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May 23, 2018

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

RE: Notice of Appeal and Proof of Service for:
Antwan D. McMillan, #347617 vs. State of South Carolina
2015-CP-15-1210

Dear Mr. Shearouse:

Under cover of this letter, please find enclosed for filing in your court a Notice of Appeal (NOA) and Proof of Service (POS) in the above-referenced matter. Also enclosed please find copies of the Order of Dismissal denying the application for post-conviction relief. Please contact me if you have any questions.

With kindest regards, I am,

Very truly yours,

MOSS, KUHN & FLEMING, P.A.

Cory H. Fleming

CHF/tk

cc: Colleton County Clerk of Court, w/ NOA and POS
Ruston W. Neely, Office of the Attorney General, w/ NOA and POS

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM COLLETON COUNTY
Court of Common Pleas

Honorable Diane S. Goodstein

RECEIVED
MAY 29 2018
S.C. SUPREME COURT

Case Number 2015-CP-15-1210

State of South Caorlina,.....Respondent

v.

Antwan D. McMillan, #347617,.....Appellant.

NOTICE OF APPEAL

Antwan McMillan appeals the judgment of the Circuit Court, the Honorable Diane S. Goodstein, presiding, denying Applicant's request for post-conviction relief. The Order was signed on April 24, 2018, and received by counsel for the Appellant on May 7, 2018.

May 23, 2018

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Opposing Attorney of Record:
Ruston W. Neely

THE STATE OF SOUTH CAROLINA
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APPEAL FROM COLLETON COUNTY
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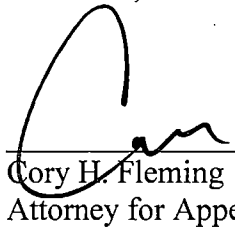
PROOF OF SERVICE

Counsel for Antwan D. McMillan hereby certifies that he has prepared and served a Notice of Appeal on this 23rd day of May, 2018, upon the State, as specified in S.C. Code Section 203 (b) (1) , by depositing a copy, postage pre-paid, in the United States Mail, addressed to Attorney for Respondent, Ruston W. Neely, Office of the Attorney General, PO Box 11549, Columbia, SC 29211–11549.



May 23, 2018

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STATE OF SOUTH CAROLINA COUNTY OF COLLETON	)	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT
	)	2015-CP-15-1210
Antwan D. McMillan, #347617, Applicant, v. State of South Carolina, Respondent.	)	**ORDER OF DISMISSAL**

This Court convened an evidentiary hearing into this matter on June 6, 2017, at the Beaufort County Courthouse. Applicant was present at the hearing and represented by Cory H. Fleming, Esquire. Ruston W. Neely, Esquire, of the South Carolina Attorney General's Office, represented Respondent. Applicant's trial counsel, David S. Matthews (Counsel), Esquire, was present and testified. Applicant was also present and testified. This Court had before it a copy of the trial transcript, the records of the Colleton County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the appellate record, and the pleadings in this matter. This Court finds as follows:

I. PROCEDURAL HISTORY

Applicant was indicted by the August 2011 term of the Colleton County Grand Jury for three counts of attempted murder, three counts of attempted armed robbery, and one count of possession of a weapon during the commission of a violent crime (2010-GS-15-0501, -0502, -0503, -0504, -0505, -0506, -0507).

On August 11, 2011, Applicant proceeded to a jury trial. Applicant was found guilty of three counts of the lesser included offenses of first degree assault and battery, three counts of attempted armed robbery, and possession of a weapon during commission of a violent crime. The Honorable Perry M. Buckner, III sentenced Applicant to confinement for ten years for two counts of first degree assault and battery, twenty years for the three counts of attempted armed robbery, and five years for the count of possession of a weapon during the commission of a violent crime. The sentences were to run concurrently except for one consecutive sentence of ten years for the additional count of first degree assault and battery.

A notice of appeal was filed on Applicant's behalf and an appeal perfected pursuant to Anders v California, 378 U.S. 738, 87 S. Ct. 1396 (1967). The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. McMillan, Op. No. 2013-UP-317 (filed on July 10, 2013). The Remittitur was issued on June 17, 2015. Applicant subsequently filed a Petition for Writ of Certiorari to the South Carolina Supreme Court. The South Carolina Supreme Court initially granted certiorari, but following briefs submitted by the parties, the petition was dismissed as improvidently granted. State v. McMillan, Op. No. 2015-MO-035 (filed on June 17, 2015).

II. ALLEGATIONS

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

1. "Ineffective Assistance of Trial Counsel"
    a. "Trial counsel failed to properly request adequate voir dire which resulted in the seating of a juror who was married to a member of the prosecuting law enforcement agency."

III. STATEMENT OF FACTS

On June 3, 2010, Jesse King, an explosive disposal specialist in the United States Army, was driving along I-95 in Colleton County with his wife, Amanda Metzfield, on the way to a military base in Pensacola, Florida. King's mother-in-law, Jeanine Metzfield, was following behind them towing a U-Haul trailer with her truck. Tr. 114-115; 119; 133-134; 142-144. As they passed through Colleton County, King's mother-in-law began to experience mechanical problems with her truck, and they all pulled off at an exit and stopped on a deserted road next to the highway. Tr. 119-120; 133; 144-145. A few moments later, a concerned passerby saw their vehicles and stopped to speak with them. Tr. 133-134; 145. During their conversation with the passerby, he provided them with a phone number for a tow truck operator that could assist them and warned them they had stopped in a dangerous area. Tr. 133-134; 145.

After the passerby left, King called the tow truck operator, arranged for him to come to their location, and began transferring the U-Haul trailer from his mother-in-law's truck to his own. Tr. 120; 133; 145. While he was crouched down behind his truck connecting the trailer, a light-colored sedan screeched to a halt at a nearby intersection, and a man with something wrapped around his face jumped out of the back of the sedan, pointed a large pistol at King's mother-in-law, and yelled for her to put "em" up. Tr. 121-124; 135; 145-147. In response, King sprang up, drew his own firearm, pointed it at the man, and ordered him to get back into his car and drive away. Tr. 123; 130; 135; 146. However, the man turned his gun in King's direction, so King shot at the man until the man fell to the ground. Tr. 123; 146. At that moment, the man's confederates inside of the sedan began yelling, and one of the men fired several shots from inside of the vehicle at King and the others, striking both of their trucks with bullets. Tr. 123-124; 137;

153-154. The man who had been shot by King then dropped his gun and crawled into the sedan, and the sedan rapidly sped away from the scene. Tr. 124-125; 146-147.

Once the would-be robbers were gone, King and the others called 911 to report the shooting and attempted robbery, and law enforcement officers were quickly dispatched to their location. Tr. 113-114; 135; 147. Shortly thereafter, Detective Jeff Scott of the Colleton County Sheriff's Office arrived at the scene, interviewed the victims, and began searching for evidence. Tr. 328-329. During his search, he located blood stains, a .50-caliber pistol that had been stolen from a California police department in 2002, and several spent shell casings fired from both a nine-millimeter pistol and a .357-caliber weapon. Tr. 339-341. He then collected that evidence and took swabs of the blood stains, and the evidence was subsequently submitted to S.L.E.D. for analysis. Tr. 360-361.

Meanwhile, David Jakes was brought to the emergency room at the Colleton Medical Center suffering from multiple gunshots wounds, and staff members at the hospital reported his arrival to law enforcement officers. Tr. 116; 264-269. In response, Sergeant Jackie Lawson of the Colleton County Sheriff's Office went to the hospital and spoke with the individuals who brought Jakes to the hospital, including Shaquita Bryant. Tr. 442-446. However, those individuals were all uncooperative and provided Sergeant Lawson with inconsistent stories about Jakes. Tr. 446-448.

Shortly thereafter, law enforcement officers located the sedan involved in the incident at Jakes' grandmother's home. Tr. 210; 291; 310. The officers then secured it, and a subsequent search of the vehicle led to the discovery and collection of fingerprints, palm prints, bloods stains, nine-millimeter shell casings, gloves, various items of clothing, and an open bottle of gin.

Tr. 291-293; 313; 318; 320; 360-361; 378; 464. Upon further investigation, the officers discovered the sedan was registered to someone named David Jenkins while the license plate affixed to the vehicle was actually associated with a different vehicle registered to Brenda, the mother of Applicant Antwan McMillan. Tr. 393; 395; 425.

Later that day, James Davis and his family contacted officers with the Colleton County Sheriff's Office to discuss Davis' role in the shooting and attempted robbery. Tr. 275-278. During Davis' conversation with the officers, he initially denied any involvement in the crimes. Tr. 278. However, after he spoke with his family, Davis told the officers the truth about what happened and was placed under arrest. Tr. 214-215; 237-239; 281. Then, on the following day, Applicant surrendered to authorities and was arrested for his role in the incident, and Jakes was also placed under arrest. Tr. 425; 540. Subsequently, Davis, Jakes, and Applicant were all indicted for numerous offenses, and Jakes and Applicant proceeded to trial together. Tr. 9; 222; 721-734.

At the outset of trial, the trial judge conducted *voir dire* of the prospective jurors. Tr. 10-11. During *voir dire*, the trial judge asked the prospective jurors if any of them: (1) were related by blood or marriage or close personal friends with Jakes, Applicant, the solicitor, the defense attorneys, or any of the witnesses that would be testifying during trial; (2) had ever been represented by any of the attorneys involved in the case in the past; (3) were aware of the allegations against either Jakes or Applicant; (4) had formed opinions about the facts of the case or about the guilt or innocence of either Jakes or Applicant; (5) were members of or employed by a law enforcement agency; (6) were members of the grand jury that issued the indictments involved in the case; (7) were members of or contributors to groups affiliated with law

enforcement or victims' rights; (8) had been victims of a violent crime; or (9) knew of any reasons why they might be biased, might be prejudiced, or could not give either the State or the defendants a fair trial. Tr. 15; 19-23; 27; 31; 37; 41; 44-45. At the conclusion of voir dire, the trial judge asked the solicitor and defense counsel whether they wished him to ask any additional questions of the prospective jurors, and defense counsel for both Jakes and Applicant asserted they did not. Tr. 44-45.

Thereafter, the trial judge began the jury selection process, and the parties selected a jury for trial. Tr. 45-55. During the selection process, defense counsel for Jakes exercised three peremptory strikes, defense counsel for Applicant exercised four peremptory strikes, and Juror #102 was seated on the jury without objection. Tr. 48-52. After a jury was selected, the trial judge asked the parties whether there were any issues with the jury selection process, and neither the solicitor nor defense counsel raised any objections. Tr. 54-55. The jury was then sworn, and the trial proceeded into the evidentiary phase. Tr. 81; 111.

Subsequently, after several witnesses – including the three victims – testified during the State's case, the trial judge informed the parties there was a matter that needed to be placed on the record. Tr. 167-168. Specifically, the trial judge stated Juror #102 sent him a note indicating she needed to make sure she was a suitable juror for the trial in light of her husband's employment status as a reserve deputy with the Colleton County Sheriff's Office. Tr. 168-169. Based on the note, the trial judge informed the parties he intended to question Juror #102 to determine if her husband's job status would impact her ability to be fair and impartial while noting the prospective jurors were not questioned about their spouses during *voir dire*. Tr. 169. The trial judge then brought Juror #102 into the courtroom and questioned her about her note. Tr.

171-173. During the questioning, Juror #102 confirmed her husband was a part-time reserve deputy with the Colleton County Sheriff's Office at that time and had previously worked as a full-time deputy in Colleton County. Tr. 172-173. She further confirmed she had not had any discussions with her husband about the case and her husband's employment status would not impact her ability to be fair and impartial in any way. Tr. 172-173. The trial judge then excused Juror #102 from the courtroom. Tr. 173.

After Juror #102 retired to the jury room, the trial judge noted he received several *voir dire* requests from the parties and asked questions in regard to whether the jurors were employed by a law enforcement agency. Tr. 174. However, he further noted he did not ask any questions related to whether any of the jurors had spouses involved in law enforcement and Juror #102 voluntarily elected to disclose that information on her own. Tr. 174. He then asked the parties whether they were ready to proceed with trial, and defense counsel for both Jakes and Applicant indicated they were not. Tr. 175-176. Specifically, defense counsel for Applicant stated he might object to Juror #102 remaining on the jury because he "may" have used his peremptory strikes differently had he been aware of her husband's employment status, and defense counsel for Jakes asserted he objected to Juror #102 remaining on the jury because she allegedly only disclosed her husband worked in environmental health management on the clerk of court's juror questionnaire form. Tr. 175-177.

In response to defense counsel's contentions, the trial judge reviewed the original juror questionnaire form filled out by Juror #102 and verified she stated her husband worked both in environmental health management and as a reserve deputy on that form. Tr. 176. He then reviewed the list of information compiled by the clerk of court from the juror questionnaire

forms and determined the clerk of court mistakenly failed to include Juror #102's response about her husband's work as a reserve deputy on that list. Tr. 177-178. After the trial judge discovered the error, defense counsel for Jakes reasserted he wanted Juror #102 to be excused based on her husband's status as a reserve deputy. Tr. 177. However, the trial judge declined to do so since the juror disclosed her husband's employment status on the juror questionnaire form and juror #102 did not intentionally conceal any information. Tr. 178-179.

Thereafter, the trial judge proceeded forward with the trial, and, at the conclusion of trial, the jury convicted Jakes and Applicant of three counts each of attempted armed robbery, three counts each of first-degree assault and battery, and one count each of possession of a weapon during the commission of a violent crime. Tr. 180; 669-672. Following the verdict, the trial judge sentenced Applicant to an aggregate term of imprisonment of thirty years and Jakes to an aggregate term of imprisonment of thirty-five years. Tr. 688-691.

Subsequently, Applicant appealed his convictions, arguing the trial judge erred in refusing to excuse Juror #102 and replace her with an alternate after he learned the juror's husband was a reserve deputy and alleged he would have exercised his peremptory strikes differently had he known that information during the jury selection process. App. 34. On appeal, the Court of Appeals affirmed. App. 37. In affirming, the Court of Appeals determined the trial judge committed no error in finding Juror #102 was impartial in light of the fact the juror confirmed she could be fair and impartial upon questioning from the trial judge, was not related to the defendants or any of the potential witnesses, and had not concealed any information from the parties or the trial judge. App. 34-35. Because the juror did not conceal any information and

appeared to be impartial, the Court of Appeals concluded the trial judge did not err in refusing to dismiss Juror #102 and replace her with an alternate. App. 35-36.

IV. INEFFECTIVE ASSISTANCE OF COUNSEL

This Court finds that Applicant has failed to satisfy his burden to prove that Counsel was deficient or that he was prejudiced by Counsel's alleged deficiencies. Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984). The proper measure of performance is whether Counsels provided representation within the range of competence required in criminal cases. Id.

In evaluating allegations of ineffective assistance of counsel, the court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must prove counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, Counsel's deficient performance must have prejudiced 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.

This Court finds Applicant's testimony lacked credibility and Counsel's testimony was credible. This Court finds that Applicant has failed to satisfy his burden to prove that Counsel was deficient. Applicant also failed to prove he was prejudiced by the alleged deficiency. For the reasons below, Applicant has failed to satisfy his burden to prove ineffective assistance of counsel with regard to this allegation and it is, therefore, denied and dismissed:

A. Counsel's decision not to request additional *voir dire* was not deficient.

This Court finds Counsel's decision not to request additional *voir dire*, concerning information he reasonably believed was available via the information sheet, was not deficient. There are a multitude of ways by which an attorney can decide to strike or seat a juror. Likewise, there are infinite questions an attorney can ask of jurors to weed out potential disfavor. South Carolina courts have not envisioned or allowed extensive examination of jurors through *voir dire*. "The unbridled examination of jurors by counsel serves to not only unnecessarily add to the length and expense of the trial, but also serves to antagonize jurors and lessen public respect for jury duty. The extent to which *voir dire* examination is being permitted by trial judges causes this Court concern and, therefore, this admonition." State v. Smart, 278 S.C. 515, 523, 299 S.E.2d 686, 691 (1982) (overruled on other grounds).

In South Carolina, parties are not granted extensive *voir dire* rights. "The responsibility of the trial court is to focus the scope of *voir dire* examination as described in S.C. Code Ann. §14-7-1020. "The manner in which these questions are pursued and the scope of any additional *voir dire* is within the sound discretion of the trial court." Wilson v. Childs, 315 S.C. 431, 438,

434 S.E.2d 286, 291 (Ct. A 1993). "The trial court is not required to ask every question submitted by counsel." State v. Middleton, 266 S.C. 251, 257, 222 S.E.2d 763, 765 (1976).

Here, Counsel reasonably relied on an information sheet provided by the clerk of court to determine the occupation of each juror and their spouse. The information sheet listed the current employer of each juror and their spouse. Juror #102 had a spouse with a part-time secondary job as a reserve deputy with the sheriff's office. The information sheet listed only the spouse's main occupation, his employment with Environmental Health Management. Counsel reasonably relied on the information sheet to determine each juror's occupation and the occupation of their spouse. The measure of performance required of an attorney is reasonableness under prevailing professional norms. Cherry, 300 S.C. at 117, 386 S.E.2d at 625. Counsel testified he determines whether to request additional *voir dire* on a case-by-case basis. He testified he has requested *voir dire* concerning whether any juror member is married or has a close personal relationship to a law enforcement officer. He testified there are always more questions he would like to ask the jurors, but *voir dire* is limited. He also testified he relied on the information concerning the occupations of each juror and their spouse provided on the information sheet. He testified, and his objection in the record reflects, if he had known the juror #102's husband was part-time law enforcement he would have struck her from the jury. However, "[E]very effort be made to eliminate the distorting effects of hindsight" and to evaluate counsel's decisions at the time they were made. Strickland, 466 U.S. at 689. In this case, Counsel reasonably believed further *voir dire* concerning the jurors' occupations was redundant. This Court finds Counsel's decision not to request additional *voir dire* did not fall below prevailing professional norms.

Accordingly, this Court finds Applicant has failed to satisfy his burden of proving

Counsel was deficient under Strickland. Therefore, this allegation is denied and dismissed.

B. Applicant has not proven prejudice.

Applicant failed to prove he was prejudiced by the seating of juror #102. Counsel's decision not to request additional *voir dire* could only have prejudiced Applicant if juror #102 could have reasonably changed the result of the trial. The trial court found the juror to be fair and impartial. Tr. 195. Applicant must show he was prejudiced by the juror's presence on the jury. "Petitioner failed to make the requisite showing of prejudice resulting from Counsel's alleged deficiency in regards to additional jury *voir dire*." Smith v. State, 375 S.C. 507, 654 S.E.2d 523 (2007). Both the United States Constitution and South Carolina Constitution guarantee a criminal defendant's right to a trial by an impartial jury. "The Sixth Amendment of the United States Constitution guarantees a criminal defendant the right to a trial by an impartial jury." Chambers v. Mississippi, 410 U.S. 284, 93 S.Ct. 1038 (1973). Applicant did not provide evidence indicating the juror was not fair and impartial.

"As we have stressed on more than one occasion, the Constitution entitles a criminal defendant to a fair trial, not a perfect one." State v. Johnson, 334 S.C. 78, 93, 512 S.E.2d 795, 803 (1999). "While a criminal defendant has a constitutional right to a trial by a competent and impartial jury; he does not have a constitutional right to a trial by any particular jury." Smith, 375 S.C. at 520, 654 S.E.2d at 530. These constitutional guarantees do not guarantee that a prospective juror will be free of all preconceived notions relating to guilt or innocence. See Beck v. Washington, 369 U.S. 541, 82 S.Ct. 955 (1962) (holding that "it is sufficient if the juror can lay aside his impression or opinion and render a verdict based on the evidence presented in court.") Rather, it is the requirement that a jury's verdict "be based upon the evidence developed

at the trial" that goes to the fundamental integrity of all that is embraced in the constitutional concept of trial by a fair and impartial jury. Turner v. Louisiana, 379 U.S. 466, 472, 85 S.Ct. 546, 549 (1965).

Here, the trial judge overruled Counsel's timely objection and seated juror #102 after making the determination she was fair and impartial. Tr. 195. This objection was properly preserved by Counsel and was reviewed by the Court of Appeals and affirmed. McMillan, Op. No. 2013-UP-317. The Court of Appeals found, "[T]he mere fact that a juror's spouse is a law enforcement officer, who is not involved in the case, does not, in and of itself, render a juror biased and, thus, unable to serve on a jury... Moreover, even jurors related by affinity or consanguinity to a testifying witness or those who closely knew the putative victim of a crime are not, absent an inability to maintain impartiality, unqualified." The court further found, "Juror appeared neither biased nor partial, the trial court did not err in finding Juror appeared impartial, despite her husband's status as a reserve deputy... Juror did not conceal any information, therefore, partiality cannot be imputed to her on such a basis." See State v. Woods, 345 S.C. 583, 588, 550 S.E.2d 282, 284 (2001). "As we find no intentional concealment on Juror's part, we need not further determine whether the information would have been a material factor in the exercise of ... peremptory strikes." State v. Guillebeaux, 362 S.C. 270, 276, 607 S.E.2d 99, 102 (Ct. App. 2004).

Juror #102's testimony, and the trial court's finding, that she was fair and impartial are undisputed by any evidence. Applicant's mere speculation as to what the prejudice might have been is not sufficient to support a PCR claim. See State v. Glover, 318 S.C. 496, 498–499, 458 S.E.2d 538, 540. See also Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998).

This Court finds Applicant had a fair and impartial jury and was not prejudiced by the presence of juror #102. Juror #102 did not conceal any information. Tr. 191. Juror #102 stated she could be fair and impartial. Tr. 192. Applicant presented no evidence to support the proposition juror #102 was not fair and impartial. Applicant is not entitled to a jury of his choosing. See Palacio v. State, 333 S.C. 506, 517, 511 S.E.2d 62, 68 (1999). ("A criminal defendant has no right to a trial by any particular jury, but only a right to a trial by a competent and impartial jury.") Counsel's alleged deficiency must have prejudiced 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. There is no evidence to prove juror #102 was not fair and impartial. Applicant cannot be prejudiced by a fair and impartial jury. Applicant has not proven prejudice because he failed to prove he was not afforded a fair and impartial jury. Applicant was found guilty by the unanimous decision of twelve impartial jurors. This Court finds there is no reasonable probability the result of the trial would have been different because Applicant had a fair and impartial jury.

Further, the evidence against Applicant was overwhelming. See Harris v. State, 377 S.C. 66, 79, 659 S.E.2d 140, 147 (2008) (applicant cannot prove prejudice where there is overwhelming evidence of guilt). There were 3 witnesses who were victims. A codefendant, James Davis, also testified against Applicant. David Jakes, who was jointly tried with Applicant, was shot by one of the victims; bled at the scene and inside of the escape vehicle. Jakes' blood was identified via DNA analysis which further corroborated his testimony against Applicant and his codefendants.

Accordingly, this Court finds Applicant has failed to satisfy his burden to prove he was prejudiced by the alleged deficiency.

V. CONCLUSION

Based on the foregoing, this Court finds and concludes Applicant, Antwan McMillan, 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 (30) days from receipt 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, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, his post-conviction relief attorney must serve and file a notice of appeal on Applicant's behalf. Applicant and his attorney are directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

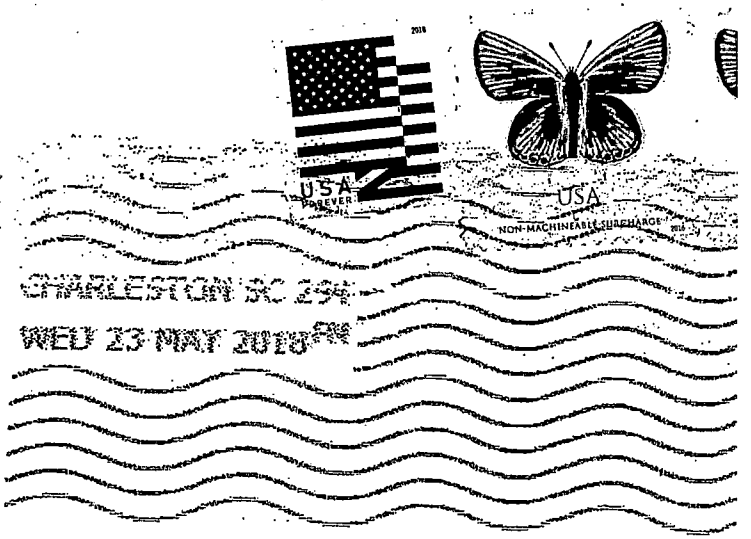
1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and

2. Applicant must be remanded to the custody of the Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 24 day of April, 2018.

DIANE S. GOODSTEIN
Presiding Judge
14th Judicial Circuit

Orangeburg, South Carolina



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To:

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