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October 8, 2015

RECEIVED

OCT 13 2015

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

S.C. SUPREME COURT

RE: Christopher A. Baty v. State of South Carolina, Case No: 2012-CP-18-0930

Dear Mr. Shearhouse:

Enclosed for filing is the Notice of Appeal (original and clocked copy) in the above Post Conviction Relief (PCR) case. Also enclosed are the following:

- (1) Proof of Service of the Notice of Appeal on the Respondent;
- (2) The Order of Dismissal &
- (3) A Request for Representation on Appeal.

The Applicant-Appellant was represented by me as an indigent pursuant to my contract with the South Carolina Commission on Indigent Defense (SCCID) to handle PCR cases. By copy of this letter, I am forwarding a duplicate set of documents to the SCCID.

The Request for Representation on Appeal and the Affidavit in Support thereof are signed by me as attorney for Applicant-Appellant. If you need anything further, do not hesitate to contact me. Thank you for your time and attention to this matter.

Sincerely,

Rodney D. Davis
South Carolina Bar #: 12396
4000 Faber Place Drive, Suite 300
Charleston, SC 29405
(843) 323-4353
Davis@LowcountryLawOffice.com

✓ Enclosure(s). As stated above.
RDD/mmt

cc: J. Clayton Mitchell, Assistant Attorney General
Kimberly McCall, Appellate Division, SCCID

THE STATE OF SOUTH CAROLINA CERTIFIED COPY.
In The Supreme Court

2015 SEP 28 PM 1:05

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

Cheryl Stehman
CLERK OF COURT
DORCHESTER COUNTY

Maite Murphy, Circuit Court Judge

Case No.: 2013-CP-18-0930

RECEIVED

OCT 13 2015

Christopher A. Baty,

Appellant,

v.

S.C. Supreme Court


State of South Carolina,

Respondent.

NOTICE OF APPEAL

Christopher A. Baty appeals the denial of his Post Conviction Relief application in this case. The Application for relief was denied, following an evidentiary hearing before the Honorable Maite Murphy on May 21, 2015. The stamp-filed Order of Dismissal was filed with the Dorchester County Clerk of Court on August 27, 2015. The aforementioned Order was received, via US Mail, by the Appellant's counsel on or about September 10, 2015.

September 25, 2015


Rodney D. Davis
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Davis@LowcountryLawOffice.com
Attorney for Appellant

Other Counsel of Record:
J. Clayton Mitchell, Assistant Attorney General
Office of the Attorney General, State of South Carolina
PO Box 11549
Columbia, SC 29211-1549

THE STATE OF SOUTH CAROLINA
In The Supreme Court

CERTIFIED COPY
2015 SEP 28 PM 1:11

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

Sheryl Graham
CLERK OF COURT
DORCHESTER COUNTY

Maite Murphy, Circuit Court Judge

RECEIVED

Case No.: 2013-CP-18-0930

OCT 13 2015

Christopher A. Baty,

Appellant,

S.C. SUPREME COURT

v.

State of South Carolina,

Respondent.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State by mailing a copy of it to the address of record, J. Clayton Mitchell, P.O. Box 11549, Columbia, South Carolina 29211-1549, on September 25, 2015.

September 25, 2015

Michelle Moore Trimble

Michelle Moore Trimble
Paralegal to Rodney D. Davis
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(843) 323-4353
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Attorney for Appellant

Other Counsel of Record:
J. Clayton Mitchell, Assistant Attorney General
Office of the Attorney General, State of South Carolina
P.O. Box 11549
Columbia, SC 29211-1549
Attorney for Respondent

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

Christopher A. Baty, #352802,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

2013-CP-18-0930

ORDER OF DISMISSAL

2015 AUG 27 PM 2:06
CERTIFIED COPY
CLERK OF COURT
DORCHESTER COUNTY

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed May 28, 2013. Respondent made its Return on November 27, 2013, requesting an evidentiary hearing be convened. Rodney D. Davis, Esquire was appointed by the Dorchester County Clerk of Court. An evidentiary hearing was held on May 21, 2015, at the Dorchester County Courthouse. Applicant was present and represented by Counsel Davis. J. Clayton Mitchell, Esquire, of the South Carolina Attorney General's Office represented Respondent.

At the PCR hearing, Applicant testified on his own behalf. Also testifying was Applicant's plea counsel, Mitchell E. Farley, Esquire. This Court had before it the Dorchester County Clerk of Court records, Applicant's South Carolina Department of Corrections records, the PCR application, the Return, and the guilty plea transcript.

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Dorchester County. Applicant was true bill indicted during the March 2012 of the Dorchester County Grand Jury for Burglary – 1st Degree (2012-GS-18-0053) and two counts of Kidnapping (2012-GS-18-0054, 0055). Counsel Farley represented Applicant. On October 8, 2012, Applicant appeared before the Honorable Kristi Lea

Harrington and pleaded guilty as indicted. Judge Harrington sentenced Applicant to confinement for twenty (20) years for each charge, to be served concurrently. Applicant did not appeal his conviction or sentence.

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

1. Involuntary and unintelligent guilty plea.

II. SUMMARY AND EVIDENCE PRESENTED AT THE PCR HEARING

Applicant's Testimony

Applicant testified he was sixteen (16) years old when he was arrested for kidnapping and first degree burglary. He testified Counsel Farley was appointed to represent him on the charges. He believed he and Counsel met around two (2) to three (3) times. He recalled that Counsel advised him it would be best to plead guilty and discussed the fact that his codefendants were likely to testify against him if he went to trial. Applicant testified he gave a statement to investigators which amounted to a full confession. He testified that the victims identified him by his voice.

Applicant recalled that Counsel reviewed discovery with him. He understood the evidence the State planned to present if he were to go to trial which included his statements and his codefendants' statements. Applicant recalled that Counsel discussed with him the possibility of a sentence pursuant to the Youthful Offender Act (YOA). He did not recall if he was eligible for a YOA sentence.

Counsel Mitchell E. Farley's Testimony

Counsel testified he represented Applicant through his position with the Dorchester County Public Defender's Office. He devotes one-hundred percent of his practice to criminal

defense now as a private defense attorney. He recalled that Applicant was arrested within a few days of the incident. Counsel gave a brief narration of the facts in that Applicant and his codefendants robbed a drug dealer that they knew personally while armed and wearing masks. He recalled reviewing the charges, possible sentence, collateral consequences, and the basic facts of the incident with Applicant. Counsel testified he extensively reviewed the discovery provided by the State with Applicant. This included his statement to investigators and his codefendants' statements. He also noted that Applicant's DNA was found on a mask that investigators believed was worn during the incident. Counsel testified the victims identified Applicant by his voice and that he was known to them by the name Chris. Counsel testified that he had Applicant evaluated. He was found competent and criminally responsible but had substance abuse problems.

Counsel testified he advised Applicant that he would be able to challenge all evidence posited by the State. He believed Applicant knew how a trial would proceed and the risks involved in going to trial. Counsel explained he and Applicant were prepared to pick a jury and that Applicant decided to plead guilty minutes before a jury was scheduled to be selected. Counsel testified Applicant's case was handled in the Court of General Session and not in Family Court because of the severity of the charges and because Applicant was sixteen (16) years old. He testified he negotiated with the prosecuting solicitor in attempted to resolve the case to Applicant's benefit.

III. APPLICABLE LAW

In a post-conviction relief action, Applicant bears the burden of proving the allegations in the application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial

cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

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

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, Applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

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

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

Involuntary and Unintelligent Guilty Plea

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

Applicant claims he did not plead guilty voluntarily because he did not have a full understanding of the consequences of pleading guilty. This Court finds this contention meritless. This Court finds the record reflects Applicant was fully advised that he was pleading guilty and waived all challenges to the evidence against him. The plea court's very thorough colloquy with Applicant demonstrates that he understood the consequences of pleading guilty. This Court finds Applicant's testimony not credible. Applicant presented no credible evidence as to why he should be able to depart from his statements at the plea hearing. This Court finds very credible Counsel's testimony regarding his preparation and advice concerning the case. The record reflects Applicant fully admitted his guilt to the plea court. "A guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights." Jamison v. State, 410 S.C. 456, 467, 765 S.E.2d 123, 129 (2014) (citing State v. Rice, 401 S.C. 330, 331-32, 737 S.E.2d 485, 485-86 (2013); Hyman v. State, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012)). Notably the South Carolina Supreme Court has held "[a] guilty plea represents a break in the chain of events which has preceded it in the criminal process." Id (citations omitted). "When a criminal defendant has solemnly admitted in open court that he is in fact guilty of the offense with which he is charged, he may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea." Id (citing Rice, 401 S.C. at 332, 737 S.E.2d at 486). Therefore, this Court finds the plea judge correctly found Applicant's plea was freely, voluntary, and intelligently made.

All Other Allegations

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

V. CONCLUSION

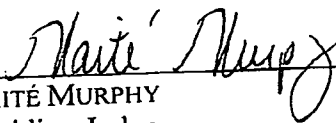
Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate counsels' performance was unreasonable under prevailing professional norms. Cherry,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

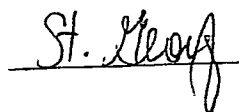
The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a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

IT IS THEREFORE ORDERED THAT:

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

AND IT IS SO ORDERED this 18 day of Aug., 2015.


MAITÉ MURPHY
Presiding Judge

, South Carolina

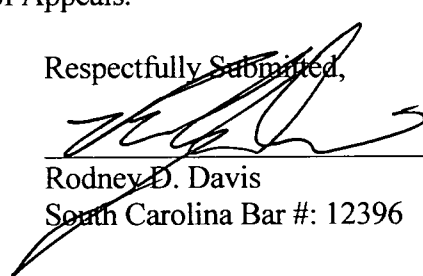
STATE OF SOUTH CAROLINA)	IN THE SUPREME COURT OF SOUTH CAROLINA
)	
COUNTY OF DORCHESTER)	Case No.: 2013-CP-18-0930
)	
)	
CHRISTOPHER A. BATY,)	
)	
Applicant.)	REQUEST FOR REPRESENTATION ON APPEAL
)	
-versus-)	
)	
STATE OF SOUTH CAROLINA,)	
)	
Respondent.)	

On behalf of the request of the above-named Applicant, to be represented by the South Carolina Commission of Indigent Defense, Appellate Division (SCCID), the undersigned attorney would show unto this Honorable Court that:

1. He is the attorney for the Applicant-Appellant in the above captioned case. The Applicant-Appellant was in custody during and taken into custody immediately following the Post Conviction Relief (PCR) hearing and was not available to personally sign this request;
2. The Applicant-Appellant was represented by the undersigned attorney as an indigent, pursuant to a contract with the SCCID;
3. The Applicant-Appellant has been informed that he may request assistance from the SCCID Appellate Division in perfecting his appeal;
4. A timely Notice of Intent to Appeal has been filed on the Applicant-Appellant's behalf;
5. The Applicant-Appellant has been informed that nothing requires SCCID Appellate Division to pursue this appeal unless that office's Chief Attorney is satisfied that there is arguable merit to this appeal and that he cannot afford to hire an attorney.

At this time, the Applicant-Appellant requests the aid of the SCCID Appellate Division in perfecting his appeal to the South Carolina Court of Appeals.

Respectfully Submitted,

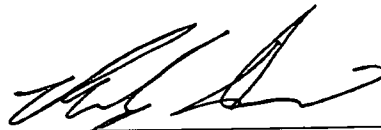

 Rodney D. Davis
 South Carolina Bar #: 12396

Charleston, South Carolina
9/25, 2015.

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

VERIFICATION

PERSONALLY appeared before me, Rodney D. Davis, being first duly sworn, deposes and says that he has read the foregoing *Request for Representation on Appeal* and the same is true of his knowledge except those matters alleged on information and belief, and as to those matters, he believes them to be true.

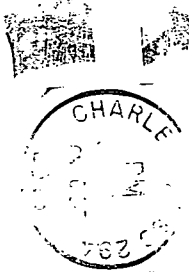


Rodney D. Davis
South Carolina Bar #: 12396

SWORN to and subscribed to me
on this 28th day of April, 2015.
M. Wade Newcomb
Notary Public for South Carolina
My Commission expires 3/28/2016

Lowcountry Law Office

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Charleston, SC 29405



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

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