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

October 28, 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: Dexter Walcott, #268361, v. State of South Carolina
2015-CP-43-434

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

Yours very truly,

Lance S. Boozer

Enclosures
cc: Julie Coleman, AAG
Loriene French, OAD
Dexter Walcott, #268361

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-43-434

Dexter Walcott, #268361, ...Petitioner,

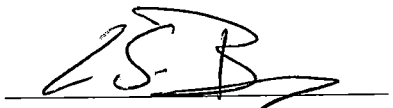
v.

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

NOTICE OF APPEAL

The Petitioner appeals the Honorable Brooks P. Goldsmith's Order dated October 3, 2016, denying post-conviction relief to the Petitioner. The Order was received by undersigned counsel on October 28, 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

October 28, 2016

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED
OCT 31 2016
S.C. SUPREME COURT

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

The Honorable Brooks P. Goldsmith, Circuit Court Judge

Case No. 2015-CP-43-434

Dexter Walcott, #268361, ...Petitioner,

v.

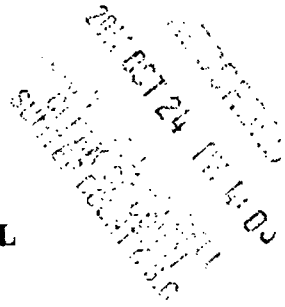
State of South Carolina,.....Respondent.

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 Julie Coleman, P.O. Box 11549, Columbia, SC 29211. I further certify that all parties required by Rule to be served have been served this 28th day of October, 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	)	IN THE COURT OF COMMON PLEAS THIRD JUDICIAL CIRCUIT
Dexter Walcott, #268361, Applicant, v. State of South Carolina, Respondent.	)	2015-CP-43-434 **ORDER OF DISMISSAL**



This matter comes before the Court by way of a post-conviction relief (PCR) application filed on February 18, 2015. Respondent submitted its return on March 27, 2015. An evidentiary hearing into the matter was convened on March 15, 2016, 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 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. Applicant was true bill indicted at the November 2013 term of the Sumter County Grand Jury for burglary-first degree, possession of a weapon during a the commission of a violent crime, and assault and battery – first degree (2013-GS-43-1017). Steven McKenzie, Esquire represented Applicant. On June 12, 2014, Applicant pled guilty to the lesser included offense of burglary-second degree (violent), assault and battery – first degree, and possession of weapon during a violent crime before the Honorable R. Ferrell Cothran, Jr. Judge Cothran sentenced Applicant without negotiations or recommendations to fourteen years imprisonment

for burglary-second degree, ten years imprisonment for assault and battery – first degree, and five years imprisonment for possession of a weapon during a violent crime with all sentences running concurrently. Applicant did not appeal his guilty plea or sentence.

ALLEGATIONS[1]

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

1. Ineffective Assistance of Counsel
   a. Ineffective assistance of counsel for failing to object to indictment.
   b. Counsel failed to obtain impaneling documents and supporting materials prior to trial.

2. Involuntary Guilty Plea
   a. No factual basis for guilty plea rending guilty plea involuntary.

3. Prosecutorial Misconduct
   a. Indictment ineffective under Rule 3(c) etc...
   b. Prosecution failed to comply with statutory law provisions Ann. 14-9-210.
   c. Prosecutor knowingly and willingly caused false and misleading information to be printed and published in Applicant's indictment.
   d. State unlawfully empaneled its grand jury outside the jurisdiction of the court of general sessions for illegal return of a true bill indictment.
   e. Grand jury failed to be sworn.
   f. State failed to comply with 17-25-10 as well as the Fifth Amendment.

4. Denial of Due Process
   a. Violated rights etc...

5. Lack of Subject Matter Jurisdiction
   a. Defective indictment
   b. Indictment was not filed with clerk of court lacking personal jurisdiction to entertain the indictment.

6. Judicial Misconduct
   a. Applicant further alleges judicial misconduct for allowing an illegal indictment.

[1] Applicant filed two amendments on November 9, 2015, and February 29, 2016 adding additional allegations.

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. Respondent presented testimony from Steven McKenzie, 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 guilty plea transcript, the PCR application, and both amendments to the application.

Applicant moved to be provided with a copy of all documents pertaining to the empanelment of the state grand jury which indicted him. Applicant also moved for a continuance to allow time to obtain these documents. This Court denied both motions.

Applicant testified that he met with plea counsel twice prior to his guilty plea. He stated that he did not recall reviewing discovery with plea counsel, they did not discuss possible defenses, and he did not give plea counsel any leads or witnesses to investigate. He testified that he did not want a new trial, he only wanted his sentence vacated. He stated that he had never actually been indicted by the grand jury. Applicant's Exhibit #1, a calendar of the terms of court from November 2013, was admitted without objection. Applicant testified that this calendar showed that the grand jury which indicted him never actually met in the time in which the indictment stated they did because it did not show the court of General Sessions for Sumter County.

Applicant testified that he did recall telling the plea judge that he was satisfied with his attorney's services, that no one was promising or threatening him in order to plead guilty, and that he was indeed guilty of this crime.

Plea Counsel testified that he had been practicing law for twenty-two years. He stated that he was retained to represent the Applicant in this case. He stated that he never thought to

check the indictment because it was true billed, and he never tried to get the empanelment documents from the grand jury because he never saw anything wrong with the indictments. He stated that some of the State's evidence against Applicant included the 9mm firearm that was used to shoot the victim in the leg and was found in Applicant's residence and a statement that Applicant's girlfriend gave to law enforcement. He opined that this was an easy burglary-first case.

Plea Counsel testified that he always advises his clients that they have ten days to file an appeal. He stated that he did not recall Applicant asking him to file an appeal after his guilty plea.

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 pleas, 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).

Ineffective assistance of counsel for failing to object to indictment.

Applicant's allegation that plea counsel was ineffective for failing to object to the indictment is meritless and should be dismissed.

In post-conviction relief, an Applicant wishing to raise challenges to the sufficiency of an indictment must do so in the context of ineffective assistance of counsel, basically alleging that his trial counsel failed to properly move to quash the indictment in accordance with S.C. Code Ann. § 17-19-90 (2003).

This Court finds that Counsel made no errors in advising Applicant on the sufficiency of the indictment and Applicant produced no evidence to support his allegations that the indictment is defective. Here there was simply no reason to object to the indictments. Counsel credibly testified that he never saw anything wrong with the indictments as they were true billed and properly presented to the grand jury. Accordingly, this Court finds Applicant has failed to satisfy his burden of proving that Counsel's performance in not challenging the sufficiency of the indictment was deficient.

Furthermore, Applicant has failed to show that a challenge to the indictment would have been successful. Applicant also failed to demonstrate that, but for plea counsel's advice, he would not have entered a guilty plea. Id. at 59; see also Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009) (applicant must show "something that would have affected counsel's advice to [the applicant] to accept the plea bargain offered or that would have caused [the applicant] to decline to accept it"). Furthermore, the record before the Court shows Applicant entered his plea freely and voluntarily with a full understanding of the evidence against him. See Simpson v. State, 317 S.C. 506, 508, 455 S.E.2d 175, 176 (1995) ("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." (citing Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991))). Because Applicant entered his plea after being fully advised of possible defenses, his plea waived his right to raise any defenses to his crimes. See Whetsell v. State, 276 S.C. 295, 297, 277 S.E.2d 891, 892 (1981) (holding knowing and voluntary plea waives non-jurisdictional defects and defenses, including challenges to the sufficiency of the evidence) (citations omitted). This Court finds there is no reasonable probability that had

Counsel challenged the sufficiency of the indictment, Applicant would have chosen to go to trial rather than plead guilty.

Accordingly, this Court finds Applicant has failed to satisfy his burden of proving he was prejudiced by any alleged error of Counsel. Therefore, this allegation is denied and dismissed.

Counsel failed to obtain impaneling documents and supporting materials prior to trial.

Applicant further alleges that plea counsel was inefficient for failing to obtain materials to prove the flaws in the indictments. This allegation is meritless and should be dismissed.

Even if Plea Counsel had moved to quash the indictment and been successful, jeopardy does not attach until a jury is sworn or the plea judge accepts the guilty plea. Crist v. Bretz, 437 U.S. 28, 37 (1978); United States v. Hecht, 638 F.2d 651, 657 (3d Cir. 1981). Under this well-settled principle, the State would have been readily able to re-indict Applicant on the same charge.

Furthermore, these alleged faulty indictments are not prejudicial because they put the Applicant on notice of the charges against him. "An indictment is merely a notice document." State v. Baker, 390 S.C. 56, 62, 700 S.E.2d 440, 442 (Ct. App. 2010) (citing State v. Gentry, 363 S.C. 93, 102-103, 610 S.E.2d 494, 500 (2005). Whether or not the indictment could be made more definite and certain is irrelevant. Baker, 390 S.C. at 62, 700 S.E.2d at 442. The court noted the following:

> "Rather, the court must look at "the indictment with a practical eye in view of all the surrounding circumstances. The sufficiency of the indictment is determined by whether: (1) the offense charged is stated with sufficient certainty and particularity to enable a court to know what judgment to pronounce, and the defendant to know what he or she is called upon to answer and whether he or she may plead an acquittal or conviction thereon, and (2) whether it apprises the defendant of the elements of the offense that are intended to be charged.

Id. (citing Gentry, 363 S.C. at 102-103, 610 S.E.2d at 500).

Moreover, "an indictment passes legal muster when it charges the crime substantially in the language of the statute prohibiting the crime or so plainly that the nature of the offense charged may be easily understood." Id. at 63, 700 S.E.2d at 443 (citing State v. Tumbleston, 376 S.C. 90, 98, 654 S.E.2d 849, 853 (Ct. App. 2007.) Furthermore, in order to challenge the sufficiency of an indictment, an objection must be made before the jury is sworn in. S.C. Code Ann. §17-19-90 (2003).

A court reviewing an indictment for sufficiency should consider the indictment "'on its face,' *and* consider the events at trial." State v. Reddick, 348 S.C. 631, 636, 560 S.E.2d 441, 443 (Ct. App. 2002). (italics in original). In other words, a court should examine "the totality of the circumstances" to determine if Applicant was cognizant of the crimes for which he was charged. Id.

Moreover, when the indictment referenced the statute the elements of the charge are thereby incorporated into the indictment. See State v. Owens, 346 S.C. 637, 649, 552 S.E.2d 745, 751 (2001), overruled on other grounds by Gentry, 363 S.C. 93, 610 S.E.2d 494; see also State v. Beam, 336 S.C. 45, 50-51, 518 S.E.2d 297, 300 (Ct. App. 1999); see also State v. Crenshaw, 274 S.C. 475, 477, 266 S.E.2d 61, 62 (1980). This allegation is not proper for post-conviction relief as the sufficiency of an indictment must be challenged before the jury is sworn. Therefore, this allegation is denied and dismissed as it is improper for post-conviction relief, lacks factual support for the claim, and is without merit.

Involuntary Guilty Plea

Applicant argues his plea was not given freely and voluntarily. This Court finds otherwise and concludes that Applicant's 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).

Applicant alleges that there was no factual basis for his guilty plea, and this renders his plea involuntary. This allegation is meritless. The Plea Court found on the record that there was a factual basis for Applicant's plea and that it was freely and voluntarily entered into. See Guilty Plea Transcript, p. 6, ll. 4-5. The record reflects Applicant fully admitted his guilt to the plea court. "A guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights." Jamison v. State, 410 S.C. 456, 467, 765 S.E.2d 123, 129 (2014) (citing State v. Rice, 401 S.C. 330, 331-32, 737 S.E.2d 485, 485-86 (2013); Hyman v. State, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012)).

Notably the South Carolina Supreme Court has held "[a] guilty plea represents a break in the chain of events which has preceded it in the criminal process." Id. (citations omitted). "When a criminal defendant has solemnly admitted in open court that he is in fact guilty of the offense

with which he is charged, he may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea." Id. (citing Rice, 401 S.C. at 332, 737 S.E.2d at 486). Therefore, this Court finds the plea judge correctly found Applicant's plea was freely, voluntary, and intelligently made. Accordingly, this allegation must be dismissed.

Prosecutorial Misconduct

Applicant also alleges prosecutorial misconduct. Prosecutorial misconduct is not an issue for post-conviction relief. Rather, this allegation is a direct appeal issue that is procedurally barred by S.C. Code Ann. § 17-27-20(b) (2003). Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). The Applicant could have raised this issue on appeal. The failure to do so has waived this allegation as grounds for relief.

Regardless, it is Applicant's burden to prove actual prosecutorial misconduct. Alabama v. Smith, 490 U.S. 794, 109 S. Ct. 2201 (1989). Applicant has not carried his burden of proving actual prosecutorial misconduct, therefore, this allegation should be summarily dismissed. Applicant has presented no evidence to prove that any of the prosecutors involved in this case acted improperly in any manner or that they acted on this case with improper indictments. The records before this Court indicate that the indictments were properly true billed, the grand jury did meet and was sworn, and none of the information in the indictments was incorrect or improper. Therefore, these allegations of prosecutorial misconduct are meritless and should be dismissed.

Denial of Due Process

The Applicant alleges a denial of due process of law. The Applicant's allegation claims infringement of his rights under certain amendments to the United States Constitution. However, the Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must "... specifically set forth the grounds upon which the application is based." S.C. Code § 17-27-50 (2003). In an application for post-conviction relief, it is incumbent upon the Applicant to make at least a *prima facie* showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965).

Since the Applicant has failed to make even a *prima facie* showing that his due process and other constitutional rights were violated, this Court finds this allegation is meritless and should be denied.

Lack of Subject Matter Jurisdiction

This Court also finds that Applicant's subject matter jurisdiction challenge is without merit. It is clear that defects in an indictment do not affect subject matter jurisdiction. See State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005); U.S. v. Cotton, 535 U.S. 625 (2002). An indictment is a notice document, and the indictments in this case were certainly sufficient to give Applicant notice of the charges against him. State v. Gentry, 363 S.C. 93, 102, 610 S.E.2d 494, 500 (2005). Furthermore, Applicant's indictment is valid on its face because it states all the necessary elements of the crime, the date of the offense, and the name of the accused. Costello v. United States, 350 U.S. 359, 363 (1956). Likewise, the indictments were "True Billed" and signed by the foreman. See Pringle v. State, 287 S.C. 409, 410–11, 339 S.E.2d 127, 128 (1986).

Thus, Applicant's indictments appear to have been lawfully obtained.[2] The indictment procedure in Applicant's case did not deprive him of due process.

An Applicant may still challenge the subject matter jurisdiction of the trial court, and such a claim is one that may be raised at any time. See Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001), overruled in part by Gentry, supra. However, "[c]ircuit courts obviously have subject matter jurisdiction to try criminal matters." Gentry, supra, 610 S.E.2d at 499; See also S.C. Const. Art. V, § 7. Thus, the Applicant must present evidence that his case is of some class over which the circuit court does not have the authority to preside. The Applicant's conviction involved a criminal charge in General Sessions Court. Thus, the circuit court had subject matter jurisdiction.

Based on the foregoing, this Court finds that this allegation should be denied and dismissed.

Judicial Misconduct

Applicant alleges judicial misconduct for allowing an illegal indictment. This allegation is meritless and should be dismissed.

A factual finding of judicial misconduct must be supported by clear and convincing evidence. Matter of Peeples, 297 S.C. 36, 374 S.E.2d 674 (1988) (per curiam); Matter of Gravely, 321 S.C. 235, 237, 467 S.E.2d 924, 925 (1996). First, in accordance with the findings above, Applicant has failed to prove that there were any insufficiencies in the indictments. Second, even if there were, Applicant has failed to meet his burden in presenting any evidence proving that the Plea Court knew about these alleged flaws and purposefully accepted the guilty

[2] Even if Plea Counsel moved to quash the indictment and been successful, jeopardy does not attach until a jury is sworn or the plea judge accepts the guilty plea. Crist v. Bretz, 437 U.S. 28, 37 (1978); United States v. Hecht, 638 F.2d 651, 657 (3d Cir. 1981). Under this well-settled principle, the State would have been readily able to re-indict Applicant on the same charge.

plea despite them. Applicant has proven no judicial misconduct at all, and has failed to point to even one of the Rules of Professional Conduct that would deem this action by the judge inappropriate.

Furthermore, even if Applicant had proven that the Plea Court had violated some Rule of Professional Conduct, this is not prejudicial because it would not alter the outcome of his guilty plea. "In our view, the Rules of Professional Conduct have no bearing on the constitutionality of a criminal conviction. Their purpose is to regulate and guide the legal profession by defining proper ethical conduct, and 'nothing in the Rules should be deemed to augment any substantive legal duty of lawyers or the extra-disciplinary consequences of violating such a duty.'" Langford v. State, 310 S.C. 357, 360, 426 S.E.2d 793, 795 (1993) (citing Rule 407, SCACR). Therefore, this allegation is meritless and should be dismissed.

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 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 3 day of October, 2016.

BROOKS P. GOLDSMITH
Presiding Judge
Third Judicial Circuit

2, South Carolina

RECORDED

2015 MAR 11 PM 4:57

JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, SC

STATE OF SOUTH CAROLINA)
COUNTY OF)

IN THE COURT OF *(Select one.)*
☑ **COMMON PLEAS** ☐ **FAMILY COURT**

Dexter Antonio Walcott # 268 38 **JUDICIAL CIRCUIT**

CASE NO.: 2015-CP-43-434

Plaintiff(s),
-vs-
State Of South Carolina
Defendant(s).

APPOINTMENT OF COUNSEL OR GAL
(Select one.)
☑ **ORDER**
☐ **AMENDED ORDER**

CERTIFIED TRUE COPY OF ORIGINAL FILED
DEPUTY CLERK OF COURT
SUMTER 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 Dexter Walcott, 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 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 11 DAY OF Mar, 2015.

SCCA/267 (03/07)

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