

# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

May 17, 2012

~~April 24, 2012~~

Adrian J. Robinson #~~337878~~ # 341512  
Lee Correctional Institution  
990 Wisacky Highway  
Bishopville, SC 29010

Re: Robinson, Adrian J. v. The State

Dear Mr. Robinson:

Your counsel has submitted a Petition for Writ of Certiorari indicating that this appeal is without merit and moves to be relieved as your counsel. Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988). The records of this Court reflect that counsel served you with a copy of the Petition & Appendix on April 23, 2012.

You may, within forty-five (45) days of the date of this letter, file with this Court a pro se response to the Petition filed by your counsel. In this response, you may raise and argue any issues you believe the Court should consider in this appeal. Upon receipt of your pro se response or the expiration of forty-five (45) days, the matter will be submitted to the Court for its consideration.

If you do decide to file a pro se response, the response must be either typewritten or legibly hand printed, and must have at least a one inch margin on all sides. Further, you will need to only submit one copy of your response, and this copy **should not** be stapled or bound in any manner.

Very truly yours,

  
CLERK

DES/jj

cc: Appellate Defender Susan B. Hackett  
Assistant Attorney General J. Rutledge Johnson

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE, CLERK OF COURT  
Post Office Box 11330  
Columbia, South Carolina 29211

*Name & # Don't  
match*

**RECEIVED**

APR 25 2012

LEE CI MAIL ROOM

Adrian J. Robinson #337878  
Lee Correctional Institution  
990 Wisacky Highway  
Bishopville, SC 29010



Haster

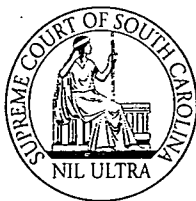
012H16212918  
**\$00.450**  
04/24/2012  
Mailed From 29201  
US POSTAGE

**RETURN TO SENDER**  
**INSUFFICIENT ADDRESS**  
**MUST HAVE SCDC #**  
**DORM & ROOM #**  
**NAME & SCDC # DO NOT**

NIXIE 292 SE 1 00 05 04 12  
RETURN TO SENDER  
INSUFFICIENT ADDRESS  
UNABLE TO FORWARD  
BC: 29211133030 \*2554-02834-24-34

292111330





# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

April 24, 2012

Adrian J. Robinson #337878  
Lee Correctional Institution  
990 Wisacky Highway  
Bishopville, SC 29010

Re: Robinson, Adrian J. v. The State

Dear Mr. Robinson:

Your counsel has submitted a Petition for Writ of Certiorari indicating that this appeal is without merit and moves to be relieved as your counsel. Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988). The records of this Court reflect that counsel served you with a copy of the Petition & Appendix on April 23, 2012.

You may, within forty-five (45) days of the date of this letter, file with this Court a pro se response to the Petition filed by your counsel. In this response, you may raise and argue any issues you believe the Court should consider in this appeal. Upon receipt of your pro se response or the expiration of forty-five (45) days, the matter will be submitted to the Court for its consideration.

If you do decide to file a pro se response, the response must be either typewritten or legibly hand printed, and must have at least a one inch margin on all sides. Further, you will need to only submit one copy of your response, and this copy **should not** be stapled or bound in any manner.

Very truly yours,



CLERK

DES/jj

cc: Appellate Defender Susan B. Hackett  
Assistant Attorney General J. Rutledge Johnson



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332

Post Office Box 11589  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1343  
Facsimile: (803) 734-1397

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

March 21, 2012

The Honorable Daniel E. Shearouse  
Clerk, S.C. Supreme Court  
Post Office Box 11330  
Columbia, SC 29211

RECEIVED

MAR 21 2012

S.C. Supreme Court

Dear Mr. Shearouse:

The following case falls under the 60 day rule for appeals, and the date we received the transcript is listed to the side.

Adrian J. Robinson v. State of South Carolina

3/20/2012

I would appreciate you beginning our time limits from the above date, and if you need additional information, or have any questions please contact me.

Thank you for your assistance in this matter.

Sincerely,

Loriene French  
Legal Services Coordinator



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332  
Post Office Box 11589  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1330  
Facsimile: (803) 734-1397

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

January 18, 2012

RECEIVED

JAN 18 2012

S.C. Supreme Court

Ms. Jo Rice  
Circuit Court Reporter  
401 Wardlaw Street  
Abbeville, SC 29620

Dear Ms. Rice:

Please provide us with the following transcript:

Adrian J. Robinson v. State of South Carolina      Case #:      11-CP-30-00408

County: Laurens      Date of Trial: November 18, 2011

Presiding Judge: Frank R. Addy

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

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

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

Sincerely,

Sharon A. Graham  
Administrative Coordinator

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



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332  
Post Office Box 11589  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1330  
Facsimile: (803) 734-1397

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

January 18, 2012

RECEIVED

'JAN 18 2012

The Honorable Daniel E. Shearouse  
Clerk, S.C. Supreme Court  
Post Office Box 11330  
Columbia, SC 29211

S.C. Supreme Court

Re: Adrian J. Robinson v. State of South Carolina

Dear Mr. Shearouse:

I have had to reorder the transcript in the above-captioned case. The first request was done in a timely manner, but the court reporter has informed us that she was a trainee and not the official court reporter for the proceedings. We have now requested the transcript from the official court reporter and would respectfully request that you start our time schedule for ordering the transcript from today's date.

If you have any questions concerning this matter, please do not hesitate to contact me. Thank you for your assistance in this matter.

Sincerely,

Sharon A. Graham  
Administrative Coordinator

cc: Attorney General's Office



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332  
Post Office Box 11589  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1330  
Facsimile: (803) 734-1397

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

RECEIVED

JAN - 9 2012

January 9, 2012

S.C. Supreme Court

Ms. Aminah Hardy  
Circuit Court Reporter  
2879 Hwy 160 West  
Fort Mill, SC 29708

Dear Ms. Hardy:

Please provide us with the following transcript:

Adrian J. Robinson v. State of South Carolina      Case #:      11-CP-30-00408

County: Laurens      Date of Trial: November 18, 2011

Presiding Judge: Frank R. Addy

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

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

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

Sincerely,

Sharon A. Graham  
Administrative Coordinator

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

RICHEY AND RICHEY

ATTORNEYS AT LAW

per

**RECEIVED**

*A Professional Association*

Rodney W. Richey  
Lola S. Richey

DEC 16 2011

**S.C. SUPREME COURT**

24 Vardry Street, Suite 301  
Greenville, South Carolina 29601

*Mailing Address:*  
Post Office Box 10916  
Greenville, South Carolina 29603

(864) 467-0503  
(864) 467-0646 (Fax)

*Offices:*  
Greenville/Spartanburg

*Website:*  
[www.richeyandrichey.com](http://www.richeyandrichey.com)

December 13, 2011

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

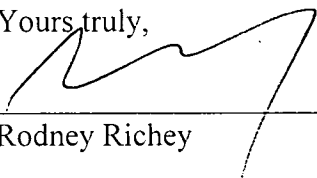
Re: Adrian Robinson, SCDC # 341512 vs. The State of South Carolina  
Case No: 2011-CP-30-408

Dear Mr. Shearouse:

Please find enclosed a Notice of Appeal and an affidavit of service for the same. Also, I have enclosed a copy of the Order from which the appeal is taken. Thank you for your help and if you should have any questions please feel free to call me.

RICHEY AND RICHEY, P.A.

Yours truly,

  
\_\_\_\_\_  
Rodney Richey

RWR/tlg  
enclosures  
cc: Rutledge Johnson, Esquire

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM LAURENS COUNTY  
Court of Common Pleas

HONORABLE FRANK R. ADDY, JR.

2011-CP-30-0408

ADRIAN J. ROBINSON, SCDC#: ~~337878~~

341512

APPELLANT,

against

STATE OF SOUTH CAROLINA,

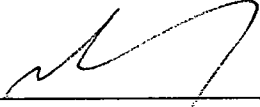
RESPONDENT.

---

**NOTICE OF APPEAL**

---

Adrian Robinson appeals the denial of his Post Conviction Relief. The Post Conviction Relief Action was heard and denied by the Honorable Frank Addy, Jr., Circuit Judge on November 18, 2011 and Order issued on December 2, 2011 and filed on November 22, 2011. The Appellant received notice of the judgment on December 12, 2011.



---

Rodney W. Richey  
Attorney for the Appellant  
Post Office Box 10916  
Greenville, South Carolina 29603  
(864) 467-0503

Other Counsel of Record:  
J. Rutledge Johnson, Esquire  
Office of Attorney General State of SC  
Post Office Box 11549  
Columbia, SC 29211-1549

**RECEIVED**

DEC 16 2011

**S.C. SUPREME COURT**

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM LAURENS COUNTY  
Court of Common Pleas

HONORABLE FRANK R. ADDY, JR.

2011-CP-30-0408

ADRIAN J. ROBINSON, SCDC#: ~~337878~~

341512

against

STATE OF SOUTH CAROLINA,

RESPONDENT.

---

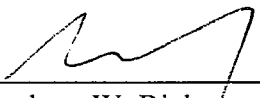
**PROOF OF SERVICE**

---

I certify that I have served the Notice of Appeal on the State of South Carolina by depositing copy of it in the United States Mail, postage prepaid, on December \_\_, 2011, addressed to their attorney of record, Rutledge Johnson, Office of Attorney General State of South Carolina, Post Office Box 11549, Columbia, SC 29211-1549.

Dated: December \_\_, 2011

RICHEY & RICHEY, P.A.



---

Rodney W. Richey  
Attorney for the Appellant  
Post Office Box 10916  
Greenville, South Carolina 29603  
(864) 467-0503

**RECEIVED**

DEC 16 2011

**S.C. SUPREME COURT**



ORIGINAL

Adrian J. Robinson

LAURENS COUNTY  
 CLERK OF COURT

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

2011 NOV 22 P 1:24

Submitted by:

LYNN W. LANCASTER

Attorney for  Plaintiff   
 Defendant  Self-Represented Litigant

**Disposition Type (Check One)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), 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 (formal order to follow)  Statement of Judgment by the Court: Plaintiff's application for PCR is denied. I find that Plaintiff has failed to carry his burden of proving deficient representation of plea counsel and any resulting prejudice. Plea counsel's representation of Plaintiff was in accordance with the requirements under the law and complied with professional and ethical norms. At the plea, Plaintiff expressed both satisfaction with plea counsel and an understanding of the ramifications of the plea. Plaintiff's assertions concerning plea counsel's failure to investigate, failure to accept a purported offer in the 12-15 year range, failure to request a *Jackson v. Denno*, 378 U.S. 368, 84 S.Ct. 1774 (1964) hearing, and failure to request a mental exam of Plaintiff are not factually supported based upon this court's review of the record as a whole and this court's assessment of the witnesses' credibility. Accordingly, Plaintiff's application for PCR is denied. Mr. Johnson shall prepare a more formal order detailing the findings of this court.

**Order Information**

This order  ends  does not end the case.

Additional Information for the Clerk :

Complete if judgment requires payment of a sum of money or affects title to real or personal property

JUDGMENT AGAINST PLAINTIFF:		JUDGMENT AGAINST DEFENDANT:	
Judgment Amount	\$ _____	Judgment Amount	\$ _____
Taxable Costs	\$ _____	Taxable Costs	\$ _____
Attorney's Fees	\$ _____	Attorney's Fees	\$ _____
Interest	\$ _____	Interest	\$ _____
Other	\$ _____	Other	\$ _____
<b>Total Amount to be Enrolled:</b>	<b>\$ _____</b>	<b>Total Amount to be Enrolled:</b>	<b>\$ _____</b>

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



STATE OF SOUTH CAROLINA )  
COUNTY OF LAURENS )

IN THE COURT OF COMMON PLEAS  
EIGHTH JUDICIAL CIRCUIT

Adrian J. Robinson, #337878, <sup>341512</sup> )

2011-CP-30-0408

Applicant, )

**ORDER OF DISMISSAL**

v. )

State of South Carolina, )

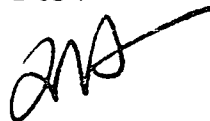
Respondent. )

This matter comes before the Court by way of an Application for Post-Conviction Relief filed April 16, 2011 and amended on June 17, 2011. The Respondent made its Return on August 19, 2011. An evidentiary hearing into the matter was convened on November 18, 2011, at the Newberry County Courthouse. Rodney Richey, Esquire, represented the Applicant. J. Rutledge Johnson, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. Michael Barcroft, Esquire, also testified. This Court also had before it a copy of the records of the Laurens County Clerk of Court, records from the South Carolina Department of Corrections, and the guilty plea transcript.

**PROCEDURAL HISTORY**

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Laurens County. He was indicted at the December 2009 term of the Laurens County Grand Jury for Murder (2009-GS-30-1862), and Possession of a Weapon During the Commission of a Violent Crime (2009-GS-30-1863). He was represented by Michael W. Barcroft, Esquire. On June 22, 2010, he appeared before the Honorable



Eugene C. Griffith, Jr., and pled guilty to the lesser-included offense of voluntary manslaughter. In exchange for his plea, the State dismissed the weapon charge. He received a negotiated sentence of thirty (30) years. He did not appeal his conviction or sentence.

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

1. Ineffective assistance of counsel.

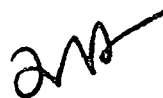
### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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 (2003).

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

The proper measure of performance is whether the attorney provided representation within



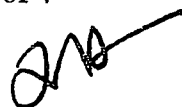
the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

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).

#### *Failure to Investigate*

The Applicant claimed Mr. Barcroft (Counsel) failed to adequately investigate the Applicant's case. The Applicant testified he did not know what all went on concerning his case. He also stated Counsel did review discovery with him, but not everything.

Counsel testified he reviewed all of the discovery with the Applicant at least twice at the Laurens County jail. He also testified he reviewed statements the Applicant made to law enforcement with the Applicant. Counsel additionally stated there were two co-defendants and a witness to the crime that would have testified against the Applicant had the case gone to trial. Counsel further discussed the charges, the maximum penalties, and the possible defenses with the



Applicant.

This Court finds the Applicant's testimony regarding Counsel's failure to investigate is not credible while also finding Counsel's testimony is credible. As discussed, Counsel adequately investigated the Applicant's case as well as discussed the case thoroughly with the Applicant. This Court finds the Applicant has failed to meet his burden of proving counsel's performance was deficient or that he was prejudiced thereby. Accordingly, this allegation is ~~denied~~ *without merit*.

*Failure to accept 12-15 year plea offer*

The Applicant testified the State offered a twelve to fifteen (12-15) year plea agreement.

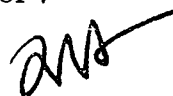
Counsel testified the State never formally offered the Applicant the aforementioned plea agreement. Counsel also stated the State would not accept anything less than a straight plea until just before the trial. Counsel additionally testified he advised the Applicant that he, Counsel, would push hard for a plea agreement from the State, but could not promise any results.

This Court finds the Applicant's testimony regarding the State's offer of 12-15 years is not credible while also finding counsel's testimony is credible. As discussed, Counsel testified the State never formally offered this sentencing range. This Court finds the Applicant has failed to meet his burden of proving counsel's performance was deficient or that he was prejudiced thereby. Accordingly, this allegation is denied.

*Failure to request a Jackson v. Denno hearing*

The Applicant claimed that even though he gave an incriminating statement to law enforcement, Counsel never discussed a suppression hearing pursuant to Jackson v. Denno, 378 U.S. 368, 84 S.Ct. 1774 (1964).

Counsel testified he and the Applicant did, in fact, discuss a suppression hearing. He also



testified he discussed the low probability of success at a suppression hearing. Counsel further testified he informed the Applicant that if the case proceeded to a suppression hearing, no other plea bargains would be offered by the State.

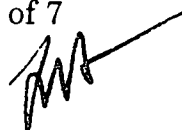
This Court finds the Applicant's testimony regarding a suppression hearing pursuant to Jackson v. Denno is not credible while also finding counsel's testimony is credible. Counsel discussed a suppression hearing with the Applicant and the potential ramifications thereof. This Court finds the Applicant has failed to meet his burden of proving counsel's performance was deficient or that he was prejudiced thereby. Accordingly, this allegation is denied.

*Failure to request a mental evaluation*

The Applicant claimed Counsel failed to have the Applicant evaluated for any mental issues, although the Applicant could not say exactly for what issues.

Counsel testified the Applicant never discussed needing a mental evaluation. Counsel also testified he erred on the side of caution and contacted a physician concerning the Applicant, but the physician did not find any mental issues sufficient for a full evaluation. Counsel further testified he represented the Applicant from the beginning of this case, which originated in Family Court due to the Applicant's age at the time of the crime. Counsel then testified when the Applicant was waived from Family Court to General Sessions Court, a mental evaluation was performed on the Applicant, and no issues arose at that time.

This Court finds the Applicant's testimony regarding Counsel's failure to have the Applicant mentally evaluated is not credible while also finding counsel's testimony is credible. The Applicant never discussed needing a mental evaluation with Counsel. Further, Counsel was proactive on behalf of the Applicant in retaining a physician for consultation. This Court finds the Applicant has



failed to meet his burden of proving counsel's performance was deficient or that he was prejudiced thereby. Accordingly, this allegation is denied. *without merit.*

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that 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 Counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. Therefore, these allegations are denied. *not meritorious.*

#### 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.

Except as discussed above, this Court finds that the Applicant failed to raise the remaining allegations set forth in his application at the hearing and has, thereby, waived them. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address



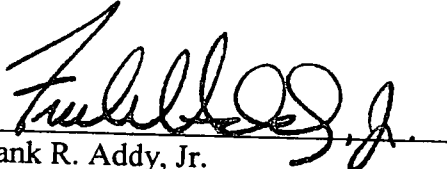
these issue at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

This Court advises Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention 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!**

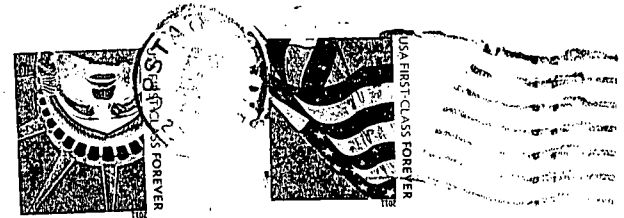
  
Frank R. Addy, Jr.  
Presiding Circuit Court Judge  
Eighth Judicial Circuit

Dec. 2, 2011

Greenwood, South Carolina

Richey & Richey, PA  
Attorneys at Law  
Post Office Box 10916  
Greenville, South Carolina 29603

*Adrian  
Robinson*



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

2921131330 BO99

