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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

March 22, 2012

RECEIVED

MAR 22 2012

S.C. Supreme Court

Ms. Daphne D. Helms
Circuit Court Reporter
556 Heron Glen Drive
Columbia, SC 29229

Dear Ms. Helms:

Please provide us with the following transcript:

William Cornish v. State of South Carolina Case #: 09-CP-40-07425

County: Richland Date of Trial: January 9, 2012

Presiding Judge: J. Ernest Kinard, Jr.

To ensure prompt payment, please sign and complete the enclosed CID FORM 3500 and include the original criminal case number (Indictment number) where the space is provided.

Please number the lines on the paper from 1-25, and include any and all recorded motions, pre and post-trial. Additionally, please transcribe the jury selection, and the State and defense counsel's opening and closing arguments.

If you are aware of any co-defendants or if the Attorney General's Office has already requested a transcript, please let us know.

Sincerely,


Lorienne French
Legal Services Coordinator

cc: S.C. Supreme Court
Attorney General's Office

DAVID E. BELDING
Attorney at Law
South Carolina Bar #00623
Federal ID # 57-1101784
1201 Main Street, Suite 1980
Columbia, South Carolina 29201

Mailing Address:

Post Office Box 11964
Columbia, S.C. 29211

Phone: 803-665-3161
Fax: 866-220-6352
Email: dar820@sc.rr.com

March 6, 2012

RECEIVED

MAR 6 2012

HAND DELIVERED

The Honorable Daniel E. Shearouse
Clerk of the South Carolina Supreme Court
1231 Gervais Street
Columbia, South Carolina 29201

S.C. Supreme Court

Re: William T. Cornish, #270427 vs. State of South Carolina
Civil Action No.: 2009-CP-40-7425

Dear Mr. Shearouse:

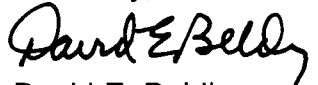
Enclosed for filing is a *Notice of Appeal* in the above-referenced case. Also enclosed are the following:

1. Proof of Service of the *Notice of Appeal* on the Respondent.
2. A copy of the *Order of Dismissal* which is challenged on appeal.

Since the Appellant is indigent, and the undersigned appeared as Court-appointed counsel in this matter, I respectfully request that the filing fee be waived pursuant to Rule 203(d), *South Carolina Appellate Court Rules*.

Thank you very much for your assistance.

Sincerely,



David E. Belding
Attorney for Appellant

DEB/ym

cc: Brian T. Petrano, Esquire
Attorney for Respondent

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable J. Ernest Kinard, Jr., Circuit Court Judge

RECEIVED

MAR 6 2012

S.C. Supreme Court

Case No. 2009-CP-40-7425

William T. Cornish, #270427.....Appellant,

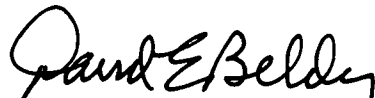
v.

State of South Carolina.....Respondent.

NOTICE OF APPEAL

William T. Cornish, #270427, appeals from the *Order of Dismissal* of the Honorable J. Ernest Kinard, Jr., Circuit Court Judge, in this case, dated February 21, 2012, and filed February 28, 2012, dismissing Appellant's post-conviction relief application. Appellant's counsel received notice of entry of this *Order* on March 5, 2012.

BY:


David E. Belding (S.C. Bar #00623)
Post Office Box 11964
Columbia, South Carolina 29211
(803) 665-3161
ATTORNEY FOR APPELLANT

Columbia, South Carolina
March 6, 2012

Other Counsel of Record:
Brian T. Petrano, Esquire
Assistant Attorney General
Post Office Box 11549
Columbia, South Carolina 29211-1549
(803) 734-3970
Attorney for Respondent

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

MAR 6 2012

The Honorable J. Ernest Kinard, Jr., Circuit Court Judge
S.C. Supreme Court

Case No. 2009-CP-40-7425

William T. Cornish, #270427.....Appellant,

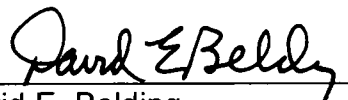
v.

State of South Carolina.....Respondent.

PROOF OF SERVICE

I certify that I have served the *Notice of Appeal* on Brian T. Petrano, Esquire, counsel for Respondent, by depositing a copy of same in the United States Mail, postage prepaid, on March 6, 2012, addressed to him as counsel of record at Post Office Box 11549, Columbia, South Carolina, 29211-1549.

March 6, 2012



David E. Belding
Post Office Box 11964
Columbia, South Carolina 29211
(803) 665-3161
ATTORNEY FOR APPELLANT.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGE: _____ IN A CIVIL CASE

CASE NUMBER: 2009CP4007425

William T #270427 Cornish

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : Plaintiff Defendant or Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRCP; Rule 41(a), SCRCP (Vol. Nonsuit); Rule 43(k), SCRCP (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRCP; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):** Affirmed; Reversed; Remanded; Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order: _____

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge _____ Judge Code _____ Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 28 February 2012 to attorneys of record or to parties (when appearing pro se) as follows:

William T #270427 Cornish
David E Belding

Brian T Petrano

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court Jeanette W McBride

The Applicant is presently incarcerated following a July 14, 2009 guilty plea before the Honorable L. Casey Manning. The Applicant pled to the following:

Grand Jury Term	Indictment Number	Charged Offense: CDR - S.C. Code § *Potential Sentence*	Offense Description	Sentence Received	Sentenced to Lesser Offense?
12-06	2006GS4011123	3039 44-53-0375(B)(3) * 15-30 *	Drugs / manufacture, distribution, etc. of cocaine base, 3rd or sub. Offense S	15	No
4-07	2007GS4011430	0079 16-11-0311 * 15-L *	Burglary / Burglary (After June 20, 1985) - First degree	15	No
4-07	2007GS4011422	0013 17-25-0030 * 10 *	Assault / Assault and battery of a high and aggravated nature (ABHAN)	5	No
4-07	2007GS4011429	0017 16-03-0910 * 30 *	Kidnapping / Conspiracy to commit kidnapping	15	No
4-07	2007GS4011424	0549 16-23-0490 * 5 *	Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole	5	No
NOTES: it was an Alford plea to all charges but the PWID cocaine, p.22.				TOTAL 15	POSSIBLE Life + 75

The Applicant did not appeal his conviction/sentence.

In the PCR application, the Applicant made the following allegations:

8. If you answered "no" to (6), state your reasons for not so appealing:

(a) Lack of Representation

(b) ~~Ineffective Assistance of Counsel~~

(c) Ineffective Assistance of Counsel

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

(a) Ineffective assistance of Counsel

(b) Involuntary Plea

(c) _____

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

(a) Half hearted Representation

(b) I was promise something and didn't recieve it.

(c) Not fully aware of what was going on told one thing & recieve another

18. State clearly the relief you seek in filing this application.

Vacating Sentence

Through his appointed counsel, the Applicant submitted a pre-trial brief with the following allegations:

The Applicant hereby submits this *Trial Brief* for the Court's consideration in this matter.

I. Statement of Facts of the Case.

A. This case was filed on October 19, 2009, by the Applicant, acting *pro se*. Undersigned counsel was appointed to represent the Applicant by the Honorable Alison Renee Lee on December 1, 2011.

B. Applicant's application states that he is seeking relief from the sentences imposed by Judge L. Casey Manning on July 14, 2009 for the following:

- a) Indictment No.: 2007-GS-40-11423 (Kidnapping);
- b) Indictment No.: 2006-GS-40-11123 (PWID Crack Cocaine);
- c) Indictment No.: 2007-GS-40-11424 (Use of Weapon during Violent Crime);
- d) Indictment No.: 2007-GS-40-11422 (ABHAN);
- e) Indictment No.: 2007-GS-40-11430 (Burglary 1st Degree); and,
- f) Indictment No.: 2007-GS-40-11429 (Conspiracy to Commit Kidnapping).

The Applicant's dominant sentence is Fifteen (15) years for Kidnapping, a Violent and Most Serious Offense under State law.

C. The Applicant was represented by Theresa N. Johns, Esquire of the private

Bar.

D. Applicant was tried by jury on April 21-22, 2009, which resulted in a mistrial.

E. On July 13, 2009, Applicant began a new jury trial. A jury was impaneled and sent to lunch (*Transcript* pg. 21 ln. 4). After the lunch recess, Applicant pled guilty before Judge Manning.

F. The *Transcript* makes clear that the Applicant was pleading guilty to PWID Crack and entering an *Alford* plea to the remaining charges (*Transcript* pg. 22 ln. 4-15). 14, 2009.

G. During the lunch recess, the Court conferred with Applicant's attorney and the State about a plea. Applicant then conferred with his attorney, who convinced him that he would probably be convicted on the PWID Crack charge. Based on their common experience during the first trial (mistrial), both Applicant and his attorney were convinced that he would be acquitted on the Burglary, Kidnapping and Conspiracy charges, with the remaining charges probably resulting in acquittal as well. Applicant's attorney negotiated with the Assistant Solicitor for a plea to the drug charge, to be made "straight up", *i.e.*, without recommendation from the State, with the other charges being entered *nolo contendere* under *Alford*. Applicant was told by his attorney that he would only be sentenced for the PWID Crack charge, a non-violent offense, for which he would do approximately five (5) years and three (3) months.

H. The *Transcript* supports Applicant's position. First, the Court explained to the Applicant that he was pleading guilty to the drug charge (*Transcript* pg. 28 ln. 16 through pg. 29 ln. 16). The Court explained that the remaining charges carried certain punishments but that they were all being entered under *Alford*. Applicant believed that the judge was explaining the seriousness of the charges that were essentially being dismissed. For example, the judge stated that the Applicant could receive a life sentence for Burglary but then stated "I'm not going to give you a life sentence, but you are facing life. Do you understand that?" (*Transcript* pg. 31 ln. 15-23). When the judge asked the Applicant if he intended to give up all of his constitutional rights, Applicant spoke to his lawyer to make sure of his understanding of what was occurring, reflected as "Defendant

speaking, but not audible" (*Transcript* pg. 33 ln. 20), after which he asked the judge if he could "come back here in the Courtroom..." (*Transcript* pg. 33 ln. 22-23). The judge agreed to complete the plea the next day (*Transcript* pg. 33 ln. 24-25), the moved forward to complete the factual basis for the plea. Again, the Court asked if the Applicant desired to give up his constitutional rights and Applicant had to confer with his attorney (*Transcript* pg. 34 ln. 9). After concluding the factual bases for the plea, the judge adjourned the plea proceedings (*Transcript* pg. 48 ln. 14). The next morning, the Court advised Applicant that it was glad he made the decision to plead guilty because he would still face the same amount of time on the drug charge even if he were acquitted on all other charges. (*Transcript* pg. 53 ln. 18-22). It is clear that the Applicant did not fully understand the meaning of an *Alford* plea and believed he was being sentenced to prison only for the drug charge. The Court, without meaning to, actually helped mislead the Applicant by stating that the sentence was "...consistent with the discussions I had with your lawyer, and I think nit is proper and just." (*Transcript* pg. 55 ln. 1-3)

II. Legal Issue

Plea counsel was deficient in representing Applicant because she did not adequately explain what an *Alford* plea entailed. Given how the first trial (mistrial) was progressing, Applicant is convinced that he would have been acquitted of Kidnapping the charges other than PWID Crack Cocaine. The failure to properly advise the Applicant is clear error and, but for such error, there is a reasonable probability that the outcome at sentencing would have been different.

III. Legal Authority

For Applicant to be granted relief as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective assistance. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); Brown v. State, 340 S.C. 590, 533 S.E.2d 308 (2000). This does not only apply to trials - this same standard applies to a guilty plea. Alexander v. State, 303 S.C. 539, 542, 402 S.E.2d 484, 485 (1991).

When a guilty plea has been entered, the applicant must prove counsel's representation was below the standard of reasonableness and but for counsel's unprofessional errors, there is a reasonable probability the applicant would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Alexander v. State, 303 S.C. 539, 543, 402 S.E.2d 484, 485 (1991). The advice Applicant received from his plea counsel failed to meet the standards for attorneys. Tollett v. Henderson, 411 U.S. 258, 98 S.Ct. 1602, 36 L.Ed 2d 235 (1973). t

Applicant did not appeal the plea. Now, the Applicant is challenging the voluntariness of his guilty pleas and this PCR evidentiary hearing is the only forum to raise this issue. State v. Barton, 325 S.C. 522, 530 n. 6, 481 S.E.2d 439, 443 n. 6 (Ct. App. 1997) (any challenge to the knowing and voluntary nature of appellant's plea could be raised only in a petition for post-conviction relief); In the Interest of Antonio H., 324 S.C. 120, 122, 477 S.E.2d 713, 714 (1996) (where sole issue before appellate court was competency to enter plea and issue was not raised at the time of the plea, issue was procedurally barred; proper avenue to challenge a guilty plea which was not objected to at the time of its entry was through post-conviction relief); State v. McKinney, 278 S.C. 107, 108, 292 S.E.2d 598, 599 (1982) (absent timely objection at a plea proceeding, the unknowing and involuntary nature of a guilty plea can only be attacked through the more appropriate channel of post-conviction relief).

Applicant asserts that he did not validly waive his constitutional right to a trial by jury. When a PCR applicant alleges that he was denied the right to exercise one of his constitutional rights, the sole inquiry is whether he was informed of that right, and if so, whether he validly waived it. If there is no knowing and intelligent waiver, then the remedy is a new trial. See, e.g., Wroten v. State, 301 S.C. 293, 391 S.E.2d 575 (1990) (no valid waiver of right to counsel, new trial ordered); Prince v. State, 301 S.C. 422, 392 S.E.2d 462 (1990) (same).

The second step in the analysis—whether Applicant was prejudiced by the deficient representation. Strickland v. Washington, 466 U.S. at 687. As this was a guilty plea, Applicant "must show that there is a reasonable probability that, but for

counsel's errors, he would not have pleaded guilty and would have insisted on going to trial." Here, the evidence shows that Applicant *did* go to trial initially and only agreed to plead guilty upon ineffective recommendations of his attorney as to the sentence he would receive.

Therefore, Applicant's attorney did not demonstrate "reasonableness under professional norms" that satisfies the requirements of the Sixth Amendment. *Cherry v. State*, 300 S.C. 115, 386 S.E. 2d 624 (1989).

At the evidentiary hearing, Applicant proceeded, for the most part, on the allegations stated in the application for post-conviction relief.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. § 17-27-80 (1985).

The Applicant testified that he did not think the Alford charges would be an actual sentence.¹ The Applicant explained that at first they went to trial and it ended in a mistrial. On retrial, after the fourth (4th) day of that trial the State made an offer that the State would drop all other charges if the Applicant pled guilty to the drug charges. The Applicant explained that the 1st trial was going "perfectly" and that he would have been acquitted but for the mistrial. The Applicant explained that on the day of the plea they took a break and counsel told him that the fifteen (15) year offer. The Applicant explained that he was told it would be non-violent, and a plea to the crack charge only and considering his pre-trial detention time, he would only be facing about another five (5) years – so he took the plea deal. The Applicant explained that he understood the explanation regarding an Alford plea to be that he would maintain his innocence, the Applicant explained that he thought that meant literally – in that he would remain innocent. The Applicant strongly

¹ North Carolina v. Alford, 400 U.S. 25 (1970).

asserted that it was his understanding that he did not plea guilty to those other charges. The Applicant explained that the relief he was seeking was the deal he pled to, i.e. nonviolent time for the crack charge only. The Applicant acknowledged that he apologized to the victim(s) during the plea, but that he only did that because he does feel sorry for what happened to them, but that he had nothing to do with it. The Applicant explained that he told his attorney he was not in that moving truck that day.

Plea counsel testified that she recalled her representation of the Applicant. Plea counsel explained that she has over twenty (20) years of criminal defense experience. Plea counsel explained that she had the case for about a year and there were about three (3) co-defendants. Plea counsel explained that the drugs were located in the Applicant's body with his fecal matter on the wrapper (there was DNA). Plea counsel agreed that she did think the prior trial was going well. Plea counsel explained that the 2nd trial was very different and the State learned from the first trial and reorganized things from a different angle – and the jury was different.² Plea counsel credible testified that she fully explained the Alford plea situation to the Applicant and that these would be actual convictions. Plea counsel explained that she told him that while he did not have to admit his guilt he was also agreeing that the State had enough evidence to prove him guilty. Plea counsel testified that the Applicant knew full well that his sentence was an "85% sentence"

² Plea counsel explained that the main victim was functionally mute and the first trial was presented poorly compared to the way the State presented things during the 2nd trial.

because of the fact that the potential sentence carried a potential sentence of twenty (20) years. Plea counsel explained that the Applicant and his family knew that he could get life. Plea counsel testified that the Applicant was not confused and certainly knew what was going on – that he could maintain his innocence but would take the deal anyway.

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). 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); Alexander v. State, 303 S.C. 539, 542, 402 S.E.2d 484, 485 (1991).

Courts use a two-pronged test in evaluating 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." Cherry, 300 S.C. at 117, 385 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. As discussed above, the Applicant has failed to carry his burden in this action. Therefore, this Court finds that the application must be denied and dismissed.

Beyond his review of the undisputed procedural history, this Court finds Applicant's testimony is not credible. Plea counsel's testimony is credible. Accordingly, this Court finds Applicant has failed to prove the first prong of the Strickland test – that counsel failed to render reasonably effective assistance under prevailing professional norms. This Court also finds Applicant has failed to prove the second prong of Strickland – that he was prejudiced by counsel's performance. The Applicant was not at all credible when he testified that he thought he was not pleading guilty to the non-drug charges. The plea transcript also refutes this claim.

(GuiltPlea counsel credibly testified that she explained the Alford plea situation and that his sentence would be at 85%. The Applicant has failed to satisfy his burden of proof and demonstrate otherwise.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Counsel was not deficient in any manner, nor was Applicant prejudiced by counsel's representation. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

Except as discussed above, this Court finds that the Applicant failed to raise the remaining allegations set forth in his application at the hearing and has, thereby, waived them. As to any and all allegations that were or could have been raised in the application or at the hearing in this matter, but were not specifically addressed in this Order, this Court finds Applicant failed to present any probative evidence regarding such allegations. Accordingly, this Court finds that Applicant waived such allegations and failed to meet his burden of proof regarding them. Accordingly, they are dismissed with prejudice. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issue at the hearing indicates a voluntary and intentional


relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

This Court cautions the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel 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 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant and counsel are directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 21st day of February, 2012.


The Honorable J. Ernest Kinard, Jr.
Presiding Judge
Fifth Judicial Circuit

Camden, South Carolina.

