

**Law Offices of Jim Brown, P.A.**

1600 Burnside Street, Suite 100• P.O. Box 592

Beaufort, SC 29901-0592

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RECEIVED

OCT 30 2018

October 26, 2018

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

S.C. SUPREME COURT

Re: Notice of Appeal and Proof of Service, Mickell v. State: 2011-CP-07-01538

Mr. Shearouse:

Under cover of this letter, please find enclosed for filing in your court a Notice of Appeal (NOA) and Proof of Service (POS) in the above-referenced matter. Also enclosed please find copies of the Order Denying Petitioner's Motion To Alter Or Amend Order Of Dismissal With Prejudice, and Order Of Dismissal With Prejudice, denying the application for post-conviction relief. Please contact me if you have any questions.

Sincerely,

  
Jim Brown

w/ enclosures

cc: Beaufort County Clerk of Court, w/ NOA and POS  
Clay Mitchell, Office of the Attorney General, w/ NOA and POS  
South Carolina Office of Appellate Defense, w/ NOA and POS  
DeAngelo Mickell, w/ NOA and POS

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

RECEIVED

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APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

OCT 30 2018

Honorable Michael G. Nettles

S.C. SUPREME COURT

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Case Number 2011-CP-07-01538  
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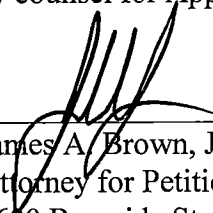
DeAngelo Mickell,.....Petitioner.

v.

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

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NOTICE OF APPEAL  
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DeAngelo Mickell appeals the judgment of the Circuit Court, the Honorable Judge Michael G. Nettles, presiding, denying Applicant's request for post conviction relief. The Order was signed on December 1, 2017, and received by counsel for the Applicant on December 8, 2017. The Honorable Judge Michael G. Nettles, also denied Applicant's Motion to Alter and Amend Judgment pursuant to SCRCF Rule 59, by order signed, on October 4, 2018 and received by counsel for Applicant on October 10, 2018.

  
-----  
James A. Brown, Jr.  
Attorney for Petitioner  
1600 Burnside St, Suite 100  
P.O. Box 592  
Beaufort, South Carolina 29901  
(843) 470-0003

October 26, 2018

Opposing Attorney of Record:  
Clay Mitchell, Assistant Attorney General  
Rembert C. Dennis Building  
1000 Assembly St.  
Columbia, SC 29201

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

RECEIVED

OCT 30 2018

APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

S.C. SUPREME COURT

Honorable Michael G. Nettles

Case Number: 2011-CP-07-01538

DeAngelo Mickell.....Petitioner.

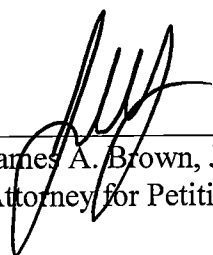
v.

State of South Carolina.....Respondent

PROOF OF SERVICE

Counsel for DeAngelo Mickell hereby certifies that he has prepared and served a Notice of Appeal on this 26<sup>th</sup> day of October, 2018, upon the State, as specified in S.C. Code Section 203 (b) (1) , by depositing a copy, postage pre-paid, in the United States Mail, addressed to Attorney for Respondent, Clay Mitchell, Office of the Attorney General, Rembert C. Dennis Building, 1000 Assembly St , Columbia, SC 29211-11549, (803) 734-3970.

October 26, 2018

  
James A. Brown, Jr.  
Attorney for Petitioner

Law Offices of Jim Brown, PA  
1600 Burnside St., Suite 100  
P.O. Box 592  
Beaufort, South Carolina 29901  
(843) 470-0003

**FORM 4**

**STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT  
IN THE COURT OF COMMON PLEAS**

**JUDGMENT IN A CIVIL CASE  
CASE NUMBER 2011CP0701538**

Deangelo Mickell

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), 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

Statement of Judgment by the Court:

**Order of Dismissal**

**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.**

s/M. G. Nettles

2140

12/1/2017

Circuit Court Judge

Judge Code

Date

**For Clerk of Court Office Use Only**

This judgment was entered on **December 8, 2017**, and a copy mailed first class or placed in the appropriate attorney's box on **December 11, 2017**, to attorneys of record or to parties (when appearing pro se) as follows:

**James Arthur Brown Jr.** PO Box 592 Beaufort, SC 29901

**Ruston Wesley Neely** PO Box 11549 Columbia, SC 29211

\_\_\_\_\_  
**ATTORNEY(S) FOR THE PLAINTIFF(S)**

\_\_\_\_\_  
**ATTORNEY(S) FOR THE DEFENDANT(S)**

Melissa Kilby

\_\_\_\_\_  
**Court Reporter**

\_\_\_\_\_  
**Jerri Ann Roseneau - 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), SCRPC.**

\_\_\_\_\_  
**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.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



At the PCR hearing, Applicant testified on his own behalf. Also testifying were Applicant's counsel, Anthony O. Dore, Esquire, Applicant's mother, Ophelia Mickell, and Lieutenant Christopher Sankowski of the Beaufort County Sheriff's Office. This Court had before it the State Grand Jury Clerk of Court records, Applicant's South Carolina Department of Corrections records, the PCR application, the Return, and the transcripts.

### I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the State Grand Jury Clerk of Court. Applicant was indicted at the May 2009, term of the State Grand Jury for: Count I – Conspiracy to Traffic Cocaine Greater than 400g and Count XVII – Trafficking Cocaine 200 - 400g (2009-GS-47-0005). Applicant was represented by Anthony O. Dore, Esquire. On January 25, 2010, Applicant pled guilty to Conspiracy to Traffic Cocaine 28-100g and Trafficking Cocaine 28-100g. Sentencing was deferred. On April 29, 2010, the Honorable Carmen T. Mullen concurrently sentenced him to confinement for a period of eighteen (18) years on both charges. Applicant did not appeal his conviction or sentence.

In this action, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Applicant was denied the effective assistance of counsel as guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution and Article 1, Section 14 of the South Carolina Constitution and South Carolina law based upon:
  - a. Trial counsel's deficient investigation of the facts supporting the charge against the defendant.
  - b. Trial counsel's failure to challenge the search warrant.
  - c. The prosecution's failure to comply with the due process requirements announced in Brady v. Maryland and its progeny.
  - d. Trial counsel's failure to provide Applicant sufficient information for Applicant to knowingly, intelligently, and voluntarily waive his Boykin rights and enter a valid guilty plea.

## II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the Clerk of Court records regarding the subject convictions, the records from the South Carolina Department of Corrections, the application for post-conviction relief, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon the information presented.

**Applicant waived his right to seek post-conviction relief and pleaded guilty knowingly, voluntarily, and intelligently.**

Applicant argues that due to Counsel's deficiencies and unreasonable advice, his plea and his decision to waive his right to PCR was not knowingly, voluntarily, and intelligently made. Applicant argues he would not have pleaded guilty had Counsel provided him with sufficient information for him to knowingly, voluntarily, and intelligently plead guilty. Applicant argues that Counsel failed to adequately investigate the facts supporting the charges against him and that he was deficient in failing to challenge the search warrant used to search the residence and vehicle at Applicant's mother's house. These allegations will be discussed in turn.

### Relevant Law

In a post-conviction relief action, Applicant bears the burden of proving the allegations in the application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, 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, 104 S. Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

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. 668. Applicant must overcome this presumption in

order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, Applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 23 L.Ed.2d 274 (1969). 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 court and defendant, between 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)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; 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, 97 S. Ct. 1621, 52 L.Ed.2d 136 (1977)). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir.1975).

Post-conviction relief “is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of direct review of the sentence or conviction.” S.C. Code Ann. § 17-27-20(b); see also Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1975) (“It is uniformly held that an application for post-conviction relief is not a substitute for an appeal.”). Applicant’s allegations regarding the charges against her are an inappropriate challenge to the sufficiency of the evidence. Simmons, 264 S.C. at 423, 215 S.E.2d at 885 (“[T]he Uniform Post-conviction Procedure Act ‘shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.’” (citing Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973))).

Under South Carolina law, a criminal defendant can choose to waive his right to collateral review of his conviction. Spoone v. State, 379 S.C. 138, 665 S.E.2d 605 (2008) (holding that a waiver of appellate rights is valid and enforceable as long as it is knowing and voluntary). Plea agreements in general operate under contractual principles, and are upheld when each party receives the benefit of the bargain. State v. Thrift, 312 S.C. 282, 292, 440 S.E.2d 341, 347 (1994).

However, recent South Carolina case law holds that, while appellate waivers are enforceable, a criminal defendant who has waived his appellate rights is still entitled to raise the very narrow issue of challenging his attorney’s conduct in advising him to enter into the waiver. Sanders v. State, 412 S.C. 611, 617, 773 S.E.2d 580, 583 (2015) (“Consequently, we hold that although a defendant may waive his right to collateral review, he is nevertheless still entitled to challenge whether the advice he received in agreeing to that waiver was constitutionally defective.”).

#### Discussion

At the PCR hearing, Applicant testified that had he known he had a meritorious challenge to the search of the vehicle and the seizure of the drugs, then he would not have waived PCR,

would not have pleaded guilty, and would have proceeded to trial. (PCR Tr. p. 65). Counsel testified that he explained the plea agreement and the PCR and appeal waiver and believed that Applicant understood those waivers. (PCR Tr. pp. 48-49; 53-54). Counsel's advice that Applicant should plead guilty was reasonable under the professional norms. Applicant was facing a mandatory minimum of twenty-five (25) years if convicted at trial. This Court finds Applicant's testimony to be self-serving and not credible.

Counsel's failure to challenge the search warrant was reasonable because there were no viable challenges to suppress the evidence. The search warrant was valid on its face and provided probable cause. Counsel's decision not to challenge to the underlying probable cause supporting the search of the vehicle and seizure of the drugs was also reasonable under the circumstances because it lacked merit.

Applicant introduced into evidence three search warrants with seemingly different signatures showing that none are copies. Two of the search warrants include the following language in a handwritten sentence with any accompanying initial: "included in this warrant are all vehicles, outbuildings and other structures on this property." There are distinctive initials under the handwritten sentence on the two search warrants. The other had no such language or accompanying initials. See Applicant's Ex. 1; 2 (last page); 3. While Applicant has identified a discrepancy between these search warrants, Lt. Sankowski testified and explained that the magistrate signed multiple copies of the search warrant. He explained that the warrant that was turned into the Beaufort County Sheriff's Office and the one returned to the magistrate had the magistrate's initials below the hand written sentence. Lieutenant Sankowski's testimony is credible and persuasive on the issue. If this issue was raised to the trial court, then Lt. Sankowski would have explained the situation and his involvement as he did at the hearing. The trial court would not have suppressed the evidence because there was a discrepancy in the versions of the warrants. Lieutenant Sankowski's testimony that the initials and signature look identical to other

documents signed by that particular magistrate is also credible and persuasive. This Court finds that the search warrant with the handwritten sentence was properly presented to and approved by the magistrate and that Applicant failed to meet his burden in proving otherwise. Applicant has also failed to meet his burden to prove that the evidence would have been suppressed had a challenge been made.

Moreover, Applicant did *not* have standing to challenge the search or seizure because the vehicle belonged to his mother who had given valid consent to search the vehicle. This is dispositive of Applicant's case because he would have no route to suppress the drug evidence. While Applicant's mother testified vaguely that she may not have consented to the search, this Court finds her testimony inconsistent, suspect and not credible. See Applicant's Ex. 6 (signed Consent to Search form). Applicant's mother is a biased witness who pleaded guilty as Applicant's major distributor and codefendant. Her testimony would *not* have supported an argument that her signed and verbal consent to search the vehicle was not valid. This Court finds the consent to search the vehicle was lawful, valid, and would not have been deemed otherwise if challenged by Counsel. In any event the good faith exception would apply and would cure any deficiencies in the warrant itself because law enforcement believed the magistrate signed and initialed the handwritten sentence explicitly authorizing such a search of the vehicle. Additionally, law enforcement's search would have been within the scope of the warrant because the vehicle was within the curtilage of the home.

Applicant also alleges that Counsel was ineffective in his investigation into the case and that had he performed an adequate investigation, then he would have uncovered the search warrant without the vehicle language and would have been able to mount a successful challenge to the search of the vehicle and seizure of the drugs. This allegation is denied and dismissed for the reasons stated above and below.

Notably, Applicant chose to plead guilty and agreed to waive his appellate and post-

conviction relief rights in exchange for a more favorable sentencing range. Both parties received a benefit of the bargain, and the plea agreement is valid under contractual law. It is clear from the testimony and evidence that Applicant fully understood his rights to PCR and chose to waive them in hopes of receiving a more lenient sentence. (PCR Tr. p. 76). Applicant's testimony that he would have proceeded if he knew he could challenge the search and seizure is not credible. This Court finds that Applicant knowingly, voluntarily, and intelligently waived his right to collaterally attack his convictions and sentences.<sup>1</sup>

Finally, Applicant pleaded guilty, admitted to the allegations against him and should not now be able to challenge the suppression of evidence. "A guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights." Jamison v. State, 410 S.C. 456, 467, 765 S.E.2d 123, 129 (2014) (citing State v. Rice, 401 S.C. 330, 331-32, 737 S.E.2d 485, 485-86 (2013); Hyman v. State, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012)). "A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; 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, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 97 S. Ct. 1621, 52 L.Ed.2d 136 (1977)). "Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Id. at 138, 654 S.E.2d at 874 (citing Crawford v. United States, 519 F.2d 347 (4th Cir.1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir.1976)). It is noteworthy that Applicant stipulated to the State's factual recitation at his plea hearing, including to the fact that he was observed by the drug task

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<sup>1</sup> The Court addresses the issues of whether Applicant knowingly, voluntarily, and intelligently waived his right to PCR and whether he knowingly, voluntarily, and intelligently pleaded guilty together in this case. While this would normally require separate analysis, here, we consider the same testimony and evidence in each issue. There can be instances where an applicant did not knowingly, voluntarily, and intelligently waive his right to PCR but did nevertheless knowingly, voluntarily, and intelligently plead guilty. Here, Applicant's supporting grounds go to both issues.

force carrying a container of 355 grams of cocaine. (Plea Tr. p. 3-4). Simply put, Applicant hoped to receive a more lenient sentence by pleading guilty and now is upset that the plea court did not employ its discretion in his favor. See Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 371 (1997) (Wishful thinking regarding sentencing does not equal a misapprehension of the constitutional effectiveness of counsel's performance.).

**The State did not violate Brady v. Maryland.**

Finally, Applicant alleges that the prosecution failed to comply with requires set forth in Brady v. Maryland in failing to turn over a version of the search warrant that did not include the initialed handwritten sentence: "included in this warrant are all vehicles, outbuildings and other structures on this property." This Court finds there was no Brady violation.

Brady requires the State to disclose evidence in its possession favorable to the accused and material to guilt or punishment. Clark v. State, 315 S.C.385, 388, 434 S.E.2d 266, 268 (1993). A Brady claim is based upon the requirement of due process. Such a claim is complete if the accused can demonstrate (1) the evidence was favorable to the accused, (2) it was in the possession of or known to the prosecution, (3) it was suppressed by the prosecution, and (4) it was material to guilt or punishment. Gibson v. State, 334 S.C. 515, 524, 514 S.E.2d 320, 324 (1999). Impeachment or exculpatory evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. Clark, 315 S.C. at 388, 434 S.E.2d at 268 (citing U.S. v. Bagley, 473 U.S. 667 (1985)).

"[T]he Brady rule does not apply if the evidence in question is available to the defendant from other sources.' ... [W]here the exculpatory information is not only available to the defendant but also lies in a source where a reasonable defendant would have looked, a defendant is not entitled to the benefit of the Brady doctrine." United States v. Wilson, 901 F.2d 378, 380, 381 (4<sup>th</sup> Cir. 1990) (citation omitted)). The Fourth Circuit Court of Appeals' decision in Wilson

is followed in South Carolina and other jurisdictions. See Anderson v. Leeke, 271 S.C. 435, 438-39, 248 S.E.2d 120, 122 (1978) ("Although not expressly stated in the opinion, we think it is implicit that the Brady rule applies only to favorable evidence which the prosecution has but which is Unavailable to the defendant") (citation omitted).

Here, Applicant fails to meet any of the requirements to prove a Brady violation. The search warrant is not favorable evidence to Applicant as it only shows that the magistrate signed multiple copies of the search warrant. The circumstances and procedure of how it was procured and executed were explained by Lt. Sankowski as noted above. Applicant has presented no evidence that the search warrant was in the possession of or known to the prosecution and then suppressed by the prosecution. Finally, the search warrant is not material to Applicant's guilt. At most, it provides a weak argument that the copies of the search warrant contained a discrepancy. Lastly, the search warrant was not material to the case.

#### **All Other Allegations**

As to any and all allegations that were raised in this matter and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

### **III. CONCLUSION**

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate Counsel's performance was unreasonable under prevailing professional norms. Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625; Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009). Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

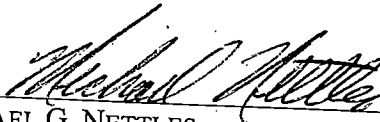
The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate

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 THAT:**

1. The application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 1 day of Dec, 2017.

  
MICHAEL G. NETTLES  
Presiding Judge

June, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

DEANGELO MICKELL, #340668

Plaintiff,

vs.

STATE OF SOUTH CAROLINA

Defendant.

IN THE COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL CIRCUIT

CASE NO.: 2011-CP-07-01538

MOTION AND ORDER INFORMATION  
FORM AND COVER SHEET

CLERK OF COURT  
JAMES ROSEN  
J.S.C.  
- 8  
PM 12:26

Plaintiff's Attorney: Jim Brown, Bar No. _____ Address: PO Box 592 Beaufort, SC 29901 Phone: _____ Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: J. Clayton Mitchell, Bar No. _____ Address: PO Box 11549 Columbia, SC 29211 Phone: _____ Fax _____ E-mail: _____ Other: _____
---	---

MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)  
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)  
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

**SECTION I: Hearing Information**

Nature of Motion: \_\_\_\_\_  
 Estimated Time Needed: \_\_\_\_\_ Court Reporter Needed:  YES /  NO

**SECTION II: Motion/Order Type**

Written motion attached  
 Form Motion/Order  
 I hereby move for relief or action by the court as set forth in the attached proposed order.

Alfred Hajir Jameson JCM  
 Signature of Attorney for  Plaintiff /  Defendant  
 November 22, 2017  
 Date submitted

**SECTION III: Motion Fee**

PAID - AMOUNT: \$ \_\_\_\_\_  
 EXEMPT: (check reason)

- Rule to Show Cause in Child or Spousal Support
- Domestic Abuse or Abuse and Neglect
- Indigent Status  State Agency v. Indigent Party
- Sexually Violent Predator Act  Post-Conviction Relief
- Motion for Stay in Bankruptcy
- Motion for Publication  Motion for Execution (Rule 69, SCRCP)
- 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: \_\_\_\_\_  
 Other: \_\_\_\_\_

**JUDGE'S SECTION**

Motion Fee to be paid upon filing of the attached order.  
 Other: \_\_\_\_\_

JUDGE CODE \_\_\_\_\_  
 Date: \_\_\_\_\_

**CLERK'S VERIFICATION**

Collected by: \_\_\_\_\_ Date Filed: \_\_\_\_\_  
 MOTION FEE COLLECTED: \$ \_\_\_\_\_  
 CONTESTED - AMOUNT DUE: \$ \_\_\_\_\_



ALAN WILSON  
ATTORNEY GENERAL

2017 DEC -8 PM 12: 25

JERRI ANN ROSENEAU  
BEAUFORT COUNTY, S.C.  
CLERK OF COURT

December 5, 2017

The Honorable Jerri Ann Roseneau  
Clerk of Court, Beaufort County  
Post Office Box 1128  
Beaufort, South Carolina 29901-1128

**Re: DeAngelo Mickell, #340668 v. State of South Carolina**  
**2011-CP-07-1538**

Dear Ms. Roseneau:

Enclosed please find the original **Order of Dismissal** signed by the Honorable Michael G. Nettles in the above-captioned case for filing in your office. Please forward a **time stamped copy** back to our office for our files.

Sincerely,

*for* J. Clayton Mitchell  
Assistant Attorney General

JCM/cc  
Enclosure(s)

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2011- CP-07-01538

DeAngelo Mickell, #340668

State of South Carolina

APPLICANT

2018 OCT -4 PM 2:12

RESPONDENT

Submitted by:

BERNARD ANN ROSENEAU  
 BEAUFORT COUNTY, S.C.  
 CLERK OF COURT

Attorney for :  Plaintiff  Defendant  
 or  
 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), 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.

Michael J. Miller 2140 10-1-18  
Circuit Court Judge Judge Code Date

**For Clerk of Court Office Use Only**

This judgment was entered on the 4<sup>th</sup> day of Oct, 2018 and a copy mailed first class or placed in the appropriate attorney's box on this 5<sup>th</sup> day of Oct, 2018 to attorneys of record or to parties (when appearing pro se) as follows:

J. Brown, Jr C. Saville  
\_\_\_\_\_  
ATTORNEY(S) FOR THE PLAINTIFF(S) ATTORNEY(S) FOR THE DEFENDANT(S)  
\_\_\_\_\_  
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 matter comes before the Court by way of Applicant's Motion to Alter/Amend Judgment, Pursuant to Rule 59(e), SCRCP." Applicant asks this Court to reconsider its order dated December 8, 2017. Respondent made its Return to this motion requesting it be denied and dismissed. The Court received oral argument on Applicant's motion on July 25, 2018.

This Court's Order of Dismissal denying and dismissing Applicant's post-conviction relief application was filed on December 8, 2017. Based upon careful reconsideration of all the evidence in this case and upon full consideration of Applicant's motion, Respondent's return, and the oral arguments of both parties, this Court is not persuaded to alter or amend the judgment. Therefore, this Court finds that the original Order of Dismissal shall stand as it was written.



State of South Carolina  
The Circuit Court of the Twelfth Judicial Circuit

Michael G. Nettles  
Judge

Florence City-County Complex  
181 North Irby Street, Suite 3610  
Florence, SC 29501  
Phone: (843) 292-7433  
Fax: (843) 292-7436  
mnettlesj@sccourts.org

October 1, 2018

The Honorable Jerri Anne Roseneau  
Clerk of Court for Beaufort County  
P.O. Box 1128  
Beaufort, SC 29901-1128

2018 OCT -4 PM 2:42  
JERRI ANNE ROSENEAU  
CLERK OF COURT  
BEAUFORT COUNTY, S.C.

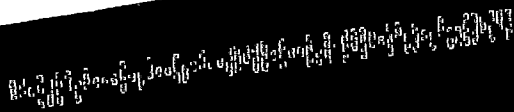
Dear Clerk Roseneau,

Please find enclosed with this letter a Form 4 Order signed by Judge Nettles in the case of *DeAngelo Mickell v. The State of South Carolina*, 2011-CP-07-01538. This order is in regards to Mr. Mickell's Motion to Reconsider Judge Nettle's order dismissing his PCR application. This Form 4 Order should serve to terminate the case. If you would be so kind as to either e-mail me at [mnettleslc@sccourts.org](mailto:mnettleslc@sccourts.org) or call me at (864) 608-0464 to confirm your receipt of this order it would be greatly appreciated. Also, please do not hesitate to contact me should you require anything further.

Sincerely,

A handwritten signature in black ink that reads "W.H. McAbee III".

W.H. McAbee III  
Law Clerk



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Law Offices of Jim Brown, P.A.  
1600 Burnside St., Suite 100  
P.O. Box 592  
Beaufort, SC 29901

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

FIRST CLASS