

Lowcountry Law Office

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E-Mail: Davis@LowcountryLawOffice.com

February 3, 2017

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

RECEIVED

FEB 09 2017

S.C. SUPREME COURT

RE: Daniel Monty v. State of South Carolina; Case #: 2013-CP-18-1687
Frankie Moore Vereen v. State of South Carolina; Case #: 2016-CP-18-1619

Dear Mr. Shearhouse:

Enclosed for filing is the Notice of Appeal (original and clocked copy) in the above Post Conviction Relief (PCR) cases. Also enclosed are the following:

- (1) Proof of service of the Notice of Appeal on the Respondent;
- (2) The Order of Dismissal &
- (3) A Request for Representation on Appeal.

The Applicant-Appellant(s) were represented by me as an indigent pursuant to my contract with the South Carolina Commission on Indigent Defense (SCCID) to handle PCR cases. By copy of this letter, I am forwarding a duplicate set of documents to the SCCID.

The Request for Representation on Appeal and the Affidavit in Support thereof are signed by me as attorney for Applicant-Appellant. Should you need anything further, do not hesitate to contact me. Thank you for your time and attention to this matter.

Sincerely,

Rodney D. Davis
South Carolina Bar #: 12396
4000 Faber Place Drive, Suite 300
Charleston, SC 29405
(843) 323-4353
Davis@LowcountryLawOffice.com

Enclosure(s). As stated above.
RDD/mmt

cc: Ruston Wesley Neely, Assistant Attorney General
Kimberly McCall, Appellate Division, SCCID

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

The Honorable Diane Goodstein

Case #: 2013-CP-18-1687

Daniel Monty,

Appellant.

v.

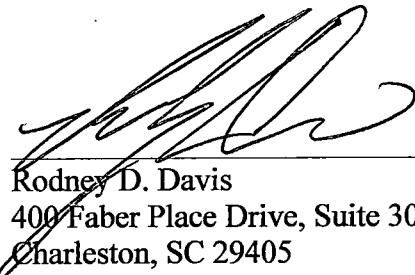
State of South Carolina,

Respondent.

NOTICE OF APPEAL

Daniel Monty appeals the denial of his Post Conviction Relief (PCR) application in this case. The application for relief was denied following an evidentiary hearing before the Honorable Diane Goodstein on October 25, 2016.

January 24, 2017



Rodney D. Davis
400 Faber Place Drive, Suite 300
Charleston, SC 29405
Attorney for Appellant

Other Counsel of Record:
Ruston W. Neely
Assistant Deputy Attorney General
State of South Carolina
P.O. Box 11549
Columbia, SC 29211-1549
Attorney for Respondent

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

FEB 09 2017

The Honorable Diane Goodstein, Circuit Court Judge

S.C. SUPREME COURT

Case No.: 2013-CP-18-1687

Daniel Monty,

Appellant,

v.

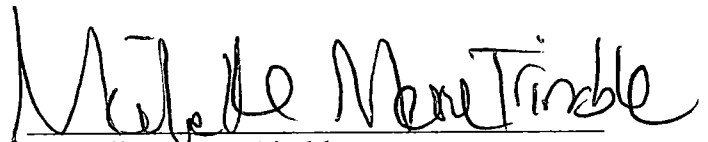
State of South Carolina,

Respondent.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State by mailing a copy, via US Mail, to the address of record, Ruston W. Neely, P.O. Box 11549, Columbia, South Carolina 29211-1549, on January 26, 2017.

January 26, 2017



Michelle Moore Trimble
Paralegal to Rodney D. Davis
400 Faber Place Drive, Suite 300
Charleston, SC 29405
(843) 323-4353
Davis@LowcountryLawOffice.com
Attorney for Appellant

Other Counsel of Record:
Ruston W. Neely, Assistant Attorney General
Office of the Attorney General, State of South Carolina
P.O. Box 11549
Columbia, SC 29211-1549
Attorney for Respondent

CERTIFIED COPY

1/30/2017

Cheryl Anderson
Clerk of Court
Dorchester County

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

The Honorable Diane Goodstein

Case #: 2013-CP-18-1687

RECEIVED

FEB 09 2017

S.C. SUPREME COURT

Daniel Monty,

v.

State of South Carolina,

Appellant.

Respondent.

NOTICE OF APPEAL

Daniel Monty appeals the denial of his Post Conviction Relief (PCR) application in this case. The application for relief was denied following an evidentiary hearing before the Honorable Diane Goodstein on October 25, 2016.

January 24, 2017



Rodney D. Davis
400 Faber Place Drive, Suite 300
Charleston, SC 29405
Attorney for Appellant

Other Counsel of Record:
Ruston W. Neely
Assistant Deputy Attorney General
State of South Carolina
P.O. Box 11549
Columbia, SC 29211-1549
Attorney for Respondent

CERTIFIED COPY

1/30/2017

Cheryl Graham
Clerk of Court
Dorchester County

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

The Honorable Diane Goodstein, Circuit Court Judge

Case No.: 2013-CP-18-1687

Daniel Monty,

Appellant,

v.

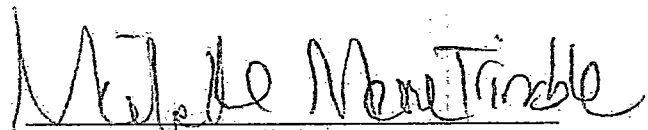
State of South Carolina,

Respondent.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State by mailing a copy, via US Mail, to the address of record, Ruston W. Neely, P.O. Box 11549, Columbia, South Carolina 29211-1549, on January 26, 2017.

January 26, 2017



Michelle Moore Trimble
Paralegal to Rodney D. Davis
400 Faber Place Drive, Suite 300
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(843) 323-4353
Davis@LowcountryLawOffice.com
Attorney for Appellant

Other Counsel of Record:
Ruston W. Neely, Assistant Attorney General
Office of the Attorney General, State of South Carolina
P.O. Box 11549
Columbia, SC 29211-1549
Attorney for Respondent

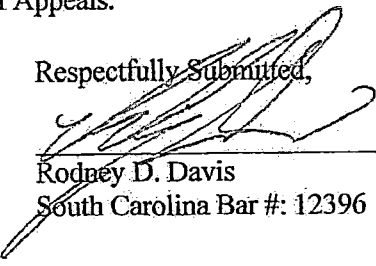
STATE OF SOUTH CAROLINA)	IN THE SUPREME COURT OF SOUTH CAROLINA
)	
COUNTY OF DORCHESTER)	Case #: 2013-CP-18-1687
)	
)	
DANIEL MONTY,)	
)	
Applicant.)	REQUEST FOR REPRESENTATION ON APPEAL
)	
-versus-)	
)	
STATE OF SOUTH CAROLINA,)	
)	
Respondent.)	

On behalf of the request of the above-named Applicant, to be represented by the South Carolina Commission of Indigent Defense, Appellate Division (SCCID), the undersigned attorney would show unto this Honorable Court that:

1. He is the attorney for the Applicant-Appellant in the above captioned case. The Applicant-Appellant was in custody during and taken into custody immediately following the Post Conviction Relief (PCR) hearing and was not available to personally sign this request;
2. The Applicant-Appellant was represented by the undersigned attorney as an indigent, pursuant to a contract with the SCCID;
3. The Applicant-Appellant has been informed that he may request assistance from the SCCID Appellate Division in perfecting his appeal;
4. A timely Notice of Intent to Appeal has been filed on the Applicant-Appellant's behalf;
5. The Applicant-Appellant has been informed that nothing requires SCCID Appellate Division to pursue this appeal unless that office's Chief Attorney is satisfied that there is arguable merit to this appeal and that he cannot afford to hire an attorney.

At this time, the Applicant-Appellant requests the aid of the SCCID Appellate Division in perfecting his appeal to the South Carolina Court of Appeals.

Respectfully Submitted,


 Rodney D. Davis
 South Carolina Bar #: 12396

Charleston, South Carolina.
 January 24, 2017

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)
)

CASE NO: 2013-CP-18-1687

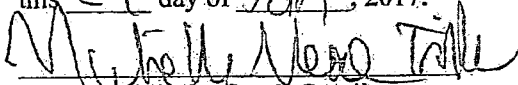
VERIFICATION

PERSONALLY appeared before me, Rodney D. Davis, being first duly sworn, deposes and says that he has read the foregoing *Request for Representation on Appeal* to be filed on behalf of the Applicant-Appellant, **Daniel Monty**, and the same is true of his knowledge except those matters alleged on information and belief, and as to those matters, he believes them to be true.



Rodney D. Davis
South Carolina Bar #: 12396

SWORN to and subscribed to me
this 24 day of Jan, 2017.



Notary Public for South Carolina

My Commission expires 4/25/2026

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

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2013CP1801687

CERTIFIED COPY

Daniel Brian Monty

2017 JAN 11 AM 9:27

South Carolina State of

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

CLERK OF COURT
 DORCHESTER COUNTY

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.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Diane S. Goodstein
 Circuit Court Judge

2112
 Judge Code

1/11/2017
 Date

For Clerk of Court Office Use Only

This judgment was entered on 1/11/2017, and a copy mailed first class or placed in the appropriate attorney's box on 1/11/2017, to attorneys of record or to parties (when appearing pro se) as follows:

Daniel Brian Monty, #355627, Rci Ca-12 P. O. Box 2039
Ridgeland, SC 29936
Rodney Duane Davis 4000 Faber Place Drive Suite 300
Charleston, SC 29405

Rusty W. Neely, PO Box 11549 Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Cheryl Graham

Court Reporter

Cheryl Graham - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRCP.

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.

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Daniel Monty, #355627,)
)
Applicant,)

Case No. 2013-CP-18-1687

v.)

ORDER OF DISMISSAL

State of South Carolina,)
)
Respondent.)
_____)

2013 JAN 11 AM 9:21
CERTIFIED COPY
CLERK OF COUNTY
DORCHESTER COUNTY

This Court convened an evidentiary hearing into the matter on October 25, 2016, at the Dorchester County Courthouse. Applicant was present at the hearing and represented by Rodney Davis, Esquire. Ruston W. Neely, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

Applicant's plea counsel, Henry R. Schlein, Esquire (hereinafter "plea counsel") was present and testified. This Court had the opportunity to listen to the testimony of Applicant and plea counsel. This Court had before it a copy of the plea transcript, the records of the Dorchester County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, and the pleadings in this matter. This Court finds as follows:

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Dorchester County Clerk of Court. Applicant was indicted during the September 2008 term of the Dorchester County Grand Jury for Criminal Sexual Conduct with a Minor, second degree (2008-GS-18-1105). Applicant was represented by Henry R. Schlein, Esquire. On May 31, 2013 Applicant pled guilty as indicted pursuant to North

Carolina v. Alford¹ before the Honorable Edgar W. Dickson. Judge Dickson sentenced Applicant to six years imprisonment. Applicant did not appeal his guilty plea or sentence.

II. ALLEGATIONS

On October 25, 2016, Applicant alleged the following grounds in his application:

1. Ineffective Assistance of Counsel, in that:
 - a. Counsel failed to properly investigate the law and facts of the indictment for Criminal Sexual Conduct;
 - b. Counsel failed to inform Applicant of whether the guilty plea was for a violent or non-violent offense;
 - c. Counsel "gave Applicant erroneous information about direct appeal right";
 - d. Counsel failed to inform Applicant of the elements of the offense and failed to explain that the State has the burden of proving the elements beyond a reasonable doubt.
2. Involuntary Guilty Plea, in that:
 - a. The Community Supervision Program is a collateral consequence of Applicant's guilty plea that he was not informed about, which breached the plea agreement, making Applicant's plea involuntary
 - b. Community Supervision Program "is not part of sentence of court or trial judge"
3. The "Community Supervision Program violates the separation of powers clause."
4. Due Process Violation

At the evidentiary hearing, Applicant asked for his case to be remanded for trial and moved forward with the following allegations:

1. Ineffective Assistance of Counsel
 - a. Plea counsel failed to inform Applicant of the collateral consequences of his guilty plea.
 - b. Plea counsel failed to properly advise Applicant of his rights and the elements of the offenses to which he plead guilty
2. Plea counsel failed to properly investigate the case
3. Plea counsel did not properly investigate the case because he did not hire a DNA analyst due to lack of funding or review medical records with Applicant.

¹ 400 U.S. 25 (1975).

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

had ample opportunity to do so
This Court reviewed the record in its entirety, listened to the testimony given, and heard the arguments presented at the evidentiary 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 fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

In this post-conviction relief action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of plea counsel as a ground for relief, Applicant must prove plea counsel's "conduct so undermined the proper functioning of the adversarial process" that the plea proceedings "cannot be relied upon as having produced a just result." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. 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. Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976). A defendant

who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993).

As an initial matter, this Court finds the record fully supports the knowing and voluntary nature of Applicant's guilty plea. See Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (holding defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "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."). In addition, Applicant has presented no evidence or valid reasons why he should be allowed to depart from the truth of his statements made at the plea. See Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) ("[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." (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975))).

A. Ineffective Assistance of Counsel

The Court uses a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, Applicant must prove counsel's performance was deficient. Id. Under this first prong, the proper measure of performance is whether trial counsel provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The Court strongly presumes trial counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.

Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989). Second, any deficient performance must have prejudiced 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. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." Strickland, 466 U.S. at 688.

1. Whether Plea Counsel Failed to Inform Applicant of the Collateral Consequences of His Guilty Plea

At the evidentiary hearing, Applicant testified plea counsel did not advise him how his guilty plea would affect his parole eligibility, community supervision, or serving violent time. Plea counsel testified he advised Applicant of all his constitutional rights, the legal ramifications of an Alford plea, and the consequences of Applicant's guilty plea. This Court finds Applicant's testimony lacks credibility in this regard. This Court finds plea counsel's testimony credible in this regard.

In the instant case, plea counsel credibly testified he informed Applicant of the consequences of his guilty plea.

The imposition of a sentence may have a number of collateral consequences, however, and a plea of guilty is not rendered involuntary in a constitutional sense if the defendant is not informed of the collateral consequences. Parole eligibility typically is a collateral consequence of sentencing about which a defendant need not be specifically advised before entering a guilty plea. This is because parole eligibility is not a matter within the jurisdiction of the trial court, but falls within the province of the Board of Probation, Parole, and Pardon Services.
Brown v. State, 306 S.C. at 382-83, 412 S.E.2d at 400-01

Smith v. State, 329 S.C. 280, 284, 494 S.E.2d 626, 628 (1997)

Because the consequences of a violent crime are collateral, Smith's guilty plea is not rendered involuntary due to counsel's failure to inform him of the consequences of a violent crime conviction.

Smith v. State, 329 S.C. 280, 286, 494 S.E.2d 626, 629 (1997)

Applicant has not raised a legal ground for which there is post-conviction relief remedy.

Applicant has also failed to satisfy his burden of proving prejudice. See 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"). It is clear from the plea transcript that Applicant knew he was pleading to a violent offense. With Applicant present, the plea transcript records the following interchange between the court and plea counsel:

All right, sir. Now, he understands that this charge is both a violent and a most-serious offense?

Yes, sir. I've advised him of that.

He understands this counts as a strike?

I've explained the two strikes, three strikes law to him, sir.

Plea Trans. Page 5:2-7

Applicant did not object at the time and replied in the negative when the court asked Applicant if he needed more time to speak with his attorney. Plea Trans. Page 8:25. Further, at his guilty plea, Applicant admitted that plea counsel went over his sentence, evidence, and constitutional rights. Plea Trans. Page 7:19-8:7.

This Court finds Applicant was correctly informed as to the consequences of his guilty plea. This Court finds that Applicant has failed to satisfy his burden of proving the alleged deficiency. Applicant also failed to prove the alleged deficiency of plea counsel caused his guilty plea to be involuntary or unknowing. Accordingly, Applicant has failed to satisfy his burden of proving ineffective assistance of counsel with regard to this allegation and it is therefore denied and dismissed.

2. Whether Plea Counsel Failed to Properly Advise Applicant of His Rights and the Elements of the Offenses to Which He Plead Guilty

Applicant claimed he felt like he didn't have any defenses or anyone to speak for him. Plea counsel testified he advised Applicant of all his constitutional rights, the legal ramifications of an Alford plea, and the consequences of Applicant's guilty plea. This Court finds plea counsel's testimony credible in this regard.

This Court finds Applicant was correctly informed as to the consequences of his guilty plea. This Court finds that Applicant has failed to satisfy his burden of proving the alleged deficiency. Applicant also failed to prove the alleged deficiency of plea counsel caused his guilty plea to be involuntary or unknowing. Accordingly, Applicant has failed to satisfy his burden of proving ineffective assistance of counsel with regard to this allegation and it is therefore denied and dismissed.

B. Whether Plea Counsel Failed to Properly Investigate the Case

Applicant testified plea counsel did not independently investigate his case and he did not feel like he had a defense. Applicant admitted to speaking with plea counsel's investigator concerning potential witnesses. Plea counsel testified his investigator attempted to track down all potential fact witnesses and allegations. No evidence of false allegations or useful fact witnesses were found. Plea counsel testified he was ready to go to trial that day. This Court finds Applicant's testimony lacks credibility in this regard. This Court finds plea counsel's testimony credible in this regard.

Based on the testimony and plea transcript, this Court finds plea counsel did adequately investigate Applicant's case. This Court finds that Applicant has failed to satisfy his burden of proving the alleged deficiency. Applicant also failed to prove the alleged deficiency of plea counsel caused his guilty plea to be involuntary or unknowing. Accordingly, Applicant has failed

to satisfy his burden of proving ineffective assistance of counsel with regard to this allegation and it is therefore denied and dismissed.

C. Whether Plea Counsel Failed to Properly Investigate the Case Because Plea Counsel Did Not Hire a DNA Analyst Due to Lack of Funding or Review Medical Records with Applicant

Applicant testified plea counsel failed to hire a DNA analyst for trial due to a lack of funding. Applicant also alleged plea counsel failed to review the medical records with Applicant. Plea counsel testified he hired two experts with funding from court orders. Neither expert would have been called to trial because they did not give opinions favorable to Applicant's case. Plea counsel testified there was never a problem obtaining expert testimony or opinion based on lack of funding. Plea counsel testified he went over all evidence with Applicant. This was also evidenced in the plea transcript. Plea Trans. Page 3:17-19. This Court finds Applicant's testimony lacks credibility in this regard. This Court finds plea counsel's testimony credible in this regard.

Based on the testimony and plea transcript, this Court finds plea counsel hired two experts, including a DNA expert, and reviewed the victim's medical records with Applicant. This Court finds that Applicant has failed to satisfy his burden of proving the alleged deficiency. Applicant also failed to prove the alleged deficiency of plea counsel caused his guilty plea to be involuntary or unknowing. Accordingly, Applicant has failed to satisfy his burden of proving ineffective assistance of counsel with regard to this allegation and it is therefore denied and dismissed.

D. 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

any evidence regarding such allegations. Accordingly, this Court finds Applicant has abandoned any such allegations.

IV. 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 his application. 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 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), SCRCR, provides that if Applicant wishes to seek appellate review, his post-conviction relief attorney must serve and file a notice of appeal on Applicant's behalf. Applicant and his attorney are directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and

2. Applicant must be remanded to the custody of the Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this

9

day of

January

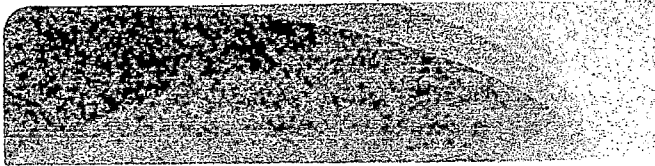
2017
~~2016~~

Diane S. Goodstein

DIANE GOODSTEIN
Presiding Judge
1st Judicial Circuit

A. Gray

South Carolina



Lowcountry Law Office

4000 Faber Place Drive Suite 300
Charleston, SC 29405
Phone: 843-323-4353 Fax: 843-323-4101
E-Mail: Division@LowcountryLawOffice.com

February 3, 2017

Kimberly McCall
South Carolina Commission on Indigent Defense
P.O. Box 11433
Columbia, SC 29211-1433

RECEIVED

FEB 09 2017

S.C. SUPREME COURT

RE: Daniel Monty v. State of South Carolina; Case #: 2013-CP-18-1687
Frankie Moore Vereen v State of South Carolina; Case #: 2016-CP-18-1619

Dear Ms. McCall:

Enclosed is a duplicate set of Appeal documents that I have forwarded to the Clerk of the Supreme Court concerning the above-listed Post Conviction Relief (PCR) cases. I was appointed to the PCR cases pursuant to a contract that I have with your office. I have requested that your office assume the appeal of these cases.

Should you need anything further, please do not hesitate to contact me.

Thank you for your time and attention to this matter.

Sincerely,

Rodney D. Davis
South Carolina Bar #: 12396
4000 Faber Place Drive, Suite 300
Charleston, SC 29405
(843) 323-4353
Davis@LowcountryLawOffice.com

Enclosure(s). As stated above.
RDD/mmt

cc: Ruston W. Neely, Assistant Attorney General