

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE SUPREME COURT OF
SOUTH CAROLINA

Makandi L.A. Terry, # 353344
Defendant/Applicant,

MOTION TO GET COUNSEL
APPOINTED AND TO BE
RECONSIDERED FOR P.C.R.

v.

State of South Carolina,
Respondent.

RECEIVED

FEB 06 2010

S.C. SUPREME COURT

I, Makandi Terry, the defendant states that this is my 3rd try to have a P.C.R. action considered. This is because of my personal Lack of Knowledge of the Law. Sir as you can see that the first try at this was denied cause of certain facts that wasn't undecided on the actual facts that I was not able to introduce to the Courts. Sir I'm not saying that a terrible tragedy was done nor did I I not have a part, but what I am saying is that through coercion by all Attorneys; the case was forced on myself. I state that this would fall under State v. Hopkins, and State v. Colman, and State v. Levelle, as well as State v. Torrence, all pertain to the procedure failer that occurred. Sir, I ask that this Court grant me this and refer me to be appointed counsel of a high quality.

This is substantiated by warrant numbers on left of Article below.

Warrant numbers

D J-093627

Respectfully Submitted,

Malanda Zemy

1/29/18

Malanda Zemy #353344

atp^{M.T} 2/1/18



SWORN TO AND SUBSCRIBED
BEFORE ME THIS 1 DAY OF February, 2018
AUDREY AILEEN WEBSTER HORTON
Audrey Aileen Webster Horton
NOTARY PUBLIC, STATE OF SOUTH CAROLINA
My Commission Expires 02/07/2024

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE SUPREME COURT OF
SOUTH CAROLINA

Makandi L. A. Terry, #353344

DEFENDANT/APPLICANT,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

RECEIVED

FEB 06 2018

S.C. SUPREME COURT

CERTIFICATE OF SERVICE

I, Makandi L. Terry, do hereby certify that I have this date 2/1/18 served Respondent a MOTION TO GET COUNSEL APPOINTED AND TO BE RECONSIDERED FOR P.C.R. Acknowledgement of Service by depositing one copy for the addressed as follows:

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

Respect fully Submitted,

Makandi Terry
2/1/18 #353344

CB2009-06-06316

DOCKET NO. 2009-GS-08-1912

WITNESSES

heri Williams *Sherrill Williams*
Summerville Police Department

The State of South Carolina
County of Berkeley

AGENCY CASE NUMBER

9047398

COURT OF GENERAL SESSIONS

September Term 2009

ARREST WARRANT NUMBER

093627

THE STATE

DATE OF ARREST

vs.

June 11, 2009

Makandi Leviticus Akeem Terry

ACTION OF GRAND JURY

DOB: [REDACTED]

B/M

True Bill

Sandra Morales

Foreperson of Grand Jury
Date: 09-09-09

Indictment for

Murder

VERDICT

§16-03-0010
CDR: 0116

Foreperson of Petit Jury

Date:

INDICT

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Berkeley
STATE VS.

INDICTMENT/CASE#: 2009-GS-08-1912

Makandi Leviticus Akeem Terry

A/W#: J093627

AKA:

Date of Offense: 6/9/2009

Race: BLACK Sex: M Age: 23

S.C. Code §: 16-03-0010, 0020

DOB: SS#: DL#: SID#:

CDR Code #: 0116

Address:

City, State, Zip: Charleston, SC 29405

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was TO: Voluntary Manslaughter

in violation of § 16-03-0050 of the S.C. Code of Laws, bearing CDR Code # 0217
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Bryan Alford SC Bar# 70502 Defendant; William Thomas SC Bar# 013091 Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,

for a determinate term of 18 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. June 11, 2009

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP days/hours Public Service Employment

Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Recipient:
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling

*Fine:
§ 14-1-206 (Assessments 107.5%)
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$100.00
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
§ 56-5-2995 (DUI Assessment) \$12 \$
§ 56-1-286 (DUI Breath Test) \$25 \$
Proviso 47.9 (Public Def/Prob) \$500 \$
§ 14-1-212 (Law Enforce. Funding) \$25 \$25.00
§ 14-1-213 (Drug Court Surcharge) \$150 \$
§ 50-21-114(BUI Breath Test Fee) \$50 \$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$
Proviso 90.5 (SCCJA Surcharge) \$5 \$5.00
3% to County (if paid in installments) \$3.90 \$
TOTAL \$133.90

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender Fund

Other:
Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge Judge Code: 2000 Sentence Date: 11/30/2012

Clerk of Court/Deputy Clerk: Allie Tucker Court Reporter: Deborah Garrison

SCCA 17 (02/2011)

DCB2009-06-06316

DOCKET NO. 2009-GS-08-1912

WITNESSES

Sheri Williams *Sheri Williams*
Summerville Police Department

The State of South Carolina

County of Berkeley

AGENCY CASE NUMBER

09047398

COURT OF GENERAL SESSIONS

September Term 2009

ARREST WARRANT NUMBER

J-093627

THE STATE

DATE OF ARREST

vs.

June 11, 2009

ACTION OF GRAND JURY

Makandi Leviticus Akeem Terry

True Bill

DOB: [REDACTED]

B/M

Sandra Morales
Foreperson of Grand Jury
Date: 09-09-09

Indictment for

Murder

VERDICT

§16-03-0010

CDR: 0116

Foreperson of Petit Jury

Date:

INDICT

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)
TOWN OF SUMMERVILLE)

AFFIDAVIT
WARRANT # J-093627
OCA # 09-047398

Personally appeared before me, one Det. Sheri L. Williams who, first being duly sworn, deposes and says that

MAKANDI LEVITICUS AKEEM TERRY

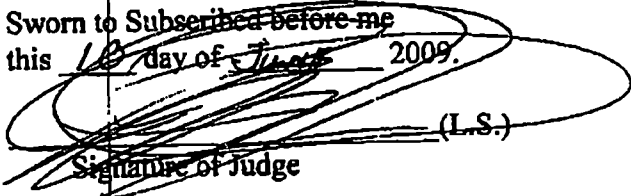
did within this town, county and state on the date of June 9, 2009, violate section 16-3-10 of the criminal laws of the State of South Carolina in the following particulars:

**DESCRIPTION OF OFFENSE
MURDER**

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

THAT ON JUNE 9, 2009, LOCATED IN THE TRAFFIC CIRCLE ON HOLIDAY DRIVE, WEATHERSTONE SUBDIVISION, IN THE TOWN, COUNTY, AND STATE AFORESAID, THE DEFENDANT, ONE MAKANDI LEVITICUS AKEEM TERRY, DID WILLFULLY, UNLAWFULLY, AND FELONIOUSLY WITH MALICE AFORETHOUGHT VIOLATE STATUTE 16-3-10 OF THE SOUTH CAROLINA CODE OF LAWS (1976), AS AMENDED, MURDER, IN THAT THE DEFENDANT DID SHOOT THE VICTIM, TERRELL JAMES ANDERSON, FATAALLY WOUNDING HIM. FACTS TO PROVE THE ABOVE ARE WRITTEN AND VERBAL STATEMENTS FROM WITNESS (MAZYCK) WHO STATED THE VICTIM HAD ARRANGED TO PURCHASE ILLEGAL DRUGS (MARIJUANA) FROM AN INDIVIDUAL AT THE AFOREMENTIONED LOCATION. THE WITNESS (MAZYCK) STATED THAT HE OBSERVED THE DEFENDANT SEATED IN THE BACK SEAT OF THE PASSENGER SIDE OF A RED SUV FOUR DOOR VEHICLE. WRITTEN AND VERBAL STATEMENTS BY WITNESS (ELMORE) WHO STATED THAT HE OBSERVED THE DEFENDANT EXIT THE ABOVE VEHICLE AND SHOOT SEVERAL TIMES AT THE VICTIM WHO WAS FLEEING THE AREA WITH WITNESS (MAZYCK). THE VICTIM APPEARED TO BE SHOT ONCE IN THE TORSO AND ONCE IN THE LEG AREA. THE VICTIM WAS PRONOUNCED DEAD AT THE SCENE. DURING A SEARCH OF THE CRIME SCENE AREA MULTIPLE CASINGS WERE LOCATED ALONG WITH THE DEFENDANT'S CELLULAR PHONE, A BLACK MOTOROLA FLIP PHONE WITH COLOR SCREEN (SERIAL # [REDACTED]). THE WITNESS (MAZYCK) POSITIVELY IDENTIFIED THE DEFENDANT FROM A PHOTOGRAPHIC ARRAY. ALL OF WHICH IS AGAINST THE FORM OF THE STATUTE IN SUCH CASES MADE AND PROVIDED.

Sworn to Subscribed before me
this 10 day of June 2009.


Signature of Judge (L.S.)


Affiant

Address: 300 West 2ND Street
Summerville, SC 29483
Phone: (843) 799-1000

2009 JUN 11 AM 11:52
MAKANDI LEVITICUS AKEEM TERRY
CLERK OF COURT
BERKELEY COUNTY, S.C.

FILED

BAIL set by

Judge _____

on _____

Type and Amount: _____

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defense Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

on _____

by _____

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

WITNESSES

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

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Name: _____

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Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

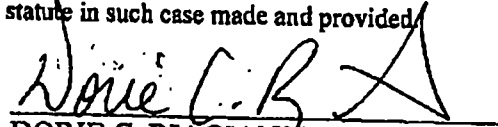
INDICTMENT

At a Court of General Sessions, convened on September 9, 2009 the Grand Jurors of Berkeley County present upon their oath:

Murder

That Makandi Leviticus Akeem Terry did, along with a co-defendant, in Berkeley County on or about June 9, 2009, willfully, feloniously, and intentionally kill the victim, Terrell J. Anderson, with malice aforethought, either express or implied, by means of shooting, and the victim did die as a proximate result thereof on or about June 9, 2009 in, Berkeley County, South Carolina, in violation of §16-03-0010 of the South Carolina Code of Laws (1976) as amended.

Against the peace and tranquility of the State, and contrary to the statute in such case made and provided



DORIE C. BIAGIANTI
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

Makandi Terry, #353344,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

2013-CP-08-2228

ORDER OF DISMISSAL

MAST PEGGONN
CLERK OF COURT
BERKELEY COUNTY, S.C.

FILED
2015 SEP - 8 AM 11:28

This matter comes before the Court by way of an Application for Post-Conviction Relief filed October 2, 2013. Respondent made its Return on January 6, 2015. An evidentiary hearing into the matter was convened on July 21, 2015 at the Charleston County Courthouse. Rodney Davis, Esquire represented Applicant. J. Rutledge Johnson, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

At the hearing, Applicant testified on his own behalf. ~~William Thrower, Esquire also testified.~~ This Court had before it a copy of the records of the Berkeley County Clerk of Court, records from the South Carolina Department of Corrections, the application, the State's Return and the guilty plea transcript.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Berkeley County Clerk of Court. The Applicant was indicted at the September 2009 term of the Berkeley County Grand Jury for murder (2009-GS-08-1912). The Applicant was represented by William Thrower, Esquire.

On November 30, 2012, the Applicant pled guilty to the lesser included offense of voluntary manslaughter. The Applicant was sentenced by the Honorable R. Markley Dennis to confinement for a period of eighteen years. The Applicant did not appeal his conviction or sentence.

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

1. ~~Ineffective assistance of counsel.~~
 - a. ~~Induced and coerced Applicant to plead guilty.~~
 - b. ~~Failed to put a defense at the sentencing stage.~~
 - c. ~~Failed to challenge the prosecution's presentation of evidence.~~
 - d. ~~Failure to adequately develop and present evidence retrieved by prosecution.~~
 - e. ~~Failed to make an independent investigation of the facts and circumstances of the case.~~
 - f. ~~Failed to file an appeal.~~
 - g. ~~Failed to call co-defendant's as eyewitnesses.~~
 - h. ~~Counsel operated under a conflict of interest by working with an attorney that was discharged/fired from the same case and did not advise the Applicant that they were working with that attorney.~~
2. ~~Involuntary guilty plea.~~
 - a. ~~Would not have pled guilty if counsel had not misinformed him that the Judge would give less time due to the facts of the case.~~

~~At the hearing, the Applicant proceeded on his claims of ineffective assistance of plea counsel.~~

SUMMARY OF TESTIMONY

~~At the evidentiary hearing, Applicant testified he fired a previous attorney and hired Counsel. Applicant claimed he asked Counsel to file an appeal on his behalf. Applicant also stated he thought Counsel should have filed a motion to reconsider on his behalf and that he asked Counsel to file this motion after his plea. Applicant testified he met with Counsel multiple times in April, June and August of 2011, but his mother did not pay all of Counsel's fees. Applicant stated August of 2011 was a potential trial date, but did not plead until November of 2012. Applicant claimed he did not~~



~~get his Rule 5 materials until last Thursday.~~ Applicant claimed had he reviewed the Rule 5 materials, he would not have plead, but instead relied on Counsel's advice.

~~Applicant testified Counsel explained the elements of murder but did not explain voluntary manslaughter. He stated he now knows that it is an intentional killing. He claimed had he known this, he would have insisted on pursuing a trial. Applicant stated he discussed no other defenses. Applicant claimed Counsel did not discuss the discovery materials, and Applicant wanted the autopsy report and GSR reports. Applicant claimed Counsel did not discuss any inconsistent statements.~~

Applicant claims the plea came "out of the blue." Applicant testified Counsel said the plea range was 0-20 for voluntary manslaughter, but that if his mother did not pay attorney's fees, he would drop the case. Applicant then said Counsel stated "I can't promise you" but the judge should give Applicant up to fifteen (15) years. Applicant stated he was in jail for 3.5 years prior to plea.

~~Applicant then testified he recalled the conversation with Judge Dennis at his plea and that he disputed the facts of the case.~~ Applicant claimed he did not intentionally kill anybody, but that victim pulled a gun on him and there was a struggle over the gun. Applicant claimed Counsel told him not to argue with the judge.

On cross-examination, Applicant admitted he was satisfied with Counsel at the plea. He admitted that he waived his constitutional right at the plea, including the right to challenge the evidence and pursue a trial. Applicant admitted nobody threatened him or promised him anything to get him to plead guilty. He also testified he understood all of Judge Dennis's questions and answered them truthfully.



On re-direct examination, Applicant testified that at the time of the plea, he went off of face value, but did not see the discovery or inconsistent statements.

Counsel testified he has been practicing criminal law since 1991 and his current practice is 75% criminal law. Counsel stated he was retained by Applicant's mother and that he received the Rule 5 materials from previous counsel. Counsel testified he met with Applicant once a month until the plea and that the plea was not "out of the blue" as described by Applicant. Counsel stated the solicitor in the case changed and the plea offer was relayed to Applicant.

~~Counsel testified that the facts reflected that Applicant and co-defendants decided to make a transaction for marijuana.~~ Counsel testified there were inconsistencies in the witness statements because it was a drug deal in which the conversation turned heated. Counsel stated there were four (4) shots fired, two of which hit victim in the back. Counsel stated there was GSR located on Applicant but none on the victim. Counsel then testified the codefendants cooperated with the State and would have testified against Applicant at trial. Their testimony would have been that Applicant laughed about shooting victim. There would also have been testimony that Applicant actually got out of the car because he dropped his cell phone. The main evidence against Applicant was that the victim was running away when Applicant shot him. Counsel testified he relayed the inconsistent statements to Applicant, as well as explaining the elements of self-defense, voluntary manslaughter, involuntary manslaughter, and accident. ~~Counsel stated Applicant understood their conversations and that he explained to Applicant that his codefendants would testify against him at trial.~~

Counsel testified he did not promise Applicant a certain sentence but explained that there was a negotiated cap of twenty (20) years. ~~Counsel testified he briefly considered filing a motion to reconsider, but thought it was more likely that Judge Dennis would have increased Applicant's~~

sentence. Counsel testified he was shocked Applicant did not receive a 20-years sentence. ~~Counsel testified he thinks Applicant asked him to file an appeal and explained an appeal to Applicant.~~ Counsel testified Applicant agreed it was in his best interest not to file an appeal and that Counsel found no legal basis on which to file an appeal.

On cross-examination, Counsel testified the guilty affidavit Applicant signed was discussed on the same day as the plea, but each statement on the affidavit was not checked by Applicant. Counsel testified he discussed the facts of the case with Applicant, including the alleged fact that three (3) cars were involved and that the victim was trying to grab something in the car. Counsel then testified he did not specifically remember discussing GSR with Applicant. Counsel also testified Co-defendant Magwood "spilled the beans" to law enforcement and continued to get in trouble and that ~~Co-defendant Sanders would have testified against Applicant. He learned about what each co-defendant would have done from their respective attorneys.~~ Counsel admitted he did not file an appeal in this case nor did he file a motion to reconsider because Applicant could have gotten a more severe sentence.

On re-direct examination, Counsel testified he did not tell Applicant how to answer the plea judge's questions and that it was Applicant's decision to plead guilty.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2003).



Ineffective Assistance of Counsel

~~Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence."~~ Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

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, 386 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, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366 (1985).

This Court finds the Applicant's testimony regarding Counsel's ineffectiveness is not



credible while also finding Counsel's testimony is credible.

This Court also finds Counsel provided effective assistance of counsel in this case. Counsel advised Applicant of all of the charge and the sentence the charge carried. Specifically, Counsel testified he discussed all of the elements of murder, voluntary manslaughter, involuntary manslaughter, self-defense and accident with Applicant. ~~Counsel testified he discussed the discovery materials with Applicant, including the inconsistent statements and the fact that Applicant's co-defendants were going to testify against Applicant at trial. Counsel also negotiated with the State in Applicant's best interest.~~ Specifically, Counsel negotiated a plea to a lesser included offense of murder to a cap of 20 years. This Court finds Applicant made the decision to plead guilty on his own accord with the help of learned counsel. Additionally, this Court finds Applicant made this decision freely and voluntarily without any threats or promises from anyone else. Furthermore, this Court finds that it was ultimately the Applicant's decision to plead guilty.

This Court further finds it was Applicant's decision not to file an appeal in this case. While Applicant claimed he asked Counsel to file an appeal, Counsel testified he discussed an appeal with Applicant, and Applicant agreed it was in his best interest not to appeal his case. Counsel also testified he did not file a motion to reconsider Applicant's sentence because he thought Judge Dennis could increase Applicant's sentence and was rather surprised that Judge Dennis gave him less than 20 years.

This Court finds the Applicant has failed to meet his burden of proving counsel's performance was deficient or that he was prejudiced thereby.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing



professional norms. The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. Therefore, these allegations are denied.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the 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 also finds as to all other allegations that Applicant failed to present evidence of such claims and thus, this Court deems them abandoned.

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. Applicant's attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.




4 * , 2

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 Respondent.

AND IT IS SO ORDERED!



Roger E. Henderson
Presiding Circuit Court Judge
Ninth Judicial Circuit

8-28, 2015
Cherterfield, South Carolina

2013-CP-08-2228

EXA

SAVAGE LAW FIRM
15 PRIOLEAU STREET
CHARLESTON, SC 29401
TEL. (843) 720-7470 FAX (843) 720-7478
<http://www.savlaw.com>
Video Conferencing Address: 96.83.158.37

ANDREW J. SAVAGE, III
Certified Criminal Trial Advocate - NBTA

J. SCOTT BISCHOFF, II
DONALD L. MCCUNE, JR.

January 17, 2018

LEGAL MAIL - Please Open in Presence of Inmate

Mr. Makandi Terry
SCDC # 00353344
c./o Livesay Correctional Institution
PO Box 580
Una, SC 29378

RE: Correspondence dated January 8, 2018

Dear Mr. Terry:

I received and reviewed your letter dated January 8, 2018.

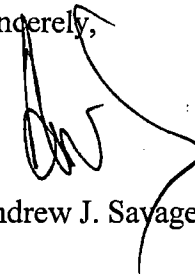
As I understand it, your question to me is: if your case had proceeded to a trial, would your co-defendant Tywanza Sanders have testified against you? That is a question that I cannot answer completely as your case did not go to trial; however, if Tywanza had been issued a subpoena by the State to testify, then he would have been compelled to do so.

~~Tywanza was offered an opportunity to provide a statement to the prosecutor prior to your plea in November of 2012; however, we did not meet with the Solicitor, nor did we provide them with any statement or assistance in the case.~~

Please let me know if you have any other questions that we can help with.

With best wishes, I remain

Sincerely,


Andrew J. Savage, III
AJS,III/hch

My Lawyer stated that Tywanza had gave investigators information which was like


Makandi Terry ^{SCDC} # 353344

L.C.I. (B) 5-23B

P.O. Box 580

Una SC 29378

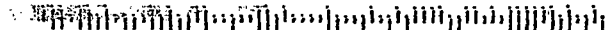


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The Supreme Court of South Carolina
Daniel E. Shearouse, Clerk of Court
P.O. Box 11330
Columbia, SC 29211

29211 1971 300 8033





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WARDEN, LIVESAY CORRECTIONAL INSTITUTION
SC DEPARTMENT OF CORRECTIONS
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CENSORED NOR INSPECTED THIS ITEM.
THEREFORE, THE DEPARTMENT DOES NOT
ASSUME RESPONSIBILITY FOR ITS WRITTEN
CONTENTS."

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FEB 02 2018
SCCS