

Law Office of Leah B. Moody, LLC

Leah B. Moody
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March 28, 2016

Mr. Daniel E. Shearouse
The Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29221

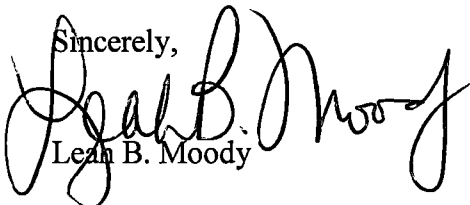
RE: Sama Chaka Quinland v. State of South Carolina
Case No.: 2014-CP-42-1027

Dear Mr. Shearouse:

The Spartanburg County Court of Common Pleas appointed my office to represent Sama Chaka Quinland in his Post-Conviction Relief action. Please find enclosed for filing the original and two (2) copies of the Notice of Appeal, Proof of Service, and one (1) copy of the Order of Dismissal in the above-referenced case. Please return the clocked copies to me in the enclosed self-addressed, stamped envelope.

Thank you for your assistance with this matter.

Sincerely,



Leah B. Moody

LBM/jh

Enclosure

cc Sama Chaka Quinland
Alicia Olive, Esquire
Hope Blackley, Clerk of Court, Spartanburg County
Sharon Graham, SCCID

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APR 01 2016

S.C. SUPREME COURT

IN THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Larry B. Hyman, Jr., Presiding in Spartanburg County

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Case No. 2014-CP-42-1027

APR 01 2016

Sama Chaka Quinland, Appellant,

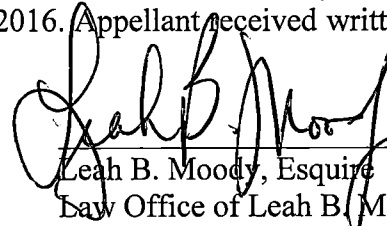
S.C. SUPREME COURT

v.

State of South Carolina, Respondent.

NOTICE OF APPEAL

Sama Chaka Quinland appeals the order of the Honorable Larry B. Hyman, Jr., dated March 8, 2016 and mailed on March 15, 2016. Appellant received written notice of entry of the final order on March 17, 2016.



Leah B. Moody, Esquire
Law Office of Leah B. Moody, LLC
235 E. Main Street, Suite 115
Post Office Box 1015
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Other Counsel of record:
Alicia Olive, SC Attorney General's Office
Rembert C. Dennis Building
Post Office Box 11549
Columbia, South Carolina 29211-1549
(803) 734-3970

**IN THE STATE OF SOUTH CAROLINA
In The Supreme Court**

**APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas**

Larry B. Hyman, Jr., Presiding in Spartanburg County

Case No. 2014-CP-42-1027

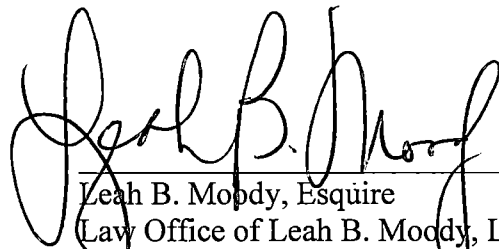
Sama Chaka Quinland, Appellant,

v.

State of South Carolina, Respondent.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Alicia Olive by depositing a copy of it in the United States Mail, postage prepaid, on 3/29, 2016 addressed to its attorney of record, Alicia Olive, Post Office Box 11549, Columbia, South Carolina, 29211-1549.



Leah B. Moddy, Esquire
Law Office of Leah B. Moddy, LLC
235 E. Main Street, Suite 115
Post Office Box 1015
Rock Hill, South Carolina 29730

March 29, 2016

cc Sama Chaka Quinland
Alicia Olive, Esq.
Hope Blackley, Clerk of Court, Spartanburg County
Sharon A. Graham, SCCID

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March 28, 2016

Alicia Olive, Esquire
South Carolina Attorney General's Office
Post Office Box 11549
Columbia, South Carolina 29211

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S.C. SUPREME COURT

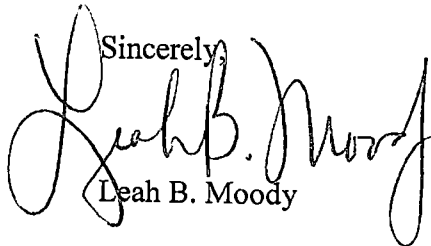
RE: Sama Chaka Quinland v. State of South Carolina
C.A. No.: 2014-CP-42-1027

Dear Ms. Olive:

The Spartanburg County Court of Common Pleas appointed my office to represent Sama Chaka Quinland in his Post-Conviction Relief action. Please find enclosed a copy of the Notice of Appeal and Proof of Service in this matter.

If you have any questions or concerns, please feel free to contact my office. Thank you.

Sincerely,



Leah B. Moody

LBM/jh

Enclosures

Cc Sama Chaka Quinland
Daniel E. Shearouse, Clerk of Court, Supreme Court of South Carolina
Hope Blackley, Clerk of Court, Spartanburg County
Sharon Graham, SCCID

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March 28, 2016

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S.C. SUPREME COURT

Ms. Sharon A. Graham
SC Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11433
Columbia, South Carolina 29211-1433

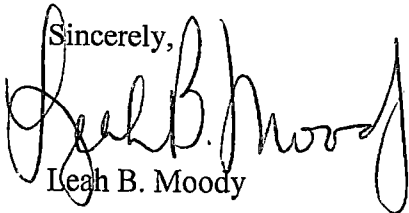
RE: Sama Chaka Quinland v. State of South Carolina
Case No.: 2014-CP-42-1027

Dear Ms. Graham:

The Spartanburg County Court of Common Pleas appointed my office to represent Sama Quinland in his Post-Conviction Relief action. Please find enclosed the Notice of Appeal and Proof of Service for the above-referenced matter.

Thank you for your attention in this matter.

Sincerely,



Leah B. Moody

LBM/jh

Enclosures

cc Sama Chaka Quinland
Alicia Olive, Esquire
Daniel E. Shearouse, Clerk of Court, Supreme Court of South Carolina
Hope Blackley, Clerk of Court, Spartanburg County

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March 28, 2016

The Honorable Hope Blackley
Spartanburg County Clerk of Court
Post Office Box 3483
Spartanburg, South Carolina 29304

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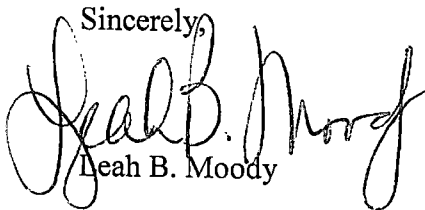
S.C. SUPREME COURT

RE: Sama Chaka Quinland v. South Carolina
Case No.: 2014-CP-42-1027

Dear Ms. Blackley:

Please find enclosed the Notice of Appeal and the Proof of Service in the above-referenced matter.

Sincerely,



Leah B. Moody

LBM/jh

Enclosures

cc Sama Chaka Quinland
Alicia Olive, Esquire
Daniel E. Shearouse, Clerk of Court, Supreme Court of South Carolina
Sharon Graham, SCCID

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

Sama Chaka Quinland, #355729,)
)
Applicant,)

v.)

State of South Carolina,)
)
Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No.: 2014-CP-42-1027

ORDER OF DISMISSAL

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S.C. SUPREME COURT

This matter comes before the Court by way of an Application for post-conviction relief (PCR) filed March 13, 2014. Respondent made its Return on September 10, 2014, requesting an evidentiary hearing. An evidentiary hearing into the matter was convened on November 12, 2015, at the Spartanburg County Courthouse before the undersigned. Applicant was present at the hearing and represented by Leah B. Moody, Esquire. Alicia Olive, Esquire, of the South Carolina Attorney General's Office represented Respondent.

At the evidentiary hearing, Applicant testified on his own behalf. The State presented testimony from Andrea Price, Esquire. This Court also had before it the records of the Spartanburg County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the plea transcript, and the pleadings.

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. Applicant waived presentment to the Spartanburg County Grand Jury for the charge of voluntary manslaughter (2013-GS-42-2754). Applicant was represented by Andrea L. Price, Esquire ("Counsel"). On June 10, 2013, Applicant pleaded guilty without negotiations or recommendations before the

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Honorable Benjamin H. Culbertson. Judge Culbertson sentenced Applicant to imprisonment for a term of 30 years.

A timely Notice of Appeal was filed on the Applicant's behalf pursuant to Weathers v. State, 319 S.C. 59, 549 S.E.2d 838 (1995) and State v. Thrift, 378 S.C. 70, 661 S.E.2d 373 (2008). The South Carolina Court of Appeals issued an order dismissing the Applicant's appeal on September 18, 2013. The Remittitur was issued on October 4, 2013.

Allegations

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 insure the Court adhered to the terms of the guilty plea as those terms served as an inducement for Mr. Quinland to plead guilty; and
2. Involuntary guilty plea, in that;
 - a. Applicant's plea was involuntary as a result of Counsel's failure to properly advise Applicant as to the consequences of an open plea and Applicant's other options.

II. SUMMARY OF TESTIMONY PRESENTED

Applicant testified that he was told he was taking an "open plea." He testified Counsel told him he would serve two to fifteen years in prison, but that he knew he could be sentenced to a maximum of thirty years for voluntary manslaughter. Applicant alleged that Counsel did not fight for him and did not provide him his discovery. Applicant testified he would have preferred to go to trial if Counsel had advised him about going to trial versus pleading guilty. Applicant testified his plea was not knowing and voluntary because he took the plea on the advice of counsel and was not advised of the consequences. Applicant testified he felt his case could have fell under heat of passion."

Applicant testified Counsel said she did not feel like he would "get the max." Applicant testified he felt he would be found innocent. Applicant testified he told her his version of the

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events and that she told him she did not think the State could prove malice. Applicant testified he wanted a new trial or that he wanted "specific performance of the plea" with specific time and "no gamble." Applicant also testified he understood that he cannot be guaranteed a set sentence. On cross-examination, Applicant admitted that his DNA had been found under the victim's fingernails and that a television stolen from the victim's apartment was traced back to Applicant. Applicant admitted he was also charged with armed robbery in connection with the same incident, which was dismissed in exchange for his guilty plea. Applicant also admitted that he was never guaranteed a sentence.

Counsel testified she met with Applicant four times. She testified she received full discovery, gave the discovery to Applicant and reviewed it with him at their first meeting. Counsel testified that the victim was found deceased in his apartment, that his television was missing from his apartment, and that his car was found on fire in Greenville. Counsel testified the victim was stabbed twenty-two times and was shot twice. Counsel testified that she discussed with Applicant the murder charge and that she did not think that the State could show malice. However, she testified she also discussed voluntary manslaughter with Applicant. Counsel testified she did not think Applicant had a defense to the charge of voluntary manslaughter. Counsel testified if he had gone to trial the State would have tried him for murder. Counsel testified Applicant had four months to think about the plea offer before he had to accept or decline it. Counsel testified the only negotiation was the plea offer for voluntary manslaughter and that there were no other promises. She testified that as part of the plea offer, the State agreed to dismiss the armed robbery charge. Counsel testified on cross-examination that she explained to Applicant the reason for reducing the charge from murder to voluntary manslaughter.

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III. 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).

A. Ineffective Assistance of Counsel

In a PCR action, Applicant bears the burden of proving the allegations in his 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 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). The applicant "must first demonstrate that counsel was deficient and then must also show the deficiency resulted in prejudice." Walker v. State, 407 S.C. 400, 404-05, 756 S.E.2d 144, 146 (2014). "The two-part test adopted in Strickland also applies to challenges to guilty pleas based on ineffective assistance of counsel." Holden v. State, 393 S.C. 565, 572, 713 S.E.2d 611, 615 (2011).

First, the applicant must show that counsel's performance "fell below an objective standard of reasonableness under prevailing professional norms." Cherry, 300 S.C. 115, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is

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whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, he would not have [pleaded] guilty, but would have insisted on going to trial." Thompson v. State, 340 S.C. 112, 116, 531 S.E.2d 294, 297 (2000).

Regarding Applicant's claims of ineffective assistance of counsel, this Court finds Applicant has failed to meet his burden of proof. This Court finds that Applicant's attorney demonstrated the normal degree of skill, knowledge, professional judgment, and representation that is expected of an attorney who practices criminal law in South Carolina. State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977). See also Strickland, 466 U.S. at 688 ("The proper measure of attorney performance remains simply reasonableness under prevailing professional norms.").

Applicant alleges that Counsel was ineffective for failing to ensure the court adhered to the terms of his guilty plea. This Court finds Applicant has failed to produce any evidence to show that there were any terms of the guilty plea that were not upheld. Accordingly, Applicant has failed to satisfy his burden of proving either that Counsel's performance was deficient in anyway or that he was prejudiced as a result.

This Court finds there was no disagreement over the facts giving rise to charges as stated by Counsel and Applicant. This Court further finds that the evidence against Applicant was fairly

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

This Court notes that Applicant must file and serve a notice of appeal within 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 post-conviction relief. Rule 71.1(g), SCRPC, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 8 day of March, 2016.


LARRY B. HYMAN, JR.
Presiding Judge
Seventh Judicial Circuit

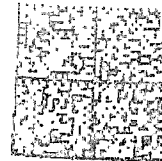
Conway, South Carolina

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M. HOPE BLACKLEY

M. HOPE BLACKLEY
Clerk of Court, Spartanburg County
Post Office Box 3483
Spartanburg, South Carolina 29304-3483

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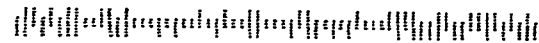


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TO:
Honorable Daniel E. Shearouse Supreme Court of South Carolina PO Box 11330 Columbia SC 29211-1330

