LAW OFFICE OF WILLIAM G. YARBOROUGH, III

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July 17, 2018

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

Re: *Saquawn Monte Lacy v. State of South Carolina* (Case No.: 2015-CP-21-0997)

Dear Mr. Shearouse:

To accompany the notice of appeal in the above-captioned case mailed July 13, 2018, enclosed you will find seven copies of the clocked order of dismissal filed with the Florence County Clerk of Court that our office received via U.S. mail today, July 17, 2018 from The Honorable Doris Poulos O'Hara.

If you need any additional information or have any questions, please do not hesitate to contact me. Thank you.

Sincerely,

William G. Yarborough, III

cc: Other counsel of record:
Assistant A.G. Lindsey McCallister
P.O. Box 11549
Columbia, SC 29211

FORM 4

FILED

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2015CP2100997

2018 JUL 13 AM 9:06
DORIS POULOS O'HARA
CCCP & GS
FLORENCE COUNTY, SC

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S.C. SUPREME COU

Saquawn Monte Lacy		South Carolina State Of	
PLAINTIFF(S)		DEFENDANT(S)	
Submitted by:		Attorney for: ☐ Plaintiff ☐ Defendant ☐ Self-Represented Litigant	

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), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____

☐ **ACTION STRICKEN (*CHECK REASON*):** ☐ Rule 40(j) SCRCP; ☐ 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	7/13/2018 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 **July 12, 2018**, and a copy mailed first class or placed in the appropriate attorney's box on **July 13, 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
William G. Yarborough III 522 North Church Street Greenville, SC 29601

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	)	IN THE COURT OF COMMON PLEAS TWELFTH JUDICIAL CIRCUIT
Saquawn Monte Lacy, #361317, Applicant, v. State of South Carolina, Respondent.	)	C.A. No. 2015-CP-21-0997 **ORDER OF DISMISSAL**

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed by Saquawn Monte Lacy (Applicant) on April 6, 2015. Respondent made its Return on August 18, 2016. An evidentiary hearing into the matter was convened on November 15, 2017, at the Florence County Courthouse before the undersigned. William G. Yarborough, III, Esquire, represented Applicant. Lindsey A. McCallister, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

At the hearing, Applicant testified on his own behalf. Applicant's mother, Silvia Ann Lacy, and plea counsel B. Scott Suggs, Esquire (Counsel), also testified. This Court had before it a copy of the records of the Florence County Clerk of Court, records from the South Carolina Department of Corrections, the application, Respondent's Return, and the guilty plea transcript.

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. Applicant was indicted at the April 2014 term of the Florence County Grand Jury for one count of attempted murder. Applicant

was represented by B. Scott Suggs, Esquire. On September 8, 2014, Applicant pleaded guilty as indicted and was sentenced by the Honorable Deadra L. Jefferson to a term of imprisonment of nine years for attempted murder. Applicant did not appeal this conviction.

ALLEGATIONS

In his application for post-conviction relief, Applicant alleged he is being held in custody unlawfully for the following reasons:

1. "I am not guilty. There are witnesses who would say I acted in self-defense."
    a. "My brother was prepared to testify that this was self-defense."
2. "My lawyer did not investigate the case or call witnesses that I asked him to have appear in court."
    a. "My brother was prepared to testify that this was self-defense"
3. "My lawyer did not act effectively, so I am being held illegally pursuant to United States v. Strickland."
    a. "A review of the transcript clearly shows that I could have qualified for a YOA."
4. "My lawyer should have tried to get me a YOA"
    a. "My attorney should have tried to help me get a Youthful Offender Sentence."

At the call of the case, Applicant's PCR counsel explained Applicant would proceed on allegations of ineffective assistance of counsel for failure to investigate and present a defense of self-defense, ineffective assistance of counsel for failure to pursue a YOA sentence, and involuntary guilty plea due to Applicant's belief the sentence would be a maximum of five years. Applicant also added an allegation, over Respondent's objection, of ineffective assistance of counsel due to a conflict of interest.

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 PCR hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly.

Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2003).

1. Ineffective assistance of counsel for failure to investigate and present a defense of self-defense, and conflict of interest

Applicant alleges he received ineffective assistance of counsel. 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, 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. The courts presume 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 plea counsel. Id. at 117, 625. First, the 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 (1984)). 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. A reasonable

probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). When there has been a guilty plea, the applicant must prove counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

A. Self-defense

"[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Walker v. State, 397 S.C. 226, 235, 723 S.E.2d 610, 615 (Ct. App. 2012) (reversed on other grounds by Walker v. State, 407 S.C. 400, 756 S.E.2d 144 (2014)). "Decisions primarily involving trial strategy and tactics may be made by trial counsel. Examples of such decisions include 'which jurors to accept or strike, which witnesses should be called on the defendant's behalf, what evidence should be introduced, whether to object to the admission of evidence, [and] whether and how a witness should be cross-examined.'" Abney v. State, 408 S.C. 41, 48, 757 S.E.2d 544, 547 (Ct. App. 2014) (quoting Sexton v. French, 163 F.3d 874, 885 (4th Cir.1998)).

Applicant testified he originally hired John Etheridge, and they spoke once, but did not review discovery together. Applicant testified he then met with Counsel, and Applicant informed him of the self-defense issue. According to Applicant, he and the victim were friends, and the victim and Applicant's brother got into a fight over a pool game. Applicant testified the victim punched Applicant's brother, knocking him out, and then charged Applicant with the pool cue in his hand. Applicant further testified he felt threatened, so he shot at the victim. Applicant testified

he told this version of the story to Counsel, and he wanted Counsel to investigate it as a possible defense. On cross-examination, Applicant confirmed Counsel did interview his brother about what happened. Applicant further claimed he only fired two shots at the victim, not three, and the victim was not under the pool table at the time of the second shot.

Counsel testified he became involved in Applicant's case through his Of Counsel relationship with Mr. Etheridge. Counsel testified Applicant was out on bond for some time prior to his guilty plea, and they met at least four times. Counsel also testified he interviewed Applicant's mother and then-girlfriend, and he confirmed he talked to Applicant's brother regarding his memory of the events. Counsel testified the evidence showed Applicant's brother and the victim got into a fight over a game of pool, and the victim struck Applicant's brother in the face, which knocked him out. Applicant then pulled out a gun and shot at the victim three times, while the victim hid underneath the pool table. Counsel testified with certainty that Applicant never told him the victim had charged with the pool cue, and the first time Counsel heard that testimony was at the evidentiary hearing. Counsel further testified Applicant's brother claimed he heard the shots but did not see anything because he was knocked out when the shooting took place. According to Counsel, after reviewing the discovery and talking to Applicant's brother, he did not see a viable defense of self-defense or defense of others because Applicant's response was out of proportion to the fistfight.

This Court has reviewed the plea transcript and finds the facts presented by the solicitor on the record confirm Counsel's version of events. Therefore, this Court finds Applicant's testimony on this issue is not credible while also finding Counsel's testimony is credible. The recitation of the facts at the guilty plea makes no mention of the victim charging Applicant with the pool cue, and although Applicant was given the opportunity to dispute the facts as recited by the solicitor,

he failed to do so; in fact, he expressly agreed with the solicitor's summary and told the judge nothing needed to be changed or added. Tr. pp. 11-12.

Additionally, Counsel clearly articulated on the record that he initially pursued self-defense as a possible defense to these charges, he had spoken to Applicant's brother, and concluded self-defense was not viable based on the combination of that interview and the fact that Applicant had shot three times while the victim attempted to hide under the table. Tr. p. 18. The plea judge herself commented, "I haven't heard anything in terms of [self] defense or defense of others that would warrant the use of deadly force under these circumstances." Tr. p. 23. Further, Applicant indicated to the court he understood by entering the plea he was giving up his constitutional rights to a jury trial, to challenge the State's witnesses, and to call his own witnesses and present a defense to these charges. Tr. pp. 11-12. Applicant also indicated he was satisfied with Counsel's representation and felt Counsel had done everything Applicant asked of him. Tr. p. 13.

This Court finds Applicant has failed to prove Counsel's performance was deficient in any way. Counsel investigated self-defense as a potential defense, interviewed the witness as requested by Applicant, and concluded—based on his review of the discovery, his conversations with Applicant, and his interview of the witness—neither self-defense nor defense of others was viable in this situation. Counsel credibly testified he explained his conclusion to Applicant prior to the plea. The Court further finds Applicant never mentioned the victim charging him with the pool cue to Counsel during the course of Counsel's representation. Accordingly, this allegation is denied and dismissed.

B. Conflict of interest

"An actual conflict of interest occurs where an attorney owes a duty to a party whose interests are adverse to the defendant's." Staggs v. State, 372 S.C. 549, 551, 643 S.E.2d 690, 692

(2007). The South Carolina Supreme Court has further stated that a conflict of interest occurs when "a defense attorney places himself in a situation inherently conducive to divided loyalties." Lomax v. State, 379 S.C. 93, 101, 665 S.E.2d 164, 168 (2008). Until a defendant shows that his counsel actively represented conflicting interests, he has not established the constitutional predicate for a claim of ineffective assistance of counsel arising from multiple representation. Langford v. State, 310 S.C. 357, 359, 426 S.E.2d 793, 795 (1993) (citing Cuyler v. Sullivan, 446 U.S. 335, 350 (1980)). "The mere possibility defense counsel may have a conflict of interest is insufficient to impugn a criminal conviction." State v. Gregory, 364 S.C. 150, 152-53, 612 S.E.2d 449, 450 (2005).

Applicant alleges Counsel had a conflict of interest because he previously represented Applicant's brother on other charges. Applicant, however, was unable to articulate how Counsel's representation of his brother on an unrelated matter constitutes a conflict of interest. On cross-examination, Applicant admitted he was aware of Counsel's representation at the time of the plea and never indicated to the court that he had any reservations or hesitations about a potential conflict of interest. As discussed above, a review of the transcript shows Applicant indicated he was satisfied with Counsel's representation. Tr. p. 13. Additionally, Counsel testified he did not believe his representation of Applicant's brother created a conflict.

Applicant has failed to prove Counsel was deficient, and this Court specifically finds Counsel did not have a conflict of interest simply due to his representation of Applicant's brother on unrelated charges. Counsel testified there was never any doubt as to whether or not Applicant was the shooter, and the record clearly shows the brother was merely a witness. If anything, Counsel's relationship with Applicant's brother was likely beneficial to Applicant. Accordingly, this allegation is denied and dismissed.

2. Involuntary guilty plea due to Applicant's belief he would receive a maximum sentence of five years and/or a YOA sentence

"[I]t is the prerogative of any person to waive his rights, confess, and plead guilty, under judicially defined safeguards, which are adequately enforced. However, a defendant has no constitutional right to plea bargain." Reed v. Becka, 333 S.C. 676, 685, 511 S.E.2d 396, 401 (Ct. App. 1999) (citing State v. Armstrong, 263 S.C. 594, 597, 211 S.E.2d 889, 890 (1975); State v. Easler, 322 S.C. 333, 471 S.E.2d 745 (Ct. App. 1996), aff'd as modified, 327 S.C. 121, 489 S.E.2d 617 (1997)). "Under the separation of powers doctrine, which is the basis for our form of government, the Executive Branch is vested with the power to decide when and how to prosecute a case. Both the South Carolina Constitution and South Carolina case law place the unfettered discretion to prosecute solely in the prosecutor's hands. Prosecutors may pursue a case to trial, or they may plea bargain it down to a lesser offense, or they can simply decide not to prosecute the offense in its entirety." State v. Thrift, 312 S.C. 282, 291-92, 440 S.E.2d 341, 346-47 (1994).

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, 345 S.C. at 20, 546 S.E.2d at 419. An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Id. An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill, 474 U.S. at 56.

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)). 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, 395 U.S. at 242). 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, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton, 376 S.C. 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." Dalton, 376 S.C. 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)).

At the evidentiary hearing, Applicant testified although the plea agreement was zero to ten years, Counsel and the solicitor met with him in a back room at the courthouse and told him he would not receive more than five years. According to Applicant, his mother was also present for the conversation. Applicant testified he agreed to the plea because he thought it was "a done deal" that he would only receive five years. He also testified he wanted a YOA sentence and thought he might get one, and he did not know he was ineligible at the time. On cross-examination, Applicant confirmed he understood the plea deal was a range of zero to ten years, and he never told the judge he thought he was only getting a five year sentence.

Over Respondent's objection, Applicant's mother testified she also thought Applicant would receive five years based on what he told her about the alleged meeting with Counsel and the solicitor. Ms. Lacy denied being present for the meeting, although she claimed Counsel showed her a piece of paper with "0-5" written on it. Ms. Lacy testified she was in the courtroom during the plea and agreed she never heard anyone say the agreement was five years, and although she spoke to the judge, she did not tell her she thought her son was only going to receive a five-year sentence. Ms. Lacy testified "everything changed" once the victim spoke, and she felt the sentence her son received was too harsh.

Counsel testified he engaged in plea negotiations with the solicitor, but he was not familiar with any five-year plea deal and denied writing that down and showing it to Applicant and/or Applicant's mother. Counsel further testified he and Applicant did not have a meeting the solicitor on the day of the plea. Counsel testified he and Applicant met on August 25, 2014, approximately two weeks before the plea, and likely discussed the agreement and the negotiation at that meeting. Counsel testified he could not recall whether Ms. Lacy was present for that meeting or not. Finally, Counsel testified he did recall ever discussing a YOA sentence with Applicant, and noted

Applicant's offenses made him ineligible for such a sentence anyway, so even if Applicant was within the age range, Counsel would have advised him he was not eligible. Counsel testified Applicant was originally indicted for attempted murder and the victim had serious injuries, so he felt a plea agreement to a cap of ten years was an "excellent" result.

This Court finds the record fully supports the knowing and voluntary nature of Applicant's guilty plea. See Roddy, 339 S.C. at 34, 528 S.E.2d at 421 (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."). 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 has reviewed the transcript and finds the plea court engaged in a thorough plea colloquy with Applicant, in which the judge clearly explained the terms of the plea agreement were that Applicant was pleading guilty to assault and battery of a high and aggravated nature, a violent offense, with a negotiated sentence cap of ten years. Tr. pp. 8-9. In addition, the sentencing sheet reflects Applicant's understanding of a plea to a negotiated cap of ten years directly above Applicant's signature.

The Court finds Applicant was never offered a YOA sentence, and in fact, Applicant was ineligible for such a sentence under the statute. See S.C. Code Ann. § 24-19-10 (defining criteria by which offenders under twenty-five years of age charged with certain non-violent crimes may be eligible for a reduced sentence pursuant to the Act). Defense counsel cannot control whether the State extends an offer to a defendant, nor can defense counsel require the State to agree to the

particular terms. This Court finds Counsel was not deficient, as he clearly explained the terms of the agreement to Applicant, and Applicant entered into the plea freely and voluntarily, with a full understanding of the consequences.

For these reasons this Court finds Applicant has failed to satisfy his burden of proving ineffective assistance of counsel induced his guilty plea. Accordingly, this allegation is denied and dismissed.

CONCLUSION

Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Counsel was not deficient in any manner, nor was Applicant prejudiced by counsel's representation. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty days from PCR counsel's 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, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant shall be remanded to the custody of the Respondent.

AND IT IS SO ORDERED.

MICHAEL G. NETTLES
Presiding Circuit Court Judge
Twelfth Judicial Circuit

7-3, 2018

Florence, South Carolina

FILED
2018 JUL 12 PM 2:41
BORIS POULOS O'HARA
CCCP & GS
FLORENCE COUNTY, SC

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