

**RICHEY AND RICHEY**  
ATTORNEYS AT LAW

*A PROFESSIONAL ASSOCIATION*

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OCT 02 2017

S.C. SUPREME COURT

September 22, 2017

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

Re: Steven Randall Cobb, SCDC# 255377. v. State of South Carolina  
Case No: 2014-CP-04-1153

Dear Mr. Shearouse:

Please find enclosed a Notice of Appeal and an affidavit of service for the same. Also, I have enclosed a copy of the Order from which the appeal is taken. Please file the copies and return them to me. I have enclosed a self-addressed stamped envelope for you to return copies to me.

Thank you for your help and if you should have any questions please feel free to call me.

RICHEY AND RICHEY, P.A.

Yours truly,

  
\_\_\_\_\_  
Rodney Richey

RWR/  
enclosures

cc: Lindsey McCallister, Esquire

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

HONORABLE JOCELYN NEWMAN

2014-CP-04-1153

STEVEN RANDALL COBB, SCDC#: 255377,

APPELLANT,

against

STATE OF SOUTH CAROLINA,

RESPONDENT.

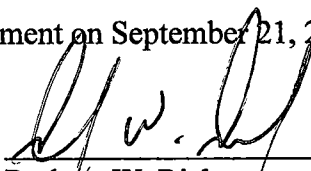
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OCT 02 2017  
S.C. SUPREME COURT

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**NOTICE OF APPEAL**

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Steven Randall Cobb appeals the denial of his Post- Conviction Relief. The Post- Conviction Relief action was heard and denied by the Honorable Jocelyn Newman, Circuit Judge on June 27, 2017 and Order issued on September 13, 2017 and filed on September 18, 2017. The Appellant received notice of the judgment on September 21, 2017.

  
\_\_\_\_\_  
Rodney W. Richey  
Attorney for the Appellant  
Post Office Box 10916  
Greenville, South Carolina 29603  
(864) 467-0503

Other Counsel of Record:  
Lindsey McCallister, Esquire  
Office of Attorney General State of SC  
Post Office Box 11549  
Columbia, SC 29211-1549

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

HONORABLE JOCELYN NEWMAN

2014-CP-04-1153

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S.C. SUPREME COURT

STEVEN RANDALL COBB, SCDC#: 255377

APPELLANT,

against

STATE OF SOUTH CAROLINA,

RESPONDENT.

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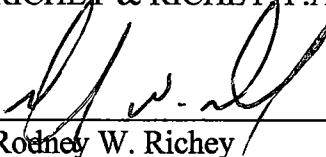
**PROOF OF SERVICE**

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I certify that I have served the Notice of Appeal on the State of South Carolina by depositing copy of it in the United States Mail, postage prepaid, on September 22, 2017, addressed to their attorney of record, Lindsey McCallister, Esquire, Office of Attorney General State of South Carolina, Post Office Box 11549, Columbia, SC 29211-1549.

Dated: September 22, 2017

RICHEY & RICHEY, P.A.



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STATE OF SOUTH CAROLINA  
COUNTY OF ANDERSON

IN THE COURT OF COMMON PLEAS  
FOR THE TENTH JUDICIAL CIRCUIT

Steven Randall Cobb (SCDC #255377) *Richard X. Kuter*  
CLERK OF COURT

Civil Action No. 2014-CP-04-11 53

Applicant,

v.

State of South Carolina,

Respondent.

**ORDER OF DISMISSAL**

FILED-CLERK'S OFFICE  
ANDERSON SC  
2017 SEP 18 AM 11: 53  
COMMON PLEAS AND  
GENERAL SESSIONS

This matter comes before the Court upon Application for Post-Conviction Relief, filed by Applicant Steven Randall Cobb ("Applicant") on June 2, 2014. Respondent filed its return on October 30, 2014. On June 27, 2017, an evidentiary hearing was conducted at the Anderson County Courthouse. Applicant was present along with his counsel, Rodney Richie, Esquire. The State was represented by Lindsay McCallister, Esquire.

For the reasons set forth below, the Application for Post-Conviction Relief is DENIED, and this matter is DISMISSED.

**FINDINGS OF FACT**

Applicant was indicted for murder on May 17, 2012. Sarah G. Drawdy, Esquire ("plea counsel") was appointed to represent him. On November 4, 2013, Applicant pled guilty to the lesser charge of voluntary manslaughter pursuant to a negotiated plea agreement with the State. The Court accepted the negotiated plea and imposed the agreed-upon twenty-three year term of imprisonment.

Applicant did not appeal his plea or sentence. Instead, he filed the instant Application for Post-Conviction Relief ("PCR"). In it, Applicant alleges that he is being unlawfully detained due

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to “(a) ineffective assistance of counsel – 6<sup>th</sup> and 14<sup>th</sup>] amend[ment] violation[,] (b) Brady violation – 5<sup>th</sup>[, and] and (c) police misconduct.”

At the evidentiary hearing on June 27, 2017, Applicant testified on his own behalf and expounded on his written allegations. He contended that he always wanted to resolve his case by jury trial and that he had, in fact, rejected the State’s plea offer the previous day. Applicant averred that his plea counsel coerced him to enter a guilty plea by suggesting that if he did not, his wife and mother would be arrested.<sup>1</sup>

Applicant further testified that plea counsel had stopped returning his phone calls one to two weeks before his plea date, that she did not review the discovery in his case with him, that she rarely visited him, that she failed to explain the case to Applicant in a way that he could understand it, and that she did not use the services of the expert witness for which he had paid. Applicant stated that he agreed to enter the negotiated plea without fully understanding his case; however, he admitted that plea counsel was “very thorough” during the plea. Finally, Applicant complained that he wrote to plea counsel asking her to file an appeal on his behalf, but she responded that when she received his letter, it was already too late.

The Court also reviewed the transcript of Applicant’s guilty plea and considered the testimony of Applicant’s plea counsel. She admitted refusing Applicant’s phone calls, explaining that because jail phone calls are recorded she didn’t want Applicant to make an admission during a phone call which could subsequently be used against him. Plea counsel testified that she reviewed discovery with Applicant, giving him whatever documents she had as soon as she received them. She also testified that she had several meetings with Applicant at the jail and

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<sup>1</sup> There was apparently an allegation that Applicant’s wife and mother offered a bribe to one of the State’s witnesses if he refused to testify against Applicant at trial.



discussions with Applicant's mother, giving at least nineteen specific dates of conversations ranging from July 19, 2011 to the day before his plea.


Plea counsel admitted not using the expert witness and testified that, in fact, the expert never produced a written report. She testified that her decision was strategic, explaining that the expert's report and testimony would not have been favorable to Applicant. She stated that while she discussed with Applicant the allegations of bribery against his mother, his mother's potential arrest was not contingent upon Applicant entering a guilty plea. Finally, plea counsel corroborated Applicant's testimony about his failed attempt to file an appeal, stating that Applicant did not ask her to file one on his behalf until after the ten-day appeal deadline had expired.

#### CONCLUSIONS OF LAW

In a PCR action, "[t]he applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence." Rule 71.1(e), SCRCP. Specifically, "[a] defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty." *Johnson v. Catoe*, 336 S.C. 354, 358, 520 S.E.2d 617, 619 (1999) (citing *Wolfe v. State*, 326 S.C. 158, 485 S.E.2d 367 (1997) and *Satterwhite v. State*, 325 S.C. 254, 481 S.E.2d 709 (1997)).

#### **I. Brady Violation and Police Misconduct**

In his PCR application, Applicant alleged as grounds for relief "Brady violation – 5<sup>th</sup> [, and] and (c) police misconduct;" however, at the evidentiary hearing, Applicant presented no evidence regarding either of these issues. Based on the review of the records and testimony in this action, the Court deems these issues to be abandoned by Applicant and, therefore, denies relief on these grounds.



## II. Ineffective Assistance of Counsel

“The benchmark for judging any claim of ineffectiveness must be whether counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984). “[A] guilty plea cannot be attacked as based on inadequate legal advice unless counsel was not ‘a reasonably competent attorney’ and the advice was not ‘within the range of competence demanded of attorneys in criminal cases.’” *Id.* at 687 (quoting *McMann v. Richardson*, 397 U.S. 759, 770 (1970)). “When a convicted defendant complains of the ineffectiveness of counsel’s assistance, the defendant must show that counsel’s representation fell below an objective standard of reasonableness.” *Id.* at 687-88.

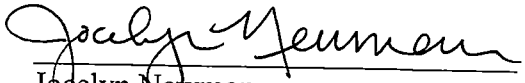
“Because of the difficulties inherent in making the evaluation, a court must indulge a strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance; that is, the defendant must overcome the presumption that, under the circumstances, the challenged action ‘might be considered sound trial strategy.’” *Id.* at 689 (citation omitted). Applicant has not done that here. In fact, having weighed the credibility of the testifying witnesses and having considered the admissions and explanations offered, the Court cannot find that plea counsel was not “a reasonably competent attorney” or that her advice was not “within the range of competence demanded of attorneys in criminal cases.” Further, because the Court finds no professional errors on the part of plea counsel, no prejudice could have resulted from plea counsel’s representation. Therefore, the PCR application is denied on this allegation as well.

IT IS THEREFORE ORDERED that the Application for Post-Conviction relief is DENIED and DISMISSED with prejudice.



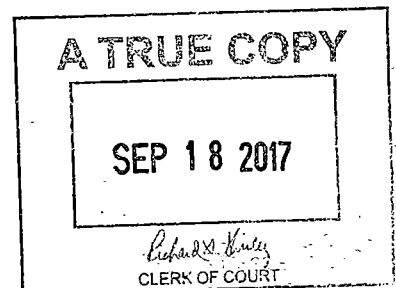
IT IS FURTHER ORDERED that Applicant Steven Randall Cobb be REMANDED to the custody of the State of South Carolina.

AND IT IS SO ORDERED.

  
Jocelyn Newman  
Presiding Judge

September 13, 2017  
Columbia, South Carolina.

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

