THE BOOZER LAW FIRM, LLC

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March 28, 2018

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

The Honorable Scott B. Suggs
Clerk of Court
1 Public Square
Darlington, SC 29532

RE: Joshua Reed, #357568, v. State of South Carolina
2016-CP-16-767

Dear Mr. Shearouse and Mr. Suggs:

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

Yours very truly,

Lance S. Boozer

Enclosures
cc: Johnny E. James, Jr., AAG
Loriene French, OAD
Joshua Reed, #357568

RECEIVED
MAR 30 2018
S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM DARLINGTON COUNTY
Court of Common Pleas

The Honorable Roger E. Henderson, Circuit Court Judge

Case No. 2016-CP-16-767

Joshua Reed, #357568, ...Petitioner,

v.

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

NOTICE OF APPEAL

The Petitioner appeals the Honorable Roger E. Henderson's Order dated March 14, 2018, denying post-conviction relief to the Petitioner. The Order was received by undersigned counsel on March 28, 2018. A copy of the Order on appeal is attached to this notice.

Respectfully submitted,

Lance S. Boozer
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1400 Laurel Street, Suite 4A
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March 28, 2018

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM DARLINGTON COUNTY
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The Honorable Roger E. Henderson, Circuit Court Judge

Case No. 2016-CP-16-767

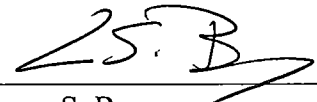
Joshua Reed, #357568, ...Petitioner,

v.

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

PROOF OF SERVICE

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. I further certify that all parties required by Rule to be served have been served this 28th day of March, 2018.



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STATE OF SOUTH CAROLINA COUNTY OF DARLINGTON	)	IN THE COURT OF COMMON PLEAS FOR THE FOURTH JUDICIAL CIRCUIT
Joshua A. Reed, S.C.D.C. No. 357568, Applicant, v. State of South Carolina, Respondent.	)	Case No.: 2016-CP-16-00767 **ORDER OF DISMISSAL**

This matter comes before the Court by way of an application for post-conviction relief filed by Joshua A. Reed ("Applicant") on November 3, 2016. Respondent made its return on or about December 11, 2017. The Court convened an evidentiary hearing into the matter on Tuesday, January 16, 2018, at the Dillon County Courthouse in Dillon, South Carolina. Applicant was present at the hearing and represented by Lance S. Boozer, Esq. Johnny Ellis James Jr., of the South Carolina Attorney General's Office, represented Respondent.

Applicant's trial counsels, J. Richard Jones, Esq. ("Jones") and Julie Rochester, Esq. ("Rochester") (collectively "Counsels"), and the prosecuting solicitor John W. Holt, IV, Esq. ("Holt") testified at the evidentiary hearing. The Court had before it Applicant's records from the South Carolina Department of Corrections, a copy of the original trial transcript, the records of the Darlington County Clerk of Court regarding the subject convictions, Applicant's direct appeal records, 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 Darlington County Clerk of Court. Applicant was indicted at the January

2013 term of the Darlington County Grand Jury for murder (2013-GS-16-00262), and possession of a weapon during the commission of a violent crime (2013-GS-16-00263). J. Richard Jones, Esq., and Julie Rochester, Esq. represented Applicant. John W. Holt, IV, of the Fourth Circuit Solicitor's Office, prosecuted the case. On October 21, 2013, Applicant proceeded to trial before the Honorable Howard P. King and a jury. The jury found Applicant guilty as indicted on October 24, 2013. Judge King sentenced Applicant to imprisonment for the duration of his natural life.

Applicant filed a timely notice of appeal and a direct appeal was perfected by David Alexander, Esq. filing a brief pursuant to Anders v. California, 386 U.S. 738 (1967). The South Carolina Court of Appeals dismissed Applicant's appeal by unpublished opinion. State v. Reed, Op. No. 2015-UP-484 (S.C. Ct. App. filed October 14, 2015). The Remittitur was issued on November 13, 2015.

Present Application

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

1. "[Applicant] was denied the right to effective assistance of counsel guaranteed by the Sixth and Fourteenth Amend. to the United States Const. and by Article I, §§ 3 and 14 of the S.C. Const., During Case: Guilty Plea, etc."
    a. "Plea counsel failed to advise applicant about a plea for 30 years until the day of the plea trial;"
    b. "Counsel failed to place the legal tiny process against the crime video from the scene of the alleged crime incident, etc."
    c. "Failed to fully examine the State's eyewitnesses and disclose their criminal back ground data, NCIC reports, etc. No accounts to show investigative duties to the case as required, etc."
    d. "Counsel failed to have state eyewitness ID for the purposes of witnesses giving reports to the police and investigators but in the truth finding process the potential state eyewitness was placed under arrest for the name of Asia Gregg, etc."

e. "Counsel failed to compel the State to provide the forensic reports of the serology sect. showing the finding of the gun powder residue on the Applicant that was performed on him, the counsel was participating in the hiding information acts through coordination by the State, the counsel did not provide the finding of the serology report until 20 months as said that's when the SLED sent them back to the State, etc[.]"

2. Prosecutorial misconduct, in that:
   a. "As this issue [referring to 1.e above] is compiled with a Brady violation claim that it being the case counsel indulged in violating the Applicant's constitutional rights to have the State's files disclosed to him in a reasonable time frame to have the files inspected for himself, and discussed with the counsel."

Applicant, by and through counsel, amended the following additional allegations by filing on December 18, 2017:

3. Ineffective assistance of counsel, in that:
   a. "Counsel was ineffective for failing to request that Applicant's case be severed from his co-defendant's case."
   b. "Counsel was ineffective for failing to object, strike, request severance and/or mistrial and otherwise act based on the prejudicial statements made by co-defendant's counsel during trial."

At the evidentiary hearing, Applicant clarified that the original allegation of a Brady violation would not be pursued as a ground of prosecutorial misconduct, but as part of a broader allegation that Counsels failed to fully investigate the case against Applicant.

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

In a post-conviction relief action, an applicant has the burden of proving the allegations in his or her application. Rule 71.1(e), SCRCP; 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." Butler at 442, 334 S.E.2d 441 (quoting Strickland v. Washington, 466 U.S. 668, 686 (1984)). The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Id.

"[C]ounsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Butler at 442, 334 S.E.2d 441 (quoting Strickland at 690). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (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 an 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; Edwards v. State, 392 S.C. 449, 456-57, 710 S.E.2d 60, 64 (2011). "[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 at 117, 386 S.E.2d at 625 (citing Strickland at 688). 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 at 117-18, 386 S.E.2d at 625 (citing Strickland at 694).

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. Strickland at 696. 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. at 696-97.

1. Failure to Communicate Plea Offer

Applicant alleges Counsels were ineffective for failing to communicate to him an offer to plead guilty to murder in exchange for a sentence of 30 years. "As a general rule, defense counsel has the duty to communicate formal offers from the prosecution to accept a plea on terms and conditions that may be favorable to the accused." Bell v. State, 410 S.C. 436, 441, 765 S.E.2d 4, 6 (Ct. App. 2014); see also Davie v. State, 381 S.C. 601, 609, 675 S.E.2d 416, 419 (2009).

At the evidentiary hearing, Rochester testified she had no specific recollection of a plea offer, but noted that Holt always extends a plea offer of 30 years to murder. Jones also testified he had no recollection of a plea offer. Holt testified he did not extend any plea offer.

The Court finds Counsels did not fail to communicate any plea offer. Neither attorney could recall any such plea offer and Holt affirmatively denied any such offer ever existed. No

written offer was introduced. Therefore, the only evidence before this Court is that no such plea offer was made. Accordingly, the Court finds no deficiency on the part of Counsels, nor prejudice therefrom, and Applicant's request for relief by way of this allegation is **DENIED.**

2. Failure to Investigate

Applicant alleges Counsels were ineffective in failing to fully investigate the backgrounds of the eyewitnesses against him and the forensic reports in his case. In order to prevail upon a claim that counsel did not adequately prepare or investigate a case, an applicant must present evidence of what counsel could have discovered or what other defenses applicant could have requested counsel develop and present had counsel been more prepared. Harris v. State, 377 S.C. 66, 75-76, 659 S.E.2d 140, 145-46 (2008) (citing Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998)). Furthermore, an applicant must also present evidence to show how the discoverable matters or defenses would have resulted in a different outcome. Id. (citing Davis v. State, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); Skeen v. State, 325 S.C 210, 214, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. Id., 377 S.C. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

At trial, three eyewitnesses testified against Applicant: Asia Gregg, Johnny Lee Washington, and Anthony Wingate. (Tr. 203-50; 252-74; 275-303). Each testified Applicant approached their group at Pride Park and, after some time, produced a handgun, shot the victim multiple times, and fled the scene. (Tr. 207-09; 254-57; 283-87). Additionally, law enforcement tested both Applicant and the co-defendant for gunshot residue: GSR was found on the back and palm of Applicant's right hand, as well as on the back of co-defendant's left hand. (Tr. 472-73). The victim was not tested for GSR. (Tr. 472, ll. 2-12).

At the evidentiary hearing, Rochester testified the overarching strategy at trial was to argue that Applicant did not shoot the victim, and that the time of the 911 call did not reasonably line up with the time-stamps on a nearby convenience store video that recorded Applicant and the co-defendant. Rochester testified the public defender's office has no independent access to the National Crime Information Center (NCIC) database, and that the State provided NCIC reports at the start of trial. Rochester noted that some materials from the State Law Enforcement Division (SLED) were late in coming, but were nonetheless provided and that she had adequate time to review them in preparation for trial.

Jones set forth an overarching strategy to muddy the waters. Jones recalled that he did not have much to work with and that he told Applicant as much. Jones described the evidence against Applicant as "overwhelming." Jones testified that he received and reviewed the statements given by the witnesses and the co-defendant, and displayed the video statements to Applicant. Jones recalled visiting the crime scene and talking to the witnesses, but could not recall specifically talking to Asia Gregg. Jones testified he typically receives NCIC reports from the State before they testify. Jones indicated he received and had time to review all of SLED's reports before trial, and that he went over them with Applicant.

Holt testified that the State provided all materials in response to motions by the defense pursuant to Rule 5 and Brady. Holt conceded that SLED's GSR report was much delayed and is always the last material the State receives.

The Court finds no deficiency on the part of Counsels, nor any prejudice therefrom. The testimony of both Counsels reflects a thorough investigation of Applicant's case and review of materials provided in discovery. Both Counsels reported having adequate time to review the GSR report provided by SLED. Additionally, Applicant did not indicate what, if any, additional

defenses could have been advanced had Counsels conducted a more thorough investigation. As such, Applicant cannot meet his burden, and his request for relief by way of this allegation is **DENIED.**

3. Failure to Motion for Severance, Mistrial After Co-Defendant's Closing Argument

Applicant alleges Counsels were ineffective for failing to seek severance of his trial from that of his co-defendant, and were similarly ineffective after the highly adverse closing argument made by the co-defendant's counsel, Matt Swilley, Esq. ("Swilley"). Applicant argues that Swilley's closing argument, in effect, placed him into the shoes of his own client, who refused to testify, thereby inhibiting Applicant's confrontation rights in a manner similar to the problem in Bruton v. U.S., 391 U.S. 123 (1968). Applicant protests that Counsels' failure to seek a trial separate from his co-defendant effectively left him with no possible defense.

"Criminal defendants who are jointly tried for murder are not entitled to separate trials as a matter of right." State v. Dennis, 337 S.C. 275, 281, 523 S.E.2d 173, 176 (1999) (citations omitted). "A defendant who alleges he was improperly tried jointly must show prejudice before this Court will reverse his conviction." Id. "The general rule allowing joint trials applies with equal force when a defendant's severance motion is based upon the likelihood he and a codefendant will present mutually antagonistic defenses, i.e., accuse one another of committing the crime." Id. "A severance should be granted only when there is a serious risk that a joint trial would compromise a specific trial right of a co-defendant or prevent the jury from making a reliable judgment about a co-defendant's guilt." Hughes v. State, 346 S.C. 554, 559, 552 S.E.2d 315, 317 (2001).

As for a motion for a mistrial, "[a] mistrial should only be granted when absolutely necessary, and a defendant must show both error and prejudice in order to be entitled to a

mistrial." State v. Wilson, 389 S.C. 579, 585, 698 S.E.2d 862, 865 (Ct. App. 2010). "Insubstantial errors that do not impact the result of the case do not warrant a mistrial when guilt is conclusively proven by competent evidence." Id.

At trial, Swilley's opening statement laid blame on Applicant, denied Johnathan's culpability, and indicated he would not testify against his brother, Applicant:

> Somehow between [Applicant] and Milton Hunter some bad blood comes up and between a conversation *shots get fired by [Applicant]*. Milton Hunter dies. And my client, Johnathan Reed, does exactly what any reasonable person would do at that moment, he takes off. He removes himself from the situation. Nobody wants to be in the middle of a gun fight. Jonathan never had a gun. He never participated in anything illegal in Pride Park. He never insisted telling – never assisted in any crime that took place; he didn't commit a crime. The reason that Johnathan is on trial right now; I'm gonna tell y'all, the reason why he's in that chair, because he's not gonna sit in that chair, and bear with us, against his brother. He didn't do that from the beginning, and he's didn't [sic] exactly will [sic] do that now. That's why he's charged [with] a crime.

(Tr. 199, ll. 6-16) (emphasis added). Swilley again indicated Applicant shot the victim during cross-examination of Wingate:

> [SWILLEY:] And at the time *you saw [Applicant] shoot Milton*[,] Jonathan Reed wasn't doing anything, right?
>
> [WINGATE:] He was standing, he was standing – see, he was standing opposite side of Johnny Lee.
>
> Q: Right. And did I hear you say before that he looked shooked when all this was going on?
>
> A: Yeah, I honestly say that.
>
> Q: Like, I mean, he had a look of bewilderment on his face?
>
> A: He looked as puzzled just like I looked puzzled.
>
> Q: Right. And at the time you saw Johnny, Johnathan didn't have a gun, did he?
>
> A: Not from my knowledge I don't know.

Q: I mean, you didn't see a gun in his hand, did you?

A: No.

Q: Didn't see a gun hanging out of his clothes did you?

A: No. I think he had his hands in his, like in his coat, in the hoodie.

Q: You didn't see the imprint of a gun in his coat, did you?

A: Naw.

Q: Is that a no?

A: No, no.

(Tr. 298-99) (emphasis added). Late in his closing argument, Swilley again pivoted from focusing on co-defendant's lack of guilt to Applicant's culpability, against his client's wishes:

> If Jonathan had his way I wouldn't be up here to concede, *telling that [Applicant] shot Milton* and telling y'all what you already know, the fact you know, they were there and that Joshua shot Milton and that Jonathan just ran when the gunshot rang out like any regular person would. My job is to protect him from an unlawful conviction. He doesn't call that shot; I do. That's my decision.

(Tr. 638, ll. 18-25) (emphasis added). Counsels did not object in any of the above instances.

At the evidentiary hearing, Rochester testified she began to suspect Swilley during pre-trial motions, at which time he separated the tables on the defenses' side of the courtroom. Rochester indicated she was previously unaware that co-defendant's defense strategy would be adverse and that the separation of the tables was her first indication that the co-defendant's defense would be adverse. Rochester testified she should have motioned for a separate trial as soon as it became obvious Swilley was adverse to her client, but that she deferred to the judgment of Jones, who was the more experienced attorney. Rochester agreed with Applicant's proposition that Swilley's closing argument stepped into his client's shoes in a way that

foreclosed cross-examination. Rochester recalled a sense of dread during Swilley's opening statement, and described it as one that parroted the State's own opening.

Jones testified Applicant's biggest problem going into trial was not the co-defendant, but that the State's case was built on the testimony of three eyewitnesses to an event that occurred in the middle of the day. Jones reported having basic conversations with Swilley, but that there was no in-depth discussion of trial strategy. Jones agreed he saw the first hint of how the co-defendant's defense would unfold during Swilley's opening statement, but did not know Swilley would throw Applicant under the bus until it occurred in closing argument. Jones did not put much stock in the separation of tables as symbolic of anything, and noted that the space was cramped with the tables together. Jones emphasized the eyewitnesses did not affirmatively put the gun in Applicant's hand until trial, and that Swilley was the co-defendant's second attorney, as the first had resigned upon Johnathan's refusal to testify against Applicant. At the time trial started, Jones did not believe severance was appropriate. As to a potential objection during closing arguments or a motion for a mistrial, Jones noted that Swilley primarily argued facts already in evidence and simply framed them in a light most beneficial to his client. Confronted with Swilley's argument that Johnathan did not wish for Swilley to impugn Applicant, Jones opined that it did not rise to the level of a mistrial. Jones did not believe the trial played out in the form of a "two-front fight" until Swilley's closing argument. Jones agreed that Applicant's defense was, to say the least, not bolstered by Swilley's closing.

The Court finds no deficiency on the part of Counsels, nor prejudice therefrom. As to Counsels' failure to motion for a severance prior to trial, this Court finds they had no way of knowing that Swilley's closing argument would be irreconcilably adverse until it was made. Though Rochester testified to a "feeling" that Johnathan Reed was becoming adverse to

Applicant, it was nothing more than ominous speculation, and no real indication was made prior to trial that the co-defendant would be adverse. To the contrary, Jones had a reasonable basis to conclude otherwise based on the resignation of Johnathan's first attorney due to Johnathan's refusal to testify against his brother. Furthermore, though Applicant tries to bend Bruton to fit to the facts of the present case, the Court finds no specific right of Applicant's was compromised by the joint trial. That Applicant could not "cross-examine" Swilley's closing argument simply does not fit within Bruton, and amounts to no more than a protestation that the co-defendant's defense was adverse, which is not adequate grounds for severance under Dennis.

As to Counsel's failure to object or otherwise motion for a mistrial due to Swilley's closing argument, the Court agrees with Jones' analysis that Swilley primarily argued facts in evidence. Swilley's off-hand remarks that he was arguing contrary to his own client's wishes did comprise an unusual comment on his own client's silence, and offered an explanation not in otherwise in evidence. However, the comment was of no real consequence, and did not serve to impugn or inculpate Applicant, but only explained why Johnathan did not testify. As Jones' noted, the evidence against Applicant was overwhelming, in the form of three eyewitnesses and a positive test for GSR on Applicant. The weight and merit of that evidence was in no way disturbed by Swilley's arguing contrary to his client's wishes and admitting as much on the record. If anything, but for Johnathan's acquittal, it may have provided an argument for post-conviction relief against Swilley. Accordingly, Applicant's request for relief by way of these allegations is **DENIED**.

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 14th **day of** March **, 2018.**

ROGER E. HENDERSON
Presiding Judge
Fourth Judicial Circuit

Chesterfield, South Carolina

FILED
2018 MAR 21 AM 10:20
SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

STATE OF SOUTH CAROLINA COUNTY OF DARLINGTON Joshua A Reed, Plaintiff(s), -vs- South Carolina State Of, Defendant(s).	)))))))	IN THE COURT OF COMMON PLEAS 4th JUDICIAL CIRCUIT CASE NO.: 2016CP1600767 APPOINTMENT OF COUNSEL OR GAL (*Select one.*) ☒ ORDER ☐ AMENDED ORDER

TYPE OF CASE/PROCEEDING: (*Check one.*)

☐ Post-Conviction Relief (PCR)/habeas case	☐ Adoption	☐ Juvenile
☐ SVP case	☐ Custody and/or Visitation	☐ Abuse and Neglect
☐ Minor Name Change	☒ Other: Post Convict Rel 500	

It appears Joshua A Reed, who is a litigant in this case, is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: (*Select only one.*)

☒ counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.

☐ counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on:

☐ counsel was previously appointed by the court but has not indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.

☐ court appointed counsel has obtained , Esquire as substitute counsel pursuant to Rule 608(j)(2), provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.

☐ Other:

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2016 DEC 15 AM 11:45
CLERK OF COURT
DARLINGTON COUNTY, S.C.

Therefore, it is ordered that Lance Boozer hereby is appointed as (*Select one.*)

☐ counsel ☐ lead counsel (*if capital PCR case*) ☐ guardian ad litem for the above-named person. Any counsel or GAL previously appointed is/are hereby relieved.

☐ (*If Death Penalty PCR Case*) It is further ordered that , Esquire, is hereby appointed as second counsel in this capital PCR case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED
December 15, 2016

Scott B. Suggs

☐ Circuit Judge ☒ Clerk of Court

Plaintiff Attorney:

Lance Boozer	
1400 Laurel St., Ste. 4A	
Columbia, SC 29201	

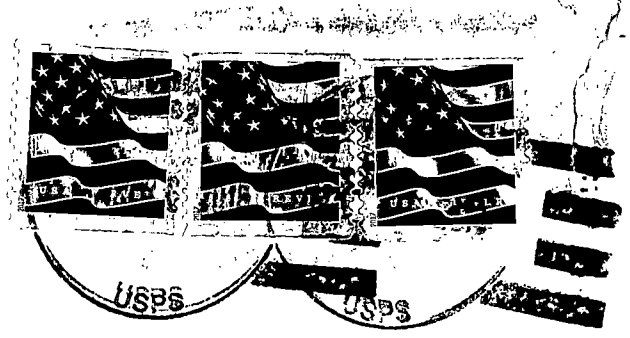
Defendant Attorney:

Valerie Garcia Giovanoli	
PO Box 11549	
Columbia, SC 29211-1549	

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, 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.

CP20 (08/08)
SCCA/267 (03/07)

THE BOOZER LAW FIRM, LLC
1400 Laurel Street, Suite 4A
Columbia, SC 29201



The Honorable Daniel E. Shearouse
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