

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

The Honorable R. Scott Sprouse, Circuit Court Judge

Case No. 2012-CP-42-2096

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SEP 14 2015

S.C. SUPREME COURT

State of South Carolina

Respondent,

v.

Chadwick Deon Anderson,
#346881

Appellant.

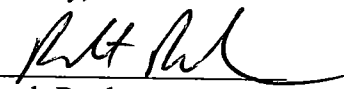
Notice of Appeal

Chadwick Deon Anderson appeals the order of the Honorable R. Scott Sprouse dated August 6, 2015. Appellant received written notice of entry of this order on August 13, 2015.

September 3, 2015

Sincerely,

s/


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

cc:

Other Counsel of Record:

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

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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 September 3, 2015, addressed to its attorney of record, Justin Hunter, Office of the South Carolina Attorney General, P.O. Box 11549, Columbia, S.C. 29211.

September 9, 2015

Sincerely,

s/


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

cc:
Other Counsel of Record:

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

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SEP 14 2015

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS)
FOR THE SEVENTH JUDICIAL CIRCUIT)

Chadwick Deon Anderson, #346881)

2012-CP-42-2096)

Applicant,)

v.)

ORDER OF DISMISSAL

State of South Carolina,)

Respondent.)

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on May 17, 2012. Respondent made its return on March 26, 2013. An evidentiary hearing into the matter was convened on July 8, 2015, at the Spartanburg County Courthouse. Applicant was present at the hearing and was represented by J. Brandt Rucker, Esquire. Respondent was represented by Assistant Attorney General Suzanne White of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The records before this Court indicate that Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted at the June 2011 term of the Spartanburg County Grand Jury for five (5) counts of armed robbery (11-GS-42-3055, -3057, -3059, -3061, and 3063), two counts of accessory after the fact of armed robbery (11-GS-42-3066, -3067), and accessory before the act of felony (11-GS-42-3064)¹. The Applicant also waived presentment to an additional count of armed robbery (11-GS-42-4356). He was represented by James Cheek Esquire. On July 15, 2011, the Applicant pled guilty to all charges as indicted, with the exception

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¹ This charge was nolle prossed in accordance with Applicant's agreement to plead guilty.



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of one count of armed robbery (11-GS-42-4356), to which he pled no contest. He was sentenced by the Honorable Roger L. Couch to confinement for concurrent terms of thirty (30) years for five (5) counts of armed robbery, concurrent terms of fifteen (15) years for each count of accessory after the fact of armed robbery, and a consecutive term of ten (10) years for the remaining armed robbery charge (11-GS-42-3055).

Applicant filed a timely notice of appeal. The South Carolina Court of Appeals dismissed the appeal for failure to show any issue that was raised to or ruled upon by the circuit court judge on October 21, 2011. The remittitur was returned to the circuit court on November 11, 2011.

ALLEGATIONS

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

1. Ineffective assistance of counsel, in that;
 - a. Counsel failed to conduct an adequate pretrial investigation by not spending adequate time with Applicant before plea hearing, and by failing to interview potential witnesses, or make a motion to request funding for investigator or expert witness.
 - b. Counsel failed to provide Applicant with discovery pursuant to Brady v. Maryland in advance of plea hearing or sentencing.
 - c. Counsel failed to resolve a conflict of interest created by Counsel's representation of Applicant and his co-defendant where the co-defendant made statements adverse to Applicant.
 - d. Counsel failed to inform Applicant that indictment (11-GS-42-4356) was invalid because it was not true billed.
 - e. Counsel failed to make Applicant aware of ramifications of plea agreement.
2. Involuntary guilty plea, in that;
 - a. Counsel assured Applicant that he would receive no more than ten (10) years for all charges combined and the Applicant relied on this promise in pleading.

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SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. The State presented testimony from James Cheek, Esquire. (hereinafter "Plea Counsel"). This Court also had before it a copy of the plea transcript, the Spartanburg County Clerk of Court records, Applicant's South Carolina Department of Correction records, the PCR application, and return.

Applicant testified that he was indicted for armed robbery and accessory after the fact for armed robbery. Applicant claimed that he received ineffective assistance of counsel when counsel failed to investigate. Specifically, Applicant stated Plea Counsel failed to interview witnesses, failed to get an expert, and failed to provide him with a copy of his discovery. Applicant stated that he did not see any favorable evidence including a videotape. However, Applicant recalled telling the plea court that he was satisfied with counsel's services.

Applicant claimed Plea Counsel failed to investigate his mental health history. Specifically, Applicant referenced and introduced as exhibit #1 his health records showing he had A.D.D. The records revealed that Applicant had a low ability to comprehend. Applicant claimed that he was prescribed medication because he was hearing voices. The Applicant further claimed Plea Counsel labored under a conflict of interest because his co-defendant, Xavier Perry, was represented Plea Counsel. Applicant stated Co-Defendant Perry pled guilty at the same time. Applicant recalled the plea court going over Plea Counsel's dual representation. Applicant claimed that he was unaware of the conflict of interest rules prior to and during his plea. Applicant claimed the Plea Court lacked subject matter jurisdiction because the indictments were not true. Applicant claimed that Plea Counsel told him he would receive a ten year sentence.

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Applicant stated that "Jones" represented him prior to Plea Counsel. Applicant stated that he met with Jones one time. Applicant stated that he wanted bond and thought that Jones would be present at the bond hearing. However, when Applicant arrived at his "bond hearing" he was met by Plea Counsel and told it was a guilty plea. Applicant stated that he only met with Plea Counsel fifteen minutes prior to entering his guilty plea. Applicant stated that he could not proceed to trial because he and Plea Counsel had not discussed his case. Applicant stated Plea Counsel told him that he would receive a life sentence if he went to trial because his co-defendant would be testifying against him at trial. However, Applicant recalled the plea court reviewing the sentences for each of his charges.

Applicant stated that he had prior convictions for criminal domestic violence and was a habitual traffic offender. Applicant claimed that his guilty plea was involuntary because he was promised ten years. Applicant stated that he continued with his plea because he was scared and did not know what was going on. Applicant stated that he has a ninth grade education. However, Applicant admitted that he told the plea judge that he went to the twelfth grade, graduated, and has his G.E.D. Applicant stated that he did not know about his right to file an appeal. However, Applicant stated that he requested his Co-Defendant, Xavier Perry, to tell Plea Counsel that he wanted to appeal his guilty plea. Applicant claimed that he wanted a continuance.

Applicant stated that he only disputed his involvement in one of the robberies. Applicant claimed that he only told the Plea Court he committed the robberies because of his financial circumstances because Plea Counsel advised him to do so. Again, Applicant stated that he admitted his guilt based upon the advice of Plea Counsel. Applicant further claimed that he was merely following Co-Defendant Perry's lead during the guilty plea.

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Following Applicant's testimony, Plea Counsel was called to testify. Plea Counsel stated that he has approximately 250 clients and works seven days a week. Plea Counsel stated that his role in the public defender's office is to assist other public defenders in guilty plea straight from jail. Plea Counsel stated Applicant and his Co-Defendant, Xavier Perry, both had other attorneys for trial purposes. Plea Counsel stated defendant's can request to see him if they want bonds or pleas. Plea Counsel stated that he spoke with Applicant at least four times prior to his plea. Plea Counsel stated that he advised Applicant and his Co-Defendant, Xavier Perry of any potential conflict of interest. Plea Counsel stated that each had separate trial attorneys and he was their plea attorney. Plea Counsel stated that he advised each of them that if they wanted to proceed to trial then they could have their trial attorneys represent them. Plea Counsel stated that he did not rely on Applicant's trial attorney, Tanya Jones, for information. Plea Counsel stated that he conducted his own examination into the evidence.

Plea Counsel stated that it was in the Applicant and his Co-Defendant's best interest to plead guilty because the State offered concurrent sentences. Plea Counsel stated both Applicant and Co-Defendant, Xavier Perry, had prior convictions. Plea Counsel stated both gave statements that were not conflicting.

Plea Counsel stated Applicant pled to accessory because he had accepted the responsibility of some of the armed robberies. Plea Counsel stated that the only offer was for a concurrent sentence. Plea Counsel stated that he advised them to attempt to work out a negotiated sentence between eighteen or twenty two years. However, Plea Counsel stated neither the Applicant nor his Co-Defendant wanted to work out a negotiated sentence. Plea Counsel stated that he never promised that Applicant would receive a ten year sentence. Plea Counsel further stated that he advised Applicant that a recommendation is not something that the Plea Court has to follow. Plea

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Counsel opined that Applicant fully understood the difference between a recommendation and a negotiation.

Plea Counsel recalled that the Lil Cricket store employees were present, but he did not believe they were going to speak. Plea Counsel stated that despite his belief, the store manager and district manager both spoke at the plea. Plea Counsel recalled that the victims requested that the sentences run consecutively. Plea Counsel stated that he thought Applicant would receive less time until the victim's spoke and Applicant "showed out" in the court room. Plea Counsel opined that the plea went downhill quickly once Applicant spoke to the Plea Court. Plea Counsel stated it was as if Applicant was performing at a rap concert.

Plea Counsel stated that he advised Applicant of his ten day right to appeal the plea prior to entering the guilty plea and after the plea. Plea Counsel stated that he filed an appeal on January 25, 2011. Plea Counsel stated that there were no issues for an appeal, but Applicant insisted on an appeal. Plea Counsel noted that there were no specific issues by the judge so there was nothing to appeal.

Plea Counsel stated that he had no concerns about Applicant's mental health. Plea Counsel recalled Applicant advising him that he had received treatment when he was nine or ten years old for A.D.D. Plea Counsel noted that Applicant was very gifted and had won writing and music competitions within the community. Plea Counsel stated that he received various well written letters from Applicant. Plea Counsel stated that he had never heard anything about schizophrenia until the Applicant's testimony at the PCR hearing.

Plea Counsel stated that Tanya Jones was still Applicant's trial attorney and he was his guilty plea counsel. Plea Counsel stated that he actually took the solicitor's file to the jail and reviewed it with Applicant. Plea Counsel stated they may have been able to challenge the

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identification of the defendant by witnesses at one of the robbery locations. However, Plea Counsel noted that Applicant confessed to the crime. Plea Counsel stated that they reviewed Applicant's statement. Plea Counsel stated Applicant gave his statement prior to Co-Defendant Xavier Perry. Plea Counsel stated neither statement was conflicting.

Plea Counsel explained that Co-Defendant Xavier Perry beat his girlfriend. As a result, Co-Defendant Xavier Perry's girlfriend told the victim advocate about the various robberies. Plea Counsel stated this lead to a search warrant on Co-Defendant Xavier Perry's house. Plea Counsel stated that he interviewed Co-Defendant Xavier Perry's mother and brother. Plea Counsel stated that Co-Defendant Xavier Perry's brother revealed the gun and masks.

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).

INEFFECTIVE 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), 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, 46 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

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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 (1985).

ALLEGATIONS

1. Ineffective assistance of counsel for failing to conduct an adequate pretrial investigation.

Applicant alleges that he received ineffective assistance of counsel due to plea counsel's failure to investigate. Specifically, Applicant argued that Plea Counsel failed to interview witnesses, failed to retain an expert, and failed to provide him with discovery. This Court finds credible Plea Counsel's testimony that he met with Applicant four times prior to his plea. This Court notes Plea Counsel stated that he conducted his own independent investigation into the evidence against Applicant. This Court further notes Plea Counsel stated that he obtained a copy

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of the solicitor's file and reviewed it with Applicant prior to his plea. Based off of the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test – that Plea Counsel failed to render reasonably effective assistance under prevailing professional norms.

Furthermore, this Court notes Applicant failed to provide this court with any credible evidence to support his claim. Specifically, Applicant failed to present any testimony from any witnesses. See Bannister v. State, 333 S.C. at 303, 509 S.E.2d at 809. Applicant failed to present any testimony from an expert witness. See Dempsey v. State, 363 S.C. 365, 370, 610 S.E.2d 812, 815 (2005) (finding that, as the applicant failed to have an expert testify at the evidentiary hearing, "any finding of prejudice is merely speculative"). Applicant failed to present the court with any documents or evidence Plea Counsel should have investigated on his behalf. See Palacio v. State, 333 S.C. 506, 513, 511 S.E.2d 62, 66 (1999) (holding that, since the contents of challenged documents were not presented at the PCR hearing, the Applicant could not demonstrate how the failure of counsel to obtain these documents prejudiced the defense). Overall, this Court finds Applicant failed to produce any credible evidence as to what Plea Counsel should have investigated on his behalf. See Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997) (holding applicant not entitled to relief where no evidence presented at PCR hearing to show how additional preparation would have had any possible effect on the result at trial). Based off of the foregoing, this Court finds Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or omissions to prove the second prong of Strickland – that he was prejudiced by Plea Counsel's performance. This Court finds Applicant's allegations should be denied and dismissed with prejudice.

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2. Ineffective Assistance of Counsel for failing to provide discovery to Applicant prior to his guilty plea.

Applicant argued that Plea Counsel failed to provide Applicant with a copy of his discovery material prior to his plea. This Court finds Applicant's allegation is wholly meritless. This Court finds credible Plea Counsel's testimony that he obtained a copy of the solicitor's file and reviewed it with Applicant prior to his plea. This Court finds the Applicant has failed to present any credible evidence that counsel did not review and discuss the discovery materials with him before he pled guilty. This Court finds the Applicant also failed to articulate what materials he did not view and how not viewing those materials affected the outcome of his case. See Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (holding that, in a post-conviction relief proceeding, the applicant bears the burden of proving the allegations in their application).

3. Ineffective assistance due to conflict of interest.

This Court notes Applicant argued that Plea Counsel labored under a conflict of interest due to his dual representation of the Applicant and the Applicant's Co-Defendant. This Court finds Applicant's allegation is meritless.

It is well established that the fact that counsel does not advise a defendant of a potential conflict of interest does not affect the constitutionality of a conviction. Jackson v. State, 328 S.C. 345, 354, 495 S.E.2d 768, 773 (1998). Furthermore, the mere possibility of a conflict of interest is insufficient to impugn a criminal conviction. State v. Gregory, 364 S.C. 150, 612 S.E.2d 449 (2005). Additionally, an applicant must show that his counsel actively represented conflicting interest to establish a claim of ineffective assistance of counsel. Duncan v. State, 281 S.C. 438, 315 S.E.2d 809 (1984). "To establish a violation of the Sixth Amendment right to effective counsel due to a conflict of interest arising from multiple representation, a defendant who did not

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object at trial must show an actual conflict of interest adversely affected his attorney's performance." Thomas v. State, 346 S.C. 140, 143, 551 S.E.2d 254, 256 (2001) (emphasis added).

This Court finds credible, Plea Counsel's testimony that he advised Applicant of the potential conflict of interest. Plea Counsel stated that Applicant and Co-Defendant Xavier Perry provided similar statements, admitted their guilt, and wanted to plead guilty. This Court finds no actual conflict of interest occurred. The Court notes that the mere possibility of a conflict is insufficient to impugn a criminal conviction. Gregory, 364 S.C at 152-53, 612 S.E.2d at 450 (2009). This Court finds Applicant failed to present any credible evidence that an actual conflict of interest occurred by the dual representation. Based off of the foregoing, this Court finds this allegation should be denied and dismissed with prejudice.

4. Ineffective assistance of counsel for failing to inform him that indictment (2011-GS-42-4356) was invalid because it was not true billed.

This Court finds Applicant's allegation that he received ineffective assistance of counsel due to Plea Counsel's alleged failure to inform him that indictment (2011-GS-42-4356) was invalid because it was not true billed is meritless. This Court notes that the plea transcript clearly refutes this allegation. The plea court advised Applicant that he had the constitutional right to have indictment 2011-GS-42-4356 presented to the grand jury for its consideration prior to it being presented to the plea court for either a trial or plea. (Pl. p. 5 line 23—p. 6 line 1). The plea court further explained that the grand jury does not decide guilt or innocence, but instead decides whether the State has enough evidence to justify the case coming forward to trial. (Pl. p. 6 lines 2-5). The Court explained that he does not have jurisdiction to take up the case until it has been true bill indicted by the grand jury unless Applicant was willing to waive the grand jury procedure (Pl. p. 6 lines 10-15). The record reveals that Applicant indicated to the court that he wished to

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waive presentment on indictment 2011-GS-42-4356 and proceed with the guilty plea. (Pl. p. 17 line 15—p. 18 line 6). Based off of the foregoing, this Court finds this allegation should be denied and dismissed with prejudice.

5. Ineffective assistance of counsel for failing to make Applicant aware of the ramifications of the plea agreement.

This Court finds Applicant's allegation that Plea Counsel was ineffective for failing to make Applicant aware of the ramifications of the plea agreement is meritless. A defendant who pleads guilty on the advice of counsel may collaterally attack the voluntariness of his plea only by showing that (1) counsel was ineffective and that (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty. Wolfe v. State, 326 S.C. 158, 485 S.E.2d 367 (1997). When considering an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether information conveyed by the plea judge cured any possible error made by counsel. Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998).

This Court finds credible Plea Counsel's testimony that he advised Applicant of the difference between a negotiation and recommendation. Plea Counsel stated that he requested Applicant to consider working out a negotiated sentence between eighteen and twenty two years, however Applicant wanted to plead to a recommendation. Plea Counsel testified that he did not promise Applicant that he would receive a ten year sentence. This Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test — that Plea Counsel failed to render reasonably effective assistance under prevailing professional norms.

Furthermore, the record reveals that the Plea Court advised Applicant that his multiple armed robbery charges carries a minimum 10 year sentence up to thirty years (Pl. p. 17 lines 8-19 line 5). The Plea Court further advised Applicant that his accessory after the fact of a felony

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carried up to fifteen years. (Pl. p. 19 lines 6-11). The Plea Court further advised Applicant that he was facing a potential 210 years in prison. (Pl. p. 19 lines 12-18). Based off of the foregoing, this Court finds Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or omissions to prove the second prong of Strickland – that he was prejudiced by Plea Counsel’s performance. This Court finds Applicant’s allegation should be denied and dismissed with prejudice.

6. Involuntary guilty plea due to Plea Counsel promising Applicant that he would receive a ten year sentence.

This Court finds that the 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).

This Court finds that this allegation is without merit and the Applicant has failed to carry his burden of proving that his guilty plea was involuntarily made. Initially, this Court finds

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credible Plea Counsel's testimony that he never promised Applicant that he would receive a ten year sentence. Further, this Court finds that the Applicant's testimony was entered freely and voluntarily. This Court finds further that the record reflects the Applicant was thoroughly advised of the waiver of his constitutional rights by both counsel and the plea judge (Pl. p. 8-11; p. 33). The record reflects the Applicant at his plea proceeding told the court that he wished to plead guilty. (Pl. p. 33). The record also reflects that the Applicant told the court that he had not been promised or threatened by anyone to get him to plead guilty. (Pl. p. 8). This Court finds that the Applicant had a full understanding of the consequences of his plea and the charges against him. This Court finds that the Plea Judge correctly found that the Applicant's plea was freely, voluntarily, and intelligently made. (Pl. p. 34)

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by plea counsel's performance.

The Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. This Court also concludes the Applicant has failed to meet his burden of proving his guilty plea was not knowing and voluntary. See Frasier Stat. 351 S.C. at 389, 570 S.E.2d at 174.

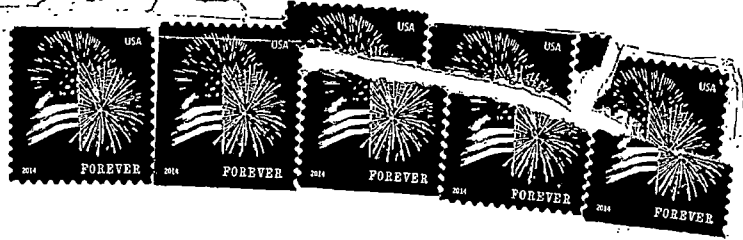
ALL OTHER ALLEGATIONS

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, this Court finds the Applicant failed to present

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The Honorable Daniel E. Shearouse
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