THE LAW OFFICE OF NATHAN J. SHELDON, LLC
Working on your behalf
331 E. Main St., Suite 200
Rock Hill, SC 29730
www.nathansheldonlaw.com
(803)909-9343

June 27, 2018

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

Re.: State v. William Greene
2016-CP-29-0339

Dear Mr. Shearouse:

Please find enclosed the Notice of Appeal and Proof of Service on the above referenced case along with the Order being appealed. Please file the originals and mail the filed copies back to me in the also enclosed self-addressed stamped envelope. I have asked OID to handle the appeal and have sent them copies of all of these documents as well. Thank you and please feel free to call me with any additional questions or concerns. Thank you.

Sincerely Yours,

Nathan Sheldon
The Law Office of Nathan J. Sheldon

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

Roger E. Henderson, Circuit Court Judge

Case No. 2016-CP-29-0339

State of South Carolina, Respondent,

v.

William Richard Greene, Appellant.

NOTICE OF APPEAL

William Richard Greene appeals the order of the Honorable Roger E. Henderson dated May 25, 2018 denying his request for post-conviction relief. Appellant received written notice of entry of this order on June 27, 2018.

June 27, 2018

Nathan J. Sheldon
331 E. Main St., Suite 200
Rock Hill, South Carolina 29730
(803) 909-9343
Attorney for Appellant

Other Counsel of Record:
DeShawn Mitchell, Esquire
Assistant Attorney General
Post Office Box 11549
Columbia, South Carolina 29211-1549
Attorney for Respondent
(803) 734-3970

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM LANCASTER COUNTY
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Roger E. Henderson, Circuit Court Judge

Case No. 2016-CP-29-0339

State of South Carolina, Respondent,

v.

William Richard Greene, Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on DeShawn Mitchell with the Attorney General's Office by depositing a copy of it in the United States Mail, postage prepaid, on June 28, 2018 mailed to Post Office Box 11549, Columbia, South Carolina 29211-1549.

June 28, 2018

Nathan Sheldon
331 E. Main St., Suite 200
Rock Hill, SC 29730
803-909-9343
Attorney for Appellant

STATE OF SOUTH CAROLINA COUNTY OF LANCASTER	)	IN THE COURT OF COMMON PLEAS SIXTH JUDICIAL CIRCUIT
William Richard Greene, #273284 Applicant, v. State of South Carolina, Respondent.	)	2016-CP-29-0339 **ORDER OF DISMISSAL**

This matter comes before the Court by way of an application for post-conviction relief filed on March 24, 2016 by William Richard Greene (Applicant). Respondent made its Return on or about November 23, 2016. An evidentiary hearing into the matter was convened on January 8, 2018, at the Lancaster County Courthouse in Lancaster, South Carolina. Applicant was present and represented by Nathan J. Sheldon, 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 Plea Counsel Michael H. Lifsey, Esquire also testified. This Court had before it a copy of the records of the Lancaster County Clerk of Court regarding the Applicant's convictions, the transcript from Applicant's guilty plea, the PCR application, Respondent's Return and Applicant's records from the Department of Corrections. After reviewing the record and everything presented, this Court finds Applicant has failed to establish any constitutional deprivations entitling him to post-conviction relief with the exception of his possession of a weapon during the commission of a violent crime charge which will be discussed in depth below.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lancaster County Clerk of Court. Applicant was indicted by the July 2012 term of the Lancaster County Grand Jury for murder (2012-GS-29-0861); and possession of a weapon during the commission of a violent crime (2012-GS-29-0862). Michael H. Lifsey, Esquire represented Applicant. On November 3, 2014, Applicant pled guilty as indicted. The Honorable DeAndrea G. Benjamin sentenced Applicant to imprisonment for life without parole for the murder charge and five years for possession of a weapon during the commission of a violent crime.

A timely Notice of Appeal was filed on Applicant's behalf. The South Carolina Court of Appeals dismissed the appeal by written order dated December 22, 2014, for failure to provide a sufficient guilty plea explanation, as required by Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules. The Remittitur was issued on March 31, 2015.

ALLEGATIONS

In his initial application, Applicant did not raise any grounds for relief. Instead he merely stated that he would amend at a later date.

In his amended application filed June 26, 2017, Applicant alleged he is being held in custody unlawfully for the following reasons:

1. Failure to investigate
   a. The petitioner alleges that trial counsel was ineffective in his representation of petitioner for failing to investigate this case thoroughly. Applicant believes that his confession was not properly obtained and had counsel investigated this issue that there would have been grounds to suppress the confession. Applicant further believes that trial counsel failed to meet with him enough to discuss the case and that had these meetings occurred that the applicant would have been able to take this case to trial. Applicant believes that had counsel performed his duties properly he would have taken this case to trial and agreed to plead guilty to the charges.
2. Failure to mitigate

a. Applicant alleges that trial counsel failed to properly mitigate this case at the time of the guilty plea. Applicant informed trial counsel of several issues that would tend to mitigate his conduct in this case and attorney ignored and/or failed to properly raise these issues at the guilty plea hearing. Applicant believes that had attorney done an effective job in mitigation that the outcome of the sentence would have been different and applicant would not have received a life sentence with no possibility of parole.

3. Coerced Plea
   a. Applicant alleges that trial counsel rendered ineffective assistance of counsel when trial counsel told applicant that he would only receive a 45 year sentence. Applicant relied on this promise from trial counsel in making his decision to plead guilty to the charge of murder. Applicant received a life sentence from the Court, which is well beyond the amount of time that applicant believed he would receive when pleading guilty. Trial counsel's performance fell below the standard norms and the outcome would have been different had applicant known he was not receiving a 45 year sentence.
4. Illegal Sentence
   a. Applicant was sentenced to life without parole on the charge of murder, which was the violent crime he pled guilty to. Applicant was also sentenced to a consecutive five year sentence for possession of a weapon during the commission of a violent crime pursuant to SC Code Annotated 16-23-490. This statute specifically states, "This five-year sentence does not apply in cases where the death penalty or a life sentence without parole is imposed for the violent crime." However, the Trial Court stated that it did apply. Further, trial counsel did not correct the mistake during or after sentencing. Applicant believes that the assessment of the five years consecutive to the life sentence is an illegal sentence and that trial counsel was ineffective for not bringing this to the Court's attention.

SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTARY HEARING

Applicant's Testimony

Applicant testified he was charged and ultimately pled guilty to murder and possession of a weapon during the commission of a violent crime and was sentenced to imprisonment for life without parole. He testified Plea Counsel failed to investigate his case. Applicant testified Plea Counsel did not get witnesses to come speak on his behalf and did not investigate the audio or video of his statement to police. He testified there was only one knife found but two were alleged

to have been used. Applicant testified Plea Counsel did not review all of his discovery with him but he did discuss it with him. Applicant testified during his first conversation with Plea Counsel, Plea Counsel told him life without parole was off the table and he could get him thirty years. Applicant testified during his second conversation with Plea Counsel, Plea Counsel told him he could not get thirty years and that maybe Plea Counsel could get the State to agree to a forty-five year sentence. He testified he discussed the pros and cons of pleading guilty versus going to trial with Plea Counsel and Plea Counsel told him to plead guilty because of his statement in which he confessed. Applicant testified he decided to plead guilty after speaking with his mom and sister. He testified he wanted his friends and neighbors to come speak on his behalf during his guilty plea but Plea Counsel did not contact them. Applicant also testified his plea was coerced because during his initial conversation with Plea Counsel, Plea Counsel told him life without parole was off the table. Then during the second conversation, Applicant testified Plea Counsel told him he was looking at thirty to fifty years and Applicant informed Plea Counsel he would take thirty years. Applicant testified during his third conversation with Plea Counsel about plea negotiations, Plea Counsel told him if he pled guilty he would not get any more than forty-five years which led him to plead guilty.

On cross-examination Applicant testified he met with Plea Counsel six or seven times and reviewed his discovery a few times with him but not a full review. He testified Plea Counsel mainly focused on his confession. Applicant testified he did not remember giving a confession at all. He testified he did not remember the guilty plea proceedings and thought that he would get forty-five years. Applicant testified he did not remember the Plea Court informing him he could get up to life in prison by pleading guilty. He testified he remembered agreeing with the facts of the case when the State read them at his guilty plea and that he wanted to plead guilty. Applicant

testified Jerod Belford and Melissa Gilbert were people who lived in his neighborhood who he wanted to speak on his behalf at his guilty plea proceedings as they could have painted a better picture of him to the Plea Court.

Plea Counsel's Testimony

Plea Counsel testified he had been practicing law since 1991 and almost all of his practice had exclusively been devoted to criminal law. He testified he had at one point in his career been a solicitor as well as currently working as a public defender. Plea Counsel testified he was appointed to represent Applicant who was charged with murdering his great grandmother. He testified Applicant's great grandmother had over thirty stab wounds to her neck, face, and head. Plea Counsel testified the crime scene was very bloody and there were two knifes used as one broke off when the Applicant was stabbing the victim and he grabbed a second one. He testified the crime scene was very horrific. Plea Counsel testified that based on his file he met with Applicant on sixteen different occasions and believes he may have met with him even more times than what he had documented. Plea Counsel testified during these meetings he discussed Applicant's case with him, the elements of the crime, potential sentences, his constitutional rights, and the State's burden of proof. He testified there was not a whole lot to investigate in terms of Applicant's case because Applicant never denied he committed the crime. Plea Counsel testified the real question was not whether the Applicant committed the crime but why did he do it. Plea Counsel testified he explored mental health issues with the Applicant and had him evaluated. He testified Applicant was found competent to stand trial. Plea Counsel testified he met with members of Applicant's family to try to get information for mitigation for Applicant's guilty plea. He testified Applicant never denied committing the crime and there was overwhelming evidence in the case of Applicant's guilt. Plea Counsel testified he mailed

Applicant a copy of the discovery and reviewed it with him in person numerous times. He testified Applicant did not want to look at the pictures of the crime scene and asked him to not show the pictures to his mother. Plea Counsel testified they had a State v. Blair[1] hearing prior to the guilty plea being entered and a copy of Applicant's evaluation was made a part of the record. He testified Applicant also signed a guilty plea affidavit that explained his constitutional rights and it was also made a part of the record. Plea Counsel testified since Applicant gave a confession he would have had a Jackson v. Denno[2] hearing if Applicant had wanted to proceed to trial. He testified the statement Applicant gave was written and there was no video or audio of it. Plea Counsel testified he did not see any issues with the statement given by Applicant as the officers who conducted it were known to do a good job when talking to suspects. Plea Counsel testified in addition to the statement Applicant gave, there was a check stolen from the victim that was made out to Applicant and Applicant was found with bloody clothes.

Plea Counsel testified he entered plea negotiations with the State but given the horrific facts and the case being highly publicized in the media, the State took a hardline regarding plea offers. He testified the original offer was for Applicant to plead straight up and the State would not recommend a life sentence but just a term of years. He testified he really did not think that was a legitimate plea offer. Plea Counsel testified he asked the State for a plea offer with a cap of fifty years but Applicant did not want fifty years. He testified Applicant wanted a guaranteed plea offer of thirty years but the State refused to extend that offer. Plea Counsel testified the State had "kind of" threatened the death penalty but had not served them with a notice. He testified the week of Applicant's guilty plea, there was a visiting judge who he thought would be better for Applicant to plead guilty in front of because the judge would not feel pressured to give a life

[1] State v. Blair 275 S.C. 529, 273 S.E.2d 536 (1981)
[2] Jackson v. Denno 378 U.S. 368 (1964)

sentence as they were not the resident circuit judge. Plea Counsel testified it was Applicant's decision to plead guilty and he did not promise Applicant a certain sentence. He testified he never promised Applicant a sentence of forty-five years but did probably tell Applicant forty-five years was probably the best Applicant could hope for. Plea Counsel testified he explained to Applicant that his charge carried a sentence of thirty years to life in prison and the State would probably ask for a life sentence. He testified the plea court questioned Applicant about the potential sentences for his crime during the court's colloquy. Plea Counsel testified he tried to talk to as many people as possible for mitigation for Applicant but many of them did not want to come forward including Applicant's ex-girlfriend who was the mother of his children. He testified the only people who were involved in Applicant's case and wanted to help were Applicant's sister and his mother.

On cross-examination, Plea Counsel testified one of the reasons he got Applicant evaluated was because Applicant's mother was mentally ill and he thought there may have been a family history of mental illness. He testified a friend of Applicant also told him Applicant had previously had mental health treatment. Plea Counsel testified he thought Applicant was competent to stand trial but was hoping for mitigation through the evaluation. He testified he tried to work to get a plea offer with a cap of fifty years but the State never formally extended the offer. Plea Counsel testified he told Applicant he was pleading without recommendation so he was facing thirty years to life. Plea Counsel testified he told Applicant he hoped Applicant would get less than a life sentence because he was pleading guilty but he told Applicant there was a possibility he could get a life sentence. He testified he told Applicant he would ask the judge for thirty-five years and that the State during the guilty plea asked for a life sentence. Plea Counsel testified Applicant never said he would take fifty years and thought that number came from

conversations he had with the solicitor. He testified he never guaranteed Applicant a forty-five year sentence and tried to negotiate with the State for a thirty year sentence but that the State was unwilling.

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. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 (1985).

In PCR cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citations omitted). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Lockhart, 474 U.S. at 56. Further, "[t]hat a guilty plea must be intelligently made is not a requirement that all advice offered by the defendant's lawyer withstand retrospective examination in a post-conviction hearing." McMann v. Richardson, 397 U.S. 759, 770 (1970). Rather, "whether a plea of guilty is unintelligent . . . depends as an initial matter, not on whether a court would retrospectively consider counsel's advice to be right or wrong, but on whether that advice was within the range of competence demanded of attorneys in criminal cases." Id. at 771.

The record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Dalton v. State, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Boykin v. Alabama, 395 U.S. 238, 242 (1969)). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete

record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). Further, "[a] guilty plea is a solemn, judicial admission of the truth of the charges" against the applicant; thus, an applicant's right to contest the validity of such a plea is usually foreclosed. Dalton, at 137–38, 654 S.E.2d at 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, admissions "made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements." Id. (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)). "In considering an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing." Id. at 138–39, 654 S.E.2d at 874 (citing Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997)).

Failure to Investigate

Applicant alleges Plea Counsel was ineffective for failing to investigate. To show ineffective assistance in this regard, Applicant must present evidence to show what counsel could have discovered had he more fully investigated. Jackson v. State, 329 S.C. 345, 354, 495 S.E.2d 768, 772 (1998) ("Respondent failed to present any evidence of what counsel could have discovered or what other defenses respondent would have requested counsel pursue had counsel more fully prepared for the trial."). Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result. Porter v. State, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006)

(citing Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)). Applicant has failed to show what beneficial information could have been discovered had Plea Counsel done more investigation. Notwithstanding, Plea Counsel testified credibly that not only did he review all of the discovery, he spoke to several people. Plea Counsel testified there was not a whole lot to investigate in terms of Applicant's case because Applicant never denied he committed the crime. Plea Counsel testified the real question was not whether the Applicant committed the crime but why did he do it. Plea Counsel testified he did not see any issues with the statement given by Applicant as the officers who conducted it were known to do a good job when talking to suspects. He testified the statement Applicant gave was written and there was no video or audio of it. Plea Counsel testified since Applicant gave a confession he would have had a Jackson v. Denno[3] hearing if Applicant had wanted to proceed to trial. This Court finds Counsel's investigation was beyond reasonable. 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 Mitigate

Applicant alleges Plea Counsel was ineffective for failing to offer mitigation in his case. Plea Counsel testified he explored mental health issues with Applicant and had him evaluated. He testified Applicant was found competent to stand trial. Plea Counsel testified he met with members of Applicant's family to try to get information for mitigation for Applicant's guilty

[3] Jackson v. Denno 378 U.S. 368 (1964)

plea. Plea Counsel testified he tried to talk to as many people as possible for mitigation purposes for Applicant but many of them did not want to come forward including Applicant's ex-girlfriend who was the mother of his children. He testified the only people who were involved in Applicant's case and wanted to help were Applicant's sister and his mother. Plea Counsel testified he thought Applicant was competent to stand trial but was hoping for mitigation through the evaluation. This Court finds Plea Counsel's efforts to obtain mitigation evidence were beyond reasonable. 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.

Coerced Plea

Applicant alleges his guilty plea was coerced. Regarding Applicant's claim his guilty plea was induced by ineffective assistance of counsel, this Court finds Applicant has failed to meet his burden of proof. This Court finds Plea Counsel provided effective assistance in this case and Applicant's decision to plead guilty was made freely and voluntarily. Plea Counsel is a trial practitioner who had experience in the trial of criminal offenses. Counsel conferred with Applicant on multiple occasions, during which Counsel discussed the pending charges, the State's evidence, possible defenses and courses of action, and answered all of Applicant's questions.

This Court further finds the record reflects Applicant's plea was entered freely, voluntarily, knowingly, and intelligently. The plea judge explained the charges to Applicant, including the maximum penalties for each. The plea judge also went through Applicant's constitutional rights and questioned Applicant as to whether he understood those rights and wished to give them up to plead guilty. Applicant agreed that he did. Applicant admitted he was guilty of these offenses told the plea judge that he was satisfied with his attorney. Applicant further told the plea judge no one had threatened him or made him any promises to get him to plead guilty, and he was doing so of his own accord. Additionally, Applicant told the plea judge he did not have any physical or mental issues which would prevent him from understanding the proceeding, and Applicant indicated he understood all of the plea judge's questions and had answered them honestly. This Court therefore finds that Applicant understood the terms of the plea and the possible sentences he could receive.

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 also finds that the record fully supports the knowing and voluntary nature of Applicant's guilty plea. See Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (holding defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "must be established by a complete record, and may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both."). In addition, Applicant has presented no evidence or valid reasons why he should be allowed to depart from the truth of his

statements made at the plea. See Dalton, 376 S.C. at 137, 654 S.E.2d at 874 ("[Admissions] made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements."). This Court concludes Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. The allegation is denied and dismissed.

Illegal Sentence

Applicant was sentenced to life without parole on the charge of murder, which was the violent crime he pled guilty to. Applicant was also sentenced to a consecutive five year sentence for possession of a weapon during the commission of a violent crime pursuant to SC Code Annotated 16-23-490. This statute specifically states, "This five-year sentence does not apply in cases where the death penalty or a life sentence without parole is imposed for the violent crime." Here, Applicant was sentenced to imprisonment for life without parole for the murder charge. Pursuant to SC Code Annotated 16-23-490 (a), Applicant should not have been sentenced for possession of a weapon during the commission of a violent crime. Prior to testimony being taken, the State consented to this sentence being vacated. Accordingly, this Court vacates Applicant's sentence for possession of a weapon during the commission of a violent crime. However, Applicant's conviction for possession of a weapon during the commission of a violent crime is still valid.

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 with the exception of his conviction for possession of a weapon during the commission of a violent crime.

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. Applicant's sentence for possession of a weapon during the commission of a violent crime is hereby vacated;

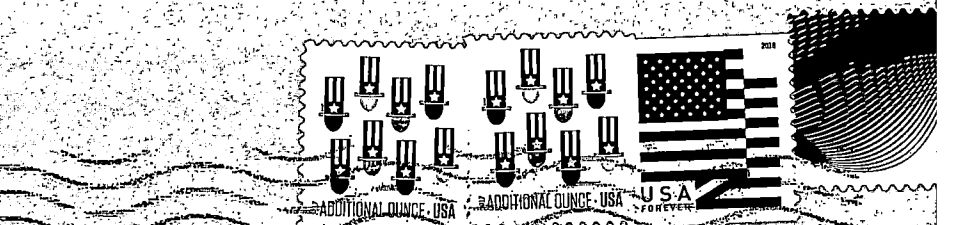
2. Applicant's remaining allegations are denied and dismissed with prejudice;

3. 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 25th day of May, 2018.

ROGER E. HENDERSON
Presiding Judge
Sixth Judicial Circuit

Chesterfield, South Carolina



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The Law Office of Nathan Sheldon
331 E. Main St., Suite 200
Rock Hill, SC 29730

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