

# Timothy L. Griffith Attorney at Law

360 West Wesmark Blvd, 2<sup>nd</sup> Floor, Sumter, SC 29150

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Phone: (803) 607-9087 Fax: (803) 728-3375

April 30, 2018

Clerk of Court, Sumter County  
Common Pleas

Please file the included NOTICE OF APPEAL and return the clocked copies in the included envelope.

Thank You,



Timothy L. Griffith, Esquire

**RECEIVED**

MAY 07 2018

S.C. SUPREME COURT

**NOTICE OF APPEAL FROM A PCR DENIAL BY THE COURT OF  
COMMON PLEAS**

THE STATE OF SOUTH CAROLINA  
In Supreme Court of SC

APPEAL FROM SUMTER COUNTY  
Court of Common Pleas

**RECEIVED**

**MAY 07 2018**

DeAndrea G. Benjamin , Circuit Court Judge S.C. SUPREME COURT

Case # 2016CP4301674

The State,

Respondent,

v.

Jason D Compton

Appellant.

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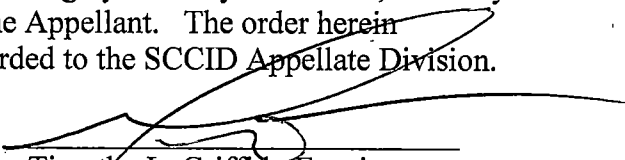
NOTICE OF APPEAL

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Jason D Compton, appeals the decision of the Court, on March 27, 2018, where Mr. Jason D Compton was denied his request for Post Conviction Relief. Mr. Jason D Compton was represented at the hearing by Timothy L. Griffith, Attorney at Law who files this notice on behalf of the Appellant. The order herein attached and a copy of which is also forwarded to the SCCID Appellate Division.

Dated

4/30/18

  
\_\_\_\_\_  
Timothy L. Griffith, Esquire  
360 W. Wesmark Blvd,  
Sumter, South Carolina 29150  
Telephone: (803)607-9087  
Attorney for Appellant (relieved)  
Will not be representing on appeal

Other Counsel of Record:  
Julie A. Coleman, Esquire  
Assistant Attorney General  
South Carolina Attorney General's Office P.O. Box 11549  
Columbia, S.C. 29211

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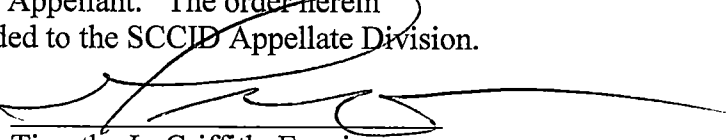
Appellant.

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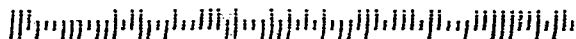
COLUMBIA SC 29211

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Supreme Court of South Carolina  
P.O. Box 11330  
Columbia, SC 29211

29211-133030



FORM 4

STATE OF SOUTH CAROLINA  
 COUNTY OF SUMTER  
 IN THE COURT OF COMMON PLEAS

RECORDED

JUDGMENT IN A CIVIL CASE  
 CASE NUMBER 2016CP4301674

Jason D Compton  
 2018 APR 26 AM 7:37  
 South Carolina State of  
 JAMES C. CAMPBELL  
 CLERK OF COURT  
 SUMTER COUNTY

PLAINTIFF(S) DEFENDANT(S)  
 Submitted by: Clerk of Court Attorney for:  Plaintiff  Defendant  
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  
 Rule 43(k), SCRPC (Settled);  Other: \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):  Rule 40(j) SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other: \_\_\_\_\_
- STAYED DUE TO BANKRUPTCY
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):  
 Affirmed;  Reversed;  Remanded;  Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:  See attached order; (formal order to follow)  Statement of Judgment by the Court:

ORDER INFORMATION

This order  ends  does not end the case.  
 Additional Information for the Clerk: See attached Order.

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.  
 E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

2099 Judge Code 4/26/2018 Date  
 Circuit Court Judge

For Clerk of Court Office Use Only

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on, to attorneys of record or to parties (when appearing pro se) as follows:

Jason D #331364 Compton Lee Correctional Inst/F/4  
A-1137 990 Wisacky Hwy Bishopville, SC 29010  
Timothy Lee Griffith 360 W Wesmark Blvd Second Floor  
Sumter, SC 29150

Alan McCrory Wilson S.C. Attorney General's Office PO  
Box 11549 Columbia, SC 29211-1549

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ATTORNEY(S) FOR THE PLAINTIFF(S)

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ATTORNEY(S) FOR THE DEFENDANT(S)

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Court Reporter

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James C. Campbell - Clerk of Court

Court Reporter:

**E-Filing Note:** In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRCP.

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**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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STATE OF SOUTH CAROLINA  
COUNTY OF SUMTER

RECORDED  
IN THE COURT OF COMMON PLEAS  
THIRD JUDICIAL CIRCUIT  
2018 APR 26 AM 7:28

Jason D. Compton, #331364,  
Applicant,

JAMES C. CAMPBELL 2016-CP-43-1674  
CLERK OF COURT  
SUMTER COUNTY, S.C.

v.

**ORDER OF DISMISSAL**

State of South Carolina,  
Respondent.

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on September 12, 2016. Respondent submitted its Return and Motion for More Definite Statement on February 6, 2018. An evidentiary hearing into the matter was convened on March 27, 2018, at the Sumter County Courthouse. Applicant was present at the hearing and was represented by Timothy Griffith, Esquire. Respondent was represented by Assistant Attorney General Julie A. Coleman of the South Carolina Attorney General's Office.

At the evidentiary hearing, Applicant testified on his own behalf. Respondent presented testimony from Lir Patrick Derieg, Esquire ("Plea Counsel"). This Court had before it the records of the Sumter County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the plea transcript, and the pleadings. The Court finds as follows:

**I. PROCEDURAL HISTORY**

The records before this Court indicate Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. In August 2014, the Sumter County Grand Jury indicted Applicant for murder, two counts of attempted murder, two counts of kidnapping, second degree criminal sexual

conduct with a minor, and first degree criminal sexual conduct (2014-GS-43-0716). In September 2015, the Sumter County Grand Jury indicted Applicant for two counts of murder, first degree arson, and first degree burglary (2015-GS-43-0939), as well as third degree arson (2015-GS-43-0940). Lir Patrick Derieg, Esquire, represented Applicant. Assistant Solicitor Bronwyn McElveen, Esquire, prosecuted the case. On September 11, 2015, Applicant pled guilty as indicted to all charges before the Honorable Maité Murphy. Judge Murphy sentenced Applicant to imprisonment for consecutive terms of life for each count of murder, thirty years for each count of attempted murder, thirty years for each count of kidnapping, fifteen years for third degree arson, thirty years for first degree arson, and thirty years for first degree burglary. Applicant did not appeal his conviction or sentence.

## II. ALLEGATIONS

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

1. Ineffective Assistance of Counsel
  - a. "I was coerced into pleading guilty and plea wasn't knowingly and voluntary."

## III. SUMMARY OF RELEVANT TESTIMONY PRESENTED

### *Applicant's testimony*

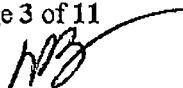
At the evidentiary hearing, Applicant testified he was highly medicated on the morning of his plea and he only did what his attorney told him to do. He stated he was on these medications for seven months before his plea, and he was forced to take them at the jail. He stated that he recalled telling the plea court he was not on any medications that day, and he was pleading voluntarily and was not being threatened or coerced by anyone to plead, but he was so "drugged

up" he did not know what they were asking him, and he does not remember any of the plea. He stated his plea was not knowing or voluntary.

Applicant testified Plea Counsel scared him into pleading guilty because he told him he would get the death penalty if he did not plead guilty. He stated that Timothy Murphy represented him on this case before Trial Counsel, but he was relieved in August before his plea. He testified he was evaluated for mental competency before the plea and he was found competent to stand trial. Applicant stated Plea Counsel did not have enough time to prepare his case and he only visited him two times before the plea. Applicant testified he did kill Tracy Koepfler by hitting her in the head with a hammer, but he was not guilty of the house fire and murder of the two elderly victims.

*Plea Counsel's testimony*

At the evidentiary hearing, Plea Counsel testified he met with Applicant at least six times regarding this case. He stated Applicant pled guilty to charges stemming from three different incidents. The first involved a house fire in the home of an elderly couple for which Applicant had allegedly done some plumbing work for. The State alleged Applicant broke into the house in an intended burglary, and the elderly man who lived in the home caught Applicant in the act. He stated the two got into an altercation and Applicant set the house on fire, which resulted in the death of both residents. Plea Counsel testified the second incident Applicant pled guilty to was the charge of third degree arson, and Applicant admitted to setting fire to his ex-girlfriend's trailer. He stated the third event was the attempted murder of a young girl, whom Applicant forced to watch him beat her mother, Tracy Koepfler, to death in the head with a hammer. He stated Applicant also attempted to smother a disabled woman who was present at the back of the house.



Plea Counsel testified Applicant always told him that he killed Tracy with a hammer, but at one point in December 2015, Applicant told him he did not kill her, but her daughter did. He stated Tracy's daughter intended to testify at trial that Applicant killed her mother, and also attacked her and forced her to remove her clothing to keep her from getting help. Plea Counsel stated he and Applicant did not have much discussion about the third degree arson charge, but he admitted that he set the fire, but he also put the fire out.

Plea Counsel testified the house fire and death of the elderly couple was actually a cold case for a period of time because law enforcement could not find the source of the fire and there was never a criminal investigation. He stated that, once Applicant was in custody for the death of Tracy Koepfler, he voluntarily gave a statement to the Sherriff's Department that he was the one who committed the unsolved murder of the elderly couple. He stated Applicant told them he poured an accelerant on the couch and lit it. Plea Counsel stated Applicant waived his right to representation and told law enforcement everything about the crime. He stated they took Applicant to the scene of the crime and let him lead the way, and he corroborated the story and gave them details even they did not know.

Plea Counsel testified Applicant told him a couple times that he set the fire that killed the elderly couple, but sometimes he told him he did not do it, but his brother did, and he wanted to take credit for the crime to protect his brother, since he was already facing a murder charge. He stated that he does not know anything about Applicant's brother, or if he even has a brother. Plea Counsel testified the State never filed notice of intent to seek the death penalty in Applicant's case. He stated Applicant told him he wanted to die, and he wanted the death penalty, but the State decided not to seek the death penalty because of Applicant's potential mental health issues. Plea Counsel testified he did not threaten Applicant by saying he would get the death penalty if

he did not plead guilty. He stated he told Applicant the death penalty was not an option. He stated Applicant told him that if he could not get the death penalty, then he wanted to plead guilty to all charges except the criminal sexual conduct charge, because there was no sexual component to the crime, but he told the young victim to remove her clothes to keep her from running out of the house and calling for help when he murdered her mother.

Plea Counsel testified Applicant was evaluated for mental competency three times, and Applicant was found competent to stand trial and criminally responsible. Plea Counsel testified he knew Applicant was prescribed medication, but he did not know if he was taking them or not. He stated Applicant was bipolar, and he was probably on the medication he was supposed to be taking at the plea. Plea Counsel opined that Applicant was not so "doped up" that he could not understand the plea. He stated he felt sure that Applicant was on his medication but he was not medicated to the degree that he was incapacitated. Plea Counsel testified he would not have gone forward with the guilty plea if he did not think Applicant was comprehending the proceeding. Plea Counsel stated Applicant wanted to plead guilty and chose to accept this plea agreement because the State was willing to drop the criminal sexual conduct charge.

#### IV. APPLICABLE LAW

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). 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, (1984); Butler, 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, 286 S.C. 441, 334 S.E.2d 813 (1985). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

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 pleas, 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).

#### V. 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 (1985).

## INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant alleges Plea Counsel was ineffective in his representation surrounding his guilty plea. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). An applicant 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 applicant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985).

After considering the testimony, judging the credibility of the witnesses, and reviewing the materials presented to the court, this Court finds Applicant has failed to meet his burden in proving Plea Counsel was ineffective in any regard. Plea Counsel credibly testified he did not threaten Applicant with the death penalty to force him to plead guilty, but rather that Applicant informed him he wanted the death penalty. He testified he met with Applicant six times and fully reviewed the discovery with Applicant and the evidence against him, which included multiple confessions to the crimes. Plea Counsel reviewed Applicant's constitutional rights multiple times and helped him negotiate a plea deal that removed the criminal sexual conduct charge, as Applicant requested. He credibly testified that Applicant informed him he was on medication at the plea after the deadline to appeal the plea had already passed.

This Court finds Plea Counsel's representation and advice was reasonable under the circumstances and nothing he did was outside the scope of reasonable professional norms. Plea Counsel fully represented his client and advised him based on his best interests and what Applicant told him he wanted, which was to plead guilty. Accordingly, Applicant has failed to prove that Plea Counsel was deficient or that he would have gone to trial but for these deficiencies, and post-conviction relief is denied.

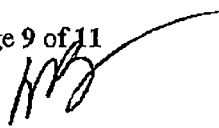
#### INVOLUNTARY GUILTY PLEA

Applicant alleges his guilty plea was not given freely and voluntarily. This Court finds otherwise and concludes Applicant's plea was entered freely and voluntarily. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 23 L.Ed.2d 274 (1969). Defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 97 S. Ct. 1621, 52 L.Ed.2d 136 (1977)). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir.1975).

Applicant alleges he was coerced into pleading guilty because his attorney threatened him by telling him he would get the death penalty if he did not plead guilty. The record and Plea Counsel's testimony clearly show Applicant was not threatened, forced, or coerced to plead guilty. Plea Counsel credibly testified the State never filed notice of an intention to seek the death penalty, and they did not want to seek death because of potential mental health issues. Furthermore, this Court finds very credible Plea Counsel's testimony that Applicant told him he wanted the death penalty, and he wanted to die. Plea Counsel credibly testified Applicant always wanted to plead guilty and never wanted to go to trial on these charges.

At the guilty plea, the plea court asked Applicant if anyone had threatened him or promised him anything to get him to plead guilty, and Applicant responded "no." Tr. 20, line 16-21. Applicant told the plea court at the plea that he had not had any drugs, alcohol, or prescription medication within the last twenty-four hours. Tr. 9, line 11-13. Although Applicant now alleges he was too medicated at the plea to understand what was being asked of him, Plea Counsel credibly testified that, in his opinion, Applicant fully understood what he was doing at the plea, and he would not have allowed the proceeding to go forward if he believed Applicant was not comprehending the proceeding. Applicant has failed to prove he was coerced into pleading guilty and would have gone to trial otherwise.

Notably the South Carolina Supreme Court has held "[a] guilty plea represents a break in the chain of events which has preceded it in the criminal process." Id. (citations omitted). "When a criminal defendant has solemnly admitted in open court that he is in fact guilty of the offense with which he is charged, he may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea." Id. (citing Rice, 401 S.C. at 332, 737 S.E.2d at 486). This Court finds Applicant has not presented any



credible evidence that he should be allowed to depart from the truth of the statements he presented to the plea court. Therefore, this Court finds the plea court correctly found Applicant's plea was freely, voluntary, and intelligently made. Accordingly, this allegation must be denied and dismissed.

## VI. 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 notes that Applicant must file and serve a notice of appeal within thirty 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 post-conviction relief. Rule 71.1(g), SCRCR, provides that 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.

*[signature page to follow]*

**IT IS THEREFORE ORDERED:**

1. That the application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of Respondent.

**AND IT IS SO ORDERED** this 19 day of April, 2018.



DEANDREA G. BENJAMIN  
Presiding Judge  
Third Judicial Circuit

Columbia, South Carolina