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September 12, 2017

RECEIVED

SEP 18 2017

S.C. SUPREME COURT

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

RE: Christopher Seabrook v State of South Carolina, Case #: 2015-CP-10-3975

Dear Mr. Shearhouse:

Enclosed for filing is the Notice of Appeal (original and clocked copy) in the above Post-Conviction Relief (PCR) case. 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 Applicants-Appellant 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 Applicants-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

Enclosures - As stated above.

RDD/mmt

cc: Judah VanSyckel, Assistant Attorney General
Kimberly McCall, Appellate Division, SCCID

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable G. Thomas Cooper, Jr.

Case #: 2015-CP-10-3975

Christopher Seabrook,

Appellant.

v.

State of South Carolina,

Respondent.

NOTICE OF APPEAL

Christopher Seabrook 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 G. Thomas Cooper, Jr., on April 19, 2017. Counsel for the Appellant received a filed copy of the Order of Dismissal on or about August 21, 2017.

August 28, 2017



Rodney D. Davis
4000 Faber Place Drive, Suite 300
Charleston, SC 29405
Attorney for Appellant
Davis@LowcountryLawOffice.com

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

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S.C. SUPREME COURT

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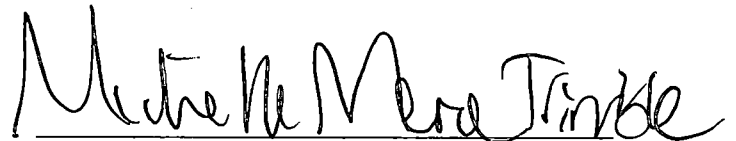
State of South Carolina,

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, Judah N. VanSyckel, P.O. Box 11549, Columbia, South Carolina 29211-1549, on August 30, 2017.

August 30, 2017



Michelle Moore Trimble
Paralegal to Rodney D. Davis
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Attorney for Appellant

Other Counsel of Record:
Alicia A. Olive, Assistant Attorney General
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Columbia, SC 29211-1549
Attorney for Respondent

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THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable G. Thomas Cooper, Jr.

Case #: 2015-CP-10-3975

Christopher Seabrook, Appellant.


v.

State of South Carolina, Respondent.

NOTICE OF APPEAL

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August 28, 2017


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Attorney for Respondent

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JULIE J. ARMSTRONG
CLERK OF COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable G. Thomas Cooper, Jr.

Case #: 2015-CP-10-3975

Christopher Seabrook,

Appellant.

v.

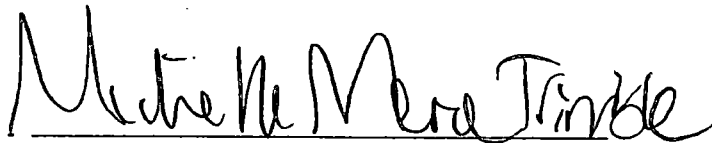
State of South Carolina,

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Attorney for Appellant

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P.O. Box 11549
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Attorney for Respondent

cc
AG
AT
BS
SDL
Judge Conroy

STATE OF SOUTH CAROLINA)
 COUNTY OF CHARLESTON)
 Christopher William Seabrook, #291929,)
 Applicant,)
 v.)
 State of South Carolina,)
 Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2015-CP-10-3975

ORDER OF DISMISSAL

FILED
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 JULIE J. ADAMS, CLERK OF COURT

This matter comes before the Court by way of an application for post-conviction relief filed July 17, 2015 by Christopher William Seabrook (Applicant) alleging ineffective assistance of plea counsel and the plea court lacked subject matter jurisdiction. Respondent made its Return on February 23, 2016, requesting an evidentiary hearing be held. An evidentiary hearing into the matter was convened on December 8, 2016, at the Charleston County Courthouse. Applicant was present at the hearing and represented by Rodney D. Davis, Esquire. Assistant Attorney General Alicia A. Olive of the South Carolina Attorney General's Office represented Respondent. Applicant testified on his own behalf at the evidentiary hearing. Applicant's plea counsel, Jason King, Esquire, also testified. The Court had before it a copy of the guilty plea transcript, the records of the Charleston County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, and the State's return. After reviewing the record in its entirety, along with the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant has failed to establish any constitutional deprivations or other grounds entitling him to relief and is denying and dismissing this application with prejudice.

PROCEDURAL HISTORY

The records before this Court establish Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. During its September 2013 term of court, the Charleston County Grand Jury indicted Applicant for distribution of marijuana—second offense (2013-GS-10-5008), possession with intent to distribute marijuana—second offense (2013-GS-10-5010). During its July 2014 term of court, the Charleston County Grand Jury indicted Applicant for possession of cocaine base—third offense (2014-GS-10-4190). During its September 2014 term of court, the Charleston County Grand Jury indicted Applicant for first-degree criminal sexual conduct (2012-GS-10-4978).

On March 2, 2015, Applicant appeared before the Honorable R. Markley Dennis, Jr., circuit court judge, in the Charleston County Court of General Sessions and pled guilty as indicted to distribution of marijuana—second offense, possession with intent to distribute marijuana—second offense, and possession of cocaine base—third offense, and to the lesser-included offense of first-degree assault and battery.¹ Pursuant to recommendation from the State for a concurrent sentence of no greater than ten years, Judge Dennis sentenced Applicant to nine years of imprisonment for each offense, with all four sentences to be served concurrently.

Thereafter, Applicant filed a timely notice of appeal. On June 17, 2015, the South Carolina Court of Appeals dismissed Applicant's appeal for failure to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv), SCACR. The Remittitur was return to the circuit court on August 6, 2015.

¹ A related kidnapping indictment was dismissed pursuant to Applicant's guilty plea.



FACTUAL HISTORY

These charges arise from three separate incidents. The first incident occurred on June 21, 2013, when undercover officers from the North Charleston Police Department conducted a controlled undercover buy of marijuana from Applicant; this buy was recorded on video. When officers attempted to arrest Applicant, he fled on foot and officers observed him throwing a clear plastic bag containing marijuana on the ground. When Applicant was eventually apprehended, he had several additional bags containing marijuana on his person. (Plea Tr. p. 6).

The second incident occurred on May 8, 2014, when the North Charleston Police Department responded to a barber shop in reference to threats Applicant made to another person. Applicant consented to a search of his person and officers found crack cocaine in Applicant's pocket. Applicant told officers he forgot he had the substance in his pocket. (Plea Tr. p. 6-7).

The third incident occurred on May 11, 2014, when Applicant and his on-and-off-again girlfriend and child's mother were staying at a hotel in Charleston County. Applicant became upset when there was a knock on the hotel room door and he thought the victim and someone else were trying to rob him. He hit the victim in the face, choked her with a belt, and cut her arm. The victim initially told law enforcement Applicant had sexually assaulted her and held her against her will, but she later recanted the sexual assault and kidnapping allegations at a subsequent bond hearing. (Plea Tr. p. 7-8, 10-11; PCR Tr. p. 20).

ALLEGATIONS RAISED

In his application, Applicant alleged he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel for: failure to have all jail time served credited to



defendant, failure to object to defective indictment, failure to investigate and study case prior to recommending defendant accept plea.

2. Circuit court lacked subject matter jurisdiction to accept guilty plea for first-degree assault and battery where indictment failed to include necessary elements of offense.

At the evidentiary hearing, Applicant proceeded on these allegations.

SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

At the evidentiary hearing, Applicant testified on his own behalf. He testified that he only met with plea counsel once to discuss the merits of his case, although he acknowledged he met with plea counsel other times. (PCR Tr. p. 9, 37). He further testified he never discussed any of the drug charges with plea counsel and exclusively discussed the kidnapping and criminal sexual conduct charges with counsel. (PCR Tr. p. 10, 13, 14-15). Applicant testified he never received discovery for any of the drug cases. (PCR Tr. p. 13-14, 25). However, he acknowledged plea counsel showed him the video of the undercover drug buy. (PCR Tr. p. 38-39). He testified plea counsel did review the potential sentences he faced of all of his charges. (PCR Tr. p. 10-11). Applicant also acknowledged he has a lengthy criminal history, including numerous previous drug convictions. (PCR Tr. p. 40-41).

Applicant testified the victim of the criminal sexual conduct and kidnapping charges recanted her prior statements at his bond hearing. (PCR Tr. p. 18-20). Applicant testified he asked plea counsel to obtain a copy of the video from this proceeding and that counsel told him he secured a copy, but Applicant was never shown a copy of the video. (PCR Tr. p. 18-20). He testified the victim was his "on-and-off girlfriend" and the mother of his child, and the incident occurred inside a hotel room where they were staying. (PCR Tr. 21). He testified counsel never



attempted to speak with anyone at the hotel or obtain any video of the incident. (PCR Tr. p. 21). He testified he spoke with the victim several times by phone and knew these calls were recorded. (PCR Tr. p. 24). Applicant testified the victim told him she was not going to show up for his trial. (PCR Tr. p. 41-42). Applicant testified he pled guilty to first-degree assault and battery rather than first-degree criminal sexual conduct. (PCR Tr. p. 25-26). He acknowledged he struck the victim in the face and that he would be convicted of assault based on this conduct. (PCR Tr. p. 26, 29-31, 42-43). Applicant testified he struck the victim with such force he fracture her eye socket. (PCR Tr. 31-33). However, he testified he did not understand he was pleading guilty to assault as a lesser-included of criminal sexual conduct. (PCR Tr. p. 26-27). He denied recalling the solicitor tell the plea court that the victim had recanted during his guilty plea proceeding. (PCR Tr. p. 37).

Applicant testified he was frustrated by plea counsel's lack of diligence to his case and he sent numerous requests to the Public Defender's Office seeking to have counsel relieved. (PCR Tr. p. 11-13). Applicant testified he elected to forgo a trial and plead guilty when he received the State's plea offer because he did not think plea counsel was prepared to try his cases. (PCR Tr. p. 14). He testified counsel did not fully explain the plea to him and merely put the sentencing sheets in front of him and told him to sign the papers. (PCR Tr. p. 21-23, 46047). However, Applicant testified he understood he was pleading guilty to all charges. (PCR Tr. p. 22-23). He also acknowledged the kidnapping charge was dismissed pursuant to his plea agreement with the State. (PCR Tr. p. 24-26). He testified he pled guilty to all charges because the State's plea offer was only if all charges were disposed of simultaneously. (PCR Tr. p. 27-28). Applicant testified

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he attempted to withdrawal his guilty pleas after without success. (PCR Tr. p. 34-35). He testified he also filed a pro se notice of appeal that was eventually dismissed. (PCR Tr. p. 35-36).

Plea counsel testified next. He testified he has been practicing law since 2000 and the vast majority of his practice is criminal law. (PCR Tr. p. 48-49). He testified he met with Applicant six times. (PCR Tr. p. 49). He testified he filed discovery motions and reviewed the materials with Applicant. (PCR Tr. p. 49-50). He testified Applicant did not dispute any of the drug charges or the evidence against him, so the vast majority of their discussions focused on the charges he did dispute—kidnapping and criminal sexual conduct. (PCR Tr. p. 50, 55). Plea counsel testified there was a video of the undercover dug buy giving rise to the two marijuana charges and that the evidence against Applicant was “pretty solid.” (PCR Tr. p. 51). He testified he reviewed these videos with Applicant and Applicant did not dispute these charges. (PCR Tr. p. 51). He similarly testified Applicant did not dispute the crack cocaine charges and admitted he gave a statement to law enforcement that he forgot he had crack cocaine in his pocket when he consented to a search. (PCR Tr. p. 51). Trial counsel testified because Applicant did not dispute any of the drug charges, they did not spend a significant portion of time discussing those charges, although they did review all discovery materials and evidence. (PCR Tr. p. 51-52, 55). He testified he would have investigated the drug charges had Applicant disputed them or wanted to go to trial. (PCR Tr. p. 55). He testified he would have had ample time to investigate the cases prior to trial. (PCR Tr. p. 58-59). He testified there were no independent witnesses to interview of videos to obtain from the hotel because the incident occurred inside a hotel room. (PCR Tr. p. 58).

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Plea counsel testified he was one of the more senior attorneys at the Public Defender's office when he was representing Applicant and he had a significant caseload. (PCR Tr. p. 65-66). He testified that due to his large caseload, he often does most of his investigation closer to trial date than in advance. (PCR Tr. p. 67). However, he stressed he had reviewed all discovery with Applicant and that Applicant did not dispute the vast majority of the cases. (PCR Tr. p. 68).

Plea counsel testified the kidnapping charge was dismissed the day of the plea and was part of plea negotiations with the State. (PCR Tr. p. 52). Plea counsel testified Applicant denied any sexual assault of victim, but acknowledged he hit her with such force that it caused facial fractures. (PCR Tr. p. 52). Plea counsel testified Applicant informed him the victim recanted at his bond hearing and counsel obtained a copy of this video. (PCR Tr. p. 53). However, he testified there was a recorded phone conversation between Applicant and the victim the evening before the bond hearing where Applicant pleads with her to recant her statement. (PCR Tr. p. 53). Thereafter, the victim told police Applicant did sexually assault her and hold her against her will, but that she recanted her statement due to pressure from Applicant. (PCR Tr. p. 53-54). Plea counsel testified he was worried about these jail phone calls with the victim being introduced if Applicant proceeded to trial and that he discussed this with Applicant. (PCR Tr. p. 54).

Plea counsel testified he advised Applicant to accept the State's plea offer after reviewing all the discovery materials and talking to Applicant. (PCR Tr. p. 55-56). He testified the State offer was for Applicant to plead guilty as indicted to the three drug offenses and to plead to first-degree assault and battery as a lesser-included offense of first-degree criminal sexual conduct for a sentence of up to ten years imprisonment and the dismissal of the kidnapping charge. (PCR Tr. p. 55-56). He testified he timely conveyed the plea offer to Applicant and after discussing the



offer with him, Applicant decided to accept the offer and plead guilty. (PCR Tr. p. 55-58). Plea counsel testified he believed this was the best plea offer Applicant would receive. (PCR Tr. p. 59-60). Plea counsel testified Applicant would have been eligible for life without parole (LWOP) based on his prior record, but that the State had not indicated they would be seeing LWOP. (PCR Tr. p. 61). Plea counsel testified Applicant did not ask him to withdraw the plea and was fully on board with accepting the State's plea offer. (PCR Tr. p. 64). He testified Applicant had a full understanding he could receive up to ten years' imprisonment in exchange for his guilty plea. (PCR Tr. p. 65).

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 hearings. 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. Specifically, this Court finds trial counsel's testimony credible and finds Applicant's testimony not credible. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

Ineffective Assistance of Counsel

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). When an applicant alleges ineffective assistance of counsel as a ground for relief, he or she must prove "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, 286 S.C. 441, 334 S.E.2d 813. The proper measure of

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performance is whether an attorney provided representation within the range of competence required in criminal cases. Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813. The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). Judicial scrutiny of counsel's performance must be highly deferential, as it is all too tempting for a defendant to second-guess counsel's assistance after conviction or adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable. Strickland, 466 U.S. at 689. "[W]hen counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel." Smith v. State, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010) (citing Caprood v. State, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000)).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's 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." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, 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 (1985).



The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, 466 U.S. 668.

After careful review of the entire record, including the testimony presented at the evidentiary hearing, based on the standard discussed above, this Court finds Applicant has failed to carry his burden in this action. Applicant alleges plea counsel was ineffective for failing to have all jail time served credited, failing to object to a defective indictment, failing to investigate and study case prior to recommending Applicant accept plea. This Court finds Applicant has failed to meet his burden of establishing counsel's deficiency regarding any of these aspects of his representation. The Court finds trial counsel conducted a proper investigation, adequately conferred with Applicant, and was thoroughly competent in his representation.

Regarding Applicant's claim plea counsel failed to have all jail time served credited, the sentencing sheets and guilty plea transcript before this Court all clearly indicate Applicant received credit for the two-hundred-ninety-five days he served in pre-trial detention. This Court finds this allegation is without merit and must be denied and dismissed.

Applicant also alleges plea counsel failed to object to a defective indictment. However, Applicant has failed to establish which indictment was defective. This Court has reviewed the indictments and finds they are all facially valid and without defect. Moreover, Applicant clearly indicated to the plea court that he wished to plead guilty to first-degree assault and battery as a

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lesser-included offense of first-degree criminal sexual conduct and conceded multiple times that he struck the victim in the face with such force that she suffered from facial fractures. As discussed further below, South Carolina Courts have not expressly ruled that first-degree assault and battery is not a lesser-included offense of first-degree criminal sexual conduct. Therefore, counsel cannot be deemed deficient for advising his client to accept a favorable plea offer from the State to plead to first-degree assault and battery. Applicant has failed to meet his burden of proof regarding this allegation, which must be denied and dismissed with prejudice.

Finally, Applicant alleges plea counsel failed to investigate and study case prior to recommending Applicant accept plea. However, Applicant failed to establish what additional investigation counsel should have undertaken or what the results such an investigation would have yielded. Moreover, plea counsel's credible testimony reveal Applicant readily admitted his guilt in the dug cases and admitted to striking the victim in the face, and because of this, he did not think additional investigation was necessary once Applicant elected to accept the State's plea offer. Therefore, this Court finds Applicant has failed to meet his requisite burden of proof. See Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998) (holding failure to conduct an independent investigation is not per se ineffective assistance of counsel, especially where an investigation would not have uncovered any helpful information. Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998) ("Respondent failed to present any evidence of what counsel could have discovered or what other defenses respondent would have requested counsel pursue had counsel more fully prepared for the trial."); See also Strickland, 466 U.S. at 691 ("[W]hen a defendant has given counsel reason to believe that pursuing certain investigations would be fruitless or even harmful, counsel's failure to pursue those investigations may not later be



challenged as unreasonable.”) This Court finds plea counsel’s performance was reasonable according to professional standards and his allegations that plea counsel was ineffective must be denied and dismissed with prejudice.

Subject Matter Jurisdiction

Applicant has also alleged the plea court lacked subject matter jurisdiction to accept his guilty plea to first-degree assault and battery because it is not a lesser-included offense of first-degree criminal sexual conduct. This Court finds Applicant has failed to establish he is entitled to relief on this ground.

The circuit court does not have subject matter jurisdiction to convict a defendant of an offense unless there is an indictment which sufficiently states the offense, the defendant waives presentment, or the offense is a lesser included offense of the crime charged in the indictment. State v. Owens, 346 S.C. 637, 552 S.E.2d 745 (2001). Generally, pursuant to the accepted test for determining whether an offense is a lesser-included offense of another, an offense is considered to be a lesser-included offense of a greater offense if the greater offense includes all the elements of the lesser-included offense. State v. Primus, 349 S.C. 576, 579-580, 564 S.E.2d 103, 105 (2002), overruled on other grounds by State v. Gentry, 563 S.C. 93, 610 S.E.2d 494 (2005). However, “[i]f the lesser offense includes an element which is not included in the greater offense, then the lesser offense is not included in the greater offense.” Id. at 580, 564 S.E.2d at 105. Significantly, in determining whether an offense is a lesser-included offense of another, courts in South Carolina typically apply the elements test to make that determination with few exceptions. See id. (“While the Court recognizes the existence of a few anomalies, it generally adheres to the use of the traditional elements test.”).

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Under South Carolina Code Ann. § 16-3-652(1)(a)(b) (Supp.2001), first degree criminal sexual conduct requires a: (1) a sexual battery and (2) aggravated force to accomplish the sexual battery or forcible confinement, kidnapping, robbery, extortion, burglary, housebreaking, or any other similar offense or act. A sexual battery is "statutorily defined to include only certain specific acts, which can be loosely described as involving penetration of some sort." State v. Elliott, 346 S.C. at 606, 552 S.E.2d at 729; S.C. Code Ann. § 16-3-651(h) (1985).

Under S.C. Code Ann. § 16-3-600(C)(1), first-degree assault and battery requires (1) the actor injured another through nonconsensual touching of the private parts with lewd and lascivious intent or during the course of a robbery, burglary, kidnapping, or theft; or (2) the actor offered or attempted to injure another person with the present ability to do so by a means likely to produce death or great bodily injury or during the commission of a robbery, burglary, kidnapping, or theft).

South Carolina courts have not expressly ruled first-degree assault and battery is not a lesser-included offense of first-degree criminal sexual conduct. Rather, our courts have ruled that assault and battery of a high and aggravated nature is a lesser included offense of first degree criminal sexual conduct. See State v. Primus, 349 S.C. 576, 579-80, 564 S.E.2d 103, 105 (2002) overruled on other grounds by State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005). Assault and battery in the first degree is a lesser-included offense of assault and battery of a high and aggravated nature. Code Ann. § 16-3-600(C)(3).

Therefore, Applicant has failed to establish the trial court lacked subject matter jurisdiction to accept his guilty plea. This Court finds this allegation must be denied and dismissed with prejudice.



CONCLUSION


Based on all 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 days from the receipt of this Order by counsel of record 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 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. This application for post-conviction relief must be denied and dismissed with prejudice; and
2. The Applicant shall remain in the custody of the State.

AND IT IS SO ORDERED this 14 day of August, 2017.



G. THOMAS COOPER, JR.
Presiding Judge
Ninth Judicial Circuit

Chauven, South Carolina

STATE OF SOUTH CAROLINA)	IN THE SUPREME COURT OF SOUTH CAROLINA
)	
COUNTY OF CHARLESTON)	Case #: 2015-CP-10-3975
)	
CHRISTOPHER SEABROOK,)	
)	
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

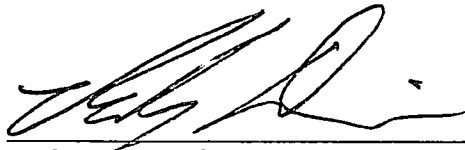
Charleston, South Carolina.
August 28, 2017

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

CASE NO: 2015-CP-10-3975

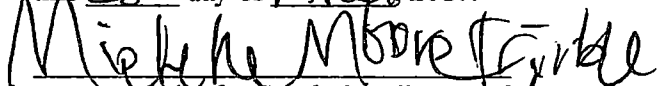
VERIFICATION

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, **Christopher Seabrook**, 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.

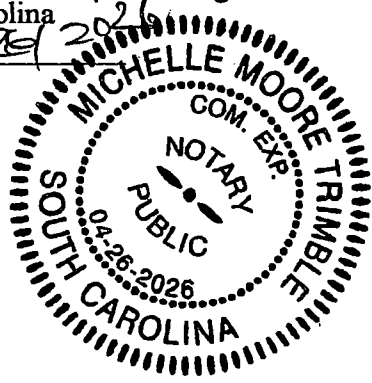


Rodney D. Davis
South Carolina Bar #: 12396

SWORN to and subscribed to me
this 28th day of August 2017.



Notary Public for South Carolina
My Commission expires 29 2026





Lowcountry Law Office

4000 Faber Place Drive, Suite 300

Charleston, SC 29405

Phone: 843-323-4353 Fax: 843-323-4101

E-Mail: Davis@LowcountryLawOffice.com

September 12, 2017

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

RE: Christopher Seabrook v State of South Carolina; Case #: 2015-CP-10-3975

Dear Ms. McCall:

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

Should you have any questions, please do not hesitate to contact me.

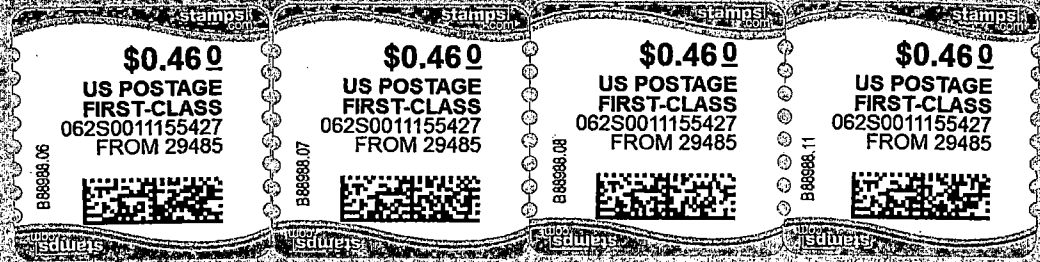
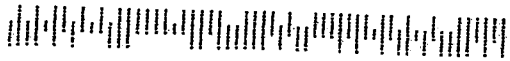
Thank you for your assistance with this matter.

Sincerely,



Rodney D. Davis
South Carolina Bar # 12396
4000 Faber Place Drive, Suite 300
Charleston, SC 29405
Davis@LowCountryLawOffice.com

Enclosure(s). As stated above.



Lowcountry Law Office

Rodney D. Davis
4000 Faber Place Drive, Suite 300
Charleston, SC 29405

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