

# THE BOOZER LAW FIRM, LLC

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**Lance S. Boozer, Esq.\***

\*Also admitted in Florida

807 Gervais Street, Suite 203  
Columbia, SC 29201

Telephone: 803-608-5543  
Fax: 803-926-3463

Email: [lsb@boozerlawfirm.com](mailto:lsb@boozerlawfirm.com)  
Website: [www.boozerlawfirm.com](http://www.boozerlawfirm.com)

April 18, 2016

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

**RECEIVED**

APR 20 2016

**S.C. SUPREME COURT**

The Honorable James C. Campbell  
Clerk, Sumter County  
215 N. Harvin Street  
Sumter, SC 29150

**RE: Lasheda Cokley, #364399, v. State of South Carolina  
2015-CP-43-2121**

Dear Mr. Shearouse and Mr. Campbell:

Enclosed for filing is a Notice of Appeal in the above-referenced case. Also enclosed are the following:

- (1) Proof of Service of the Notice of Appeal;
- (2) A copy of the Order which is to be challenged on appeal; and
- (3) Prior Order of Appointment of Counsel.

As I was appointed to represent Ms. Cokley in her PCR proceeding, I anticipate that the Office of Appellate Defense will represent Ms. Cokley in this appeal.

Yours very truly,



Lance S. Boozer

Enclosures

cc: Daniel Gourley, AAG  
Loriene French, OAD  
Lasheda Cokley, #364399

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM SUMTER COUNTY  
Court of Common Pleas

The Honorable Brooks P. Goldsmith, Circuit Court Judge

Case No. 2015-CP-43-2121

**RECEIVED**

APR 20 2016

**S.C. SUPREME COURT**

Lasheda Cokley, #364399, .....Petitioner,

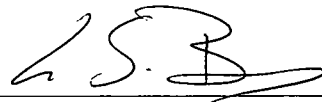
v.

State of South Carolina,.....Respondent.

**NOTICE OF APPEAL**

The Petitioner appeals the Honorable Brooks P. Goldsmith's Order dated March 30, 2016, denying post-conviction relief to the Petitioner. The Order was received by undersigned counsel on April 14, 2016. A copy of the Order on appeal is attached to this notice.

Respectfully submitted,



Lance S. Boozer  
The Boozer Law Firm, LLC  
807 Gervais Street, Suite 203  
Columbia, SC 29201  
Tele: 803-608-5543

April 18, 2016

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

**RECEIVED**

APPEAL FROM SUMTER COUNTY  
Court of Common Pleas

APR 20 2016

The Honorable Brooks P. Goldsmith, Circuit Court Judge

**S.C. SUPREME COURT**

Case No. 2015-CP-43-2121

Lasheda Cokley, #364399, .....Petitioner,

v.

State of South Carolina,.....Respondent.

**PROOF OF SERVICE**

I, Lance S. Boozer, appointed attorney for Petitioner, certify that I have today served within Notice of Appeal upon the Respondent by depositing a copy of it in the United States Mail, postage prepaid, addressed to Assistant Attorney General Daniel Gourley, P.O. Box 11549, Columbia, SC 29211. I further certify that all parties required by Rule to be served have been served this 18th day of April, 2016.



Lance S. Boozer  
The Boozer Law Firm, LLC  
807 Gervais Street, Suite 203  
Columbia, SC 29201  
Tele: 803-608-5543

STATE OF SOUTH CAROLINA  
COUNTY OF SUMTER

RECORDED

2016 APR - 7) PM 3:09

IN THE COURT OF COMMON PLEAS  
OF THE THIRD JUDICIAL CIRCUIT

Lasheda Chantel Cokley, #364399,

JAMES C. CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.

2015-CP-43-2121

Applicant,

v.

State of South Carolina,

Respondent.

**ORDER OF DISMISSAL**

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on September 8, 2015. An evidentiary hearing into the matter was convened on March 14, 2016, at the Sumter County Courthouse. Applicant was present at the hearing and was represented by Lance S. Boozer, Esquire. Respondent was represented by Assistant Attorney General Daniel Gourley of the South Carolina Attorney General's Office.

**PROCEDURAL HISTORY**

The records before this Court indicate Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. The Applicant was true bill indicted at the June 2015 term of the Sumter County Grand Jury for assault and battery with intent to kill (2010-GS-43-0649). Jacob E. McFadden, Esquire represented Applicant. On June 16, 2015, Applicant pled guilty before the Honorable W. Jeffrey Young. Judge Young sentenced Applicant pursuant to negotiations to a ten year term of imprisonment.



A timely Notice of Appeal was filed on Applicant's behalf. By Order filed August 19, 2015, the South Carolina Court of Appeals dismissed the appeal pursuant to Rule 203(d)(B)(iv) for failing to provide a sufficient explanation. The Remittitur was issued on September 4, 2015.

### ALLEGATIONS

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

1. Ineffective assistance of counsel
  - a. Failing to argue counsel doctrine
  - b. "negligence"
  - c. "misrepresented"

Applicant filed an amended application on February 16, 2016 alleging:

1. Involuntary guilty plea.
2. Prosecutorial Misconduct.

This Court notes Applicant failed to present any evidence or arguments to support any claim of Prosecutorial misconduct. Therefore, this Court finds Applicant has waived any allegation of prosecutorial misconduct.

### SUMMARY OF TESTIMONY PRESENTED

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

Applicant stated that she was seeking a new trial. Applicant stated she pled guilty to assault and battery with intent to kill and received a ten year negotiated sentence. Applicant acknowledged that she was facing up to a potential twenty year sentence. Applicant indicated that she understood the risks involved in proceeding with her post-conviction relief application.

Applicant stated that she pled guilty on June 16, 2015. Applicant stated that she was arrested on January 4, 2010. Applicant stated that she was initially arrested for assault and battery with intent to kill. Applicant stated that Tim Murphy, Esquire, was appointed to represent her on her charges. Applicant stated that she and Mr. Murphy discussed pleading down to assault and battery of a high and aggravated nature. Applicant stated that Mr. Murphy advised her that she could potentially receive a probation or "PTI." Applicant stated she met with Mr. Murphy approximately three times.

Applicant stated Plea Counsel was substituted on as counsel. Applicant stated she met with Plea Counsel twice prior to her guilty plea. Applicant stated she was indicted on June 4, 2015, for assault with intent to kill. Applicant stated that Plea Counsel told her that she could either plea to assault and battery with intent to kill and accept the negotiated sentence of ten years or proceed to trial. Applicant stated that she advised Plea Counsel that Mr. Murphy had told her that she was going to plea to assault and battery of a high and aggravated nature.

Regardless, Applicant stated that she knew when she was pleading guilty to assault and battery with intent to kill. Applicant recalled telling the plea judge that she was satisfied with Plea Counsel's representation. Applicant recalled telling the plea judge that no one was promising or threatening her to plead guilty. Applicant recalled tell the plea judge that she wanted to plead guilty and was in fact, guilty. Applicant recalled telling the plea judge that she cut the victim with a knife. Applicant recalled the acknowledging that when she pled guilty she would be waiving any possible defenses, including the castle doctrine.

Following Applicant's testimony, Plea Counsel was called to testify. Plea Counsel stated that he was appointed in February 2015. Plea Counsel stated that he met with Applicant at least four separate times. Plea Counsel stated he consulted with Mr. Murphy about the case. Plea

stated that he filed for and reviewed all discovery material with Applicant prior to her guilty plea. Plea Counsel stated that he discussed Applicant's version of events. Plea Counsel stated that they discussed possible defenses, including the castle doctrine. Plea Counsel explained that the crux of their argument had they proceeded to trial was going to be whether the assault took place inside Applicant's house or outside Applicant's house. Plea Counsel stated Applicant only named her children and father as potential witnesses. Plea Counsel stated that he had some concerns about calling Applicant's children as witnesses due to their young age.

Plea Counsel stated that Applicant was indicted for assault and battery of a high and aggravated nature at some point prior to his representation. Plea Counsel stated that he advised Applicant that the state could amend their indictment to assault and battery with intent to kill. Plea Counsel stated that he explained to Applicant that the allegations against her fit the elements of assault and battery with intent to kill. Plea Counsel stated that he learned that State as amending the indictment to assault and battery with intent to kill shortly before the case was called for trial. Plea Counsel stated that he was not aware of the reasons behind why the indictment was amended. Plea Counsel stated that he attempted to negotiate something less than the ten year offer, however the solicitor refused to offer anything less. Plea Counsel stated that he relayed the ten year plea offer and Applicant chose to accept the offer.

#### **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), SCRPC; 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, 466 U.S. 668, (1984); Butler, 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, 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 Trial 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. Involuntary guilty plea.

This Court finds Applicant's allegation her guilty plea was involuntary is meritless. This Court finds Applicant's guilty plea was entered freely and voluntarily entered. 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 she did not plead guilty voluntarily because she was coerced by Plea Counsel because he required her to choose between proceeding to trial or accepting the State's ten year plea offer. This Court finds this contention meritless. This Court finds the record reflects Applicant was fully advised that she was pleading guilty and waived all challenges to the evidence against her. The plea court's very thorough colloquy with Applicant demonstrates that she understood the consequences of pleading guilty. This Court finds Applicant's testimony not



credible. Applicant presented no credible evidence as to why she should be able to depart from her statements at the plea hearing. This Court finds very credible Counsel's testimony regarding his preparation and advice concerning the case. The record further reflects Applicant fully admitted her guilt to the plea court. Therefore, this Court finds the plea judge correctly found Applicant's plea was freely, voluntary, and intelligently made.

**2. Ineffective assistance of counsel for failure to argue castle doctrine.**

This Court finds Applicant's allegation that Plea Counsel was ineffective for failing to argue castle doctrine is meritless. Initially, this Court notes Applicant knowingly and intelligently pled guilty and therefore, waived any potential defenses to these charges. Whetsell v. State, 276 S.C. 295, 297, 277 S.E.2d 891, 892 (1981) (Noting the general rule is that guilty pleas, freely and voluntarily entered, act as a waiver of all non-jurisdictional defects and defenses, including the claims of a violation of a constitutional right prior to the plea). Regardless, this Court finds Plea Counsel was not deficient in his representation. Plea Counsel stated that he discussed the possible defenses with Applicant prior to her plea. Plea Counsel stated that they were prepared to argue the castle doctrine had Applicant chose to proceed to trial.

Additionally, this Court finds Applicant failed to present any credible arguments or evidence in support of her allegation that Plea Counsel was ineffective for failing argue castle doctrine. Notably this Court was presented with no credible evidence showing that the castle doctrine would have been a successful defense had Applicant proceeded to trial. Based off of the foregoing, this Court finds Applicant's allegation must be denied and dismissed with prejudice.



### 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.

*[Signature to follow]*

A handwritten signature in black ink, consisting of several loops and flourishes, located in the bottom right corner of the page.

**CONCLUSION**

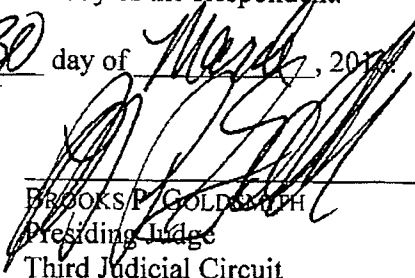
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of appeal within thirty 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), SCRCP, 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 30 day of March, 2017.

  
\_\_\_\_\_  
BROOKS P. GOLDSOPH  
Presiding Judge  
Third Judicial Circuit

\_\_\_\_\_, South Carolina

STATE OF SOUTH CAROLINA )  
COUNTY OF )

Lasheda Chantel Cokley )  
# 364399 )

Plaintiff(s), )

-vs- )

SC State of )

Defendant(s). )

IN THE COURT OF (Select one.)

COMMON PLEAS  FAMILY COURT

JUDICIAL CIRCUIT

CASE NO.: 2015-CP-43-2121

APPOINTMENT OF COUNSEL OR GAL

(Select one.)

ORDER

AMENDED ORDER

TRUE COPY  
OF ORIGINAL FILED  
DEPUTY CLERK OF COURT  
SUMNER COUNTY  
SOUTH CAROLINA

TYPE OF CASE/PROCEEDING: (Check one.)

- Post-Conviction Relief (PCR)/habeas case
- SVP case
- Minor Name Change
- Adoption
- Custody and/or Visitation
- Other:
- Juvenile
- Abuse and Neglect

It appears that <sup>Lasheda</sup> Cokley, who is a litigant in this case, is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: (Select only one.)

- counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.
- counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on: \_\_\_\_\_
- counsel was previously appointed by the court but has not indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.
- court appointed counsel has obtained \_\_\_\_\_, Esquire as substitute counsel pursuant to Rule 608(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.
- Other: Lance Boozer  
1331 Park St  
Columbia, SC 29201

counsel  lead counsel (if capital PCR case)  guardian ad litem

Therefore, it is ordered that <sup>Boozer</sup> hereby is appointed as (Select one.)  
for the above-named person. Any counsel or GAL previously appointed is/are hereby relieved.

(If Death Penalty PCR Case) It is further ordered that \_\_\_\_\_, Esquire, is hereby appointed as second counsel in this capital PCR case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED THIS 9<sup>th</sup> DAY OF Oct, 20 15.

**THE BOOZER LAW FIRM, LLC**  
807 Gervais Street, Suite 203  
Columbia, SC 29201



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