

LAW OFFICE OF
Kristy Grafton Goldberg, LLC
ATTORNEY AT LAW

September 3, 2015

RECEIVED

SEP 04 2015

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

S.C. SUPREME COURT

RE: Richard O. Hatchell, SCDC # 114745, vs. State of South Carolina
Appeal of Case No. 2013-CP-32-2083

Dear Mr. Shearouse,

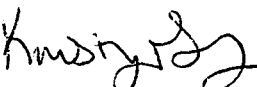
Enclosed for filing is a Notice of Appeal in the above referenced case. Also enclosed are a certificate of service and a copy of the original court order which is to be challenged on appeal. I would appreciate it if you could file the Notice of Appeal and mail a date-stamped copy back to me in the enclosed pre-stamped envelope.

Please note that the final order dismissing the underlying PCR matter was filed June 15, 2015. However, neither the Applicant nor his counsel was served with the final order by the Clerk of Court or Attorney General's Office. Counsel for the Applicant did not receive a copy of the final order from the Clerk of Court until September 2, 2015 by e-mail.

By copy of this letter I am informing the Office of Appellate Defense of this Appeal so that they may begin representation of Mr. Hatchell as I was appointed in this matter. I am also hereby requesting that Appellate Defense obtain a copy of the court transcript within the time required by this court.

Please let me know if you have any questions or concerns regarding this matter.

Respectfully,


Kristy Goldberg

CC: Walt Whitmire
Assistant Attorney General
Post Office Box 11549
Columbia, South Carolina 29211-1549

Richard Hatchell, SCDC # 114745
Broad River Correctional Institution
Unit Wateree #183
4460 Broad River Road
Columbia, South Carolina 29210

The Honorable Beth Carrigg
Clerk of Court
205 East Main Street
Lexington , South Carolina 29072

Office of Appellate Defense
Chief Appellate Defender – Robert Dudek
PO Box 11433
Columbia, SC 29211-1433

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

SEP 04 2015

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

S.C. SUPREME COURT

The Honorable Brooks P. Goldsmith, Circuit Court Judge

Case No. 2013-CP-32-2083

Richard O. Hatchell, SCDC # 114745, Appellant

v.

State of South Carolina, Respondent.

NOTICE OF APPEAL

Applicant Richard O. Hatchell hereby appeals from the Order of the Honorable Brooks P. Goldsmith presiding Judge for the 11th Judicial Circuit, filed June 15, 2015 and received by counsel for the Applicant on September 2, 2015 in the matter of Richard O. Hatchell v. State of South Carolina, Case No. 2013-CP-32-2083.

September 3, 2015



Kristy Goldberg
Attorney for Plaintiff

Law Office of Kristy Goldberg, LLC.
1720 Main Street, Suite 301
Columbia, SC 29201
Phone (803) 252-2299
kristy@kristygoldberglaw.com

Other Counsel of Record:

Assistant Attorney General, Walt Whitmire
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

SEP 04 2015

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

The Honorable Brooks P. Goldsmith, Circuit Court Judge **S.C. Supreme Court**

Case No. 2013-CP-32-2083

Richard O. Hatchell, SCDC # 114745, Appellant

v.

State of South Carolina, Respondent.

PROOF OF SERVICE

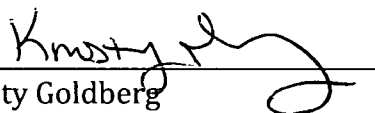
Personally appeared before me, Kristy Goldberg, Esquire, who being duly sworn, deposes
and states:

She is the counsel of record for Applicant;

Service by mail is proper in this instance; and

She has served the NOTICE OF APPEAL on the following party on September 3, 2015 by
depositing one copy in the U.S. Mail, postage prepaid:

Assistant Attorney General, Walt Whitmire
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211



Kristy Goldberg
Attorney for Plaintiff

Law Office of Kristy Goldberg, LLC.

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Phone (803) 252-2299
kristy@kristygoldberglaw.com

Other Counsel of Record:
Assistant Attorney General, Walt Whitmire
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

FILED

ORIGINAL

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF LEXINGTON)	ELEVENTH JUDICIAL CIRCUIT
)	
Richard O. Hatchell, S.C.D.C. No. 114745)	C.A. No. 2013-CP-32-2083
)	
Applicant,)	
)	
v.)	ORDER OF DISMISSAL
)	(with prejudice)
State of South Carolina,)	
)	
Respondent.)	

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on June 17, 2013. Respondent made its return on May 19, 2014. An evidentiary hearing into the matter was convened on April 21, 2015, at the Lexington County Courthouse. Applicant was present at the hearing and was represented by Kristy G. Goldberg, Esq. Respondent was represented by Walt Whitmire, Esq., of the Office of the Attorney General.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Lexington County. The Applicant was indicted at the February 2012 term of the Court of General Sessions for Lexington County for burglary, first-degree (2012-GS-32-0265) and failure to stop for a blue light (2012-GS-32-0264). The Applicant was represented by Elizabeth Fullwood, Esq., On July 9, 2012, Applicant pled guilty as indicted. The Honorable William H. Seals sentenced Applicant to a term of life imprisonment for burglary and to a term of three (3) years imprisonment for failure to stop for a blue light. The sentences were to be served concurrently.

A notice of Appeal was filed on Applicant's behalf. By order dated September 2, 2012, the South Carolina Court of Appeals dismissed Applicant's appeal.¹ The remittitur was issued on October 15, 2012.

ALLEGATIONS

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

- (a) Ineffective assistance of trial counsel – failure of trial counsel to object when Applicant was not specifically and personally advised regarding his rights at the beginning of his guilty plea
- (b) Ineffective assistance of trial counsel - failure of trial counsel to present sufficient mitigation.
- (c) Ineffective assistance of trial counsel – failure to sufficiently advise Applicant regarding the consequences of his prior record and properly explain how it could be used in prosecuting his criminal charges.
- (d) Ineffective assistance of trial counsel – failure to advise Applicant that his plea offer would be revoked on a particular date.
- (e) Ineffective assistance of trial counsel - failure of counsel to sufficiently obtain documents necessary for the Applicant to make his decision regarding plea or trial prior to the expiration of his plea offer on March 13, 2012.
- (f) Ineffective assistance of trial counsel - failure of counsel to request a hearing for the Court to determine whether uncounseled convictions could be used for enhancement purposes.
- (g) Ineffective assistance of counsel - failure of trial counsel to object during the guilty plea regarding the Solicitor's withdrawal of their plea offer.
- (h) Ineffective assistance of counsel - involuntary guilty plea as the Applicant decided to plead guilty in reliance on his attorney's statement that he would receive a 15 year sentence.

SUMMARY OF TESTIMONY

At the PCR hearing, Applicant testified to his interactions and perceptions of counsel during his case. Applicant testified that he rejected the State's initial negotiated plea offer because he would have had to plea to a violent offense. Applicant reasoned that actual term of incarceration at issue equated to a presumptive life sentence. Furthermore, Applicant testified

¹ Pursuant to Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules.

that offer was as indicted where Applicant was under the impression that the burglary did not meet the elements of Burglary, first-degree. Applicant testified that one would have had to commit a burglary at night and while armed with a deadly weapon to meet the elements of burglary first-degree. Applicant also testified that Jack Swerling, Esq., previously told him that convictions that were ten years or older could not be used to enhance a burglary, second-degree, to a burglary, first-degree. Applicant testified that he did not heed counsel's advice on this matter. Applicant testified that he believed that his "rap sheet" was incorrect in that it included burglary convictions where he was unrepresented by counsel and convictions that did not belong to him.

Applicant testified that he motioned to have counsel relieved during the case because he had yet to get the opportunity for a bond hearing. He noted that he wrote various South Carolina Bar entities on this matter. Applicant reasoned that counsel's continued representation on his case constituted a conflict of interest after the Motion Hearing Judge rejected his motion to have counsel relieved.

Applicant testified that he was unaware that the State could have withdrawn its original plea offer for a negotiated fifteen year sentence on the indicted offense of burglary, first-degree. Applicant testified that on the day of Applicant's plea hearing, he was under the impression that he was pleading guilty pursuant to the State's plea offer. Applicant testified that when he signed the sentencing sheet, counsel assured him that he was going to get the negotiated fifteen year sentence. Applicant testified that "everyone pulled a fast one" on him at the plea hearing. Applicant testified that if he had known that the State terminated its original plea offer, he would have wanted counsel to make a motion to compel the State to re-convey the original offer.

Applicant testified that he was unable to hear or understand Judge Seals' during the plea



hearing. In relevant part, Applicant testified that he never heard Judge Seals' direct him on his sentencing exposure of life imprisonment. Applicant testified that he communicated this problem to counsel during the plea hearing where she told him to not say anything and to just go along.

Applicant testified that counsel told him that she apparently had no desire to help him. Applicant opined that he wished counsel would have apprised Judge Seals of his military service, childhood hardship in foster care, his rapidly declining health, and his intoxication and struggles with substance abuse during the mitigation phase of the plea hearing. Applicant did testify that counsel covered some of these points in her motion for reconsideration of sentence.

Counsel testified to her course of conduct during the course of the representation. Counsel has served as the Lexington County Public Defender since 1991. On December 7, 2011 counsel was appointed to Applicant's case. Counsel obtained Applicant's file on December 15, 2011. On December 21, 2011, counsel appeared at the preliminary hearing on behalf of Applicant. On the following day, counsel held a consultation with Applicant where they discussed: Applicant's version of the facts of the incident that led to his arrest, and the elements of burglary, first-degree, and its penalty and violent classification. Counsel noted that she would have apprised Applicant that prior burglary convictions could have operated to enhance a second-degree offense to a more serious first-degree offense.

Counsel testified that she engaged in plea negotiations with the State at an early point in her representation. Her labor yielded a plea offer of burglary, first-degree, for a negotiated sentence of fifteen years imprisonment, the mandatory minimum. Counsel apprised Applicant of the State's offer and met with him to discuss the matter. Counsel testified that she told Applicant that the plea offer was very beneficial to him where aggravating factors of the offense were heinous and garnered media attention, and where the litany of prior burglary convictions most

certainly qualified Applicant for an enhancement to burglary, first-degree. When Applicant insisted that his prior criminal record was inaccurate, counsel engaged in an extensive investigation and evaluation of the matter. Counsel noted that she obtained and provided Applicant copies of his numerous prior convictions for burglary, first-degree. Even after extensive discussions with Applicant on the matter, he remained resistant to counsel's advice.

Counsel testified that on March 13, 2012, Applicant was transported to the Court where counsel explained to him that he could accept the State's offer and plead at the time or the offer would terminate. Counsel testified that Applicant maintained his stubborn and incorrect posture. After plea negotiations terminated, counsel held a consultation with Applicant on May 14, 2012, where they discussed the merits of the State's case. Counsel testified that on June 4, 2012, Judge Cottingham heard Applicant's motion to have counsel relieved and the motion for bond. Judge Cottingham rejected both and Applicant's motion to have counsel relieved to be without merit. Counsel testified that "Applicant just didn't like me."

Counsel testified that on July 5, 2012, Applicant communicated his desire to her to plead guilty. Counsel testified to her general practice in advising a client on the consequences and implications of pleading guilty. Counsel further testified to her specific advice to Applicant in this case. Counsel was adamant that she discussed the sentencing discretion at ultimate exposure at issue with Applicant.

Counsel testified that Applicant was hard of hearing. During the course of the representation and at the plea hearing counsel took remedial measures to address Applicant's disability. Counsel testified that she instructed Applicant to let her know immediately when he could not hear Judge Seals; when Applicant complied, she took immediate action on the matter.

Counsel testified that she filed a motion for reconsideration of sentence on Applicant's



behalf. In part, counsel made a motion to have the plea withdrawn and compel the State to revive the original fifteen year offer because she had not been provided certified copies of at least two of Applicant's previous burglary convictions at the time the plea was withdrawn in March. However, counsel testified that her argument was technical in nature and non-prejudicial to Applicant where her staff obtained the certified copies at issue prior to the expiration of the plea offer.

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).

As a matter of general impression, this Court finds Applicant has entirely failed to produce credible evidence in support of his allegations. Ultimately, Applicant ignored the sound advice of counsel to his detriment. Although Applicant's sentence may seem harsh, this PCR action is without merit. This Court's review of the entire record completely negates Applicant's bold allegation that his purported hearing disability rendered his guilty plea involuntary.

EFFECTIVE ASSISTANCE OF COUNSEL

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 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 (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).

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. 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). After careful review based on the standard discussed above, the Applicant has failed to carry his burden in this action.

A.

This Court finds Applicant's allegation "(c) failure to sufficiently advise Applicant regarding the consequences of his prior record and properly explain how it could be used in prosecuting his criminal charges" to be without merit. This Court finds counsel's testimony to be

credible and dispositive. “The Sixth Amendment right to effective assistance of counsel extends to the consideration of plea offers that lapse or are rejected. That right applies to “all ‘critical’ stages of the criminal proceedings.” Missouri v. Frye, ---- U.S. ----,----, 132 S.Ct. 1399, 1402 (2012). “The question is whether defense counsel has the duty to communicate the terms of a formal offer to accept a plea on terms and conditions that may result in a lesser sentence, a conviction on lesser charges, or both.” Id., ---- U.S. at ----. 132 S.Ct. at at 1408. “A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of a plea by showing that counsel's representation fell below an objective standard of reasonableness.” Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). “To show prejudice from ineffective assistance of counsel in a case involving a plea offer, petitioners must demonstrate a reasonable probability that (1) they would have accepted the earlier plea offer had they been afforded effective assistance of counsel, and (2) the plea would have been entered without the prosecution canceling it or the trial court refusing to accept it, if they had the authority to exercise that discretion under state law.” Merzbacher v. Shearin, 706 F.3d 356, 366 (4th Cir. 2013) cert. denied, 134 S. Ct. 71, 187 L. Ed. 2d 56 (U.S. 2013) reh'g denied, 134 S. Ct. 725, 187 L. Ed. 2d 580 (U.S. 2013) (internal quotations omitted).

In light of Applicant’s attempt to mitigate his decision to stubbornly ignore counsel’s sound advice here, counsel took extraordinary and timely action to fully investigate, evaluate, and strenuously communicate to Applicant that his decades long record of numerous burglary convictions qualified him for burglary, first-degree. This Court finds Applicant’s testimony that he rejected the State’s offer because he reasoned that violent classification equated to a life sentence be telling as it showed: (1) Applicant was a sophisticated participant in General Sessions’ Court; (2) Applicant’s wrongful insistence that his record was incorrect, among other

things, was just nothing more than a smoke screen to delay the disposition of his case. This Court finds Applicant's prostrations here evidenced his wishful thinking for a non-existent and more favorable "option c" that the State was simply unwilling to offer him. See Wolfe v. State, 326 S.C. 158, 485 S.E.2d 367, 371 (1997). Therefore, this allegation is denied and dismissed with prejudice.

For the reasons announced above, this Court finds Applicant allegation "(d) Ineffective assistance of trial counsel - failure to advise Applicant that his plea offer would be revoked on a particular date" to be without merit. In light of counsel's convincing and dispositive testimony that she advised Applicant that the State would withdraw its offer if he did not enter his plea on March of 2012, Applicant has offered no credible testimony or evidence on the matter. Therefore, this allegation is readily denied and dismissed with prejudice.

Again, for reasons announced above, this Court finds Applicant's allegation "(e) Ineffective assistance of trial counsel - failure of counsel to sufficiently obtain documents necessary for the Applicant to make his decision regarding plea or trial prior to the expiration of his plea offer on March 13, 2012" to be without merit. Not only did counsel offer dispositive testimony that she in fact labored extensively to investigate and advise Applicant on this matter prior to March of 2012, this Court notes that absence of any record from Applicant requesting a revival of the offer because of purported deficient performance of counsel to be noteworthy. Notably, Applicant was a difficult client who sought redress for his issues with counsel on other matters. Therefore, this allegation is readily denied and dismissed with prejudice.

B.

This Court finds Applicant's allegation "(g) Ineffective assistance of counsel - failure of trial counsel to object during the guilty plea regarding the Solicitor's withdrawal of their plea"

offer” to be without merit. This Court finds counsel’s dispositive testimony renders the allegation per se non-prejudicial. Rule 5 permits inspection of evidence in the **State's** possession “which [is] material to the preparation of his defense or [is] intended for use by the prosecution as evidence in chief at the trial, or were obtained from or belong to the defendant” upon request by the defendant. Rule 5(a)(1)(C), SCRCrP. Compliance with Rule 5 is a fact-based inquiry.” Hyman v. State, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012).

Counsel testified that the underlying evidence at issue, certified copies of at least two prior burglary convictions that met the requisite criteria for enhancement were otherwise obtained by counsel’s independent efforts. Counsel’s efforts allowed Applicant to make knowing, intelligent, and voluntary decision on whether or not accept the plea offer in March of 2012. Therefore, this allegation is readily denied and dismissed with prejudice.

For reasons noted above, this Court finds Applicant’s allegation “(f) Ineffective assistance of trial counsel - failure of counsel to request a hearing for the Court to determine whether uncounseled convictions could be used for enhancement purposes” to be equally without merit. This Court finds counsel’s testimony on this matter to be convincing. This Court finds Applicant has entirely failed to meet his most basic burden of production to produce any evidence that any on his numerous burglary convictions were in fact uncounseled convictions. In light of counsel’s credible testimony that her independent labor led to her obtaining at least two or more prior certified convictions that qualified for enhancement, further discussion on this matter is unnecessary. This Court finds that Applicant’s failure to show a meritorious basis for the purported motion at issue, precludes further inquiry into either one of Strickland’s prongs. See Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998) (“failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the



allegation is supported only by mere speculation as to the result”). Therefore, this allegation is readily denied and dismissed with prejudice.

C.

This Court finds Applicant’s allegation “(h) Ineffective assistance of counsel - involuntary guilty plea as the Applicant decided to plead guilty in reliance on his attorney’s statement that he would receive a 15 year sentence” to be without merit. “Specifically, the voluntariness of a guilty plea is not determined by an examination of a specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea, and also from the record of the PCR hearing.” Roddy v. State, 339 S.C. 29, 33, 528 S.E.2d 418, 420 (2000). “A guilty pleas act as a waiver of all non-jurisdictional defects and defenses, including claims of constitutional violations.” Whetsell v. State, 276 S.C. 295, 277 S.E.2d 891 (1981).

This Court finds Applicant fell well short of meeting his burden of proof here where the allegation was entirely supported by his suspect, incredible and dubious testimony on the matter. Again, this Court finds counsel’s testimony on the matter to be convincing. This Court notes that allegation itself was incredible in light of Applicant’s decades long experience with the procedures of General Sessions plea court. Alternatively, Applicant signed a sentencing sheet prior to the plea that announced the “straight up” structure of his plea in certain plain terms. See James v. State, 377 S.C. 81, 85, 659 S.E.2d 148, 150 (2008) (“The plea sheet is instructive because it contains a written manifestation of Respondent’s desire to plead guilty and was executed by Respondent immediately prior to the plea hearing”). Therefore, this allegation is readily denied and dismissed with prejudice.



Similarly, this Court finds Applicant's allegation "(a) Ineffective assistance of trial counsel - failure of trial counsel to object when Applicant was not specifically and personally advised regarding his rights at the beginning of his guilty plea" to be without merit. This Court finds counsel's testimony concerning her advice to Applicant on the terms and consequences of pleading guilty prior to the plea hearing to be convincing. Although it is undisputed that Applicant suffers some hearing loss, Applicant has produced no credible evidence that showed counsel's remedial measures during the representation constituted a legitimate basis for deficient performance. Furthermore, Applicant has not produced a compelling reason to persuade this Court to allow him to depart from presumption of truthfulness in the assurances and representations that he made to Judge Seals at the plea hearing. See Wolfe v. State, 326 S.C. 158, 485 S.E.2d 367, 371 (1997) ("A statement that questions are "routine" is not an invitation to answer them untruthfully, nor does it constitute a reason to believe the questions and statements of the judge during a guilty plea proceeding mean nothing"). Therefore, this allegation is readily denied and dismissed with prejudice.

D.

This Court finds Applicant fell well short of meeting his burden to prove the allegation "(b) Ineffective assistance of trial counsel - failure to trial counsel to present sufficient mitigation." Generally, what motion to make is within the exclusive province of counsel." Leavitt v. Arave, 646 F.3d 605,611 (9th Cir. 2011). "Counsel is not required to file a reconsideration motion to rehash a position once rejected." U.S. v. Tajeddini, 945 F.2d 458, 463 (1st Cir. 1991). In light of counsel's credible testimony that (1) Applicant told her not to mention his prior military service because of unhelp nature of his discharge; (2) Applicant failed to communicate his childhood history of foster care; (3) and that none of Applicant's family made



themselves available to speak on his behalf, this Court finds Applicant's allegation is ancillary and entirely unconvincing. Applicant even acknowledges that counsel even provided facts in mitigation in the motion for sentence reconsideration in addition to her representations to Judge Seals during the mitigation phase of the plea hearing. Therefore, this allegation is readily denied and dismissed with prejudice.

ALL OTHER ALLEGATIONS

As to any and all allegations that were raised in the application or at the hearing in 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.

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. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

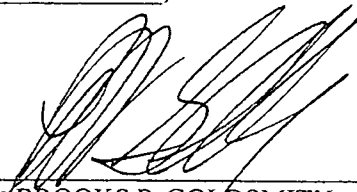
This Court notes that that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right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



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 3 day of JUNE, 2015.



HONORABLE BROOKS P. GOLDSMITH
Presiding Judge
Eleventh Judicial Circuit

_____, South Carolina

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2013CP3202083

Richard O Hatchell

State of SC

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
---------------	--

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. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a) SCRPC
 Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
- 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 Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

INFORMATION FOR THE JUDGMENT 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 (List amount(s) below)
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

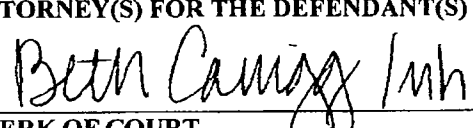
The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time 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 June 15, 2015 and a copy mailed, emailed or placed in the appropriate attorney's box on this June 15, 2015 to attorneys of record or to parties (when appearing pro se) as follows:

Kristy Goldberg

Walt Whitmire

ATTORNEY(S) FOR THE PLAINTIFF(S)	ATTORNEY(S) FOR THE DEFENDANT(S)
	 Beth Caniggia /mh
	CLERK OF COURT

LAW OFFICE OF
Kristy Grafon Goldberg, LLC
ATTORNEY AT LAW
1720 MAIN STREET, SUITE 303
COLUMBIA, SOUTH CAROLINA 29201

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

