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September 19, 2018

RECEIVED

OCT 10 2018

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

S.C. SUPREME COURT

RE: Phillip Bryan Gleason, #371334 v. State of South Carolina  
2017-CP-29-0707

Dear Mr. Shearouse:

Please find enclosed a Notice of Appeal along with the accompanying Order for the above-referenced matter. By way of this letter I am copying the Office of Appellate of Defense, as I was appointed to represent Mr. Gleason.

Best regards,

Donae A. Minor  
Attorney at Law

cc: Phillip Bryan Gleason  
Deshawn Mitchell, Asst. Attorney General  
Lancaster County Clerk of Court  
Office of Appellate Offense

“WHERE FAMILY, LAW, & BUSINESS MEET”

D/B/A MINOR LAW OFFICES, LLC IN SOUTH CAROLINA AND MINOR LAW OFFICES, PLLC IN NORTH CAROLINA

STATE OF SOUTH CAROLINA  
In The Supreme Court

RECEIVED

OCT 10 2018

APPEAL FROM LANCASTER COUNTY S.C. SUPREME COURT  
Court of Common Pleas

The Honorable Brooks P. Goldsmith, Circuit Court Judge

Case No. 2017-CP-29-0707

Phillip Bryan Gleason, #371334, .....Petitioner,


v.

State of South Carolina,.....Respondent.

NOTICE OF APPEAL

Applicant, Phillip B. Gleason, appeals the order of the Honorable Brooks P. Goldsmith, dated August 25, 2018, and filed August 29, 2018.

September 19, 2018

  
DONAE A. MINOR, ESQUIRE  
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SC Bar No. 102550  
ATTORNEY FOR APPLICANT

Opposing Counsel:  
DeShawn Mitchell, Asst, Attorney General  
Rembert C. Dennis Building  
1000 Assembly St.  
Columbia, SC 29201

STATE OF SOUTH CAROLINA  
In The Supreme Court

RECEIVED

OCT 10 2016

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

S.C. SUPREME COURT

The Honorable Brooks P. Goldsmith, Circuit Court Judge

Case No. 2017-CP-29-0707

Phillip Bryan Gleason, #371334, .....Petitioner,

v.

State of South Carolina,.....Respondent.

PROOF OF SERVICE

I, Tierra Wells, certify that I have served the within Notice of Appeal on Respondent by depositing a copy of the same in the United States mail, postage prepaid, addressed to:

DeShawn Mitchell, Asst, Attorney General  
Rembert C. Dennis Building  
1000 Assembly St.  
Columbia, SC 29201

I further certify that all parties required by Rule to be served have been served.

September 19, 2018

Tierra Wells

TIERRA WELLS, PARALEGAL  
Minor Law Offices, LLC  
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STATE OF SOUTH CAROLINA  
COUNTY OF LANCASTER

Phillip Bryan Gleason, #371334,  
Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
IN THE SIXTH JUDICIAL CIRCUIT

Case No.: 2017-CP-29-0707

**ORDER OF DISMISSAL**

CLERK OF COURT  
LANCASTER, SC

2018 AUG 29 AM 11:56

FILED  
CLERK OF COURT

This matter comes before the Court by way of an application for post-conviction relief filed on June 27, 2017, by Phillip Bryan Gleason (Applicant). Respondent made its Return on or about November 16, 2017. An evidentiary hearing into the matter was convened on July 17, 2018, at the Lancaster County Courthouse in Lancaster, South Carolina. Applicant was present at the hearing and represented by Donae A. Minor, 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 Christopher A. Wellborn, Esquire, 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 and denies this application.

**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. In June 2013, the Lancaster

County Grand Jury indicted Applicant for Homicide by Child Abuse (2013-GS-29-0820). Applicant was subsequently indicted in June 2016 for two counts of unlawful conduct towards a child (2013-GS-29-0945,0946). Christopher Wellborn, Esquire represented Applicant. Solicitor Randy Newman, Esquire and Deputy Assistant Solicitor Lisa Collins, Esquire prosecuted the case. On January 30, 2017, Applicant pled guilty to voluntary manslaughter and two counts of unlawful neglect of a child or helpless person before the Honorable Brian Gibbons. Judge Gibbons sentenced Applicant to thirty years imprisonment for the voluntary manslaughter charge and four years for each of the counts of unlawful neglect of a child or helpless person to run consecutive. Applicant appealed his conviction but the appeal was withdrawn by Plea Counsel via letter to the South Carolina Court of Appeals on March 7, 2017.

#### **FACTUAL HISTORY**

During the period of February 5 through March 5 of 2013 Applicant caused bodily harm to the minor victim resulting in injuries. Applicant ultimately caused the death of minor victim, by striking the five year old in the head causing blunt force trauma that lead to the victim's death. This incident occurred in Lancaster County, SC. (Gp.p.10-13)

#### **ALLEGATIONS**

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

1. Ineffective Assistance of Counsel
  - a. Counsel failed to advise me of making a plea
  - b. Counsel failed to file for my direct appeal
2. Due Process Violation

Applicant amended his PCR application for ineffective assistance of counsel dated February 12, 2018, further alleging:

1. Ineffective Assistance of Counsel

- a. Failed to appeal Guilty Plea and Sentencing despite timely request from the Applicant.
- b. Failed to properly advise and explain all information, details, and consequences regarding Applicant's Plea such that Applicant did not have a full understanding of his plea and the consequences. Had Applicant been properly advised of the information, details, and consequences of his plea bargain from his Counsel, he would have opted for a trial in lieu of said plea.

Applicant further amended his PCR application for ineffective assistance of counsel dated July 5, 2018, further alleging:

1. Counsel was ineffective, in that:
  - a. Failed to properly advise, counsel, and inform Applicant of all evidence and information received in the case such that Applicant did not have a full understanding and knowledge of the evidence that he was faced against in order to make an informed decision as to trial or enter a guilty plea. Had Applicant been properly counseled and advised of the information, details, and evidence in his case. Applicant would have opted for a trial in lieu of a guilty plea.

### **SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING**

#### **Applicant's Testimony**

Applicant testified he was charged with homicide by child abuse but ultimately pled guilty to voluntary manslaughter and two counts of unlawful neglect of a child or helpless person. He testified during Plea Counsel's representation, he only met with him four or five times. Applicant testified his first meeting with Plea Counsel was to sign a contract and he did not remember the second meeting. He testified during their fourth meeting, Plea Counsel relayed a plea offer from the State to him. Applicant testified Plea Counsel never provided him with his discovery or talked to him about it. He testified Plea Counsel never talked to him about his strategy for the case but Plea Counsel mentioned they may potentially hire an expert witness for his case. Applicant testified the first time he viewed or was shown his discovery was when his PCR counsel gave it to him. He testified he sent Plea Counsel a letter about his case but never

got a response. He testified Plea Counsel got his medical records from the Department of Veteran Affairs and talked to Dr. Colby Sutton, the physician who treated him. Applicant testified he never admitted guilt and had Plea Counsel shown him the evidence in the case he would not have pled guilty but would have went to trial. He testified Plea Counsel only talked to him for less than thirty minutes right before he pled guilty. Applicant testified Plea Counsel promised him he would get twenty years or less and his charges would run concurrent. He testified Plea Counsel also promised him the charges against his wife would also be dropped. Applicant testified his mom was present when he signed the sentencing sheets. He testified the plea judge asked him questions during the plea and he said yes to all the questions. Applicant testified he gained knowledge since being incarcerated. He testified Plea Counsel did not explain the terms of his plea deal properly. Applicant testified Plea Counsel filed a notice of appeal on his behalf then Plea Counsel withdrew it. He testified Plea Counsel did not discuss the withdrawal of his appeal with him and he only learned of it when his mother told him. Applicant testified Plea Counsel never had his "best interest" in mind when he represented him.

On cross-examination, Applicant testified he met with Plea Counsel four or five times during the course of his representation. He testified Plea Counsel never went over the discovery in the case with him. Applicant testified he was aware of text messages between himself and his wife discussing the victim and their actions. He testified he was not aware of any defenses presented by Plea Counsel and he blindly trusted Plea Counsel. Applicant testified he remembered the plea judge's colloquy and remembered answering yes to the plea judge's questions. He testified he agreed with the facts of the case as presented by the solicitor during the guilty plea and remembered accepting responsibility for the crime. Applicant testified at one point he was facing a potential life sentence but his exposure was reduced under the plea deal

from the State. He testified Plea Counsel did not talk about potential witnesses with him and Plea Counsel did not ask for any input from him.

#### Applicant's Mother

Gwendolyn Anne Bittle (Applicant's mother) testified she was present at the guilty plea proceeding with her son and Plea Counsel. She testified she recalled Plea Counsel telling Applicant at the guilty plea proceeding that he would receive twenty years or less when he pled guilty and all of his charges would run concurrent. Applicant's mother testified Plea Counsel told Applicant during the guilty plea he should indicate that he was responsible for the crime. She testified she was not present during many meetings between Plea Counsel and Applicant but that she made payments and phone calls to Plea Counsel. Applicant's mother testified she was present during one meeting with Plea Counsel along with Applicant, Applicant's wife and Applicant's father-in-law. She testified she signed a release to get information about her son's case and discussed the case with Plea Counsel. Applicant's mother testified she did not think Plea Counsel had Applicant's best interest in mind when he was representing him. She testified Plea Counsel told her he would investigate Applicant's case and hire an expert but did not do any of that.

On cross-examination, Applicant's mother testified she was not privy to any other meetings Applicant and Plea Counsel had or information they discussed. She testified she did not know what Applicant may have inquired of Plea Counsel during their separate meetings.

#### Plea Counsel's Testimony

Plea Counsel testified he had practiced law for thirty years and the majority of that time had been devoted to criminal law. He testified he was retained to represent Applicant and initially he thought the case may have been a "shaken baby" case. Plea Counsel testified

Applicant was granted bond with restrictions in the spring of 2016. He testified when he was first hired to represent Applicant, his wife, who was his then girlfriend, was not charged. Plea Counsel testified Applicant's wife was later charged and became his co-defendant. He testified after being retained he quickly learned the victim died as a result of blunt force trauma to her body over a period of time based on the discovery. Plea Counsel testified the issues in the case centered around who was responsible for the trauma and was it accidental or intentional. He testified there was also a family court case going on during this time. Plea Counsel testified Applicant's wife was eventually charged as she was aware of what happened and tried to cover it up. He testified there were numerous text messages between Applicant and his wife. He testified based on his notes he had about five scheduled meetings with Applicant. Plea Counsel testified there were about five or six more unscheduled meetings that he had with Applicant when he would show up at his office. He testified he also met with Applicant's wife's lawyer two times. Plea Counsel testified he wanted to attack the search warrant in the case and potentially hire a cell phone expert after reading the text messages between Applicant and his wife. He testified the text messages contained very damning evidence.

Plea Counsel testified he discussed with Applicant the charges he faced and the sentences he could face if he was convicted. He testified Applicant insisted he wanted his wife's charges to be dropped if he took responsibility for the crime. Plea Counsel testified his strategy changed for the case once he reviewed all of the text messages because they were so damning. He testified his strategy switched to trying to obtain as much mitigation as possible for Applicant and also to see if Applicant suffered from any mental health issues. Plea Counsel testified he had Applicant evaluated by Dr. Colby Sutton, a licensed psychologist and the results were Applicant did not meet the requirements of an insanity defense. He testified Applicant had served in the military

and may have suffered from post-traumatic stress disorder and brain injury based on the records he obtained from the Department of Veteran Affairs. Plea Counsel testified he had to fight to get Applicant's charges reduced from homicide by child abuse to voluntary manslaughter which lowered the exposure Applicant was facing. He testified one of Applicant's major concerns was making sure his wife's charges could be dropped or reduced and Applicant was willing to take responsibility for the crimes. Plea Counsel testified there were not many options or strategies if the case went to trial. He testified he never promised Applicant he would receive a certain number of years if he pled guilty but did give Applicant a range for the number of years he could potentially receive. Plea Counsel testified he discussed an appeal with Applicant's mother and ultimately filed a notice of appeal. He testified after he had filed the notice of appeal, he reviewed the South Carolina Appellate Court rules which required him to certify that the appeal had merit. Plea Counsel testified as an officer of the court he could not identify any meritorious issues for appeal so he withdrew the appeal of Applicant's guilty plea.

On cross-examination, Plea Counsel testified he had a record of his scheduled meetings with Applicant but he had no notes in his file for the unscheduled meetings. He testified he discussed the discovery in the case with Applicant including photos, medical reports, witnesses' statements and the coroner's report. Plea Counsel testified he did not show Applicant the text messages between Applicant and Applicant's wife because Applicant had sent them and knew what he had said in them. He testified Applicant had already accepted responsibility and decided to plead guilty. Plea Counsel testified since Applicant's case was not going to trial hiring an investigator was not necessary. He testified he mentioned twenty years as a possible sentence Applicant could get to him but never promised Applicant he would get twenty years. Plea Counsel testified he withdrew Applicant's guilty plea appeal because it lacked merit but that he

did not communicate this in his letter of withdrawal to the South Carolina Court of Appeals.

### **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)).

After careful review of the entire record, including the testimony presented at the evidentiary hearings, based on the standard discussed above, this Court finds Applicant has failed to carry his burden in this action regarding any of his allegations of ineffective assistance of counsel. This Court finds as follows on the following grounds presented by Applicant at the evidentiary hearing:

**Ineffective Assistance of Counsel**

*Failure to Investigate*

Applicant alleges Plea Counsel was ineffective for failing to investigate his case. 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. Even so, Plea Counsel testified credibly that he reviewed all of the discovery with Applicant and gathered numerous amounts of information for mitigation once it was determined Applicant would plead guilty. Notwithstanding, Plea Counsel testified the discovery contained text messages between Applicant and his wife detailing the abuse of the victim. This court cannot find how any further investigation would have been fruitful to Applicant’s case once the text message were received in discovery. Further, this Court finds Plea Counsel’s investigation was beyond reasonable. Therefore, Applicant has failed to meet his burden to prove Plea Counsel was ineffective. This allegation is denied and dismissed with prejudice.

*Failure to Properly Counsel/Involuntary Guilty Plea*

Applicant also alleges his guilty plea was induced by ineffective assistance of counsel making his guilty plea involuntary. This Court finds Applicant has failed to meet his burden of proof. This Court finds Plea Counsel provided effective assistance in this case. Plea Counsel advised Applicant of all the charges and the possible sentences the charges carried. Plea Counsel also reviewed all the discovery with Applicant. Plea Counsel advised Applicant of all his Constitutional rights, including his right to a jury trial. It was ultimately Applicant’s decision to plead guilty, based on the sound advice of Plea Counsel.

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.

*Failure to Effectuate an Appeal*

Applicant alleges Plea Counsel was ineffective for failing to effectuate his notice of appeal after his guilty plea. Applicant testified Plea Counsel filed a notice of appeal on his behalf then withdrew it. Applicant testified Plea Counsel did not discuss the withdrawal of his appeal with him and he only learned of it when his mother told him. Plea Counsel testified he discussed appealing Applicant’s guilty plea with Applicant’s mother and filed an appeal on Applicant’s behalf after the request was made by Applicant’s mother but that Applicant himself never told him to appeal his guilty plea. He testified he subsequently withdrew the appeal after reviewing the appellate court rules regarding appealing a guilty plea believing he could not certify to the South Carolina Court of Appeals that Applicant’s appeal had merit. While trial counsel is required to make certain the defendant is made fully aware of the right to appeal, the standard for a guilty plea differs. Turner v. State, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008). Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are non-frivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea. *Id.* at 225, 670 S.E.2d at 374 (citing Roe v. Flores-Ortega, 528 U.S. 470 (2000); Weathers v. State, 319 S.C. 59, 459 S.E.2d 838 (1995)). “Acts inconsistent with the continued assertion of a right, such

as a failure to insist upon the right, may constitute waiver." Bonnette v. State, 277 S.C. 17, 18, 282 S.E.2d 597, 598 (1981).

This Court finds no deficiency on the part of Plea Counsel or prejudice therefrom as Applicant never asked for an appeal. Notwithstanding that fact, Plea Counsel filed an appeal but ultimately withdrew it as he did not believe meritorious issues existed in Applicant's case. Moreover, on appeal from a guilty plea the notice must be accompanied by "a written explanation showing that there is an issue which can be reviewed on appeal," and the explanation must also identify the issues and provide a factual basis for the issues. Rule 203(d)(1)(B)(iv), SCACR. After a review of the record, this court finds no meritorious issues exist in Applicant's case. This court finds Applicant never asked for an appeal and based on Plea Counsel's testimony, there were no appealable issues. Therefore, this court finds no basis for a belated direct appeal. Accordingly, Applicant's request for relief by way of this allegation is denied and dismissed.

### CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

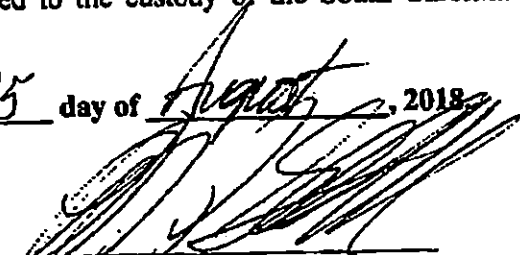
This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR provides that if the Applicant wishes to seek appellate

review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED THAT:**

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 25 day of August, 2018.

  
\_\_\_\_\_  
BROOKS P. GOLDSMITH  
Presiding Judge  
Sixth Judicial Circuit

\_\_\_\_\_, South Carolina

STATE OF SOUTH CAROLINA  
COUNTY OF LANCASTER

Phillip Bryan Gleason, 371334  
 Plaintiff


v.

State Of South Carolina  
 Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.  
2017-CP-29-0707

MOTION AND ORDER INFORMATION  
FORM AND COVER SHEET

Plaintiff's Attorney: Ms. Donae A. Minor, Bar No. 102550 Address: Minor Law Offices, LLC 1750 Highway 160 W; Suite 101 #259 Fort Mill SC 29708 phone: (844) 878-2015 fax: e-mail: donae@attorneyminor.com other:		Defendant's Attorney: Deshawn H. Mitchell, Aag, Bar No. 101813 Address: Post Office Box 11549 Columbia SC 29211-1549 phone: (803) 734-3737 fax: (803) 734-4113 e-mail: DMitchell@scag.gov other:	
<input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input checked="" type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)			
<b>SECTION I: Hearing Information</b>			
Nature of Motion:		Court Reporter Needed: <input type="checkbox"/> YES / <input type="checkbox"/> NO	
Estimated Time Needed:			
<b>SECTION II: Motion/Order Type</b>			
<input type="checkbox"/> Written motion attached <input checked="" type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.			
 Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant		August 17, 2018 Date submitted	
<b>SECTION III: Motion Fee</b>			
<input type="checkbox"/> PAID - AMOUNT: <input checked="" type="checkbox"/> EXEMPT: (check reason)			
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input checked="" type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCR) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions			
Name of Court Reporter:			
<input type="checkbox"/> Other:			
<b>JUDGE'S SECTION</b>			
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other:		JUDGE	
		CODE: _____ Date: _____	
<b>CLERK'S VERIFICATION</b>			
Collected by: _____		Date Filed: _____	

FILED  
 IN COURT  
 2018 AUG 29 AM 11:56  
 CLERK OF COURTS  
 LANCASTER, SC

# Lancaster County

Jeff Hammond  
Clerk of Court

Clerk of Court of Lancaster County  
Post Office Box 1809  
Lancaster, S.C. 29721

Phone (803) 285-1581  
Fax (803) 416-9388

STATE OF SOUTH CAROLINA  
COUNTY OF LANCASTER

IN THE COURT OF COMMON PLEAS  
6<sup>TH</sup> JUDICIAL CIRCUIT

Phillip Bryan Gleason #371334

Applicant

**CERTIFICATE OF SERVICE**

CASE# 2017-CP-29-00707

VS

State of South Carolina

Respondent

I certify that, on August 30, 2018, I served a copy of the Order of Dismissal by mailing to him at his last known address, by depositing it in the U.S. Mail, in an envelope with sufficient postage affixed, addressed as follows:

Phillip Bryan Gleason #371334  
4460 Broad River Road  
BRCI 233 Murray  
Columbia, SC 29210

DeShawn Mitchell  
Post-Conviction Relief  
Post Office Box 11549  
Columbia, SC 29211-1549

FILED  
CLERK OF COURT  
LANCASTER, SC  
2018 AUG 30 AM 9:56

8-30-18

Date

Jeff Hammond  
Signature