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MAY 07 2018

THE BOOZER LAW FIRM, LLC

S.C. SUPREME COURT

Lance S. Boozer, Esq.*
*Also admitted in Florida

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May 3, 2018

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

The Honorable James C. Campbell
Clerk, Sumter County
215 N. Harvin Street
Sumter, SC 29150

RE: Wilbert Franklin, #229450, v. State of South Carolina
2017-CP-43-2043

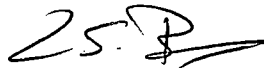
Dear Mr. Shearouse and Mr. Campbell:

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

Yours very truly,



Lance S. Boozer

Enclosures

cc: Julie Coleman, AAG
Loriene French, OAD
Wilbert Franklin, #229450

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

RECEIVED

MAY 07 2018

The Honorable Deandrea G. Benjamin, Circuit Court Judge **S.C. SUPREME COURT**

Case No. 2017-CP-43-2043

Wilbert Franklin, Jr., #229450,Petitioner,

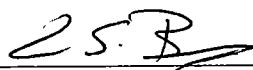
v.

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

NOTICE OF APPEAL

The Petitioner appeals the Honorable Deandrea G. Benjamin's Order dated April 12, 2018, denying post-conviction relief to the Petitioner. The Order was received by undersigned counsel on May 3, 2018. A copy of the Order on appeal is attached to this notice.

Respectfully submitted,



Lance S. Boozer
The Boozer Law Firm, LLC
1419 Pendleton Street
Columbia, SC 29201
Tele: 803-608-5543

May 3, 2018

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

RECEIVED

The Honorable Deandrea G. Benjamin, Circuit Court Judge **MAY 07 2018**

S.C. SUPREME COURT

Case No. 2017-CP-43-2043

Wilbert Franklin, Jr., #229450,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 Julie Coleman, P.O. Box 11549, Columbia, SC 29211. I further certify that all parties required by Rule to be served have been served this 3rd day of May, 2018.



Lance S. Boozer
The Boozer Law Firm, LLC
1419 Pendleton Street
Columbia, SC 29201
Tele: 803-608-5543

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER) 2018 APR 16 PM 4:30
RECORDED) IN THE COURT OF COMMON PLEAS
BOARD JUDICIAL CIRCUIT

Wilbert Franklin, Jr., #229450,) JAMES C. CAMPBELL) 2017-CP-43-2043
CLERK OF COURT)
SUMTER COUNTY, S.C.)
Applicant,)

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 October 26, 2017. Respondent submitted its Return and Partial Motion to Dismiss on January 31, 2018. An evidentiary hearing was held March 27, 2018, at the Sumter County Courthouse. Applicant was present at the hearing and was represented by Lance S. Boozer, 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 Stephen Story, Esquire ("Trial Counsel"). This Court had before it the records of the Sumter County Clerk of Court regarding the subject convictions, Applicant's records for the Department of Corrections, appellate records, the Record on Appeal, and the pleadings. The Court finds as follows:

I. PROCEDURAL HISTORY

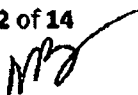
The records before this Court indicate Wilbert Franklin, Jr. ("Applicant") is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. In July 2015, the Sumter County Grand Jury indicted Applicant for armed robbery (2015-GS-43-0714). The charge stemmed from an August 16, 2014

robbery of a Kangaroo gas station in Sumter County. ROA 52. Victim Chaunise Carter was working as an assistant manager at the gas station when Applicant came into the store, approached her, and told her to give him the money out of the cash register. ROA 72. Applicant had his hand inside a white bag and held it up, and the victim believed it was a gun. ROA 74. The victim followed Applicant's instructions, opened the cash register, and gave him the cash inside. ROA 75-76. Applicant was identified by witness Walter Robertson, who encountered Applicant that evening at a homeless shelter, after the robbery was reported on the news. ROA 115. Robertson recognized Applicant's clothing and mannerisms, and immediately gave his personal information to law enforcement. ROA 116-17.

Stephen Story, Esquire, represented Applicant. John P. Meadors, Esquire, prosecuted the case. On November 9-12, 2015, Applicant proceeded to a jury trial before the Honorable Maité Murphy. The jury found Applicant not guilty of armed robbery, and guilty of the lesser included offense of strong-armed robbery. Judge Murphy sentenced Applicant to imprisonment for fifteen years, to be served consecutively to the seven year sentence he was already serving for a prior conviction of attempted armed robbery, 2014-GS-24-1815.

Applicant filed a timely notice of appeal, and an appeal was perfected. Robert M. Pachak, Esquire, of the South Carolina Commission on Indigent Defense, filed an Anders¹ brief on Applicant's behalf. After a review, the South Carolina Court of Appeals dismissed Applicant's appeal in an order filed May 24, 2017. The remittitur was issued June 13, 2017.

¹ Anders v. California, 386 U.S. 738 (1967).

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II. ALLEGATIONS

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

1. Unconstitutional Sentence
 - a. Consecutive sentence
2. Ineffective Assistance of Counsel
 - a. Failure to have Applicant evaluated for competency; Applicant was incompetent at the time of the crime
 - b. Counsel was ineffective during the sentencing phase of the trial, because counsel didn't file motion or object when the Court sentenced Applicant to 15 years consecutive to current time.
 - c. Counsel was ineffective for his failure to investigate the facts surrounding Applicant's plea and whether the initiation of the plea violate the Due Process Clause of the 14th Amendment of the United States Constitution and it violates fundamental fairness of the criminal justice system.

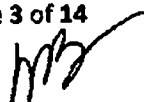
Applicant filed an amended application on February 15, 2018, adding the following allegations:

- (i) Applicant believes counsel was ineffective for failing to explain the possibility Applicant could be convicted of strong arm robbery at trial. Had Applicant known he could have been convicted of a lesser-included offense at trial, he would have accepted an initial plea offer
- (ii) Applicant alleges counsel failed to explain trial strategy prior to trial and was ineffective for requesting a jury charge for lesser-included offenses.

III. SUMMARY OF RELEVANT TESTIMONY PRESENTED

Applicants' testimony

At the evidentiary hearing, Applicant testified that he met with Trial Counsel two times before the trial while he was in custody. He stated the State offered him a plea offer for armed robbery for a ten year sentence, which would run concurrently to his prior sentence for another crime. He testified that he rejected the offer because he knew he could beat the armed robbery charge at trial. Applicant testified he thought he was only going to trial on armed robbery, and he

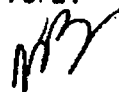


did not know that he could be convicted of strong-armed robbery. He stated he was surprised with Trial Counsel admitted to the jury in his opening statement at trial that Applicant robbed the store, and he did not know Trial Counsel was going to do that. He testified he felt like he had to take the stand at trial and testify because his attorney just told the jury he did it. He stated he would not have testified at trial if his attorney had not done so.

Applicant testified there was no discussion about the trial strategy with his attorney before the trial. He stated Trial Counsel did not explain that he could get a consecutive sentence if convicted at trial. Applicant stated he told Trial Counsel that he only wanted to go to trial on armed robbery, but Trial Counsel told him he did not want to see Applicant get thirty years in prison. Applicant testified he was on drugs at the time he committed the crime, and he told Trial Counsel he did not have good decision making abilities at the time of the crime. He stated before the crime, he voluntarily did cocaine.

Trial Counsel's testimony

Trial Counsel testified he was appointed to this case sometime before October, 2014. He stated he met with Applicant three times before the trial. He testified he reviewed the discovery materials with Applicant and Applicant understood the evidence against him, which included the testimony of the victim cashier, a video of the robbery at the store with audio, and a statement Applicant gave to law enforcement admitting that he robbed the store but he did not have a gun. Trial Counsel explained that part of this statement was self-serving, so under the rules of evidence, the only way they could get the statement into evidence at trial was to have Applicant testify, which is part of the reason he chose to take the stand at trial. Trial Counsel opined that the State had overwhelming evidence against Applicant for strong-armed robbery, but he

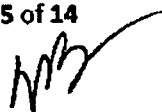


believed the evidence against him of armed robbery was weak and Applicant had a very strong case against it. He stated he discussed this with Applicant.

Trial Counsel testified his strategy was to admit to the jury that Applicant was guilty of strong-armed robbery but argue that he was not guilty of armed robbery because it was unreasonable of the victim to believe Applicant had a gun while he robbed her. He stated he discussed this with Applicant and Applicant agreed, and he had Applicant sign a release stating that he conceded strong-armed robbery so he could be acquitted of armed robbery. Trial Counsel testified he and Applicant discussed the trial strategy at length. He stated there was never any discussion with Applicant of not requesting the lesser included offense, and Applicant always agreed that they would request the lesser-included offense of strong-armed robbery.

Trial Counsel testified he discussed with Applicant the fact that he could get a consecutive sentence to his prior sentence. He stated there was never a plea offer from the State in this case. Trial Counsel testified he approached the Solicitor's Office about a plea and told them Applicant wanted eight years or less for strong-armed robbery, but the State never offered a plea deal. He stated that if there had been a plea offer, he would have communicated it to Applicant, discussed it with him, and left the decision up to him to make. However, after checking his file, Trial Counsel testified he had no recollection and no notes in his file about a plea offer. He stated he was not sure if he would have recommended Applicant take a plea offer if there had been one offered.

Trial Counsel testified he did not have Applicant evaluated for mental competency because he did not feel it was necessary. He stated he did not remember Applicant telling him he was intoxicated at the time of the crime, and Applicant never told him he was on cocaine during the crime. He stated that he could not use this as a defense even if Applicant had told him he was

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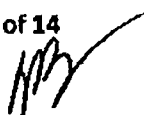
intoxicated on cocaine during the crime because in South Carolina, voluntary intoxication is not a defense to a crime.

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), SCRCP; 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, 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.



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).

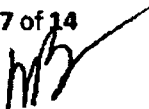
As a matter of general impression, this Court finds Applicant's testimony and assertions to be not credible. In contrast, this Court finds Trial Counsel's testimony to be credible and persuasive. These credibility findings have been applied to the Court's findings and conclusions set forth below.

INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant has asserted several allegations of ineffective assistance of counsel. This Court finds these claims to be meritless and they should be denied and dismissed with prejudice. 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 of proof. Accordingly, post-conviction relief is denied. Each individual allegation is addressed below.

Failure to have Applicant evaluated for mental competency

Applicant alleges Trial Counsel was ineffective for failing to have him evaluated for mental competency before his trial because he did cocaine before the crime and was intoxicated during the commission of the crime and did not understand what he was doing. This allegation is meritless. Trial Counsel credibly testified he did not think it was necessary to have Applicant evaluated for mental competency, and Applicant understood their discussions about the trial and evidence against him. Trial Counsel further testified Applicant did not tell him he was



intoxicated with cocaine during the trial, so he had no reason to investigate this. Finally, Trial Counsel correctly testified that voluntary intoxication is not a defense to the crime of armed robbery in South Carolina. See State v. Vaughn, 268 S.C. 119, 232 S.E.2d 328 (1977) (adopting the rule that voluntary intoxication, where it has not produced permanent insanity, is never an excuse for or a defense to crime, regardless of whether the intent involved be general or specific, because reason requires that a man who voluntarily renders himself intoxicated be no less responsible for his acts while in such condition.).

Furthermore, the record before this Court shows Applicant testified at trial that he had been drinking alcohol before the crime, and that he was "a little intoxicated" at the time of the robbery. ROA 169, line 10-11. Applicant admitted to the jury in his testimony that he was not "falling down drunk" at the time of the robbery. ROA 169, line 10-19. Because there is no evidence that Applicant was not criminal responsible or was mentally incompetent at the time of the crime, this Court finds Trial Counsel was not deficient in choosing not to have Applicant evaluated for mental competency.

This Court further finds Applicant has failed to meet his burden of proving prejudice because he has not presented any evidence that he was mentally incompetent at the time of the crime. The South Carolina Supreme Court "has repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial." Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998). "The applicant's mere speculation what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice." Glover v. State, 318 S.C. 496, 498-99, 458

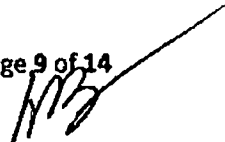
S.E.2d 538, 540 (1995). Applicant did not present any testimony or other evidence to show that he was not criminally responsible for the armed robbery, thus he has not proven prejudice.

Accordingly, because Applicant has failed to prove deficiency and prejudice under Strickland, this allegation is denied and dismissed with prejudice.

Failure to object to consecutive sentence

Applicant alleges Trial Counsel was ineffective for failing to object to the trial court's imposition of a sentence consecutive to the sentence he was serving for a prior conviction. This allegation is meritless. Whether multiple sentences should run consecutively or concurrently is a matter left to the sound discretion of the trial judge. State v. Barton, 325 S.C. 522, 531-32, 481 S.E.2d 439, 444 (Ct. App. 1997) (citing 21 Am.Jur.2d Criminal Law § 552 (1981) (trial court has power to order sentences be served consecutively)). Trial Counsel credibly testified that he discussed with Applicant that he could receive a consecutive sentence. While Applicant claims he would have accepted a prior plea offer for a concurrent sentence if he had known he could have received a consecutive sentence at trial, this Court finds this testimony not credible, as the testimony shows there was no plea offer from the State. The record shows Trial Counsel asked the trial court during sentencing for a concurrent sentence to what he was currently serving. ROA 245, line 20-24.

Applicant has failed to prove Trial Counsel was deficient for failing to object, as there was no legal basis for an objection, and he did request a concurrent sentence from the trial court. Applicant has further failed to prove that an objection by Trial Counsel would have been successful or changed his sentence, and has thus failed to prove prejudice. Therefore, because neither prong of the Strickland test is met, this allegation is denied and dismissed with prejudice.

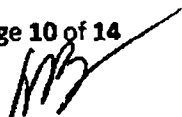
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Failure to investigate plea offer

Applicant alleges Trial Counsel was ineffective for failing to investigate the facts surrounding a prior plea offer from the State. This allegation is meritless. Trial Counsel inspected his entire defense file on the stand during the evidentiary hearing and found no record of a plea offer from the State. Trial Counsel credibly testified that, although he approached the State to ask for and negotiate a plea deal, the State never offered a plea agreement. He testified he had no notes and no recollection of a plea offer from the State. The trial transcript further evidences this lack of a plea offer during sentencing, when Trial Counsel informed the plea court that he and Applicant “would have obviously pleaded guilty to strong-armed robbery if we had had the opportunity,” and this Court finds this to be strong evidence that there was at least never a plea offer to strong-armed robbery. ROA 245, line 21-22. Accordingly, because credible evidence shows there never was a plea offer from the State to investigate, this Court finds Applicant has failed to meet his burden of proving either prong of the Strickland test, and this allegation is denied and dismissed with prejudice.

Failure to explain lesser-included offense of strong-armed robbery

Applicant alleges Trial Counsel was ineffective for failing to explain to him the fact that he could be convicted of the lesser-included offense of strong-armed robbery, and if he had known this he would have accepted a prior plea offer from the State and, alternatively, he would not have testified at trial. At the evidentiary hearing, Trial counsel credibly testified he discussed the lesser-included offense of strong-armed robbery and his trial strategy to request and concede strong-armed robbery with Applicant at length. This Court finds this testimony very credible and convincing. Trial Counsel further credibly testified there was no plea offer from the State in this

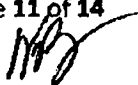


case. Accordingly, this Court finds Applicant's assertions to be not credible and finds he failed to prove either prong of the Strickland test. This allegation is denied and dismissed with prejudice.

Failure to explain trial strategy

Applicant alleges Trial Counsel was ineffective for failing to explain the trial strategy to request a jury instruction on the lesser-included offense of strong-armed robbery and concede his guilt to this crime. This allegation is meritless. Trial Counsel credibly testified he discussed this strategy with Applicant at length before the trial, and he understood the discussion. He explained that there was never a discussion about not requesting the lesser-included offense, and Applicant agreed with his decision and was aware of what would happen at trial. This Court finds this testimony to be credible and finds Trial Counsel was not deficient in this regard. Even if Trial Counsel had been deficient in this manner, Applicant can prove no prejudice, as explaining the trial strategy to Applicant would not have changed the result of the trial, especially in light of the fact that Trial Counsel was successful in his trial strategy, and Applicant was acquitted of armed robbery.

Applicant further alleges Trial Counsel was ineffective for requesting the lesser-included offense of strong-armed robbery instead of going to trial only on armed robbery. Trial Counsel credibly testified he made a strategic decision to defend this case in this manner because the evidence against Applicant was overwhelming of his guilt of strong-armed robbery, but he believed Applicant had a very strong case against the armed robbery charge. He stated he believed their best strategy was to admit Applicant's involvement in the crime to the jury, but argue to them that he was not guilty of armed robbery, to give him the opportunity for a conviction on a lesser charge and a smaller sentence.

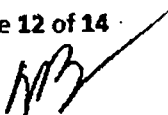


This Court finds Trial Counsel articulated a valid trial strategy in choosing to request and concede the lesser-included offense to avoid a higher punishment. Strickland requires that trial counsel must be given leeway to make reasonable strategic decisions. No particular set of detailed rules for counsel's conduct can satisfactorily take account of the variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how best to represent a criminal defendant. Strickland, 466 U.S. at 688-689. "Representation is an art, and an act or omission that is unprofessional in one case may be sound or even brilliant in another." Id. at 691. Therefore, judicial scrutiny of counsel's performance must be highly deferential. Id. at 689. Where counsel articulates a valid strategic reason for his action or inaction, counsel's performance should not be found ineffective. Roseboro v. State, 317 S.C. 292, 454 S.E.2d 312 (1996); Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992). Courts must be wary of second guessing counsel's trial tactics; and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992).

Therefore, because Trial Counsel articulated a valid trial strategy in requesting the lesser-included offense, and because Applicant has failed to prove deficiency or prejudice in failing to explain the strategy to him, these allegations are denied and dismissed with prejudice.

DUE PROCESS VIOLATION

Applicant alleges a violation of his due process rights because he received a sentence that runs consecutively with a sentence he is serving for a prior conviction. This allegation is meritless. A trial court has broad discretion in imposing criminal sentences within the limits prescribed by law. State v. Franklin, 267 S.C. 240, 226 S.E.2d 896 (1976); Clark v. State, 259 S.C. 378, 192 S.E.2d 209 (1972). Likewise, whether multiple sentences should run consecutively



or concurrently is a matter left to the sound discretion of the trial judge. State v. Barton, 325 S.C. 522, 531–32, 481 S.E.2d 439, 444 (Ct. App. 1997) (citing 21 Am.Jur.2d Criminal Law § 552 (1981) (trial court has power to order sentences be served consecutively)).

The courts normally have no discretion to correct a sentence given within statutory limits. To be entitled to relief, Applicant must prove that the alleged excessive sentence was the result of partiality, prejudice, oppression or corrupt motive, or that the sentence constitutes cruel and unusual punishment per se. Clark, Id.; State v. Cogdell, 273 S.C. 563, 257 S.E.2d 748 (1979). Applicant has failed to show his sentence was a result of any of these factors. Accordingly, this allegation is denied and dismissed with prejudice.

VI. CONCLUSION


Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes Applicant must file and serve a notice of appeal within thirty days from the receipt 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.

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 12 day of April, 2018.



DEANDREA G. BENJAMIN
Presiding Judge
Third Judicial Circuit

Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF

RECORDED IN THE COURT OF (Select one.)
 COMMON PLEAS FAMILY COURT
JUDICIAL CIRCUIT

W. Bert Franklin Jr.

2018 JAN 29 PM 3:39

JAMES C. GAMBEL: 2017-CP-43-2043
CLERK OF COURT

Plaintiff(s),

-vs-

State of S.C.

Defendant(s).

SUMNER COUNTY, S.C. DEPARTMENT OF COUNSEL OR GAL

(Select one.)

ORDER

AMENDED ORDER

TYPE OF CASE/PROCEEDING: (Check one.)

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

It appears that ^{W. Bert} ~~Franklin~~, 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(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.
- Other:

Lance Booger
1400 Laurel St. Suite 41A
Columbia, SC 29201

- counsel
- lead counsel (if capital PCR case)
- guardian ad litem

Therefore, it is ordered that ^{Booger}, hereby is appointed as (Select one.)
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 THIS 29 DAY OF Jan, 2018.

THE BOOZER LAW FIRM, LLC

1419 Pendleton Street
Columbia, SC 29201



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