

# 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@boozerlawfirm.com](mailto:lsb@boozerlawfirm.com)  
Website: [www.boozerlawfirm.com](http://www.boozerlawfirm.com)

May 30, 2017

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

**RECEIVED**

MAY 31 2017

**RE: Shantel Harris, #364719, v. State of South Carolina  
2016-CP-43-1447**

**S.C. SUPREME COURT**

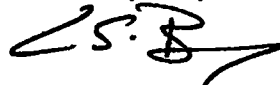
Dear Mr. Shearouse and Mr. Campbell:

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

Yours very truly,



Lance S. Boozer

Enclosures

cc: Julie Coleman, AAG  
Loriene French, OAD  
Shantel Harris, #364719

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

**RECEIVED**

APPEAL FROM SUMTER COUNTY  
Court of Common Pleas

MAY 31 2017

The Honorable D. Craig Brown, Circuit Court Judge

**S.C. SUPREME COURT**

Case No. 2016-CP-43-1447

Shantel Harris, #364719, .....Petitioner,

v.

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

**NOTICE OF APPEAL**

The Petitioner appeals the Honorable D. Craig Brown's Order dated May 2, 2017, and filed May 18, 2017, denying post-conviction relief to the Petitioner. The Order was received by undersigned counsel on May 30, 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

May 30, 2017

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

---

APPEAL FROM SUMTER COUNTY  
Court of Common Pleas

The Honorable D. Craig Brown, Circuit Court Judge

---

Case No. 2016-CP-43-1447

---

Shantel Harris, #364719, .....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 30th day of May, 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 )  
COUNTY OF SUMTER )  
)   
Shantel Harris, #364719, )  
)   
Applicant, )  
)   
v. )  
)   
State of South Carolina, )  
)   
Respondent. )

IN THE COURT OF COMMON PLEAS  
THIRD JUDICIAL CIRCUIT

2016-CP-43-1447

**ORDER OF DISMISSAL**

RECORDED  
2017 MAY 18 PM 1:58  
JAMES C. CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on August 1, 2016. Respondent made its Return and Motion for More Definite Statement on February 13, 2017. An evidentiary hearing was convened on March 28, 2017, 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.

Applicant testified on his own behalf at the evidentiary hearing. Applicant's plea counsel, Katarzyna Timmons, Esquire ("Plea Counsel") also testified. The Court had before it a copy of the guilty plea transcript, the records of the Sumter County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, and the pleadings. The Court finds as follows:

**I. PROCEDURAL HISTORY**

The records before this Court indicate that Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Sumter County. Applicant was indicted by the January 2015 term of the Grand Jury for Sumter County for Possession of a Weapon during the Commission of a Violent Crime, Armed Robbery,

*DCB*  
*P-1078*

Burglary – 1<sup>st</sup> degree, three counts of Kidnapping, Criminal Conspiracy, and Possession of a Weapon by a Convicted Felon (2015-GS-43-0054). Applicant was represented by Katarzyna Timmons, Esquire.

Applicant pled guilty as indicted to one count of Kidnapping, and also pled guilty to the lesser included offenses of Burglary – 2<sup>nd</sup> degree and Strong Arm Robbery pursuant to a recommendation by the State. Applicant was sentenced on July 14, 2015 by the Honorable R. Ferrell Cothran, Jr. to thirteen years' imprisonment for Kidnapping, thirteen years for Strong Arm Robbery, and nine years for Burglary – 2<sup>nd</sup> degree, to be served concurrently. Applicant did not appeal his guilty plea or his sentence.

## II. 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. "Violation of 6<sup>th</sup> Amendment."
2. Involuntary Guilty Plea
  - a. "Violation of 14<sup>th</sup> Amendment."

## III. 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, (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

DEB  
p-2018

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).

#### V. SUMMARY OF RELEVANT TESTIMONY

Applicant testified that he was originally charged with three counts of kidnapping, burglary, armed robbery, and conspiracy. He stated that he pled guilty and received a thirteen year sentence. He stated that he met with Plea Counsel a couple of times before his plea, but she never came to see him. Applicant testified that his co-defendant gave a statement to law enforcement that would have been used against him. He stated that he declined the initial plea offer for 20 years, but he later accepted the State's plea offer for 0-13 years, with a cap of thirteen years. He stated that Plea Counsel told him that he would not get the whole thirteen years because his kidnapping was not violent or sexual. He stated that he did not understand his parole eligibility at the time of the guilty plea.

DCB  
p- 378

Applicant testified that he was scared when he pled guilty, and he thought his lawyer was with him, but she was actually against him. Applicant stated that he would not have pled guilty if Plea Counsel had done what he asked or if he had known that it was a violent crime and he would get the full thirteen year sentence.

Plea Counsel testified that she was appointed to this case on September 15, 2014. She stated that her file indicates that she met with Applicant at least eight times. She stated that she reviewed discovery with Applicant at the jail, and the State had enough evidence to convict Applicant. She stated that she hired an investigator to investigate the case, but he could not be hired until after Applicant was indicted. She stated that she does not recall Applicant asking her to investigate a potential alibi witness named Devin Rodriguez, but she would have investigated him if Applicant were adamant about his innocence, and he was not. She stated that Applicant never told her that he did not commit the crime, but he just wanted a better plea offer.

Plea Counsel testified that she never promised Applicant that he would get less than a thirteen year sentence. She stated that she told him he could get anywhere from zero to thirteen years, and he understood that before the guilty plea. She testified that she explained to Applicant that kidnapping is a violent charge and is not parole-eligible, and the plea judge went over this with him at the guilty plea and it was on the sentencing sheet that he signed. She stated that she provided Applicant with his discovery before the plea, and she provided him with another printed copy of his discovery material after the plea when he asked for it.

#### **VI. 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

*DCB*  
*p. 4 of 8*

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).

As a matter of general impression, this Court finds Applicant's testimony to be not credible. In contrast, this Court finds Plea Counsel's testimony to be very credible. These findings are applied to the specific findings below.

#### INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant has asserted an allegation of ineffective assistance of counsel. This Court finds this claim to be meritless and it should be denied and dismissed with prejudice. This Court finds that Plea Counsel's representation did not fall below the standards of professional norms in any manner. She met with Applicant at least eight times, communicated properly with him and reviewed all discovery materials with him. Based on this testimony and the record before the court, this Court finds that Plea Counsel's representation was not ineffective in any regard.

Plea Counsel credibly testified that she investigated Applicant's case and provided and reviewed the discovery material with him. She testified that Applicant understood what was happening at all times, and it was his decision to plead guilty. Plea Counsel explained Applicant's constitutional rights, the violent classification of his crime, and his lack of parole-eligibility. It is clear that Plea Counsel was well within the professional standards of representation in this case. Plea Counsel was not deficient in any regard, and there was no prejudice to Applicant from any of Plea Counsel's actions or inactions. Therefore, this allegation is denied and dismissed with prejudice.

#### 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

PCB  
p. 578

plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 23 L.Ed.2d 274 (1969). Defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 97 S. Ct. 1621, 52 L.Ed.2d 136 (1977)). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir.1975).

This Court finds that 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 she advised Applicant of all facts and risks of pleading guilty.

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

PCB  
1-6-78

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.

#### BLANK INDICTMENT

At the evidentiary hearing, Applicant argued to this Court that his indictments were invalid because they were blank and he was not properly indicted by a grand jury. This allegation is meritless. It is clear upon further investigation of the Clerk of Court's records that Applicant was properly true-bill indicted. Plea Counsel credibly testified that if there had been anything wrong with the indictment, she would have raised the issue to the plea judge before his guilty plea. The Circuit Court had proper jurisdiction of Applicant and Applicant has failed to meet his burden of proving that his conviction is improper or invalid in any manner. Therefore, these allegations are 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.

#### **VII. CONCLUSION**

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this court to grant his

DCB  
P-7/18


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 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 2 day of May, 2017.

  
\_\_\_\_\_  
D. CRAIG BROWN  
Presiding Judge  
Third Judicial Circuit

Florence, South Carolina

*Def  
p. 8 78*

STATE OF SOUTH CAROLINA RECORDED IN THE COURT OF (Select one.)  
COUNTY OF )  COMMON PLEAS  FAMILY COURT

2016 OCT 28 AM 10:15

Shantel Harris

JAMES D. CAMPBELL  
CLERK OF COURT  
SUMMER COUNCIL

CASE NO.: 2016-CP-43-1447

JUDICIAL CIRCUIT

Plaintiff(s),

-vs-

State of S.C.

Defendant(s).

ORDER

(Select one.)

AMENDED ORDER

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 <sup>Shantel</sup> Harris 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  
807 Gervais St  
Suite 203  
Columbia, SC 29201

counsel  lead counsel (if capital PCR case)  guardian ad litem

Therefore, it is ordered that <sup>Boozer</sup>, 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.

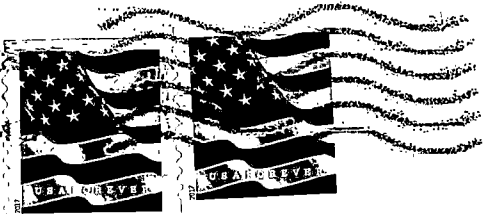
IT IS SO ORDERED THIS 28 DAY OF Oct, 20 16 .

**THE BOOZER LAW FIRM, LLC**

1400 Laurel Street, Suite 4A  
Columbia, SC 29201

COLUMBIA SC

30 MAY 2017 PM



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

29211-133030

