the respective underlying orders for Frederick Pearson, Jose Arevalos, and Milciades Alacantara. These were 608 appointment post conviction relief actions.

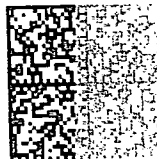
Sincerely,



Brandt Rucker, Esq.

Brandt Rucker  
Attorney at Law, L.L.C.  
522 North Church Street  
Greenville, South Carolina 29601

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



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