

The Law Office of Holly H. Wall, LLC

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Attorney at Law  
Post Office Box 823  
Johnsonville, South Carolina 29555  
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RECEIVED

OCT 28 2016

Monday, October 24, 2016

S.C. SUPREME COURT

*SC Supreme Court*

P.O. Box 11330  
Columbia, SC 29211

Re: Notice of Intent to Appeal from Geraldine Brockington, #352726, v. State of South Carolina; Case Number: 2013-CP-21-1340

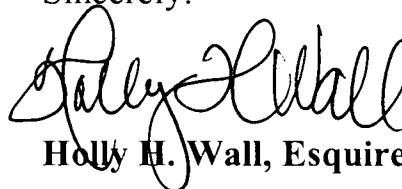
Dear Sir or Madam:

**I WAS COURT APPOINTED, AND I EXPECT APPELLATE DEFENSE WILL HANDLE THE APPEAL.** Enclosed for filing please find the Notice of Appeal, proof of service on the Attorney General, and the Order of Dismissal. By copy of this letter, I am also serving Counsel for the state.

Ms. Brockington prepared and filed a *pro se* Notice of Intent to Appeal. She did not indicate to me that she wished to appeal and did not contact my office after the date of the PCR hearing. Her Notice of Appeal is dated September 9, 2016 and was stamped "received" on September 12, 2016. I have nothing from Ms. Brockington indicating service. I received the Dismissal Order from Judge Newman on July 29, 2016 and a copy of same was mailed to Ms. Brockington on July 29, 2016.

Thank you for your assistance.

Sincerely:



Holly H. Wall, Esquire

Enclosures-as indicated

THE SOUTH CAROLINA SUPREME COURT

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

Jocelyn Newman, Judge

Case No.  
(2013-CP-21-1340)

RECEIVED

OCT 28 2016

S.C. SUPREME COURT

Geraldine Brockington, ..... Appellant

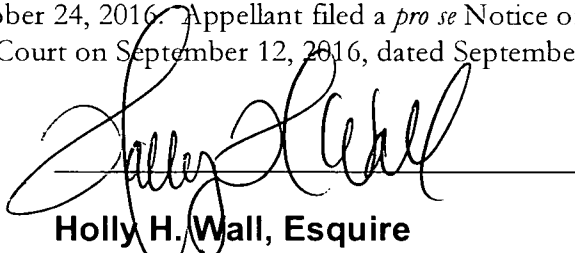
v.

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

NOTICE OF INTENT TO APPEAL

Appellant appeals the decision of the Honorable Judge Jocelyn Newman signed July 18, 2016, which was received by appellant's counsel on July 29, 2016.

Counsel for applicant received written notice of the Order on July 29, 2016, and files this Notice by regular mail today, October 24, 2016. Appellant filed a *pro se* Notice of Intent to Appeal with the South Carolina Supreme Court on September 12, 2016, dated September 9, 2016.



**Holly H. Wall, Esquire**

THE LAW OFFICE OF HOLLY H. WALL  
P.O. Box 823  
Johnsonville, South Carolina 29555  
(843) 380-1305 phone  
(843) 483-1022 fax

APPOINTED ATTORNEY FOR PCR PETITIONER

Other Counsel of record:  
**Lindsey A. McCallister, Esquire**  
Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

THE SOUTH CAROLINA SUPREME COURT

RECEIVED

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

OCT 28 2016

Jocelyn Newman, Judge

S.C. SUPREME COURT

Case No.  
(16-CP-21-1340)

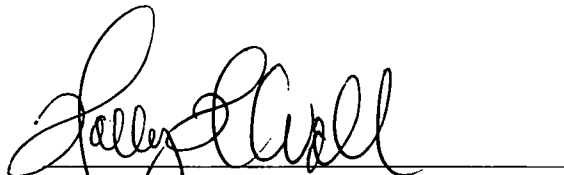
Geraldine Brockington, #352726.....Appellant

v.

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

PROOF OF SERVICE

I certify that the foregoing was served on the persons listed below by placing same in the U.S. Mail postage prepaid this day, October 24, 2016.



HOLLY H. WALL, ESQUIRE  
THE LAW OFFICE OF HOLLY H. WALL, LLC  
P.O. Box 823  
Johnsonville, South Carolina 29555  
(843) 380-1305 phone  
(843) 483-1022 fax  
APPOINTED ATTORNEY FOR PCR PETITIONER

***Lindsey A. McCallister, Esquire***  
Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

FORM 4

STATE OF SOUTH CAROLINA  
COUNTY OF FLORENCE  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE  
CASE NUMBER 2013CP2101340

Geraldine E Brockington  
2016 JUL 25 PM 3: 56  
South Carolina State Of

PLAINTIFF(S) CONNIE REEL SNEARIN  
CCCP & GS  
FLORENCE COUNTY, SC  
DEFENDANT(S)  
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.  See Page 2 for additional information.
- 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:

ORDER INFORMATION

This order  ends  does not end the case.  
Additional Information for the Clerk: \_\_\_\_\_

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

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

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge \_\_\_\_\_ Judge Code \_\_\_\_\_ Date 7/25/2016  
For Clerk of Court Office Use Only

This judgment was entered on July 25, 2016, and a copy mailed first class or placed in the appropriate attorney's box on July 26, 2016, to attorneys of record or to parties (when appearing pro se) as follows:

CERTIFIED: A TRUE COPY

*Connie Reel Snearin*

CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

Holly Huggins Wall PO Box 823 Johnsonville, SC 29555

John Croom Colvin Hunter PO Box 607 Lancaster, SC 29721

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ATTORNEY(S) FOR THE PLAINTIFF(S)

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ATTORNEY(S) FOR THE DEFENDANT(S)

*Connie Reel-Shearin*

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Court Reporter

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Connie Reel-Shearin - Clerk of Court

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**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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STATE OF SOUTH CAROLINA  
COUNTY OF FLORENCE

Geraldine Brockington, #352726,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
TWELFTH JUDICIAL CIRCUIT

Case No. 2013-CP-21-1340

ORDER OF DISMISSAL

CONNIE REEL-SHEARIN  
COP & G.S.  
FLORENCE COUNTY, SC

2016 JUL 22 PM 3:04

FILED

This matter comes before this Court by way of a post-conviction relief (PCR) application filed on May 16, 2013. Respondent made its return on December 13, 2013. An evidentiary hearing into the matter was convened on June 2, 2016, at the Florence County Courthouse. Applicant was present at the hearing and was represented by Holly Huggins Wall, Esquire. Respondent was represented by Assistant Attorney General J. Croom Hunter of the South Carolina Attorney General's Office.

**PROCEDURAL HISTORY**

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Florence County Clerk of Court's orders of commitment. The Applicant was indicted at the July 2012 term of the Florence County Grand Jury for homicide by child abuse (2012-GS-21-0886). Steven G. Mikell, Esquire, represented the Applicant. On October 12, 2012, the Applicant pled guilty, and the Honorable Michael G. Nettles sentenced the Applicant to twenty-three (23) years imprisonment. The Applicant did not appeal her plea or sentence.

CERTIFIED: A TRUE COPY

CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

## ALLEGATIONS

At the post-conviction relief hearing, Applicant argued her confinement is unlawful based upon the following grounds:

1. Ineffective assistance of counsel.
  - a. Plea counsel did not spend an adequate amount of time reviewing discovery materials with Applicant.
2. Involuntary guilty plea.

At the evidentiary hearing, Applicant testified on her own behalf. This Court also heard testimony from plea counsel, Steven Mikell, Esquire. This Court also had before it a copy of the plea transcript, the Florence County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, and the return.

### INEFFECTIVE ASSISTANCE OF COUNSEL

In a post-conviction relief action, the 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, 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, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea

counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 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).

This Court finds that Applicant failed to demonstrate that Counsel's performance was deficient in any way. This Court further finds that Applicant presented no evidence to show any prejudice resulting from Counsel's representation. Additionally, this Court finds Counsel's testimony credible and Applicant's testimony is not credible.

### **1. Failure to Prepare**

Applicant alleges Counsel did not spend enough time reviewing the evidence with her and discussing her options. The Court finds this allegation is without merit.

At the PCR hearing, Counsel testified he has been practicing law for thirty-two years. Counsel testified he filed the appropriate Rule 5 and Brady motions, received discovery materials from the State, and went over the evidence with Applicant. Counsel testified he went over the elements of the charges Applicant was facing with the Applicant as well as the possible penalties she was facing. Additionally, Counsel testified he went over the constitutional rights Applicant was waiving prior to her guilty plea. Counsel testified that it was Applicant's decision to plead guilty. Although Counsel could not recall with specificity how many times he met with



Applicant, he testified that he met with Applicant on multiple occasions. Counsel testified the facts of the case were bad, considering the Applicant was responsible for the death of a baby due to her neglect. Counsel testified Applicant initially considered proceeding to trial, but after a thorough review of the evidence, she weighed her options and decided to plead guilty rather than face life in prison, which was a very real possibility.

This Court finds Counsel's performance was within the range required under Strickland and its progeny. Counsel's testimony indicated he was well informed regarding the facts of Applicant's case and extremely knowledgeable with respect to the relevant legal issues. Because this Court finds Counsel thoroughly investigated and prepared Applicant's case, it finds Applicant has failed to meet her obligations under Strickland, and the allegation is without merit.

#### INVOLUNTARY GUILTY PLEA

The voluntariness of a guilty plea is determined in light of the entire record before the court. Hyman v. State, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012) (citing Roddy v. State, 339 S.C. 29, 528 S.E.2d 418 (2000)). "To knowingly and voluntarily enter a plea of guilty, all that is required is that a defendant have a full understanding of the consequences of his plea and of the charges against him." Simpson v. State, 317 S.C. 506, 508, 455 S.E.2d 175, 176 (1995) (citing Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991)). Furthermore, a defendant must only be informed of the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers. Roddy, 339 S.C. at 33, 528 S.E.2d at 421 (citing Boykin v. Alabama, 395 U.S. 238 (1969)). "When attempting to determine the voluntary and intelligent nature of a plea, the plea colloquy ordinarily serves as confirmation that a criminal defendant is waiving the right to raise certain constitutional claims by pleading guilty." Hyman, 397 S.C. at 44, 723 S.E.2d at 379 (citing Rivers v. Strickland, 264 S.C. 121, 213 S.E.2d 97, 98 (1975)). However,



the plea judge need not provide an “enumeration of specific rights waived ... where the record otherwise reveals affirmative awareness of the consequences of a guilty plea.” State v. Lambert, 266 S.C. 574, 579, 225 S.E.2d 340, 342 (1976) (citing Stinson v. Turner, 473 F.2d 913 (10th Cir. 1973)). Furthermore, “[a] guilty plea is a solemn, judicial admission of the truth of the charges” against the applicant. Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Admissions “made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements.” Id. at 137-38, 654 S.E.2d at 874 (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)). Pleading guilty to avoid a possibly greater sentence, without more, does not render a guilty plea involuntary. Brady v. United States, 397 U.S. 742, 90 S.Ct. 1463, 25 L.Ed. 2d 747 (1970); Wicker v. State, 310 S.C. 8, 12, 425 S.E.2d 25, 27 (1992).

The record before this Court clearly shows that Applicant was fully informed of the consequences of entering her guilty plea. The record shows Applicant’s plea was not coerced, and it was Applicant’s decision to plead guilty. Applicant was advised that by pleading guilty she gave up her right to challenge the evidence the State had against her, as well as her right to put up any affirmative defenses. Additionally, Applicant testified at the PCR hearing that she pled guilty because she did not want to face the possibility of life in prison. Notably, Applicant never denied her guilt at the PCR hearing and acknowledged the victim “died because of me.” Applicant has failed to present any compelling reasons why she should be allowed to depart from her valid plea of guilty. Accordingly, this Court finds Applicant’s plea was knowingly, intelligently, and voluntarily entered.

#### 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 Applicant failed to present sufficient evidence regarding such allegations. Accordingly, this Court finds Applicant has abandoned any such allegations.

### CONCLUSION

Based on the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant her application. Plea counsel rendered effective assistance in regard to the claims raised by Applicant. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

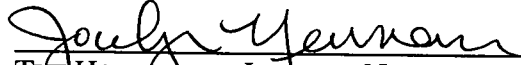
This Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRPC, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

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**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 18<sup>th</sup> day of July, 2016

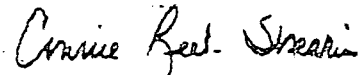
  
THE HONORABLE JOCELYN NEWMAN  
Presiding Judge  
Twelfth Judicial Circuit

Columbia, South Carolina

2016 JUL 22 PM 3:04  
CONNIE REEL SHEARIN  
C.C.P. & G.S.  
FLORENCE COUNTY, SC

FILED

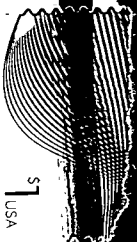
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CLERK OF COURT C.P. & G.S.  
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Johnsonville, SC 29555

SC Supreme Court  
P.O. Box 11330  
Columbia, SC 29211



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USA



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USA



**REDI-SEAL**  
NO MOISTURE NECESSARY  
RAISE FLAP AND SEAL