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May 30, 2018

Via US Mail
Daniel Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

Re: Notice of Intent to Appeal from Richard Beekman v. State of SC
C.A. No.: 2017-CP-39-0168

Dear Mr. Shearouse:

I was Court Appointed in the above referenced matter, and I expect that appellate defense will handle the appeal and petition for certiorari. On behalf of my client, enclosed for filing please find the Notice of Appeal and proof of service. I've enclosed a copy of the Honorable Letitia H. Verdin's Order of Dismissal to be challenged on appeal. By copy of this letter, I am also serving my client, counsel for the State of South Carolina, the South Carolina Commission of Indigent Defense - Appellate Defense Division and the Pickens County Clerk's Office.

Thank you for your assistance in this matter and if you have any questions, please feel free to contact me.

Sincerely,
LAW OFFICE OF R. MILLS ARIAIL, JR.
Attorney at Law

R. Mills Ariail, Jr.

RMAjr/dl
Enclosures (as stated)

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED
JUN 04 2018
S.C. SUPREME COURT

APPEAL FROM PICKENS COUNTY
Court of Common Pleas

Letitia H. Verdin, Circuit Court Judge

Case No. 2017-CP-39-0168

Richard Beekman,..... Appellant,

v.

State of South Carolina ..... Respondent.

NOTICE OF APPEAL

Appellant appeals the Honorable Letitia H. Verdin's Order of Dismissal dismissing Appellant's application for post-conviction relief. On May 15, 2018, the Honorable Letitia H. Verdin signed an order dismissing Appellant's application for post-conviction relief with prejudice. Appellant, through counsel, received written notice of entry of this order on May 29, 2018. A copy of the Honorable Letitia H. Verdin's Order of Dismissal is attached.

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Attorney for

Greenville, South Carolina
May 30, 2018

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM PICKENS COUNTY
Court of Common Pleas

Letitia H. Verdin, Circuit Court Judge

Case No. 2017-CP-39-0168

Richard Beekman,..... Appellant,

v.

State of South Carolina ..... Respondent.

CERTIFICATE OF SERVICE

I, Denise Tanner LaBeck, paralegal to R. Mills Ariail, Jr., do hereby certify that on this May 30, 2018, I served upon the below named Respondents copies of the **NOTICE OF APPEAL** by depositing copies of the same via U.S. Mail, postage prepaid, Registered Mail in an envelope addressed as set forth herein below:

DeShawn Mitchell, Esq.
Assistant Attorney General
PO Box 11549
Columbia, SC 29211

Pickens County Clerk's Office
Pickens County Courthouse
214 East Main Street
Pickens, SC 29671

Richard Beekman #00347134
Lee Correctional Institution
990 Wisacky Hwy
Bishopville, SC 29010

SC Commission of Indigent Defense
Division of Appellate Defense
PO Box 11433
Columbia, SC 29211-1433

Denise Tanner LaBeck
Denise Tanner LaBeck

May 30, 2018

STATE OF SOUTH CAROLINA COUNTY OF PICKENS	)	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT
Richard Burton Beekman, #347134 Applicant, v. State of South Carolina, Respondent.	)	2017-CP-39-0168 **ORDER OF DISMISSAL**

This matter comes before the Court by way of an application for post-conviction relief filed on February 10, 2017 by Richard Burton Beekman (Applicant). Respondent made its Return on or about July 26, 2017. An evidentiary hearing into the matter was convened on October 25, 2017, at the Greenville County Courthouse in Greenville, South Carolina. Applicant was present and represented by R. Mills Ariail, Jr, Esquire. Respondent was represented by DeShawn H. Mitchell, Esquire of the South Carolina Attorney General's Office.

At the hearing, Applicant testified on his own behalf. Applicant's Trial Counsel John W. DeJong, Esquire also testified. This Court had before it a copy of the records of the Pickens County Clerk of Court regarding the Applicant's convictions, the transcript from Applicant's trial, the PCR application, Respondent's Return, Applicant's records from the Department of Corrections and Applicant's appellate records. After reviewing the record and everything presented, this Court finds Applicant has failed to establish any constitutional deprivations entitling him to post-conviction relief and denies this application.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Pickens County Clerk of Court. In September 2009, the Pickens County Grand Jury indicted Applicant for committing or attempting lewd act upon a child under

the age of sixteen (2009-GS-39-1404), and criminal sexual conduct with a minor under the age of eleven, first degree (2019-GS-39-1405). John W. DeJong, Esquire, represented Applicant. Jenny L. Barwick, Esquire, prosecuted the case. On July 25-28, 2011, Applicant proceeded to trial before the Honorable G. Edward Welmaker. The jury found Applicant guilty as indicted. Judge Welmaker sentenced Applicant to imprisonment for consecutive terms of fifteen years for committing or attempting to commit lewd act upon a child under the age of sixteen and thirty years for criminal sexual conduct with a minor under the age of eleven.

Applicant filed a timely notice of appeal. Dayne C. Phillips, Esquire, of the Office of Appellate Defense perfected the appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on June 26, 2013. State v. Beekman, Op. No. 5145 (S.C. Ct. App. filed June 26, 2013). Applicant filed a petition for rehearing on July 11, 2013. In an order dated August 22, 2013, the Court of Appeals denied Applicant's petition for rehearing.

Applicant then filed a petition for writ of certiorari to the South Carolina Supreme Court on November 22, 2013. By order dated July 25, 2014 the Supreme Court granted certiorari. Carmen V. Ganjehsani, Esquire, of the Office of Appellate Defense perfected the appeal. The Supreme Court affirmed Applicant's conviction on April 13, 2016. State v. Beekman, Op. no. 27623 (S.C. Sup. Ct. filed April 13, 2016). The remittitur was returned to the circuit court on April 29, 2016.

FACTUAL HISTORY

The victims' mother and Applicant met while the victims' mother was working as a pharmacist at CVS Pharmacy. (R. p. 144-45). She and Applicant began dating after she transferred her employment to Ingle's Pharmacy. (R. p. 145, lines 15-20). The victims' mother, along with the victims, moved in with Applicant around October 2005, and she and Applicant

married on June 3, 2006. (R. p. 146, lines 9-17). During this time, the victims' biological father had joint custody of the victims and kept them every other week. (R. p. 146, lines 10-15). In the beginning, Applicant had a good relationship with the victims and spent quality time with them, although the female child (Stepdaughter) was not at home much since she kept very busy with cheerleading and tumbling activities. (See R. p. 57-59; p. 92-94; p. 146-47). However, on July 7, 2008, Stepdaughter, who was then twelve years old and "very little" and physically immature for her age, disclosed to her mother that Applicant had sexually abused her earlier that morning. (R. p. 56-76; p. 149-150).

The previous night, Stepdaughter slept on the couch in the living room. (R. p. 62-63). She slept with blankets and wore underwear, cheerleader bloomers, and pajama pants. (R. p. 65). Stepdaughter had trouble sleeping that night, so her mother gave her half of a melatonin tablet to help her sleep. (R. p. 65-66; p. 173, lines 2-22). Stepdaughter awoke around 4:30 am to find Applicant touching her private area. (R. p. 66-67; p. 90, lines 13-21). Her blankets were on the floor and Applicant had pulled her underwear and bloomers down a bit. (See R. p. 67, lines 3-13). A news program was on the television at the time. (R. p. 68, lines 21-23). When Applicant realized that Stepdaughter was no longer asleep, "he jumped up and hesitated and asked where the remote was." (R. p. 68, line 24 – p. 69, line 1). However, the remote was sitting directly in front of Applicant in plain view on the coffee table. (R. p. 69, lines 2-9). Stepdaughter grabbed the remote and threw it at Applicant, and Applicant left the room. (R. p. 69). Stepdaughter was "shocked" at what Applicant had done. (R. p. 73, lines 21-23). Stepdaughter decided to tell her mother about the abuse as soon as she "could get her alone." (R. p. 70, lines 1-5).

Later that afternoon, Applicant picked up Stepdaughter and her brother from their babysitter's house. (R. p. 70, lines 17-21). As Stepdaughter was getting in the truck, Applicant asked Stepdaughter if she was "mad at him." (R. p. 70, lines 20-23). Stepdaughter, still feeling scared of Applicant, did not verbally respond but simply got in the truck. (R. p. 71, lines 2-15). When they arrived at home, Stepdaughter stayed in the presence of her brother and waited for their mother to come home. (R. p. 72-74). When her mother arrived home from work that evening, Stepdaughter immediately pulled her into the bathroom and told her what Applicant had done. (R. p. 75-76). Her mother became "really upset" and decided to take the children to their grandmother's house. (R. p. 76, lines 1-14). Applicant tried to prevent Stepdaughter from leaving by stating that she couldn't leave because her room was a mess. (R. p. 76, lines 15-20). Nevertheless, the victims' mother and the children did proceed to the grandmother's house that night, and, in fact, they never returned to live with Applicant. (R. p. 77). Subsequently, Stepdaughter told her biological father about the sexual abuse by Applicant and they ultimately reported the incident to the police. (R. p. 77-78). The victim was later placed in counseling as a result of the abuse. (R. p. 79).

While the victims were living with their grandmother, Stepdaughter's brother (Stepson), who was then eight years old, made a disclosure of sexual abuse by Applicant. (R. p. 57, lines 12-19; p. 72, lines 7-8; p. 79-80; p. 149, line 19). He made this disclosure of abuse around the time Stepdaughter told him, for the first time, what Applicant had done to her. (R. p. 82-84; p. 211-17). Prior to making his disclosure, Stepson had been "freaking out," in that he had been pulling his hair, hiding in the closet, and crying. (R. p. 80-81; see also p. 131-32). He had also been making drawings of Applicant dying, which Stepdaughter found balled up in the trash can. (R. p. 82-83).

Stepson, who was eleven years old at the time of trial, testified that he and Applicant initially got along "pretty well" and hung out "like buddies." (R. p. 122, lines 10-23). However, their relationship quickly deteriorated after Applicant began sexually abusing him.[1] (See R. p. 122-30). Applicant first touched Stepson on his private part (which he referred to as his "worm") underneath his clothes while they were in Applicant's bedroom watching a news program on television. (R. p. 124-25). Applicant told Stepson that he shouldn't "tell" because Applicant might get in trouble. (R. p. 125). Applicant touched Stepson's private part underneath his clothing a second time under similar circumstances, i.e., they were in Applicant's bedroom and the news was on television. (R. p. 125-26). On a third occasion, Applicant forced Stepson to touch Applicant's private part underneath Applicant's clothing. (R. p. 126, lines 14-24).

Subsequently, Applicant anally penetrated Stepson with his penis, which Stepson found painful. (R. p. 127-29). This also occurred in Applicant's bedroom while the news was on television. (R. p. 128). During this incident, Stepson's clothing was pulled down but not removed. (R. p. 128-29). Applicant told Stepson not to tell anyone about the incident because Applicant would get in trouble. (R. p. 129, lines 18-25). He also told Stepson, at some point during these incidents of sexual abuse, that he would hurt Stepson's family if he told. (R. p. 130, lines 1-6). Stepson confessed that, during the time he was being abused by Applicant, he would often sleep in his closet or with his sister so that Applicant would not find him. (R. p. 130-31). Stepson's mother confirmed this and noted that Applicant "really wanted" Stepson to sleep in his own room in his own bed. (R. p. 158, line 18 – p. 159, line 3). She also stated that, prior to Stepson's disclosure, he had been acting "terrible" and was scratching his skin, banging his head,

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1 The testimony regarding Applicant's acts of sexual misconduct with Stepson prior to anal penetration were admitted at trial over Applicant's objection. (See R. p. 2-12; p. 37-39; p. 123-24). The admission of these prior bad acts was not challenged on appeal. (See Appx, p. 8).

crying, and saying that he had a "secret." (R. p. 163-64). The victims' mother saw Stepson's drawings depicting Applicant dying. (R. p. 164-65).

Following Stepson's disclosure of Applicant's abuse, his mother immediately called law enforcement and "rape crisis." (R. p. 167, lines 7-16). She testified that both children were subsequently placed in counseling and remained in counseling. (R. p. 169). She also stated that both her children changed after Applicant's abuse. (R. p. 170). She stated that Stepdaughter still cries and expresses that she feels "dirty." (R. p. 170, lines 17-18). Meanwhile, Stepson is "very paranoid," cries, sometimes "wishes he could die," and is afraid Applicant will "come to the house and hurt us." (R. p. 170, lines 18-25). Stepson also expressed fear he was gay as a result of the abuse. (R. p. 171, lines 4-17; see also p. 190, lines 8-24).

After Stepson's abuse was reported to law enforcement, he was referred for a forensic interview and a medical examination. (R. p. 218-314). Stepson participated in a forensic interview with Shauna Galloway-Williams on July 29, 2008. (R. p. 263). Stepdaughter also met with Galloway-Williams. (R. p. 285). At trial, Ms. Galloway-Williams was qualified as an expert in child counseling and forensic interviewing. (See R. p. 250-52). Galloway-Williams testified that both victims disclosed sexual abuse to her and both stated that it happened in their home. (R. p. 285-91). The videotape of Stepson's forensic interview was introduced and published at trial over Applicant's objection. (R. p. 292-93).

Dr. Nancy Henderson testified that she conducted a medical examination on Stepson on July 31, 2008. (R. p. 221). It was her understanding that the act of sexual abuse involving anal penetration occurred approximately three weeks prior to the exam. (R. p. 235, lines 8-13). Dr. Henderson stated that Stepson complained of symptoms including anxiety and sleeping problems. (R. p. 224-25). Dr. Henderson testified that she conducted an examination of Stepson

which revealed some redness on the outer part of his buttocks area and a little bit of redness on the top part of his penis, but otherwise, the exam was normal. (R. p. 227, lines 8-12). Dr. Henderson stated that in ninety percent of cases where children are abused and there is a history of penile penetration in the rectal area, the rectal examination will be normal. (R. p. 228, lines 3-10). She explained that lacerations, if any, in the rectal area heal "very, very quickly within hours to days;" she also explained that Stepson did not experience any bleeding from his rectal area at the time of the abuse, which was not unusual because the area was made to "stretch instead of tear." (R. p. 228-29; see also p. 238). She testified that, assuming the penile penetration occurred on July 6, 2008, it would be very likely that there would have been no evidence of it at the time of the exam on July 31, 2008. (R. p. 229, lines 2-13).

After the State completed the presentation of its evidence, Applicant elected not to testify and the defense rested without putting up any evidence. (R. p. 318). The jury ultimately found Applicant guilty of both charges. (R. p. 362, lines 11-19).

ALLEGATIONS

1. "Ineffective Assistance of Counsel," in that:
    a. "Defense counsel failed to 'OBJECT' to the court's prohibited charge that a 'A VICTIM'S TESTIMONY NEED NOT BE CORROBORATED" a fact for the jury to determine;"
    b. "Defense counsel failed to 'OBJECT' to Dr. Nancy Henderson's M.D. hearsay testimony solicited by the prosecution that corroborated [the victim's] testimony of facts of the assault."

SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTARY HEARING

Applicant's Testimony

Applicant testified he discussed the evidence in his case with Trial Counsel prior to his second trial. He testified prior to being represented by Trial Counsel he had hired Dallas Ball, Esquire, the day after he was arrested to represent him. Applicant testified no discovery was

provided to Mr. Ball. He testified he went to trial before a women judge in family court. Applicant testified he was not sure if there was a companion DSS case along with his criminal charges but there was no jury. He testified Mr. Ball retired and the following Monday he got an appointment from the Public Defender's Office after appearing at a roll call prior. Applicant testified Steven Alexander, Esquire, was appointed to represent him. He testified he and Mr. Alexander talked extensively that day about the case and possible defenses. Applicant testified Mr. Alexander then informed him there was a conflict of interest and Applicant needed to get another attorney. He testified Trial Counsel was then appointed to represent him. Applicant testified he believed Mr. Alexander was working with the prosecution the whole time to help them with their case. He testified he was not sure if he told Trial Counsel that information but he may have told the secretary at the Public Defender's Office. Applicant testified he had a lot of trouble with the little girl prior to being charged and those things were never brought up. He testified all the allegations concerning the little boy was a lie. Applicant testified he believed Trial Counsel should have brought up issues he had with the little girl and more vigorously cross-examined the little boy. He testified he believed Trial Counsel did "an honest job" for him. Applicant testified no one had cared that he was innocent.

On cross-examination, Applicant testified he was innocent. He testified he only met with Trial Counsel twice. Applicant testified Trial Counsel reviewed discovery with him, discussed trial strategy, what they were going to present and talked about potential witnesses. He testified he did not want to plead guilty because he was innocent.

Trial Counsel's Testimony

Trial Counsel testified he was the third lawyer involved in Applicant's case. He testified there was a plea offer from the state when Mr. Alexander represented Applicant. Trial Counsel

testified Applicant always denied doing anything to the victims. He testified the plea offer extended by the state was for Applicant to plead guilty to one count of a lewd act and the state would also reduce the criminal sexual conduct with a minor first degree to another lewd act for a negotiated sentence of fifteen years. He testified the offer was received by Applicant who rejected it. Trial Counsel testified Mr. Ball was Applicant's first attorney and requested discovery in the case but he was not sure how or why Mr. Ball got relieved from Applicant's case. He testified Mr. Alexander was assigned through the Public Defender's Office but was relieved because of a conflict as Mr. Alexander was counsel for the guardian ad litem in the family court case. Trial Counsel testified there was no double jeopardy issues because Applicant's prior case was a DSS case in family court. He testified the allegations concerning the little girl included issues that Applicant locked her out of a room in Charleston. Trial Counsel testified he tried to thoroughly cross-exam the little boy during trial.

On cross-examination, Trial Counsel testified he had practiced law for forty-two years and been a prosecutor and public defender during that time. He testified he was appointed to represent Applicant through the Public Defender's office. Trial Counsel testified he discussed with Applicant his charges, defenses and evidence the state had against him. He testified he did not recall what type of investigation he did and testified it was common for him to not call witnesses in these types of cases. Trial Counsel testified he spent a lot of time going over the discovery in this case. He testified his trial strategy was that Applicant was innocent because that was the only strategy they had. Trial Counsel testified the motion to sever was based on grounds that these charges did not arise out of the same time frame or scenario. He testified he did object to the trial court's charge to the jury concerning a victim's testimony need not be corroborated. Trial Counsel testified he believed the doctor's testimony was hearsay but that he thought it fit

into a hearsay exception regarding medical diagnosis. He testified he did not think he needed to object to her testimony because of this exception.

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 had the opportunity to observe the witnesses presented at the hearing, and can weigh their testimony and credibility accordingly. These credibility findings have been applied to the Court's findings and conclusions set forth below. Below are the findings of fact and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2017).

In a post-conviction relief action, the 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, 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. at 443, 334 S.E.2d at 814. The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. at 689. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove that counsel's performance was deficient. Id. Under this prong, the court measures an attorney's

performance by its "reasonableness under professional norms." Id. (quoting Strickland v. Washington, 466 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, 300 S.C. at 117-18, 386 S.E.2d at 625.

Ineffective Assistance of Counsel

Failure to object to Jury Instruction

Applicant alleged Trial Counsel was ineffective for failing to object to the trial judge's charge to the jury. Pursuant to S.C. Code Ann. § 16-3-657, the trial judge in this case instructed the jury during his charge "that a victim's testimony need not be corroborated" (R. p. 352, lines 2-3). In 2016, the South Carolina Supreme Court held that charge to be unconstitutional State v. Stukes, 416 S.C. 493, 787 S.E.2d 480 (2016). Here, this Court finds Trial Counsel was not ineffective regarding this allegation. First, as an initial matter this Court would note Trial Counsel did in fact object to the jury charge given by the trial judge as evidenced by the record. (R. p. 354, lines 10-14). Furthermore, this Court finds even if Trial Counsel had not objected to the jury charge he would not have been ineffective because at the time of Applicant's trial the jury charge had not been rendered unconstitutional. Stukes was decided almost three year after Applicant's trial. No South Carolina court has ever required an attorney to anticipate or discover changes in the law, or facts which did not exist, at the time of the trial. Thornes v. State, 310 S.C. 306, 309-10, 426 S.E.2d 764, 765 (1993). The relevant time frame for analysis is when the alleged ineffectiveness occurred. Id. at 310. While the rules of preservation require that objections to the admissibility of evidence be specific, they most certainly do not require clairvoyance. State v. Tapp, 398 S.C. 376, 728 S.E.2d 468 (2012). Therefore, Counsel cannot

reasonably be held ineffective for failing to object based on case law that had not even been decided at the time of trial. Therefore, this Court finds Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. Applicant failed to present compelling evidence that Counsel committed either errors or omissions in his representation of Applicant. This Court also finds Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Counsel's performance. This Court concludes Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. The allegation is denied and dismissed.

Failure to Object to Hearsay Testimony

Applicant alleged Trial Counsel was ineffective for failing to object to the medical expert's testimony as it constituted hearsay. Trial Counsel testified he believed the doctor's testimony was hearsay but that he thought it fit into a hearsay exception regarding medical diagnosis. He testified he did not think he needed to object to her testimony because of this exception. Here, this Court finds Trial Counsel was not ineffective regarding this allegation as the testimony was appropriately admitted under the medical diagnosis exception of Rule 803(4), SCRE. Hearsay is not admissible unless it is pursuant to an exception provided by the South Carolina Rules of Evidence or other means. Rule 802, SCRE. A statement consistent with the victim's testimony in a criminal sexual conduct case is not hearsay when it is limited to the time and place of the incident. Rule 801(d)(1)(D), SCRE. Further, "[s]tatements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment" are admissible pursuant to the trial court's discretion. Rule 803(4), SCRE. Therefore, this Court finds Applicant has failed to prove

the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. Applicant failed to present compelling evidence that Counsel committed either errors or omissions in his representation of Applicant. This Court also finds Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Counsel's performance. This Court concludes Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. The allegation is denied and dismissed.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any violations 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 Applicant that he must file and serve a notice of appeal within thirty (30) days from receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. *See* Rule 203, SCACR. An applicant has a right to an appellate counsel's assistance when they are seeking review of the denial of PCR. Austin v. State, 305 S.C. 453 (1991). If an applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. See Rule 71.1 (g), SCRCP. Reefer to Rule 243 of the South Carolina Appellate Court Rules for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

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

2. Applicant shall remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

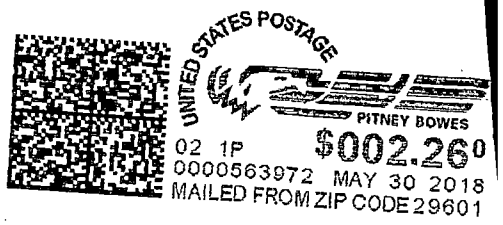
AND IT IS SO ORDERED this 15 day of May, 2018.

LETITIA H. VERDIN
Presiding Judge
Thirteenth Judicial Circuit

Greenville, South Carolina

2018 MAY 21 A 8:34

CLERK OF COURT
GREENVILLE COUNTY
SOUTH CAROLINA



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