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WALLER LAW GROUP

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JUL 13 2018

S.C. SUPREME COURT

July 12, 2018

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

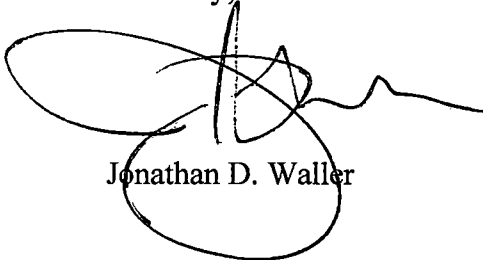
Re: Willie Terrell Byrd vs. State of South Carolina
C/A No: 2013-CP-21-02766

Dear Mr. Shearouse:

Please find enclosed one (1) original and one (1) copy each of Applicant's Notice of Appeal and Certificate of Service in the above referenced case. I would appreciate you filing the original and returning the clocked copies in the enclosed envelope.

I was appointed to represent Mr. Byrd in this matter and am also enclosing a copy of the Order of Dismissal. If you have any questions, please do not hesitate to ask. My telephone number is 803-520-7278.

Sincerely,



Jonathan D. Waller

Cc: Lindsey A. McCallister, South Carolina Office of Attorney General

Enclosures

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM FLORENCE COUNTY
Michael G. Nettles, Circuit Court Judge

2013-CP-21-02766

RECEIVED

JUL 13 2018

S.C. SUPREME COURT

Willie Terrell Byrd, #319760,

Appellant,


v.

STATE OF SOUTH CAROLINA,

Respondent.

NOTICE OF APPEAL

Willie Terrell Byrd, #319760 appeals the Order of Dismissal denying his Application for Post-Conviction Relief filed June 21, 2018, issued by the Honorable Michael G. Nettles, Presiding Judge, Twelfth Judicial Circuit.



Jonathan D. Waller

Waller Law Group
SC Bar No.: 76290
1116 Blanding Street
Suite 2B
Columbia, SC 29201
803-520-7278 (phone)
jonathan@wallergroupsc.com
ATTORNEY FOR PETITIONER

July 12, 2018

Other Counsel of Record:
Lindsey A. McCallister, Assistant Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3319

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM FLORENCE COUNTY
Michael G. Nettles, Circuit Court Judge

2013-CP-21-02766

RECEIVED

JUL 13 2018

S.C. SUPREME COURT

Willie Terrell Byrd, #319760,

Appellant,

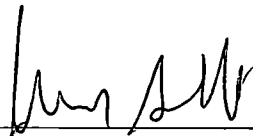
v.

STATE OF SOUTH CAROLINA,

Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that one copy of the Appellant's Notice of Appeal in the above-entitled case has been served upon opposing counsel, Lindsey A. McCallister, Assistant Attorney General, by mailing in an envelope properly addressed with postage prepaid on this day, to her office located at P.O. Box 11549, Columbia, SC 29211.



M. David Scott

July 13th, 2018

FORM 4

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

FILED

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2013CP2102766

Willie Terrel Byrd	2018 JUN 22 PM 12:14	South Carolina State Of	
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PLAINTIFF(S) Submitted by:	DEFENDANT(S) Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant
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DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

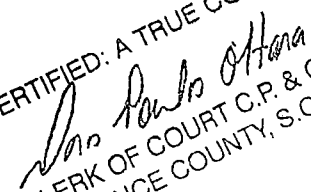
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

6/22/2018

Date

CERTIFIED: A TRUE COPY

 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

For Clerk of Court Office Use Only

This judgment was entered on **June 21, 2018**, and a copy mailed first class or placed in the appropriate attorney's box on **June 22, 2018**, to attorneys of record or to parties (when appearing pro se) as follows:

Jonathan D Waller 1116 Blanding Street Suite 2B
Columbia, SC 29201

Lindsey Ann McCallister PO Box 11549 Columbia, SC
29211-1549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Doris P. O'Hara

Court Reporter

Doris Poulos O'Hara - Clerk of Court

Court Reporter:

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

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

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

STATE OF SOUTH CAROLINA)
 COUNTY OF FLORENCE)
)
 Willie T. Byrd, #319760,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 OF THE TWELFTH JUDICIAL CIRCUIT

Case No.: 2013-CP-21-2766

ORDER OF DISMISSAL

2018 JUN 21 PM 4:13
 DONIS FOWLES O'HANNA
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.
FILED

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed October 21, 2013, by Willie Terrell Byrd (Applicant). Respondent made its Return on April 23, 2014. An evidentiary hearing into the matter was convened on November 15, 2017, at the Florence County Courthouse. Jonathan Waller, Esquire, represented Applicant. Lindsey McCallister, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

At the hearing, Applicant testified on his own behalf. John R. Etheridge, Jr., Esquire, and B. Scott Suggs, Esquire, testified for the State. After hearing testimony and the arguments of counsel, the Court now denies and dismisses the application.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Florence County Clerk of Court. In September 2012, the Florence County Grand Jury indicted Applicant for armed robbery (2012-GS-21-1129). John R. Etheridge, Jr., Esquire, (Etheridge) and B. Scott Suggs, Esquire, (Suggs) represented Applicant. On March 4, 2013, Applicant entered a negotiated plea of guilty as indicted. The Honorable D. Craig Brown sentenced Applicant to eleven years' imprisonment. Applicant did not appeal his guilty plea or sentence.

CERTIFIED: A TRUE COPY
Donis Fowles O'Hanna
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

SUMMARY OF FACTS ADDUCED AT GUILTY PLEA

On April 2, 2012, Claudia Germis (Victim) had just gotten in to her car to go to work when Applicant and his co-defendant pulled up in a second vehicle. Tr. p. 14. Applicant got out, went over to Victim's vehicle, and smashed the driver's side window with a handgun. Tr. p. 14. Applicant then reached into Victim's car and took her purse, which contained several credit cards. Tr. p. 14. The credit cards were then used at several stores in the area, where Applicant was captured on video surveillance. Tr. p. 14. Law enforcement received a tip as to Applicant's whereabouts and went to his apartment complex. Tr. p. 14. The complex security officer identified Applicant, and when officers searched his apartment, they recovered a gun matching the one used in the robbery. Tr. pp. 14-15.

ALLEGATIONS

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

1. "Trial counsel was ineffective when he knew evidence supported an 'accessory before and after the fact of a felony' charge but still advised Applicant to plead guilty to a more severe charge."
2. "Trial counsel who was retained rendered ineffective assistance, when he forced Applicant to proceed with a counsel not of his own choice."
3. "Trial counsel ineffective for failing to request a competency hearing."
4. "Trial counsel was ineffective for failing to investigate and pursue a insanity defense."
5. "Guilty plea not knowingly, intelligently and voluntarily entered."
 - a. Applicant was intoxicated from methadone on the day

At the start of the evidentiary hearing, Counsel for Applicant submitted as Court's Exhibit 1 a competency evaluation dated September 5, 2016, which was performed during the course of this action. This Court has reviewed the report and finds Applicant is competent now and was also competent at the time of the entry of his guilty plea.

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 and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusion of law as required by S.C. Code Ann. Sec. 17-27-80 (2003).

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, an applicant must prove “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. Butler, 286 S.C. at 442, 334 S.E.2d at 814. Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. at 689. An 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).

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State,

342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)). When a defendant pleads guilty on the advice of counsel, the plea may only be attacked through a claim of ineffective assistance of counsel. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2002) (citations omitted).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. Id. at 117, 386 S.E.2d at 625. First, an applicant must prove 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, 466 U.S. 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).

A. Accessory Charge

Applicant alleges the evidence in his case supported both an accessory before the fact and accessory after the fact charges, but plea counsel advised him to plead guilty to the more severe armed robbery charge. Applicant testified he only met with his attorneys one or two times prior the guilty plea, and they did not discuss the charges, evidence, defenses, or potential penalties with him. Applicant testified Etheridge told him they had not received any discovery or paperwork at the time of their meeting, so Applicant never had a chance to review any discovery materials, including the surveillance video and statements from witnesses, with his attorneys. Applicant testified he asked about lesser-included charges, but his attorneys had not received

discovery at that time. Applicant testified he eventually received a copy of discovery prior to his guilty plea, but he did not have time to go over it with either attorney prior to the plea.

Etheridge testified it was his usual practice to review discovery with clients, and he had no reason to think that practice was not followed in this case. Suggs testified he met with applicant at least once prior to the plea and again the day the plea was entered. Suggs testified he and Applicant discussed the facts and circumstances of the case, Applicant's prior record, Applicant's history of mental health issues, the possible penalties Applicant was facing, and the armed robbery charge. Suggs further testified his practice is to err on the side of redundancy, and he takes care to ensure the client is aware of all the information in a case.

This Court finds Applicant's contention that his attorneys provided him with deficient advice leading to him pleading guilty to more severe charge is without merit. The Court finds the testimony of both Etheridge and Suggs to be credible, while also finding Applicant's testimony is not credible. Suggs testified he thoroughly reviewed the facts and circumstances of the case with Applicant and, specifically, they discussed the fact that this was an armed robbery charge. The Court has also reviewed the guilty plea transcript and finds the underlying facts presented by the State, to which Applicant unequivocally agreed, support the armed robbery charge and that Applicant was a principal in the robbery. Tr. pp. 14-15. In fact, it was Applicant who wielded the gun. Tr. p. 14.

This Court therefore finds Applicant has failed to prove the first prong of the Strickland test – that either counsel failed to render reasonably effective assistance under prevailing professional norms. Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of Applicant, particularly in light of Applicant's admission of guilt during the plea hearing. This Court also finds Applicant has

failed to prove the second prong of Strickland – that he was prejudiced by his counsels’ performance. This Court concludes Applicant has not met his burden of proving counsel failed to render reasonably effective assistance, and this allegation is denied and dismissed.

B. Counsel of Choice

Applicant alleges Etheridge provided ineffective assistance of counsel and deprived Applicant of his counsel of choice when Suggs appeared on Applicant’s behalf at the plea hearing rather than Etheridge. Applicant testified he had never met Suggs until the day of the plea, and he did not know Suggs would be representing him. Applicant further testified Etheridge and Etheridge’s son, Kevin, were present at the hearing, but when he asked for them, Suggs told him he would be representing him instead. Applicant testified he did not think Suggs was his attorney because his family had paid the Etheridges to represent him.

Etheridge testified Applicant’s mother hired him, and then he brought in his son, Kevin Etheridge, and Suggs to review the file and assist with the case. Etheridge testified he split the fee Applicant paid him with Suggs. Etheridge also testified all three attorneys met with Applicant and his mother multiple times in the office and at court hearings, and Applicant and his family were aware that Kevin and Suggs were involved with the case. Etheridge further testified he met with Applicant and the solicitor on the day of the plea, but Suggs actually represented Applicant during the hearing. Suggs testified he met with Applicant at least twice and reviewed the case with him, including the potential punishments and the option to take the case to trial. Suggs also testified he explained to Applicant who he was, why he was meeting with Applicant, and his association with the Etheridges. Further, Suggs testified Applicant never told him he wanted someone else to represent him.

This Court finds Applicant's contention Etheridge provided him with deficient representation and deprived him of his choice of counsel is without merit. The Court finds the testimony of both Etheridge and Suggs to be credible, while also finding Applicant's testimony is not credible. Further, this Court has reviewed the hearing transcript and notes the plea judge specifically asked Applicant if he had any complaints about Suggs's representation, and Applicant said he did not. Tr. p. 13. The record also reflects the plea judge gave Applicant a chance to address the court himself, and though Applicant spoke at length, at no time did he inform the plea court he did not want Suggs as his attorney or say he thought Etheridge should have been present instead. Tr. pp. 18-20.

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 v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (“[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 therefore finds Applicant has failed to prove the first prong of the Strickland test – that either counsel failed to render reasonably effective assistance under prevailing professional norms. Applicant failed to present specific and compelling evidence Etheridge or Suggs committed either errors or omissions in their representation of Applicant, particularly in light of Applicant's failure to raise this issue in response to the court's direct question on the matter during the plea hearing. This Court also finds Applicant has failed to prove the second prong of Strickland – that he was prejudiced by his counsels' performance. This Court concludes Applicant has not met his burden of proving Etheridge or Suggs failed to render reasonably effective assistance, and this allegation is denied and dismissed.

C. Failure to request competency evaluation/pursue insanity defense/involuntary guilty plea

Applicant alleges his counsels were inefficient for failing to request a competency evaluation and pursue an insanity defense prior to Applicant's guilty plea. Applicant also contends, because of these failures, his guilty plea was entered involuntarily.

Applicant testified he has a history of mental issues for which he takes medication. At the time of the hearing, Applicant testified he was taking several medications which helped him understand the PCR proceeding. Applicant testified he was not on medication at the time of his arrest. Applicant gave conflicting testimony as to whether he was taking medication on the day of his guilty plea. First, he testified he had taken some medication which would have helped him understand what he was doing, but it did not. Then he testified he had not taken any medicine that day because he "ran out," and that was the reason why he wanted his mental health records. On cross-examination, Applicant testified he remembered being in the courtroom for the plea, but did not remember what he said to the judge, including telling the judge he had taken his medication that morning.

Applicant testified he entered the guilty plea because Suggs "forced" it upon him. Applicant testified Suggs told him he could either take the plea offer or go to trial the next week. Applicant testified he did not have his mental health records at the time and did not know what was going on. Applicant also testified his attorneys never explained the trial process or discussed trying the case with him, except to say he would get thirty years if he went to trial. On cross-examination, Applicant testified he wanted a trial solely to contest his mental health, not his guilt as to the charges. Applicant also acknowledged he told the judge during the plea colloquy that he was entering the plea freely and voluntarily and never informed the judge he felt "forced" by someone to enter it.

Etheridge testified he had no reason to think Applicant had any competency issues, as Applicant appeared to understand all of their conversations and never indicated he did not understand something. Etheridge also testified his firm requested and paid for Applicant's mental health records in 2015, at Applicant's request. He testified the file did not reflect an investigation of Applicant's mental health prior to the plea. Etheridge also testified Applicant's main concern during the case was negotiating a plea, which they were able to do.

Suggs testified he was aware Applicant had a history of mental health issues, but he had no reason to believe those issues affected Applicant's competency or made him unable to understand the proceedings. Suggs testified one of the standard questions he asks his client is whether or not they take medication, but he did not recall if he and Applicant specifically discussed Applicant's medication compliance at the time of the crime. Suggs testified Applicant never directed him to obtain mental health records, and Applicant only ever mentioned them in the context of seeking another bond hearing, not as a potential defense to the charges. Suggs testified Applicant was able to assist him in reviewing the case and preparing a defense, and Applicant never indicated he did not understand what was going on. Further, Suggs testified Applicant himself negotiated directly with the solicitor because Applicant was concerned about a previous armed robbery charge from 2006 on his record, and Applicant was able to negotiate the State's recommendation down from twelve years to eleven years.

This Court finds Applicant's contention that his attorneys were deficient for failing to request a competency evaluation and/or investigate or pursue an insanity defense is without merit. The Court finds the testimony of both Etheridge and Suggs to be credible, while also finding Applicant's testimony is not credible. "The test of competency to enter a plea is the same as required to stand trial. The accused must have sufficient capability to consult with his lawyer

with a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings against him. In a PCR action, the petitioner bears the burden of proof and is required to show by a preponderance of the evidence he was incompetent at the time of his plea.” Jeter v. State, 308 S.C. 230, 232, 417 S.E.2d 594, 596 (1992) (internal citations omitted).

As noted above, this Court has reviewed the evaluation conducted in 2016 during the course of this action and finds Applicant was competent at the time of this hearing, as well as at the time of his guilty plea. Additionally, Applicant failed to present any mental health or medical records during the hearing, so Applicant has not met his burden of proof. There is no evidence, other than Applicant’s own testimony, before this Court to support Applicant’s contention he was incompetent at the time of the plea or unable to conform his conduct at the time of the crime. See id. at 233-34, 417 S.E.2d 596 (“To show prejudice for failing to pursue this defense, the [applicant] must produce some evidence of insanity or a showing that with the exercise of due diligence, an insanity defense could have been developed.”); see also Garren v. State, Op No. 2015-000756 (S.C. Sup. Ct. filed Apr. 25, 2018) (Shearouse Adv. Sh. No. 17 at 63-64) (“[T]he only evidence in the record supporting Garren’s claim is his own PCR testimony... that he did not recall or understand the plea proceedings. Even under our deferential standard of review, this testimony alone is insufficient to establish Garren’s plea was involuntary.”).

This Court also finds Applicant’s allegation that his plea not entered voluntarily to be without merit. This Court finds 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.”). This Court has reviewed the hearing transcript and notes Applicant told the plea court he was medicated at the time of the plea, he understood why he was in court that day, he understood the negotiation with the State, and he wished to plead guilty. Tr. pp. 6-8. The Court also finds Applicant did so of his own free will and was not coerced or pressured to plead guilty. Tr. pp. 10-13. “A guilty plea is a solemn, judicial admission of the truth of the charges” against the applicant; thus, a criminal inmate’s right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63 (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)). Applicant has presented no such reasons, and therefore, this Court finds these allegations should be denied and dismissed.

CONCLUSION

Based on all the forgoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Neither Etheridge nor Suggs was deficient, nor was Applicant prejudiced by counsels’ representation. Therefore, this PCR application must be denied and dismissed with prejudice.

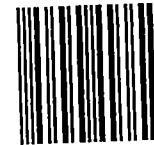
The Court notes Applicant must file and serve a notice of appeal within thirty days from receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant



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