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**THE BOOZER LAW FIRM, LLC**

S.C. SUPREME COURT

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

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September 12, 2017

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

Honorable Clerk of Court  
Marlboro County  
P.O. Drawer 996  
Bennettsville, SC 29512

**RE: Ravell McLaughlin, #356142, v. State of South Carolina**  
**2015-CP-34-268**

Dear Mr. Shearouse and Ms. Williams:

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

Yours very truly,



Lance S. Boozer

Enclosures

cc: Johnny E. James, Jr., AAG  
Loriene French, OAD  
Ravell McLaughlin, #356142

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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SEP 13 2017

APPEAL FROM MARLBORO COUNTY  
Court of Common Pleas

S.C. SUPREME COURT

The Honorable Roger E. Henderson, Circuit Court Judge

Case No. 2015-CP-34-268

Ravell McLaughlin, #356142, .....Petitioner,

v.

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

**NOTICE OF APPEAL**

The Petitioner appeals the Honorable Roger E. Henderson’s Order dated September 5, 2017, denying post-conviction relief to the Petitioner. The Order was received by undersigned counsel on September 11, 2017; denying Applicant’s request for a belated appeal and dismissing otherwise as untimely. A copy of the Order on appeal is attached to this notice. Pursuant to Rule 243(c), SCACR, undersigned counsel is unable to provide an arguable basis for asserting the PCR court ruling was improper with regard to the finding the application was untimely. Petitioner is advised that he has twenty (20) days from the date of this appeal to file a pro se explanation as to why he believes that this determination by the PCR court was improper. *Dennison v. State*, 371 S.C. 221, 639 S.E.2d 35 (2006).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'L.S. Boozer', written over a horizontal line.

Lance S. Boozer

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1400 Laurel Street, Suite 4A  
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Tele: 803-608-5543

September 12, 2017

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM MARLBORO COUNTY  
Court of Common Pleas

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SEP 13 2017

The Honorable Roger E. Henderson, Circuit Court Judge S.C. SUPREME COURT

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Case No. 2015-CP-34-268

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Ravell McLaughlin, #356142, .....Petitioner,

v.


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

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**PROOF OF SERVICE**

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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 Johnny E. James, Jr., P.O. Box 11549, Columbia, SC 29211 and Ravell McLaughlin, #356142, Lee Correctional, 990 Wisacky Hwy., Bishopville, SC 29010. I further certify that all parties required by Rule to be served have been served this 12th day of September, 2017.



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

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF MARLBORO ) FOR THE FOURTH JUDICIAL CIRCUIT  
Ravell D. McLaughlin, ) Case No.: 2015-CP-34-00268  
S.C.D.C. No. 356142, )  
Applicant, )  
v. ) **ORDER OF DISMISSAL**  
State of South Carolina, )  
Respondent. )

This matter comes before the Court by way of an application for post-conviction relief filed by Ravell D. McLaughlin (“Applicant”) on October 12, 2015. Respondent made its return and partial motion to dismiss on or about June 1, 2017. The Court convened an evidentiary hearing into the matter on July 17, 2017, at the Dillon County Judicial Center in Dillon, South Carolina. Applicant was present at the hearing and represented by Lance S. Boozer, Esquire. Johnny Ellis James Jr., of the South Carolina Attorney General’s Office, represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Applicant’s plea counsel, Timothy B. Steen, Esquire (“Counsel”) also testified. The Court had before it Applicant’s records from the South Carolina Department of Corrections, a copy of the original plea transcript, the records of the Marlboro County Clerk of Court regarding the subject convictions, and the pleadings. The Court finds as follows:

**I. PROCEDURAL HISTORY**

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Marlboro County Clerk of Court. Applicant was indicted at the January

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CLERK OF COURT  
MARLBORO COUNTY, S.C.

2013 term of the Marlboro County Grand Jury for kidnapping (2013-GS-34-00009); burglary, first degree (2013-GS-34-00010); criminal sexual conduct, first degree (2013-GS-34-00011); petit larceny (2013-GS-34-00012); and armed robbery (2013-GS-34-00013). Timothy B. Steen, Esquire, and J. Richard Jones, Esquire, represented Applicant. Mary Johnson Thomas Lee and William Shipp Daniel, III, of the Fourth Circuit Solicitor's Office, prosecuted the case.

On July 16, 2013, Applicant pled guilty as indicted on all charges. The Honorable Edward B. Cottingham sentenced Applicant to imprisonment for concurrent terms of 25 years on each charge, save the petit larceny, for which Applicant was sentenced to 30 days imprisonment. Applicant did not appeal his plea or sentence.

### Present Application

In his post-conviction relief application, Applicant alleges he is being held unlawfully for the following reasons:

1. Ineffective Assistance of Counsel, in that:
  - a. "Trial counsel was ineffective for failing to file direct appeal after the applicant requested him to after being sentence, causing applicant's statute of limitation to expire. Applicant was under the impression that trial counsel had filed direct appeal because he requested him to do so, which trial counsel failed to do."
  - b. Trial counsel failed to investigate Applicant's "troubled childhood and the fact that he was in foster care."
  - c. "Trial counsel also failed to have the applicant mentally evaluated. Applicant has a mental health history and also was medication from mental health in the past."
  - d. "Trial counsel was ineffective for not objecting to undisclosed evidence that the State presented at trial phase before Applicant pled guilty. Trial counsel did not advise applicant to his constitutional right to have this evidence disclosed in advance before trial, before advising him to plead guilty."
2. Involuntary Guilty Plea, in that:
  - a. "Applicant's guilty plea was involuntary because trial counsel never advised him to his constitutional right to have all favorable and material evidence disclosed to him before advising Applicant to plead guilty."



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- b. "Trial counsel allowed the State to present undisclosed evidence at trial phase without objecting to the Court."

## II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the records submitted to it by the parties and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings based upon all of the probative evidence presented.

### A. Ineffective Assistance of Counsel for Failure to File Notice of Appeal

The Court finds that Applicant has failed to meet his burden to prove that Counsel's ineffectiveness unfairly deprived him of his right to appeal. In a post-conviction relief action, an applicant has the burden of proving the allegations in his or her application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Following a trial, counsel is required to make certain the defendant is made fully aware of the right to appeal. Turner v. State, 380 S.C. 223, 224-25, 670 S.E.2d 373, 374 (2008) (internal citations omitted). In the absence of an intelligent waiver by the defendant, counsel must either initiate an appeal or comply with the procedure in Anders v. California, 386 U.S. 738 (1967). Turner, 380 S.C. at 224-25, 670 S.E.2d at 374. However, the standard for a guilty plea differs. Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are non-frivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea. Id.

At the evidentiary hearing, Applicant testified that he didn't learn of his right to appeal until 2014, at which time he asked his attorney to file an appeal. Applicant testified that he tried



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to file an appeal himself. Counsel, on the other hand, testified that he never told Applicant about his right to appeal and that Applicant never asked for an appeal—not before his plea and not after his plea. Counsel testified that he perceived no extraordinary circumstances that would support the filing of a notice of appeal from Applicant’s guilty plea.

The Court finds Counsel’s testimony credible and Applicant’s testimony not credible. Applicant offers no proof to support the allegation originally set forth in his application that he asked for an appeal after being sentenced, and his testimony at the hearing that he did not learn of his right to appeal until long after his plea is irreconcilable with the assertions set forth in his application. The only part of Applicant’s testimony that merits any confidence is that he learned of his right to appeal until well after his guilty plea, given Counsel’s testimony that he did not tell him about the right to appeal. Applicant has not shown any extraordinary circumstances to show that Counsel should have thought a rational defendant would want to appeal, nor can this Court discern any such circumstances. Accordingly, Applicant has failed to meet his burden under Turner, and his request for relief as to this ground is **DENIED**.

**B. Respondent’s Partial Motion to Dismiss as Untimely**

The Court finds that Respondent’s motion to dismiss all of the other remaining allegations as untimely filed must be granted. The Uniform Post-Conviction Procedure Act requires that:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision on appeal, whichever is later.

S.C. Code Ann. § 17-27-45(A).

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996).

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HARLBOROUGH COUNTY, S.C.

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A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) authorizes the Court to “grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.”

Applicant pled guilty on July 16, 2013, and (as discussed above) did not appeal his plea or sentence. The current application was not filed until October 12, 2015—over a year after the one-year statutory filing period expired. Applicant testified to the Court that he sent three letters attempting to retrieve forms to file an application: the first in November 2013, the second in November 2014, and the third in March 2015. Applicant claims that the only response he received were erroneously sent documents regarding a different PCR applicant.<sup>1</sup> The latter two of these three letters were themselves late and no evidence was introduced to show the existence of the purported 2013 letter. Applicant, in response to Question 15 on his application, concedes that the application at issue was his first time filing. Given his consistently inconsistent testimony, the Court does not find Applicant’s testimony credible. Accordingly, the Court **GRANTS** Respondent’s partial motion to dismiss and **DISMISSES** the remainder of the application as untimely filed.

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<sup>1</sup> George Cousins, whose matter was also on the July 2017 post-conviction relief roster.

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### III. CONCLUSION

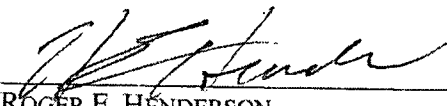
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) 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 PCR. Rule 71.1(g), SCRCP provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

#### IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 5<sup>th</sup> day of September, 2017.

  
\_\_\_\_\_  
ROGER E. HENDERSON  
Presiding Judge  
Fourth Judicial Circuit

  
\_\_\_\_\_, South Carolina

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MARLBORO COUNTY, S.C.

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STATE OF SOUTH CAROLINA  
COUNTY OF MARLBORO

) IN THE COURT OF (Select one.)  
)  GENERAL SESSIONS  FAMILY COURT  
) FOURTH JUDICIAL CIRCUIT

State of South Carolina,  
Plaintiff,

) CASE NO.: 15-CP-24-268  
) APPOINTMENT OF COUNSEL

-vs-

) (Select one.)

KAROL MCLELLAN  
 Defendant  Juvenile.

)  ORDER  
)  AMENDED ORDER

Offense(s): \_\_\_\_\_

It appears that the above named person is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: (Select only one.)

- the public defender now represents another person involved herein and that a conflict would arise if that office represents the above-named individual.
- the public defender has indicated a possible conflict of interest or other good cause warranting the appointment of counsel based on: \_\_\_\_\_
- the public defender or court-appointed counsel has indicated that the named individual has now retained private counsel and is no longer entitled to appointed counsel.
- court-appointed counsel has claimed an exemption or has demonstrated good cause pursuant to Rule 608 warranting the appointment of new counsel based on: \_\_\_\_\_
- court-appointed counsel has obtained substitute counsel named below pursuant to Rule 608(h)(2); only the member who originally received the appointment and who sought substitute counsel shall receive credit for the appointment.

Therefore, it is ordered that WILLIAM B. FUNDERBURK, Esquire hereby is appointed as  
(Select only one.)  counsel  lead counsel (if capital PCR case)

for the above-named person. Counsel previously appointed is/are hereby relieved as counsel.

(If Death Penalty PCR Case) It is further ordered that \_\_\_\_\_, Esquire, is hereby appointed as second counsel in this capital 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 4 DAY OF April, 2011.

William B. Funderburk  
 Circuit Judge  Clerk of Court

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.

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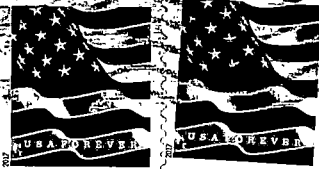
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ALM  
JRM

**THE BOOZER LAW FIRM, LLC**

1400 Laurel Street, Suite 4A  
Columbia, SC 29201

COLUMBIA SC

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

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