

# THE BOOZER LAW FIRM, LLC

---

**Lance S. Boozer, Esq.\***  
\*Also admitted in Florida

1400 Laurel Street, Suite 4A  
Columbia, SC 29201

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

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

January 19, 2017

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

The Honorable Beulah G. Roberts  
Clerk of Court  
P.O. Box 136  
Manning, SC 29102

**RECEIVED**

JAN 23 2017

S.C. SUPREME COURT

**RE: Leron Dingle, #361404, v. State of South Carolina  
2015-CP-14-275**

Dear Mr. Shearouse and Ms. Roberts:

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

Yours very truly,



Lance S. Boozer

Enclosures

cc: Julie Coleman, AAG  
Loriene French, OAD  
Leron Dingle, #361404

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

**RECEIVED**

JAN 23 2017

APPEAL FROM CLARENDON COUNTY  
Court of Common Pleas

S.C. SUPREME COURT

The Honorable Jocelyn Newman, Circuit Court Judge

Case No. 2015-CP-14-275

Leron Dingle, #361404, .....Petitioner,

v.

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

**NOTICE OF APPEAL**

The Petitioner appeals the Honorable Jocelyn Newman's Order dated December 20, 2016, denying post-conviction relief to the Petitioner. The Order was received by undersigned counsel on January 12, 2017. A copy of the Order on appeal is attached to this notice.

Respectfully submitted,



Lance S. Boozer  
The Boozer Law Firm, LLC  
1400 Laurel Street, Suite 4A  
Columbia, SC 29201  
Tele: 803-608-5543

January 19, 2016

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

**RECEIVED**

APPEAL FROM CLARENDON COUNTY  
Court of Common Pleas

JAN 23 2017

The Honorable Jocelyn Newman, Circuit Court Judge

S.C. SUPREME COURT

Case No. 2015-CP-14-275

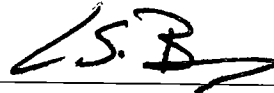
Leron Dingle, #361404, .....Petitioner,

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 19th day of January, 2017.



Lance S. Boozer  
The Boozer Law Firm, LLC  
1400 Laurel Street, Suite 4A  
Columbia, SC 29201  
Tele: 803-608-5543

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF CLARENDON ) THIRD JUDICIAL CIRCUIT

RECORDED  
2016 DEC 30 PM 3:59  
CLOCKED IN ERROR

Leron Dingle, #361404,

2015-CP-14-275

Applicant,

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

2017 JAN -6 PM 2:17

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 27, 2015. Respondent submitted its return on July 9, 2015. An evidentiary hearing was convened on July 26, 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 Julie A. Coleman of the South Carolina Attorney General's Office.

**I. PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clarendon County Clerk of Court. In July 2013, the Clarendon County Grand Jury indicted Applicant for Burglary, first degree, Murder, two counts of Attempted Murder, Armed Robbery, and Possession of a Weapon during the Commission of a Violent Crime (2013-GS-14-0166). Charles David Barr, Esquire, represented Applicant. On September 17, 2014, Applicant pled guilty as indicted Burglary, first degree, Murder, two counts of Attempted Murder, Armed Robbery, and Possession of a Weapon during the Commission of a Violent Crime. The Honorable DeAndrea G. Benjamin sentenced Applicant to a negotiated sentence of:

CERTIFIED TRUE COPY  
OF ORIGINAL FILED IN THIS OFFICE

DATE 1/6/2017

Baudah B. Roberts

CLERK OF COURT  
CLARENDON COUNTY, SC

- thirty (30) years' imprisonment for Burglary, first degree
- thirty years' imprisonment for Murder
- thirty years' imprisonment for the first count of Attempted Murder
- thirty years' imprisonment for the second count of Attempted Murder
- thirty years' imprisonment for Armed Robbery
- five (5) years' imprisonment for Possession of a Weapon during the Commission of a Violent Crime

All sentences were to run concurrently. Applicant did not appeal his plea or sentence.

### ALLEGATIONS

In his current application, Applicant alleges that he is being held in custody unlawfully based on the following allegations:

1. Ineffective assistance of counsel
  - a. "My lawyer didn't inform me of an 'appeal' or 'PCR'"

Applicant filed an amended application on February 22, 2016, adding an additional allegation of an involuntary guilty plea.

### II. APPLICABLE LAW

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their 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. Applicant must overcome this presumption in order 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. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any 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." Id. 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).

### 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).

#### INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant raises an allegation arguing that Plea Counsel was ineffective in his representation surrounding his guilty plea. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). This Court finds that the testimony presented at the PCR

hearing satisfies neither prong of the Strickland test; Applicant can show neither ineffectiveness nor prejudice, thus these allegations should be denied and dismissed with prejudice.

At the hearing, Plea Counsel credibly testified that he met with Applicant more than three times prior to his plea. He stated that he reviewed discovery with Applicant and with his parents, and he discussed each element of the charges against him, as well as possible defenses. Plea Counsel stated that the State's evidence against Applicant was strong, and it included statements from several witnesses who were present. He testified that he investigated everything that he could in this case.

Plea Counsel testified that Applicant did not ask him to file an appeal on his behalf. He stated that, if Applicant or his family had asked him to file an appeal, he would have done so. Plea Counsel further stated that he did not recall discussing post-conviction relief with Applicant, but if Applicant had asked him for information on it, he would have advised him.

Based on this testimony, this Court finds that Plea Counsel's representation did not fall below the standard of reasonableness under professional norms set out in Strickland. Plea Counsel acted competently in Applicant's best interest throughout the course of his representation and went above and beyond what was required of him. Applicant has failed to prove that Plea Counsel was ineffective in any way. This Court further finds that Plea Counsel was not ineffective for failing to discuss an appeal of his guilty plea or post-conviction relief. Furthermore, this Court finds that Applicant cannot prove any prejudice from any alleged failure to discuss post-conviction relief because Applicant did, in fact, file a timely application for post-conviction relief and received a hearing to argue his allegations.

Because Applicant has failed to meet his burden in proving that Plea Counsel was ineffective and that his ineffectiveness prejudiced him, these allegations are denied and dismissed with prejudice.

#### INVOLUNTARY GUILTY PLEA

Applicant alleges that his guilty plea was entered involuntary. This claim is meritless and must be denied.

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).

At the evidentiary hearing, Applicant testified that he did not want to plead guilty, but that he was scared into it by Plea Counsel. He stated that Plea Counsel told him that he was facing a lot of time in prison if he were convicted at trial and that it was in his best interest to



plead. He stated that he felt heartbroken and he felt like he had to plead guilty because of Plea Counsel's actions.

Plea Counsel testified that he reviewed Applicant's constitutional rights with him and with his parents before the guilty plea and Applicant never told him that he did not understand anything. He stated that it was Applicant's decision to plead guilty.

This Court finds that the record reflects that Applicant was fully advised of the rights he was giving up by pleading guilty. Applicant presented no credible evidence as to why he should be able to depart from his statements at the plea hearing. This Court finds very credible Plea Counsel's testimony that he advised Applicant of all facts and risks of pleading guilty and that it was Applicant's decision to plead. This Court finds that Applicant's plea was knowingly and intelligently entered. This Court finds that Applicant was not coerced and forced in any way to plead guilty, and he voluntarily chose to enter his plea.

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 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.

#### **IV. 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.

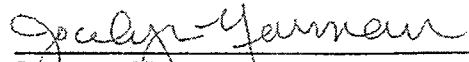
*[signature block on following page]*



**IT IS THEREFORE ORDERED:**

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

**AND IT IS SO ORDERED** this 20<sup>th</sup> day of December, 2016.

  
\_\_\_\_\_  
JOCELYN NEWMAN  
Presiding Judge  
Third Judicial Circuit

Columbia, South Carolina

STATE OF SOUTH CAROLINA  
COUNTY OF CLARENDON

LERON DINGLE,  
Plaintiff(s),  
-vs-

STATE OF SOUTH CAROLINA,  
Defendant(s).

) IN THE COURT OF (Select one.)  
)  COMMON PLEAS  FAMILY COURT  
) THIRD JUDICIAL CIRCUIT  
) CASE NO.: 2015-CP-14-00275  
) APPOINTMENT OF COUNSEL OR GAL  
) (Select one.)  
)  ORDER  
)  AMENDED ORDER

TYPE OF CASE/PROCEEDING: (Check one.)

- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> Post-Conviction Relief (PCR)/habeas case | <input type="checkbox"/> Adoption                  | <input type="checkbox"/> Juvenile          |
| <input type="checkbox"/> SVP case  | <input type="checkbox"/> Custody and/or Visitation | <input type="checkbox"/> Abuse and Neglect |
| <input type="checkbox"/> Minor Name Change                                   | <input type="checkbox"/> Other:                    |  |

It appears that LERON DINGLE, 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: AS PER REUEST OF THE SOUTH CAROLINA ATTORNEY GENERAL'S OFFICE.

Therefore, it is ordered that LANCE BOOZER, hereby is appointed as (Select one.)  
 counsel  lead counsel (if capital PCR case)  guardian ad litem  
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 24TH DAY OF JUNE, 2015.

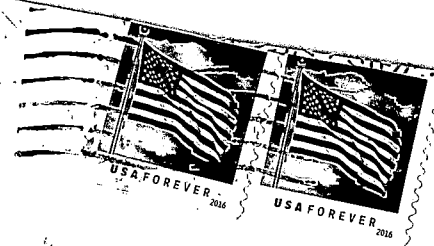
Brenda S. Roberts  
 Circuit Judge  Clerk of Court

CERTIFIED TRUE COPY  
OF ORIGINAL FILED IN THIS OFFICE  
DATE: 6/24/2015  
Brenda S. Roberts  
CLERK OF COURT  
CLARENDON COUNTY, SC

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense (OID) to register the case online with OID within fifteen (15) days of this appointment at [www.sccid.sc.gov](http://www.sccid.sc.gov), and further directs that reimbursement vouchers be submitted directly to SCCID and not to the trial judge or clerk of court. See SCCID website for further details.

7  
**THE BOOZER LAW FIRM, LLC**

1400 Laurel Street, Suite 4A  
Columbia, SC 29201



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