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AUG 22 2016

SC SUPREME COURT

THE BOOZER LAW FIRM, LLC

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
Website: www.boozerlawfirm.com

August 19, 2016

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

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

**RE: Corey Geddie, #357875, v. State of South Carolina
2015-CP-43-961**

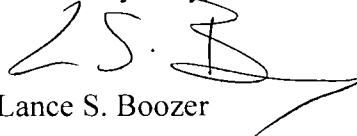
Dear Mr. Shearouse and Mr. Campbell:

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 Mr. Geddie in his PCR proceeding, I anticipate that the Office of Appellate Defense will represent Mr. Geddie in this appeal.

Yours very truly,


Lance S. Boozer

Enclosures

cc: Daniel Gourley, AAG
Loriene French, OAD
Corey Geddie, #357875

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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AUG 22 2016

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

SC SUPREME COURT

The Honorable Tanya A. Gee, Circuit Court Judge

Case No. 15-CP-43-961

Corey Geddie, #357875,.....Petitioner,

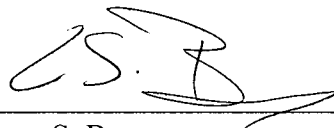
v.

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

NOTICE OF APPEAL

The Petitioner appeals the Honorable Tanya A. Gee's Order dated January 19, 2016, denying post-conviction relief to the Petitioner. The Order was received by undersigned counsel on August 4, 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

Columbia, South Carolina
August 19, 2016

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THE STATE OF SOUTH CAROLINA
In The Supreme Court

SC SUPREME COURT

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

The Honorable Tanya A. Gee, Circuit Court Judge

Case No. 15-CP-43-961

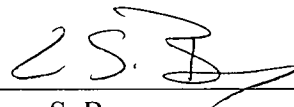
Corey Geddie, #357875,.....Petitioner,

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 19th day of August, 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) IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER) FOR THE THIRD JUDICIAL CIRCUIT

RECORDED
2016 JAN 25 PM 4:35

Corey Geddie, #357875,)
JANE W. GIMMELL) 2015-CP-43-961
CLERK OF COURT)
SUMTER COUNTY, S.C.)
Applicant,)

v.)

ORDER OF DISMISSAL

State of South Carolina,)

Respondent.)
_____)

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on May 13, 2014. Respondent submitted its return on August 28, 2014. An evidentiary hearing into the matter was convened on November 17, 2015, at the Sumter County Courthouse. Applicant was present at the hearing and was represented by Lance Boozer, Esquire. Respondent was represented by Assistant Attorney General Daniel Gourley of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The 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 September 2012 term of the Sumter County Grand Jury under a four count indictment for Murder, Armed Robbery, Attempted Murder, and Possession of a Weapon During the Commission of a Violent Crime (2012-GS-43-1148). Susan Cooke, Esquire, represented Applicant. On November 19, 2013, Applicant pled guilty as indicted before the Honorable W. Jeffrey Young. Judge Young sentenced Applicant pursuant to a recommendation by the State to thirty years for Murder. The Applicant did not appeal his guilty plea or sentence.



ALLEGATIONS

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

1. Constitutional Violation 6th Amendment.
2. Ineffective Assistance of Counsel
 - a. Counsel performance was deficient.
3. Constitutional Violation, Due process, and Equal protection
4. Involuntary and Unknowingly Plea.
 - a. Was denied right to fair trial.

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. The State presented testimony from Elaine Cooke, 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, the PCR application, and return.

Applicant stated that he was arrested on April 21, 2012, and Plea Counsel was appointed in September 2012. Applicant stated that he met with Plea Counsel four times prior to his plea. According to the Applicant, Plea Counsel was ineffective for failing to advise him that he was going to receive a thirty-year sentence. Applicant claims that he believed he was pleading guilty to manslaughter, not murder. Applicant admitted Plea Counsel never promised him that he would receive a certain amount of time. Applicant stated that they did not discuss any possible defenses for the charges.

Applicant recalled that Plea Counsel arranged for him to take a polygraph test, but Plea Counsel never mentioned the results of the polygraph. Applicant stated his co-defendant pleaded guilty and received a fifteen-year sentence.

Applicant recalled the plea, and specifically remembered pleading to a murder charge. Applicant further recalled the plea judge advising him that he was facing a minimum thirty-year sentence for murder and he would be required to serve it day for day.

Following Applicant's testimony, Plea Counsel was called to testify. Plea Counsel stated that during their first meeting, Applicant informed her that he wanted to plead guilty. Plea Counsel stated that they pulled a jury prior to Applicant's plea. Plea Counsel explained that the solicitors like to pull a jury in case the defendant backs out of the plea. Plea Counsel stated it was never a case of them actually proceeding to trial.

According to Plea Counsel, the plea began as a negotiated thirty-year sentence, but the solicitor chose to rescind the negotiated thirty years and have Applicant enter an open plea to murder. Plea Counsel stated she advised Applicant that he was facing thirty years to life. Prior to the plea, Plea Counsel begged the solicitor for a reduced charge because Plea Counsel believed that Applicant was not the aggressor. Plea Counsel stated that she hoped she would be able to secure a voluntary or involuntary manslaughter charge; however, the solicitor refused to offer anything less than murder. Plea Counsel stated she spoke with the solicitor on numerous occasions.

Plea Counsel stated that she had Applicant take a polygraph in hopes of convincing the solicitor to offer a reduced charge. Plea Counsel stated Applicant passed the polygraph with a very high score, but the solicitor still refused to reduce the charge. Plea Counsel stated she did not offer the polygraph as mitigation evidence during the plea because she feared the judge would not accept the plea and require the defendant to proceed with a trial.

Plea Counsel opined that Applicant pled guilty out of fear of receiving a harsher sentence. Plea Counsel stated that Applicant did not want to go to trial and that there was no

question that Applicant shot the victim. The only issue was whether the evidence created a viable self-defense claim. Plea Counsel stated she relayed all this information to Applicant prior to his guilty plea and Applicant voluntarily chose to plead guilty.

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), SCRCP; 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).

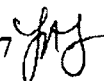
Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this

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 that the 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).

This Court finds that Applicant has failed to carry his burden of proving that his guilty plea was involuntarily made. The record reflects the Applicant was thoroughly advised of the waiver of his constitutional rights by both counsel and the plea judge, the Applicant knew the charge he faced, and he understood the consequences of his plea (T. 19-20). This Court finds that the plea judge correctly found that the Applicant's plea was freely, voluntarily, and intelligently made. (T. 22-23).

During the plea, Applicant acknowledged that he was pleading guilty to murder. (Pl. p. 18; p. 22). Furthermore, Applicant admitted his guilt yet again during the post-conviction relief hearing. Applicant simply claims that he pled guilty to "get it over with." Accordingly, Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in her representation of the Applicant, and therefore, has failed to prove the first prong of the Strickland test. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by plea counsel's performance.

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 the foregoing, this Court finds that the Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application.

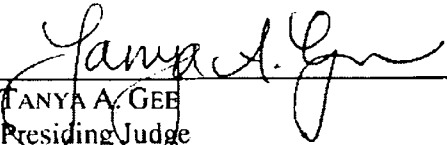
Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

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), 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 is denied and dismissed with prejudice; and
2. The Applicant is remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 19 day of January, 2015.


TANYA A. GEE
Presiding Judge
Third Judicial Circuit

Columbia, South Carolina

RECORDED

STATE OF SOUTH CAROLINA)
COUNTY OF)

2014 JUN -5 PM 3:45

IN THE COURT OF (Select one.)

COMMON PLEAS FAMILY COURT

Corey D. Gedde

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

JUDICIAL CIRCUIT

CASE NO.: 2014-CP-43-961

Plaintiff(s),)

APPOINTMENT OF COUNSEL OR GAL

-vs-)

(Select one.)

State of South Carolina)

ORDER

Defendant(s).)

AMENDED ORDER

CERTIFIED TRUE COPY
OF ORIGINAL FILE

TYPE OF CASE/PROCEEDING: (Check one.)

Post-Conviction Relief (PCR)/habeas case

Adoption

SVP case

Custody and/or Visitation

Minor Name Change

Other:

Juvenile
 Abuse and Neglect

It appears that ^{Corey}~~Gedde~~, 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 ^{Lance}~~Boozer~~, hereby is appointed as (Select one.)
for the above-named person. Any counsel or GAL previously appointed is/are hereby relieved.

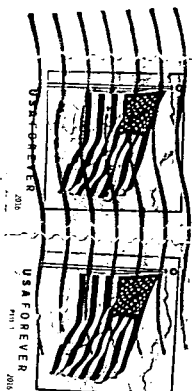
(If Death Penalty PCR Case) It is further ordered that _____, Esquire, is hereby appointed as second counsel in this capital PCR case.

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

IT IS SO ORDERED THIS ^{5th} DAY OF June 20 14.

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