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DEC 03 2018

S.C. SUPREME COURT

November 29, 2018

The Honorable Daniel E. Shearouse
The Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29221

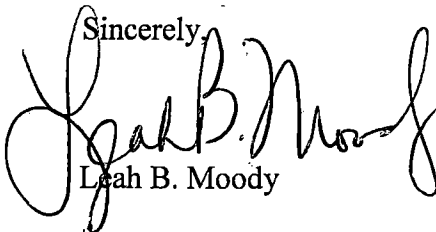
**RE: Jomar Antavis Robinson, #281722, vs. South Carolina
Case No.: 2015-CP-46-0941**

Dear Mr. Shearouse:

The York County Court of Common Pleas appointed my office to represent **Jomar Antavis Robinson** in his Post-Conviction Relief action. Please find enclosed for filing the original and two (2) copies of the Notice of Appeal and Proof of Service in the above-referenced case. Please return the clocked copies to me in the enclosed self-addressed, stamped envelope. Also enclosed is a copy of the Order Dismissing Post-Conviction Relief Application.

Thank you for your assistance with this matter.

Sincerely,



Leah B. Moody

LBM/aw

Enclosures

Cc Jomar Antavis Robinson
Janell H. Gregory, Esquire, SC Attorney General's Office
The Honorable David Hamilton, Clerk of Court, York County
Sharon Graham, SCCID

IN THE STATE OF SOUTH CAROLINA
In The Supreme Court

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DEC 03 2018

APPEAL FROM YORK COUNTY
Court of Common Pleas

S.C. SUPREME COURT

The Honorable Roger E. Henderson, Presiding in York County

Case No. 2015-CP-46-0941

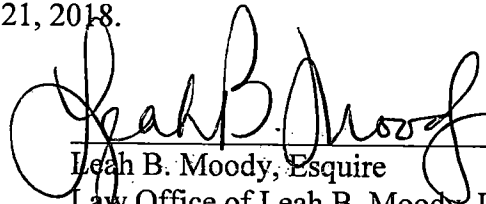
Jomar Antavis Robinson, #281722, Appellant,

v.

State of South Carolina, Respondent.

NOTICE OF APPEAL

Jomar Antavis Robinson appeals the order of the Honorable Roger E. Henderson, dated November 8, 2018 and postmarked November 19, 2018. Appellant received written notice of entry of the final order on November 21, 2018.



Leah B. Moody, Esquire
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Other Counsel of record:
Janell H. Gregory, SC Attorney General's Office
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IN THE STATE OF SOUTH CAROLINA
In The Supreme Court

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DEC 03 2018

S.C. SUPREME COURT

APPEAL FROM YORK COUNTY
Court of Common Pleas

The Honorable Roger E. Henderson, Presiding in York County

Case No. 2015-CP-46-0941

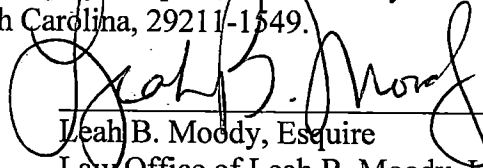
Jomar Antavis Robinson, #281722, Appellant,

v.

State of South Carolina, Respondent.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Janell H. Gregory by depositing a copy of it in the United States Mail, postage prepaid, on 11/29, 2018, addressed to its attorney of record, Janell H. Gregory, Esquire, SC Attorney General's Office, Post Office Box 11549, Columbia, South Carolina, 29211-1549.


Leah B. Moody, Esquire
Law Office of Leah B. Moody, LLC
235 E. Main Street, Suite 115
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November 29 2018

Cc Jomar Antavis Robinson
Janell H. Gregory, Esquire, SC Attorney General's Office
The Honorable David Hamilton, Clerk of Court, York County
Sharon Graham, SCCID



ALAN WILSON
ATTORNEY GENERAL

November 15, 2018

The Honorable David Hamilton
Clerk of Court, York County
Post Office Box 649
York, South Carolina 29745-0649

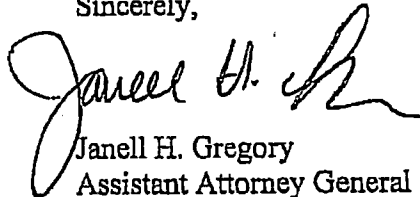
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DAVID HAMILTON
C.C. CLERK
YORK COUNTY, SC

Re: Jomar Robinson, #281722 v. State of South Carolina
2015-CP-46-0941

Dear Mr. Hamilton:

Enclosed please find the original **Order of Dismissal**, signed by the Honorable Roger E. Henderson, in the above-captioned case for filing in your office. Please forward a **time stamped copy** back to our office for our file.

Sincerely,


Janell H. Gregory
Assistant Attorney General

JHG/cc
Enclosure(s)

cc: Leah B. Moody, Esquire (without enclosure)

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

Jomar Robinson, #281722,

2015-CP-46-0941

Applicant,

v.

State of South Carolina,

Respondent.

ORDER OF DISMISSAL

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DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on March 27, 2015. Respondent submitted its Return on March 8, 2017. An evidentiary hearing was convened on April 17, 2018, at the York County Courthouse. Applicant was present at the hearing and was represented by Leah Moody, Esquire. Respondent was represented by Assistant Attorney General Justin Hunter of the South Carolina Attorney General's Office.

At the evidentiary hearing, Applicant testified on his own behalf and presented testimony from Christopher Mills, Esquire ("Trial Counsel"). Respondent presented testimony from Jim Morton, Esquire. This Court had before it the records of the York County Clerk of Court regarding the subject convictions, Applicant's appellate records, Applicant's records from the South Carolina Department of Corrections, the trial transcript, and the pleadings. The Court finds as follows:

I. PROCEDURAL HISTORY

The records before this Court indicate Jomar Robinson ("Applicant") is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the York County Clerk of Court. Applicant was indicted at the September 2010 term of the York County Grand Jury for possession of cocaine base with intent to distribute in proximity of a park

(2008-GS-46-3141), possession with intent to distribute crack cocaine (2008-GS-46-3142), resisting arrest (2008-GS-46-3143), carrying a pistol unlawfully (2008-GS-46-3144), and possession of marijuana (2008-GS-46-3145). Christopher Mills and Jim Morton, Esquires, represented him. On February 9-11, 2009, Trial Counsel proceeded to a trial in Applicant's absence before the Honorable Lee S. Alford, after which Applicant was found guilty as indicted. Applicant and his counsel came before the court for sentencing on March 12, 2009. Judge Alford sentenced Applicant to imprisonment for life without parole for possession of cocaine with intent to distribute in proximity of a park, twenty-three years for possession with intent to distribute crack cocaine, one year for resisting arrest, one year for carrying a pistol unlawfully, and one year for possession of marijuana. All sentences were to run concurrently.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Robinson, 396 S.C. 577, 722 S.E.2d 820 (Ct. App. 2012). Applicant filed a Petition for Rehearing, which was denied by the Court on March 29, 2012.

On June 8, 2012, Applicant filed and served a Petition for Writ of Certiorari on one of the two issues presented on appeal to the Court of Appeals and Respondent submitted a Return to the Petition for Writ of Certiorari on June 15, 2012. The South Carolina Supreme Court granted the Petition for Writ of Certiorari by order dated August 7, 2013. The Supreme Court affirmed Applicant's convictions as modified by an opinion filed November 12, 2014. The remittitur was sent December 2, 2014.

On February 12, 2013, Applicant filed his first application for post-conviction relief (2013-CP-46-0455). By an order dated June 24, 2013 and filed July 8, 2013, the Honorable John



C. Hayes, III, dismissed the application without prejudice as Applicant's direct appeal was still pending. This application follows.

II. ALLEGATIONS

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

1. Ineffective assistance of counsel:
 - a. "Trial counsel was ineffective for not suppressing the drugs on the grounds that the drugs were mixed with (co-defendants) drugs, in the same evidence bag, causing the drugs to be tampered with, and therefore tainted."
 - b. "Trial counsel was ineffective for not requesting a directed verdict on the grounds that the drugs were mixed with (co-defendants) drugs, in the same evidence bag, causing the drugs to be tampered with, and therefore tainted."
 - c. "Trial counsel was ineffective for not asking for a mistrial due to the fact that the grounds that the drugs were mixed with (co-defendants) drugs, in the same evidence bag, causing the drugs to be tampered with, and therefore tainted."
 - d. "Trial counsel was ineffective for failing to subpoena owner of apartment to show that I had a legal right to be on the premises."
 - e. "Trial counsel was ineffective for introducing marijuana during his cross-examination."
 - f. "Trial counsel was ineffective for not investigating to see if I was properly charged."
 - g. "Trial counsel was ineffective for not pointing out government witnesses perjury."

III. SUMMARY OF RELEVANT TESTIMONY PRESENTED

Applicant's testimony

At the evidentiary hearing, Applicant testified he met with both of his attorneys first in 2008 at the courthouse after he was arrested, and they discussed the charges, the situation, and how it happened. He stated they met again on two other occasions and discussed a plea offer from the State. Applicant stated his attorneys told him that he was offered a fifteen year sentence in the plea deal, but he had to testify for the State as part of the deal, and if he did not testify in

court to place someone else at the scene of the crime, he would get life without parole. Applicant testified that at their second meeting, he and his attorneys discussed whether he was ready to go to trial or instead wanted to take the plea.

Applicant testified he did not see any of the documents in his discovery, but he got a copy of his file and his motion. He stated most of his meetings with Trial Counsel were phone calls. He testified that he gave Trial Counsel the names of witnesses to investigate, including the proprietor of the building, who could testify that he had actually stayed at the property where he was arrested the night before the crime. Applicant testified Trial Counsel failed to subpoena the owner of the apartment building to show he had a reasonable expectation of privacy because he was visiting a close friend at the apartment. Applicant testified that he was arrested because a narcotics officer set up a sting, and they searched five cars before they approached him on the porch of the home and asked for his I.D. He stated they then tried to search him, but he backed away, they grabbed him, they "tussled," and he then ran away and was arrested. Applicant stated that law enforcement said they found all the drugs that night in Applicant's jacket pocket, but some of them were someone else's drugs. Applicant admitted he only had the "loose" crack cocaine, not the eleven individually wrapped bags of crack, which resulted in his life sentence.

Applicant testified that Trial Counsel should have moved to suppress the co-defendant's drugs on grounds that they were not his, and they were all mixed in the evidence bag after their arrest. He stated the original drug analysis report was inconsistent from the beginning. He stated Trial Counsel questioned the chemist about the report at trial, but then he backed off it and should have challenged it more. Applicant testified Trial Counsel should have requested a mistrial based on the drugs being mixed together, as shown through the testimony of the officer and the chemist. He stated Trial Counsel was ineffective for introducing marijuana as evidence at



trial because Trial Counsel admitted Applicant had marijuana, which made Applicant look guilty. Applicant stated he discussed this with Trial Counsel, and counsel told him he was going to use it to negate the officer's claim that he smelled marijuana, which is why the officer approached the porch in the first place.

Applicant testified Trial Counsel was ineffective for failing to investigate if he was properly charged. He opined that it was impossible for him to have two bags of cocaine if law enforcement also arrested and charged another person for having a bag of crack cocaine, too. He stated Trial Counsel should have challenged the witnesses on their inconsistent testimonies. Applicant testified he was never told about a second plea offer for 12 to 16 years in October of 2008, and he only knew about a fifteen year offer. He stated he rejected the fifteen year plea offer because he thought that fifteen years was a long time for him to take for him and for someone else. Applicant testified that he was absent at the trial because he was afraid his attorney was going to do a bad job.

Trial Counsel's testimony

At the evidentiary hearing, Trial Counsel Christopher Mills testified he has practiced law since 1986. He stated that his good friend, attorney Jim Morton, volunteered to second chair this case because Morton realized the case was serious and important and he wanted to help. Trial Counsel testified that he received the first plea offer for fifteen years from Solicitor Jennifer Colton for a second offense, but Applicant rejected the offer. Trial Counsel testified that there was a second plea offer from Solicitor E.B. Springs for 12 years that would require Applicant to testify for the State in a murder trial, and he discussed this offer with Applicant. He testified that they were both offended by the offer, and Applicant claimed he did not see what the State thought he saw in the murder case. He testified he specifically read the E.B. Springs email to

Applicant when they discussed the plea. He stated Applicant was not scared of going to court and did not want to take the plea offer.

Trial Counsel testified that Applicant was adamant he was not present during the murder and he would not testify for the State in the murder case because he had nothing to offer the State. He stated they discussed the benefits of taking the plea offer, but Applicant told him he was not going to take it because he would not testify for the State.

Trial Counsel testified that during his representation, Applicant's position was that he was not even wearing a jacket on the night of the crime, and he wanted to go to trial. He stated this was their defense, which he hoped would be successful because the State did not even have the jacket they claimed they found all the drugs in. Trial Counsel testified they had difficulty contacting the witnesses. He stated he interviewed co-defendant Patton, but he changed his stories multiple times and was unreliable. He testified their theory of the case was that the police had a stakeout, and they stopped a car and found a gun. The police then claimed to smell green marijuana, came up to the porch where Applicant was standing, grabbed Applicant, searched him, and when he ran they found drugs in the jacket he left behind. However, the State did not have the jacket, and witnesses said Applicant was not wearing a jacket that day.

Trial Counsel testified that had a hearing on November 10 where they received notice of the State's intent to seek life without parole. Trial Counsel testified that the problem was that Applicant was not present for trial. Because of this, he was not there to testify to the jury about the porch, and he could have testified about his possessory interest at the pre-trial suppression hearing, but he was not there to do so. Trial Counsel did not have any notes about grounds for this argument, but if Applicant had told him he did have grounds for a possessory interest, he would have allowed him to argue it. He explained that another problem with his presence at the

apartment where he was searched is that Applicant did not have a girlfriend at that particular apartment—his girlfriend lived in a different building, and they were just hanging out on a porch at that time. He stated that they would have made a judgment call about whether Applicant should testify or not if he had appeared for trial, and he may not have testified because he had a prior record.

Trial Counsel explained that he entered the marijuana at trial to prove his point that you could not smell it, which showed the police really did not smell marijuana before they searched Applicant's jacket. He testified that they did not admit it was Applicant's marijuana. He stated he did this because the drugs were coming into evidence anyway, because he had moved to suppress them but his motion was denied. He opined that Applicant's absence from the trial handicapped his suppression motion more than anything. He explained that in York County they do not allow you to have a separate suppression hearing, and you must have the hearing immediately before the trial.

Trial Counsel testified he never looked at co-defendant Patton's drugs to see what they found on him. He stated the evidence seized had Applicant's name on it, and included two bags of cocaine and marijuana. He explained that he could have made an argument that the drugs were comingled but he had no basis to back it up and no evidence that they were placed in the same bag, and most importantly, this argument was inconsistent with his theory that Applicant had *no* drugs on him. Their theory was that all of the drugs were planted on him, and none of it was his. Trial Counsel testified that he does not know why Patton would have pled guilty to trafficking if law enforcement did not have any drugs to pin on him. He stated there was also a plastic bottle found with four pieces of crack inside that night, and that is probably what Patton was charged



for. Trial Counsel testified that he was able to get law enforcement to admit they never saw Applicant walk to the car to sell drugs.

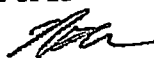
Trial Counsel testified that he investigated witnesses, but none of them could establish that Applicant had a privacy interest in the apartment. He stated Applicant was just visiting a friend, hanging out on a porch. Trial Counsel stated that he did not speak to Applicant's girlfriend, but she was not there and she lived in another apartment in the same complex. He stated he had not been given any information that Applicant had a privacy interest in the apartment.

Jim Morton's testimony

At the evidentiary hearing, attorney Jim Morton testified he volunteered to help Trial Counsel with this case if he could. He stated he was not involved in this case as Trial Counsel was, but he was a sounding board for strategic decisions. He testified he and Trial Counsel spoke to potential witnesses who were present at the crime scene and went to the crime scene in their investigation. Morton testified their defense was to argue that Applicant was just hanging out with other people at the apartment that night and the police rushed up on him with no cause. Their strategy was to argue that they had no right to rush Applicant, they had no articulable suspicion that criminal activity was afoot, and they did not really find these drugs on Applicant.

IV. APPLICABLE LAW

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged 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. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The applicant must overcome this presumption 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. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). 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.

V. 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 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 (1985).

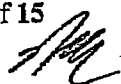
INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant alleges Trial Counsel was ineffective in his representation before and during his trial. This Court finds Applicant has failed to meet his burden of proving any of his allegations and that Trial Counsel was not ineffective in any of his actions or inactions. Each individual allegation is addressed as follows:

Failure to challenge drug evidence based on tampering of the drugs

Applicant's first three allegations all assert that Trial Counsel was ineffective for failing to challenge the drugs Applicant was convicted of possessing based on Applicant's speculative theory that the drugs that were actually his were mixed in the evidence bag with his co-defendant's drugs. Applicant claims law enforcement took all the drugs they collected during their search, some of which were his co-defendant's, and pinned the entire amount on Applicant. He now alleges Trial Counsel should have moved to suppress the drugs on the basis that they were tampered with, that Trial Counsel was ineffective for failing to request a directed verdict on the grounds that they were tampered with, and Trial Counsel was ineffective for failing to request a mistrial on the basis that they were tampered with. These allegations are meritless.

Trial Counsel credibly testified at the evidentiary hearing that he had no basis for making this argument and absolutely no evidence of any alleged tampering of this kind. Applicant presented no credible evidence at the evidentiary hearing that proves his theory; he only speculates that law enforcement mishandled his evidence, because they could not possibly have seized all of the drugs in evidence from his jacket. This Court notes, however, that this assertion directly contradicts Applicant's position that none of the drugs were his, the jacket was not his, and he was not even wearing a jacket that night. For Trial Counsel to argue at trial that some, but not all, of the drugs were his would be deficient performance, and this Court finds Trial



Counsel's failure to present this argument was not deficient performance. There can also be no resulting prejudice, as that argument at trial still would have resulted in Applicant's conviction on drug charges.

Even if Trial Counsel had moved to suppress the drugs, or at least part of the drugs, on this basis, he had no evidence to support his argument, especially because Applicant failed to appear for the trial and the pre-trial hearings. If Applicant had been present, Trial Counsel could have at least presented his testimony about his tampering theory, but because he did not appear, he had no evidence to support his theory whatsoever. This Court finds Trial Counsel's performance on this ground was not deficient and there was no resulting prejudice, as any motion to suppress on this basis would have been denied. Finally, the Court finds Trial Counsel was not deficient for failing to move for a directed verdict or request a mistrial on this ground, as, again, there was no evidence of tampering, and both motions on that ground would have been denied.

Accordingly, Applicant has failed to prove either prong of the Strickland test, and these allegations are denied and dismissed with prejudice.

Failure to subpoena apartment owner to show privacy interest in property

Applicant's allegation that Trial Counsel was ineffective for failing to subpoena and call to the stand the owner of the apartment building where he was searched to show he had a privacy interest in the apartment is meritless. First, this Court agrees with Trial Counsel's assessment that the real problem with the lack of this argument is that Applicant failed to appear at the trial and was tried in his absence. Trial Counsel testified that if Applicant had appeared to his trial, he could have testified about his connection to the apartment complex at which he was searched, and he could have potentially set up a basis to suppress the drugs under the Fourth Amendment because of his privacy interest in the residence. Applicant testified at the hearing that he was



visiting a friend, "something like a girlfriend," and he had stayed the night at the apartment the night before. However, Trial Counsel credibly testified that Applicant's girlfriend lived in a completely different apartment within the same complex, and there was no evidence or indication that Applicant had any privacy interest in the particular apartment porch on which he was standing when he was searched. Based on this testimony, this Court finds Trial Counsel's actions in choosing not to take this approach were reasonable, as Applicant has failed to present any evidence of his privacy interest in the property.

Furthermore, because Applicant has failed to present the testimony of the apartment owner or any other evidence which would have resulted in the suppression of the drugs on this ground, he has failed to prove prejudice. The South Carolina Supreme Court "has repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial." Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998). "The applicant's mere speculation what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice." Glover v. State, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). Applicant did not present any testimony from the apartment owner to show how he would have testified at trial, thus he has not proven prejudice. Applicant has failed to meet his burden of proving either prong of the Strickland test, and this allegation is denied and dismissed with prejudice.

Introduction of marijuana into evidence

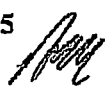
Applicant has failed to prove Trial Counsel was ineffective for introducing marijuana into evidence during trial during his cross-examination of Lieutenant Mike Ligon. At trial, Trial Counsel introduced as Defendant's Exhibit #1 the bag of marijuana to question Ligon on his



ability to smell the marijuana through the sealed bag. Tr. 165-171. A discussion about Trial Counsel's decision to do this was held off the record and reiterated on the record the follow day. Tr. 200. Trial Counsel credibly testified at the evidentiary hearing that he made a strategic decision to introduce the marijuana into evidence because it was coming in anyway. He explained that he made a pre-trial motion to suppress the drugs, but his motion was denied, so the State would introduce the drugs regardless.

This Court finds Trial Counsel made a strategic decision to use the evidence which would have been admitted anyway to his advantage and show the jury that the officer likely could not have smelled the marijuana, like he claimed he did, to initiate a search. "Representation is an art, and an act or omission that is unprofessional in one case may be sound or even brilliant in another." Strickland, at 691. Therefore, judicial scrutiny of counsel's performance must be highly deferential. Id. at 689. Where counsel articulates a valid strategic reason for his action or inaction, counsel's performance should not be found ineffective. Roseboro v. State, 317 S.C. 292, 454 S.E.2d 312 (1996); Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992). Courts must be wary of second guessing counsel's trial tactics; and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992).

This Court found Trial Counsel's actions here were reasonable under his valid trial strategy and he was not deficient. This Court further finds no prejudice, as the drugs would have been admitted into evidence anyway. Accordingly, this allegation is denied and dismissed with prejudice.



Failure to investigate charges

Applicant has failed to prove that Trial Counsel was ineffective for failing to investigate to see if he was properly charged. "In the absence of evidence to the contrary, the regularity of the proceedings of a court of general jurisdiction will be assumed." Pringle v. State, 287 S.C. 409, 410-11, 339 S.E.2d 127, 128 (1986). Applicant has not presented any credible evidence that he was improperly charged in any manner. Therefore, this Court finds Trial Counsel's performance was not deficient and there was no resulting prejudice, and this allegation is denied and dismissed with prejudice.


Failure to point out government witnesses' perjury

Applicant's allegation that Trial Counsel was ineffective for not pointing out government witnesses' perjury is meritless. Applicant failed to present any credible evidence of perjury by any witness at trial. Accordingly, Trial Counsel cannot be deficient on this ground and there is no resulting prejudice. Because Applicant failed to meet his burden of proof, this allegation is denied and dismissed with prejudice.

VI. 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 notes that Applicant must file and serve a notice of appeal within thirty 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 post-

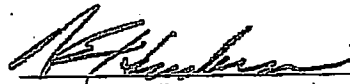


conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 8th day of November, 2018.



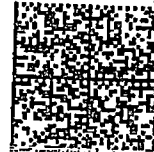
ROGER E. HENDERSON
Presiding Judge
Sixteenth Judicial Circuit

Chestertown, South Carolina

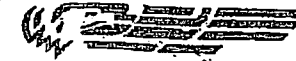


CLERK OF COURT'S OFFICE

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November 29, 2018

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Post Office Box 11549
Columbia, South Carolina 29211

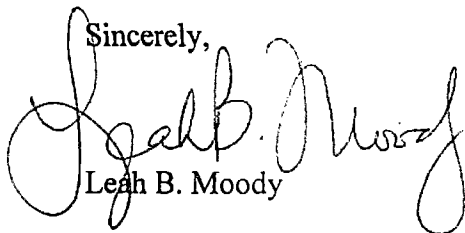
**RE: Jomar Antavis Robinson, #281722, vs. South Carolina
Case No.: 2015-CP- 46-0941**

Dear Ms. Gregory:

The York County Court of Common Pleas appointed my office to represent **Jomar Antavis Robinson** in his Post-Conviction Relief action. Please find enclosed a copy of the Notice of Appeal and Proof of Service in this matter.

If you have any questions or concerns, please feel free to contact my office. Thank you for your attention in this matter.

Sincerely,



Leah B. Moody

LBM/aw

Enclosures

Cc Jomar Antavis Robinson
The Honorable Daniel E. Shearouse, Clerk of Court, South Carolina Supreme Court
The Honorable David Hamilton, Clerk of Court, York County
Sharon Graham, SCCID

Law Office of Leah B. Moody, LLC

Leah B. Moody
Lbmatty@comporium.net

235 East Main Street, Suite 115
Post Office Box 1015 (29731)
Rock Hill, South Carolina 29730
Telephone (803) 327-4192
Facsimile (803) 329-1344

November 29, 2018

The Honorable David Hamilton
York County Clerk of Court
Post Office Box 649
York, South Carolina 29745

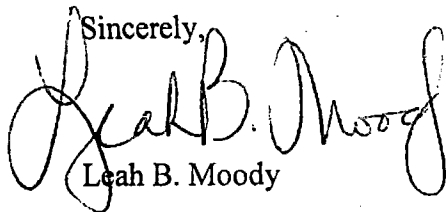
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C.A. No.: 2015-CP-46-0941**

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Sincerely,



Leah B. Moody

LBM/aw

Enclosures

cc Jomar Antavis Robinson
Janell H. Gregory, Esquire, SC Attorney General's Office
The Honorable Daniel E. Shearouse, Clerk of Court, South Carolina Supreme Court
Sharon Graham, SCCID

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November 29, 2018

Mrs. Sharon Graham
SC Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11433
Columbia, South Carolina 29211-1433

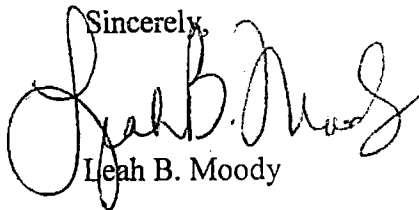
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