



LAW OFFICE OF  
**JEREMY A. THOMPSON**  
LLC

August 17, 2017

**RECEIVED**

AUG 21 2017

The Honorable Daniel E. Shearouse  
Clerk, South Carolina Supreme Court  
P.O. Box 11330  
Columbia, SC 29211-1330

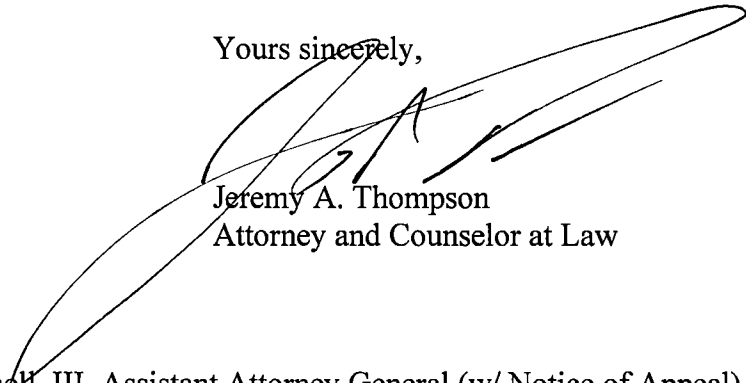
S.C. SUPREME COURT

RE: Juan Arroyo, #354538 v. State of South Carolina; 2015-CP-32-1885

Dear Mr. Shearouse:

Enclosed please find the original and two (2) copies of my Notice of Appeal in the above-captioned action. I would appreciate your filing the original, clocking the copies, and returning the two (2) clocked copies to me in the envelope provided. I would note that Judge Hood issued a written Order of Dismissal in this case which was filed with the Lexington County Clerk of Court's Office on June 2, 2017, and a Form 4 order denying the Petitioner's Rule 59(e), SCRCP, motion, which was filed on July 14, 2017. A copy of those orders are also enclosed. Finally, the Petitioner was represented below jointly by Tricia A. Blanchette, Esquire, and myself. Ms. Blanchette will not be continuing her representation on appeal, but I will be. With my thanks for your assistance in this matter and my best regards, I am,

Yours sincerely,

  
Jeremy A. Thompson  
Attorney and Counselor at Law

JAT/  
Enclosures

cc: James Clayton Mitchell, III, Assistant Attorney General (w/ Notice of Appeal)  
Tricia A. Blanchette, Esquire (w/ Notice of Appeal)  
Juan Arroyo, #354538 (w/ Notice of Appeal)  
Wendy Arroyo (w/ Notice of Appeal)

STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

Robert E. Hood, Presiding Judge

2015-CP-32-1885

**RECEIVED**

AUG 21 2017

S.C. SUPREME COURT

JUAN ARROYO, #354538,

Petitioner,

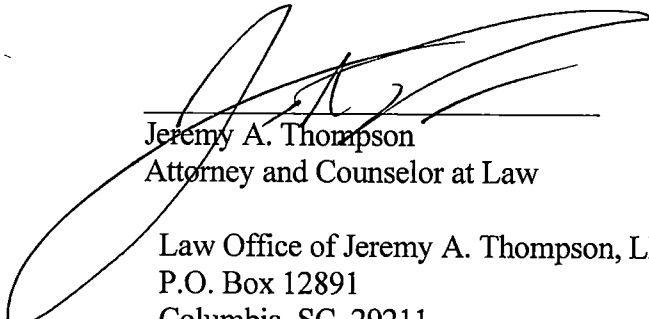
v.

STATE OF SOUTH CAROLINA,

Respondent.

NOTICE OF APPEAL

Juan Arroyo, #354538, appeals the Order of Dismissal denying his Application for Post-Conviction Relief filed June 2, 2017, and received by counsel on June 20, 2017, and the Form 4 Order denying the Petitioner's Rule 59(e), SCRCP, motion filed July 14, 2017, and received by counsel on July 21, 2017, issued by the Honorable Robert E. Hood, presiding judge.



Jeremy A. Thompson  
Attorney and Counselor at Law

Law Office of Jeremy A. Thompson, LLC  
P.O. Box 12891  
Columbia, SC 29211  
803-779-2555 Phone  
803-779-2556 Fax  
[jeremyatlaw@yahoo.com](mailto:jeremyatlaw@yahoo.com) E-mail

ATTORNEY FOR PETITIONER

This 17<sup>th</sup> day of August, 2017.

Other Counsel of Record:  
James Clayton Mitchell, III, Assistant Attorney General  
P.O. Box 11549  
Columbia, SC 29211  
Attorney for Respondent  
(803) 734-3737

STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

Robert E. Hood, Presiding Judge

2015-CP-32-1885

**RECEIVED**

AUG 21 2017

S.C. SUPREME COURT

JUAN ARROYO, #354538,

Petitioner,

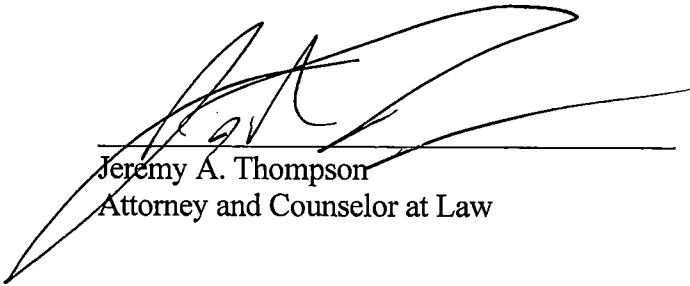
v.

STATE OF SOUTH CAROLINA,

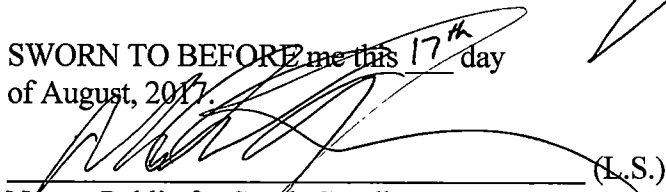
Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that one copy of the Petitioner's Notice of Appeal in the above-entitled case has been served upon opposing counsel, James Clayton Mitchell, III, Assistant Attorney General, P.O. Box 11549, Columbia, SC 29211, by mailing in an envelope properly addressed with postage prepaid on this 17<sup>th</sup> FL day of August, 2017.

  
Jeremy A. Thompson  
Attorney and Counselor at Law

SWORN TO BEFORE me this 17<sup>th</sup> day  
of August, 2017.

  
Notary Public for South Carolina

My Commission Expires: 7/10/2022

(L.S.)

ORIGINAL

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS  
ELEVENTH JUDICIAL CIRCUIT

FILED  
2017 JUN -2 11:14

Juan Arroyo #354538,

2015-CP-32-1885

Applicant,

LISA M. COVER  
CLERK OF COURT

v.

**ORDER OF DISMISSAL**

State of South Carolina,

Respondent.

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed May 22, 2015. Respondent filed a Return on September 28, 2016, requesting an evidentiary hearing be convened. Tricia A. Blanchette, Esquire, and Jeremy A. Thompson, Esquire, were retained to represent Applicant. An amended application was filed on March 24, 2017. An evidentiary hearing was held on April 18, 2017, at the Lexington County Courthouse. Applicant was present and represented by Counsel Blanchette and Thompson. J. Clayton Mitchell, Esquire, of the South Carolina Attorney General's Office represented Respondent.

At the PCR hearing, Applicant testified on his own behalf. Also testifying were Applicant's counsel, Debra Chapman, Esquire and Bradley M. Kirkland, Esquire. This Court had before it the State Grand Jury Clerk of Court records, Applicant's South Carolina Department of Corrections records, the PCR application, the Return, and the transcripts.

**I. PROCEDURAL HISTORY**

Applicant was indicted at the September 2010 term of the State Grand Jury on seven counts including trafficking heroin, possession with intent to distribute heroin, and conspiracy. (2010-GS-47-4707). Applicant initially proceeded to trial on November 15, 2011, before Judge Keesley. A mistrial was declared after the State solicited testimony from an agent concerning

other crimes unrelated to the charge being tried. Judge Keesley ruled that, although unintentional and inadvertent, the State violated an agreement with defense counsel that they would not mention controlled buys from other parts of the investigation. Applicant was then retried on March 4<sup>th</sup>-5<sup>th</sup>, 2013, where he was convicted. The Honorable William P. Keesley sentenced Applicant to twenty-five (25) years imprisonment.

A Notice of Appeal was filed on Applicant's behalf on March 14, 2013. Benjamin John Tripp, Esquire, represented Applicant on appeal, and submitted a final brief and petition to be relieved as counsel pursuant to Anders v. California, 386 U.S. 738 (1967). The South Carolina Court of Appeals dismissed the appeal. State v. Arroyo, Op. No. 2014-UP-338 (S.C. Ct. App. filed September 24, 2014). The remittitur was also sent on September 24, 2014.

In this action, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel for:
  - a. Failure to ensure that Judge Keesley's comments to the jury regarding a state wide grand jury case were cured and/or failure to move for a mistrial.
  - b. The handling of the plea negotiations with Applicant and the State. Specifically, failure to effectively communicate all plea offers to Applicant and the sentencing possibilities under such offers.
  - c. Failure to effectively make a double jeopardy argument at the second trial. Ineffective assistance of appellate counsel for failure to raise the issue on appeal.
  - d. Failure to object to the introduction of the video and narration of the video by testifying witness(es).
  - e. Failure to make all viable contemporaneous objections.
  - f. Having knowledge that the trial court was concerned with imposing the mandatory sentence and not asking the trial court to exercise discretion and sentence Applicant to a lesser term of years.

## II. APPLICABLE LAW

In a post-conviction relief action, Applicant bears the burden of proving the allegations in the 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, 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, 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 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 plea counsel, the Applicant must show 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, 59 (1985).

## III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the Clerk of Court records regarding the subject convictions, the records from the South Carolina Department of Corrections, the application for post-conviction relief, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon the information presented.

As a matter of general impression, this Court finds Applicant's testimony and assertions to be not credible. In contrast, this Court finds counsel's testimony to be credible and persuasive on all matters. These credibility findings have been applied to the Court's findings and conclusions set forth below.

#### **Ineffective Assistance of Counsel**

Applicant alleges Counsel was ineffective for a number of reasons. The Court will address each in turn.

##### **Failure to ensure that Judge Keesley's comments to the jury regarding a state wide grand jury case were cured and/or failure to move for a mistrial**

First, Applicant alleges Counsel were ineffective in failing to object to Judge Keesley's opening comments. The comments were made in his opening remarks to the jury:

THE COURT: Now, you'll notice that I read to you that this is alleged to have occurred primarily in Horry County. I won't get too detailed with it, but basically the venue of this case is here in Lexington. This is a State Grand Jury case. It falls under a specific statute and that's really insignificant except that the State is going to have to prove certain elements that I'll explain to the jury at a later time.

Before opening statements, Judge Keesley questioned whether the parties had reached an agreement concerning whether the crimes had significance in more than one county.

THE COURT: All right. Now, with State Grand Jury cases, there has to be a significance in more than one county. Is that something you all have stipulated to or is that – because you say you're not going to go into any of that –

MR. GOINGS: Your honor, the case law is clear that we only have to allege that in the indictment and for the grand jury's sake. We don't have to prove it at trial.

MS. CHAPMAN: That's correct, Your Honor. I did that research. And also, Your Honor, I will let you know the other – the balance of these charges, I guess, so to speak, still hasn't been decided by the appellate courts as far as the wiretaps go and that's why we're not mentioning that.

(Trial Tr. p. 73-74).

This Court finds Applicant failed to meet his burden in proving deficient performance. Judge Keesley seemed to be under the impression that the State needed to present some evidence regarding multi-county impact because the case was a State Grand Jury case but was corrected by the parties. Counsel's failure to object to the comments when made was not unreasonable. At worst the comments imposed a higher burden on the State and therefore could not be prejudicial to Applicant. Counsel's testimony that they saw nothing objectionable about the remarks is credible and persuasive. Furthermore, this is the correct interpretation of the law. See State v. Evans, 322 S.C. 78, 81, 470 S.E.2d 97, 99 (1996) (holding that in a SGJ case the State did not have to prove the offense had a multicounty impact at trial and was only required to prove the elements set forth in the charged offense). This allegation is denied and dismissed.

Plea Negotiations, Failure to Effectively Communicate Plea Offers and Failure to Advise of Sentencing Length and Implications

Next, Applicant alleges Counsel were ineffective in their handling of the plea negotiations with the State. Specifically, Applicant argues Counsel should have been more persuasive and encouraging in their advice that Applicant accept the State's plea offer.

Applicant testified that Counsel presented him with an offer from the State that would allow him to plead guilty to a lesser included charge with a sentencing range of fifteen (15) to eighteen (18) years' imprisonment. He testified that he had never seen the actual plea agreement that was signed by both Counsel Chapman and by David Stumbo, Assistant Deputy Attorney General. He testified that he rejected that offer and that he would also have rejected a range of

fourteen (14) to eighteen (18) years. He confirmed Counsels' testimony that he hoped to receive a plea offer with a lesser sentence. Applicant wrote a letter to Counsel Chapman stating that he would only plead to a time served offer.

Counsel Chapman testified that the original offer from the State was a negotiated term of (18) years' imprisonment. She explained that she was able to get the offer down to a recommended range of fourteen (14) to eighteen (18) years' imprisonment. She reviewed the offer with Applicant, who was not happy and believed that he deserved a better offer because of his cooperation with authorities. Notably, Counsel Kirkland testified that he aggressively advised Applicant that he should accept the State's offer of fourteen (14) to eighteen (18) years. He explained that Applicant had a strong faith in his religion and that he believed things would work out for the best. In response, Counsel Kirkland described how he attempted to use a parable to explain that Applicant needed to take action on his own and not be passive in deciding whether to accept the offer.

To be successful on an allegation of an un-conveyed plea offer, Petitioner must prove: (1) trial counsel's failure to communicate the State's initial plea offer constituted deficient performance, and (2) Petitioner was prejudiced by the deficient performance, or there was a reasonable probability that but for this deficient performance, he would have accepted the original plea offer. Davie v. State, 381 S.C. 601, 608, 675 S.E.2d 416, 420 (2009). Generally, failure to convey a plea offer constitutes deficient performance, although the existence of prejudice needs to be evaluated on a case-by-case basis. Id. at 613, 675 S.E.2d at 422. To show prejudice from a failure to convey a plea offer, Applicant must:

Demonstrate a reasonable probability [he] would have accepted the earlier plea offer had they been afforded effective assistance of counsel. [He] must also demonstrate a reasonable probability the plea would have been entered without the prosecution canceling it or the trial court refusing to accept it, if they had the

authority to exercise that discretion under state law. To establish prejudice in this instance, it is necessary to show a reasonable probability that the end result of the criminal process would have been more favorable by reason of a plea to a lesser charge or a sentence of less prison time.

Missouri v. Frye, 566 U.S. 133, 146 132 S. Ct. 1399, 1409 (2012).

This Court finds Counsel provided appropriate advice regarding the State's plea offer. Applicant has failed to show how Counsel acted unreasonable in any way. In fact, Counsel made extensive efforts in advising Applicant to accept the offer especially considering the strength of the State's case. Applicant's testimony regarding the offer and advice received from Counsel is not credible. Applicant was adamant that he was offered a range of fifteen (15) to eighteen (18) years' imprisonment, but the weight of the evidence shows that the offer was actually a range of fourteen (14) to eighteen (18) years.

As to the allegation that the plea offer was not effectively communicated, Applicant failed to meet his burden of proof. Counsels' testimony on this issue is particularly credible and persuasive. It is clear that Counsel not only communicated the offer to Applicant, but pled with him numerous times to accept the offer. Moreover, Applicant has failed to present evidence that he would have accepted the offer with the recommended sentencing range of fourteen (14) to eighteen (18) years. Contrary to the allegation, Applicant testified that would *not* have accepted this recommended sentencing range and explained that he would have rejected the offer. This allegation is denied and dismissed.

Failure to effectively make a double jeopardy argument at the second trial

Applicant further alleges that Counsel were ineffective in failing to effectively argue that the State was barred by double jeopardy from retrying Applicant. Specifically, Applicant argues that the State "goaded" or intentionally provoked Counsel into making a motion for a mistrial at the first trial. Applicant cites State v. Parker, 391 S.C. 606, 707 S.E.2d 799 (2011) in support of

this allegation. The application of the double jeopardy bar is dependent on a showing of the prosecutor's *subjective intent* to cause a mistrial in order to retry a case. Id. In Parker, the State introduced an unredacted graphic video of the crime scene, accused the defense attorney of unethical conduct in coaching witnesses, and implied to the jury that it was their community duty to convict the defendant of murder. Id.

Here, Counsel made the appropriate objection to preserve the double jeopardy issue. (Trial Tr. p. 72-73). Judge Keesley denied the motion because there was no proof that the State intentionally sought to cause a mistrial. As Counsel Chapman aptly pointed out, the questioning which led to the mistrial was introductory and came from one of the first witnesses to testify. Furthermore, in granting the mistrial at the first trial, Judge Keesley explicitly found that it was an unintentional mistake made by the prosecutor. Specifically, Judge Keesley found:

[I]t is absolutely abundantly clear to me that it was not an effort to goad the defense into a mistrial motion. I don't think the State wants a mistrial. I think they want to go forward with the case. So I don't find any prosecutorial misconduct. I think it was inadvertent. A question was asked and the answer was directly in response to the question, but I don't think that the questioner and the witness were on the same wavelength. And I certainly find absolutely no indication that there was an intentional effort to violate the agreement between counsel for the State and counsel for the defense.

(Mistrial Tr. p. 28-29). This Court finds the issue was properly preserved for appellate review and now turns to the allegations that appellate counsel was ineffective.

#### Ineffective Assistance of Appellate Counsel in Failing to Raise the Double Jeopardy Issue

In the alternative, Applicant argues that appellate counsel was ineffective for failing to raise the double jeopardy issue on appeal. This allegation is similarly denied as Applicant has failed to present sufficient evidence to prove deficiency or prejudice.

A defendant is entitled to effective assistance of appellate counsel. Southerland v. State, 337 S.C. 610, 615, 524 S.E.2d 833, 836 (1999). Although appellate counsel is required to

provide effective assistance of counsel, “appellate counsel is *not* required to raise every non-frivolous issue that is presented by the record.” Thrift v. State, 302 S.C. 535, 539, 397 S.E.2d 523, 526 (1990) citing Jones v. Barnes, 463 U.S. 745, 103 S. Ct. 3308, 77 L.Ed.2d 987 (1983). “For judges to second-guess reasonable professional judgments and impose on . . . counsel a duty to raise every ‘colorable’ claim suggested by a client would dissuade the very goal of vigorous and effective advocacy.” Jones, 463 U.S. at 754, 103 S. Ct. 3308.

Generally, in analyzing a claim of ineffective assistance of appellate counsel, the Court applies the Strickland test just as it would when analyzing a claim of ineffective assistance of trial counsel. See Southerland v. State, 337 S.C. 610, 616, 524 S.E.2d 833, 836 (1999). Thus, the analysis is the same as in evaluating trial counsel: we ask 1) whether appellate counsel's performance was deficient, and 2) whether Respondent was prejudiced by appellate counsel's deficient performance. Bennett v. State, 383 S.C. 303, 309, 680 S.E.2d 273, 276 (2009). To prove prejudice, the applicant must show that, but for counsel's errors, there is a reasonable probability he would have prevailed on appeal. Anderson v. State, 354 S.C. 431, 434, 581 S.E.2d 834, 835 (2003).

This Court finds Applicant failed to meet his burden in proving appellate counsel was deficient in failing to raise the double jeopardy issue. Additionally, Applicant cannot make a showing of prejudice because there is not a reasonable probability that the double jeopardy argument would have been successful on appeal. Tisdale, 357 S.C. at 476, 594 S.E.2d at 167 (no prejudice where there is no merit to arguments that were not briefed). The trial court's finding concerning the prosecutor's intent is a factual one and will not be disturbed on appeal unless clearly erroneous. State v. Coleman, 365 S.C. 258, 616 S.E.2d 444 (Ct. App. 2005). Applicant

cannot show that Judge Keesley's ruling was clearly erroneous. In fact, it was well supported by the record and by statements of counsel for the State.

Finally, Applicant suffered no prejudice because the Court of Appeals conducted an Anders review and ultimately dismissed the appeal. The Anders procedure ensures that no meritorious issues are overlooked and that before dismissing the appeal that it has no merit.<sup>1</sup> Applicant's burden in proving appellate counsel ineffective is high because "it is reasonable to presume that when the court affirms an Anders appeal it has fully considered and rejected all potential issues that were apparent on the face of the record." Towbridge v. State, 45 So. 3d 484, 487 (Fla. Dist. Ct. App. 2010). This Court finds that the double jeopardy issue was without merit and would not have been successful had it been raised on appeal.

Failure to object to the introduction of the video and narration of the video by testifying witness(es)

Next, Applicant alleges Counsel were ineffective in failing to object to the confidential informant (CI) narrating the video of the controlled buy. During the trial, the confidential informant testified that he was cooperating with investigators and wore a camera hidden on his clothing which depicted him purchasing drugs from Applicant. Applicant argues that the CI's testimony was improper because he was essentially narrating the events as the video was played for the jury.

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<sup>1</sup> In State v. McKennedy, 348 S.C. 270, 279, 559 S.E.2d 850, 856 (2002), the South Carolina Supreme Court outlined the Anders procedure as follows:

[A]ccording to Anders, the reviewing court is obligated to make a full examination of the proceedings on its own. After such an examination, if the reviewing court agrees with the attorney, it may dismiss the appeal or proceed to a decision on the merits. On the other hand, if the court disagrees with the attorney's analysis of the appeal, it must afford the defendant 'the assistance of counsel to argue the appeal.' The purpose of filing a brief under Anders is to ensure the merits of the appeal are not overlooked. The court has to conclude independently, regardless of counsel's conclusion, whether or not the appeal has merit before it can dismiss the appeal.

Counsel Chapman stressed how damaging the video was to Applicant's defense. It clearly showed him selling the drugs to the CI. Counsel Chapman explained that the parties reached an agreement to have the video played without any sound. She believed this to be beneficial to Applicant. Counsel Kirkland further explained the jury would not know he was a Mexican national if the sound was not played. He explained he did not want the jury to hear him speaking Spanish and that they hoped to chip away at the evidence anyway they could. Counsel Kirkland also noted that they agreed to let the State fast-forward parts of the video. This allowed Counsel to cast some doubt on the events that were not showed to the jury. Counsel Chapman and Kirkland did not see a meritorious objection to be made challenging the CI's testimony regarding the video. They also did not believe there was any objection to be made to suppress the video.

This Court finds Applicant failed to meet his burden on this allegation. Counsel were not deficient in failing to object to this line of testimony or in their handling of the video. Counsel's strategy in their handling of the video was perfectly reasonable. Further, this Court finds that any objection to the CI giving his account of what was happening on the video would have been without merit. See Rule 602, SCRE ("A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter."). Here, the State certainly introduced sufficient evidence that the CI had personal, intimate knowledge of the drug deal captured on video. Finally, Applicant failed to show that an objection to the video's admission would be sustained. This allegation is denied and dismissed.

### Failure to make all viable contemporaneous objections

At the hearing, Applicant informed the Court that it had not identified any further objections that it planned to use to support its case. This Court finds Applicant has abandoned this issue and it is therefore dismissed.

### Having knowledge that the trial court was concerned with imposing the mandatory sentence and not asking the trial court to exercise discretion and sentence Applicant to a lesser term of years

Applicant failed to meet his burden in proving Counsel were ineffective in failing to ask Judge Keesley to exercise discretion in sentencing Applicant to the mandatory term of imprisonment. South Carolina Code Ann. § 44-5-370(b) provides “a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars.” The sentence was dictated by the mandatory nature of the statute. Judge Keesley had no discretion to sentence Applicant to anything below twenty-five (25) years. Counsel cannot be held to be deficient for failing to request a sentence not within the statutory framework. Moreover, Judge Keesley would not have imposed a sentence contrary to the law, so Applicant has suffered no prejudice.

### **All Other Allegations**

As to any and all allegations that were raised in this matter and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

### **III. CONCLUSION**

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate Counsels’ performance was unreasonable under prevailing professional norms. Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625; Stalk v. State, 383 S.C. 559,

563, 681 S.E.2d 592, 594 (2009). Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

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

**IT IS THEREFORE ORDERED THAT:**

1. The application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 30 day of May, 2017.

*R. Hood*

ROBERT E. HOOD  
Presiding Judge

Columbia, South Carolina

LISA M. COHER  
CLERK OF COURT  
EVANSTON, SC

2017 JUN -2 AM 11:14

FILED

**FORM 4**

**STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON  
IN THE COURT OF COMMON PLEAS**

**JUDGMENT IN A CIVIL CASE  
CASE NUMBER 2015CP3201885**

Juan Arroyo #354538		State of South Carolina	
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<b>PLAINTIFF(S)</b>	<b>DEFENDANT(S)</b>
<b>Submitted by:</b>	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> 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):**

<input type="checkbox"/> Rule 12(b), SCRPC;	<input type="checkbox"/> Rule 41(a), SCRPC (Vol. Nonsuit);
<input type="checkbox"/> Rule 43(k), SCRPC (Settled);	<input type="checkbox"/> Other: _____
- ACTION STRICKEN (CHECK REASON):**

<input type="checkbox"/> Rule 40(j) SCRPC;	<input type="checkbox"/> Bankruptcy;
<input type="checkbox"/> Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;	<input type="checkbox"/> Other: _____
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**

<input type="checkbox"/> Affirmed;	<input type="checkbox"/> Reversed;	<input type="checkbox"/> Remanded;	<input type="checkbox"/> 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.**

Circuit Court Judge	Judge Code	Date
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**For Clerk of Court Office Use Only**

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box or 7th of June 2017, to attorneys of record or to parties (when appearing pro se) as follows:

Tricia A. Blanchette PO Box 2147 Leesville, SC 29070  
Jeremy Adam Thompson PO Box 12891 Columbia, SC  
29211

Melody Jane Brown PO Box 11549 Columbia, SC  
29211-1549

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ATTORNEY(S) FOR THE PLAINTIFF(S)

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ATTORNEY(S) FOR THE DEFENDANT(S)

**Lisa M. Comer/mh**

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Court Reporter

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Lisa M. Comer - 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-Filers or who are appearing pro se. See Rule 77(d), SCRCP.**

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

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

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STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

JUDGMENT IN A CIVIL CASE

IN THE COURT OF COMMON PLEAS

CASE NO. 2015 CP-32-1885

RECEIVED  
7/20/17

JUAN ARROYO, #354538

STATE OF SOUTH CAROLINA

2017 JUL 14 AM 11:23

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

LISA K. DOWEN  
CLERK OF COURT  
LEXINGTON COUNTY

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
- STAYED DUE TO BANKRUPTCY
- 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 : The motion to Alter and/or Amend is hereby denied.

After considering the arguments of the record...

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.

Circuit Court Judge

*Left*

2164  
Judge Code

7/10/17  
Date

This judgment was entered on 14th July 2017, and a copy mailed first class or placed in the appropriate attorney's box on 19th July 2017, to attorneys of record or to parties (when appearing pro se) as follows:

Tricia A. Blanchette  
PO Box 2147 Leesville, SC 29070  
Jeremy Adam Thompson  
PO Box 12891 Columbia, SC 29211

Melody Jane Brown  
PO Box 11549 Columbia, SC 29211-1549

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ATTORNEY(S) FOR THE PLAINTIFF(S)

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ATTORNEY(S) FOR THE DEFENDANT(S)

**Lisa M. Comer/jp**

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Court Reporter

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Lisa M. Comer - Clerk of Court

**Court Reporter:**

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

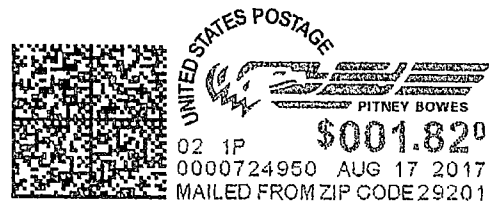
This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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A. Thompson



The Honorable Daniel E. Shearouse  
Clerk, Supreme Court of South Carolina  
P.O. Box 11330  
Columbia, SC 29211-1330