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December 23, 2015

**RECEIVED**

DEC 31 2015

**S.C. Supreme Court**

**Via US Mail**

Daniel Shearouse  
Clerk of Court  
South Carolina Supreme Court  
Post Office Box 11330  
Columbia, South Carolina 29211

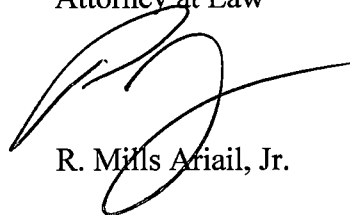
***Re: Notice of Intent to Appeal from Travis Lamar Teasley vs. State of South Carolina C.A. No.: 2013-CP-39-0673***

Dear Mr. Shearouse:

I was Court Appointed in the above referenced matter, and I expect that appellate defense will handle the appeal and petition for certiorari. On behalf of my client, enclosed for filing please find the Notice of Appeal and proof of service. I've enclosed a copy of the Honorable's Order of Dismissal to be challenged on appeal. By copy of this letter, I am also serving my client, counsel for the State of South Carolina, the South Carolina Commission of Indigent Defense - Appellate Defense Division and the Pickens County Clerk's Office.

Thank you for your assistance in this matter and if you have any questions, please feel free to contact me.

Sincerely,  
LAW OFFICE OF R. MILLS ARIAIL, JR.  
Attorney at Law



R. Mills Ariail, Jr.

RMAjr/dl  
Enclosures (as stated)

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DEC 31 2015

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

**S.C. Supreme Court**

APPEAL FROM PICKENS COUNTY  
Court of Common Pleas

Perry H. Gravely, Circuit Court Judge

Case No. 2014-CP-39-0673

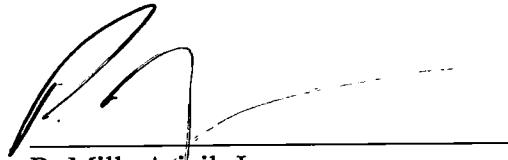
Travis Teasley,..... Appellant,

v.

State of South Carolina ..... Respondent.

**NOTICE OF APPEAL**

Appellant appeals the Honorable Perry H. Gravely's Order of Dismissal dismissing Appellant's application for post-conviction relief. On November 23, 2015, the Honorable Perry Gravely signed an order dismissing Appellant's application for post-conviction relief with prejudice. Appellant, through counsel, received written notice of entry of this order on December 18, 2015. A copy of the Honorable Perry Gravely's Order of Dismissal is attached.



R. Mills Arifail, Jr.  
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Telephone (864) 232-9390  
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Attorney for Travis Teasley

Greenville, South Carolina  
December 23, 2015

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

**RECEIVED**

DEC 31 2015

S.C. Supreme Court

APPEAL FROM PICKENS COUNTY  
Court of Common Pleas

Perry H. Gravely, Circuit Court Judge

Case No.2014-CP-39-0673

Travis Teasley,..... Appellant,

v.

State of South Carolina ..... Respondent.

**CERTIFICATE OF SERVICE**

I, Denise Tanner LaBeck, paralegal to R. Mills Ariail, Jr., do hereby certify that on this December 28, 2015, I served upon the below named Respondents copies of the **NOTICE OF APPEAL** by depositing copies of the same via U.S. Mail, postage prepaid, Registered Mail in an envelope addressed as set forth herein below:

**Karen C. Ratigan, Esq.**  
**Assistant Attorney General**  
**PO Box 11549**  
**Columbia, SC 29211**

**Pickens County Clerk's Office**  
**Pickens County Courthouse**  
**214 East Main Street**  
**Pickens, SC 29671**

**Travis Teasley SCDC# 300817**  
**Tyger River Correctional Institution**  
**200 Prison Road**  
**Enoree, South Carolina 29335**

**SC Commission of Indigent Defense**  
**Division of Appellate Defense**  
**PO Box 11433**  
**Columbia, SC 29211-1433**

*Denise Tanner LaBeck*  
Denise Tanner LaBeck

December 28, 2015

STATE OF SOUTH CAROLINA

JUDGMENT IN A CIVIL CASE

COUNTY OF PICKENS 2015 DEC 14 AM 11 35

CASE NO: 2014CP3900673

IN THE COURT OF COMMON PLEAS CLERK OF COURT  
PICKENS COUNTY  
SOUTH CAROLINA

Travis L Teasley vs. State of South Carolina

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), SCRPC;
  - Rule 41(a), SCRPC (Vol. Nonsuit);
  - 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;
  - 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;  Statement of Judgment by the Court:

Order of Dismissal

Court Reporter:

\_\_\_\_\_  
PRESIDING JUDGE -

A copy mailed first class this 14<sup>th</sup> Day of December, to attorneys of record or to parties (when appearing pro se) as follows:

✓ Travis L Teasley, *US mail*  
R. Mills Ariail Jr. 11 North Irvine Street, Suite 11  
Greenville, SC 29601

✓ *emailed*  
Karen Christine Ratigan PO Box 11549 Columbia, SC  
29211

\_\_\_\_\_  
ATTORNEY(S) FOR THE PLAINTIFF(S)

*12/14/15*

\_\_\_\_\_  
ATTORNEY(S) FOR THE DEFENDANT(S)

*[Signature]*

Harold P Welborn, Jr. - Clerk of Court

*MB*

STATE OF SOUTH CAROLINA )  
CLERK OF COURT )  
PICKENS COUNTY )  
SOUTH CAROLINA )

C.A. No. 2014-CP-39-0673

COUNTY OF PICKENS

Travis Lamar Teasley,  
S.C.D.C. No. 300817,

Applicant,

v.

State of South Carolina,

Respondent.

**ORDER OF DISMISSAL**

2015 DEC 14 AM 11 31  
CLERK OF COURT  
PICKENS COUNTY  
SOUTH CAROLINA

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed May 30, 2014. The Respondent made its return on October 8, 2014. An evidentiary hearing was held on October 19, 2015 at the Pickens County Courthouse. The Applicant was present and represented by R. Mills Ariail, Jr., Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying was the Applicant's trial counsel, Steven L. Alexander, Esquire. The Court had before it the trial transcript, the Pickens County Clerk of Court records, the South Carolina Department of Corrections records, the PCR application, the return, and the appellate records.

**PROCEDURAL HISTORY**

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Pickens County Clerk of Court. The Applicant was indicted at the November 2009 term of the Pickens County Grand Jury for distribution of crack cocaine, third offense (2009-GS-39-1775) and distribution of crack cocaine within proximity of a school (2009-GS-39-1776). He was represented by Steven L. Alexander, Esquire.

After the State called the case to trial, the Applicant was tried in his absence. On June 23, 2010, the jury found the Applicant was guilty and the Honorable Alexander S. Macaulay sealed the sentences. On January 20, 2011, the Applicant appeared in court with Mr. Alexander for sentencing. The Honorable Edward W. Miller pronounced the sentences as concurrent terms of 15 years on each charge.

A notice of appeal was filed at the South Carolina Court of Appeals. Kathrine H. Hudgins, Esquire of the South Carolina Commission on Indigent Defense, Division of Appellate Defense perfected the appeal. The Court of Appeals affirmed the Applicant's convictions and sentences. State v. Teasley, Op. No. 2012-UP-493 (S.C. Ct. App. filed Aug. 22, 2012). Though the Applicant filed a petition for writ of certiorari at the South Carolina Supreme Court, the Court denied the petition by order dated January 23, 2014. The Remittitur was sent on January 31, 2014.

### ALLEGATIONS

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

1. Ineffective assistance of counsel.
2. Trial in absentia.
3. Due process and equal protection.

### 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 and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusions of law as required by

S.C. Code Ann. § 17-27-80 (2003).

**Ineffective Assistance of Trial Counsel**

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, “[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence.” Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For an applicant to be granted PCR 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 performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). In order to prove prejudice, an applicant must show “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). “A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial.” Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052).

The Applicant stated he had several meetings with trial counsel and that, while they reviewed plea offers and his version of events, they did not discuss the State’s evidence. The Applicant stated the assistant solicitor conveyed a plea offer for a five year sentence on a second offense. The Applicant stated this was conveyed approximately three months before trial and that he never declined this offer. The Applicant stated his bond paperwork listed his address as 115 Belle Air Drive (and that he received mail at this address) but that the bond card for his trial was sent to 11 Drapper Street. The Applicant stated his indictment (which listed a third offense) was sent back to the jury. The Applicant stated he should not be serving an 85-percent sentence.

because this means his charge was violent. The Applicant stated the wrong CDR code was entered.

Trial counsel testified they had several in-person and telephone conversations about the case. Trial counsel testified they received multiple plea offers in this case: seventeen years, fifteen years, eight years (which would also serve to dismiss charges against the co-defendant), and five years (for a second offense). Trial counsel testified he conveyed the five year offer to the Applicant, who was aware of the expiration date. Trial counsel testified the only address he had for the Applicant was the Belle Air address. Trial counsel testified that, when he got a copy of the trial docket, his normal practice would have been to send a letter to his client. Trial counsel testified he sent this letter on June 8, 2010 to the Belle Air address and that this letter instructed the Applicant to make an appointment because the case was on the trial docket. Trial counsel testified that, after he sent this letter, the assistant solicitor offered to let the Applicant enter a straight-up plea. Trial counsel testified he spoke to the Applicant on June 17, 2010 about the plea and again on June 18, 2010 about the trial. Trial counsel testified there was no question this was an 85-percent sentence and that he told the Applicant this.

This Court finds the Applicant has failed to meet his burden of proving plea offers were not properly conveyed. Trial counsel testified about the various plea offers extended by the State. Trial counsel testified the Applicant was aware of the March expiration date of the final, five-year offer. Trial counsel testified he also informed the Applicant that, shortly before the trial date, the State made an offer for the Applicant to plead guilty without a recommendation. This Court finds trial counsel's testimony is credible. This Court finds trial counsel properly conveyed the plea offers in this case, the Applicant was aware of any expiration dates, and simply chose not to accept any of these offers. Cf. Davie v. State, 381 S.C. 601, 675 S.E.2d 416

(2009) (holding counsel's failure to convey the State's plea offer to defendant constituted deficient performance).

This Court finds the Applicant has failed to meet his burden of proving trial counsel did not notify him of the trial date. Trial counsel testified the Applicant's address in his file was the Belle Air address and that he sent a letter to this address informing the Applicant that his case was scheduled for trial. Trial counsel also testified he spoke with the Applicant several days before trial and that the Applicant was on notice of his trial date. This Court finds trial counsel's testimony is credible. This Court finds the Applicant was aware of the trial date in his case and opted not to appear for his trial. This finding is supported by the trial record. It was noted that bond cards were mailed to the Applicant at both the Belle Air and Drapper addresses (Trial transcript, pp.19-20). Trial counsel also advised the judge at the time that he had spoken to the Applicant on the previous Friday and the Applicant was aware of the trial date. (Trial transcript, p.27).

This Court finds the Applicant has failed to meet his burden of proving trial counsel should have objected when his indictment was sent to the jury room. This Court has examined the trial transcript, however, and it is clear the indictment was not sent to the jury room. (Trial transcript, p.243, lines 3-8; p.283, lines 8-9). As such, the Applicant has failed to meet his burden of proof.

This Court finds the Applicant has failed to meet his burden of proving plea counsel should have objected to the CDR code. This Court has examined the indictment and the sentencing sheet and notes the CDR code on the sentencing sheet (3015) is for distribution of crack cocaine, second offense. This Court has also examined the Applicant's SCDC records and notes the SCDC classification is non-violent. This Court notes, however, that this may not



determine whether the Applicant must serve eighty-five percent of his sentence. This Court finds the Applicant has failed to meet his burden of proving trial counsel should have objected as the information on the sentencing sheet was correct.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that trial counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that trial 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 trial counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 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 any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

#### CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient and the Applicant was not prejudiced by counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His



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attention is also 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.

CLERK OF COURT  
PICKENS COUNTY  
SOUTH CAROLINA

**IT IS THEREFORE ORDERED:**

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 23<sup>rd</sup> day of November, 2015.

  
\_\_\_\_\_  
Perry H. Gravely  
Presiding Judge  
Thirteenth Judicial Circuit

Pickens, South Carolina.