

MAC | VANCE ATTORNEYS, LLC

January 28, 2019

RECEIVED

JAN 31 2019

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

S.C. SUPREME COURT

RE: Brandon D. Bartley, #372964 v. State of South Carolina  
2017-CP-24-01407

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. Bartley.

Best regards,

ASHLEY A. McMAHAN  
ATTORNEY AT LAW

AAM

cc: Brandon D. Bartley  
Janell H. Gregory, Asst. Attorney General  
Greenwood County Clerk of Court  
Office of Appellate Offense

www.sijil.u.ky.gov

STATE OF SOUTH CAROLINA  
In The Supreme Court

RECEIVED

JAN 31 2019

APPEAL FROM GREENWOOD COUNTY  
Court of Common Pleas

S.C. SUPREME COURT

The Honorable Brian M. Gibbons, Circuit Court Judge

Case No. 2017-CP-24-01407

Brandon D. Bartley, #372964, ..... Petitioner,

v.

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

NOTICE OF APPEAL

Applicant, Brandon D. Bartley, appeals the order of the Honorable Brian M. Gibbons, dated January 14, 2019, and filed January 22, 2019.

Jan. 20~~14~~, 2019

  
ASHLEY A. McMAHAN, ESQUIRE  
MAC | VANCE ATTORNEYS, LLC  
PO Box 5501  
West Columbia, SC 29171  
803-219-1110  
ashley@macvance.com  
SC Bar No. 71676  
ATTORNEY FOR APPLICANT

Opposing Counsel:  
Janell H. Gregory, Asst, Attorney General  
S.C. Attorney General's Office  
PO Box 11549  
Columbia, SC 29211-1549

Handwritten text, possibly a signature or name, located in the lower-left quadrant of the page.

Handwritten text, possibly a signature or name, located in the lower-right quadrant of the page.

STATE OF SOUTH CAROLINA  
In The Supreme Court

RECEIVED

JAN 31 2019

APPEAL FROM GREENWOOD COUNTY  
Court of Common Pleas

S.C. SUPREME COURT

The Honorable Brian M. Gibbons, Circuit Court Judge

Case No. 2017-CP-24-01407

Brandon D. Bartley, #372964, ..... Petitioner,

v.

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

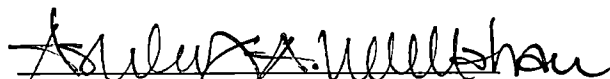
PROOF OF SERVICE

I, Ashley A. McMahan, 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:

Janell H, Gregory, Asst, Attorney General  
S.C. Attorney General's Office  
PO Box 11549  
Columbia, SC 29211-1549

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

Jan 20 2019, 2019

  
ASHLEY A. MCMAHAN, ESQUIRE  
MAC | VANCE ATTORNEYS, LLC  
PO Box 5501  
West Columbia, SC 29171  
803-219-1110

www.dhammadownload.com

1880 1106

Filed CP 8th Jud Cir Greenwood, SC  
2018 JAN 22 AM 10:22

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENWOOD )  
)  
)  
Brandon Bartley, #372964, )  
)  
Applicant, )  
)  
v. )  
)  
State of South Carolina, )  
)  
Respondent. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
FOR THE EIGHTH JUDICIAL CIRCUIT

2017-CP-24-1407

**ORDER OF DISMISSAL**

This matter comes before the Court by way of an Application for post-conviction relief filed on November 30, 2017, by Brandon Bartley (“Applicant”) and amended on October 12, 2018. The State (“Respondent”) filed a Return on April 11, 2018, requesting an evidentiary hearing. An evidentiary hearing into the matter was convened on October 17, 2018, at the Greenwood County Courthouse. Applicant was present at the hearing and represented by Ashley A. McMahan, Esquire. Assistant Attorney General Janell H. Gregory of the South Carolina Attorney General’s Office appeared on behalf of Respondent. At the hearing, Applicant testified on his own behalf. Plea counsel, Elizabeth Able of the Eighth Circuit Public Defender’s Office, (“Counsel”) also testified. After a review of the record and all evidence presented, this Court finds Applicant has failed to meet his requisite burden of proof and denies this application.

**I. PROCEDURAL HISTORY**

The records before this Court establish Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenwood County Clerk of Court’s order of commitment. During the April 2017 term, the Greenwood County Grand Jury indicated Applicant for trafficking in methamphetamine (2017-GS-24-0661), receiving stolen goods (\$2,000 - \$10,000) (2017-GS-24-902), possession with intent to distribute (PWID) methamphetamine



(2017-GS-24-903), simple possession of marijuana (2017-GS-24-659), false information to law enforcement (2017-GS-24-660), and carrying a pistol unlawfully (2017-GS-24-664). Counsel represented Applicant. Assistant Solicitor Josh Thomas of the Eighth Circuit Solicitor's Office prosecuted the case.

On June 16, 2017, Applicant appeared with Counsel before the Honorable Frank R. Addy, Jr. and pled guilty to the lesser included offenses of trafficking methamphetamine (28-100 grams, first offense) and PWID methamphetamine (first offense); Applicant pled guilty to the remaining charges as indicted. Pursuant to a negotiated sentence, Judge Addy sentenced Applicant to seven years for the trafficking methamphetamine charge with credit for 156 days; a consecutive three years imprisonment for the PWID methamphetamine charge with 273 days of credit; and time served on the remaining charges. Applicant was also ordered to pay restitution in the amount of \$4,942.69 if he makes parole, however, if he does not make parole, the restitution order will then become a civil judgment. Applicant did not appeal his guilty plea.

## **II. SUMMARY OF FACTS**

On January 12, 2017, Greenwood County units were traveling past the Hot Spot on Highway 25 South in Greenwood County. (GP Tr. 9.) Officer noticed two vehicles parked side by side in a dark area behind the Hot Spot. (GP Tr. 9.) Based on their training and experience, officers believed this activity was consistent with an illegal drug transaction and pulled into the parking lot. (GP Tr. 9.) At that time, one of the vehicles sped past them and officers initiated a traffic stop. (GP Tr. 9.) The driver of the vehicle told officers one of the back passengers had illegal narcotics on him. (GP Tr. 9.) Officers had Applicant get out of the car and Applicant provided officers with a fake name and his actual birth date. (GP Tr. 9.) Officers patted him down for weapons and found two handguns in his pockets. (GP Tr. 9.) Applicant did not have a permit



for either weapon. (GP Tr. 9.) Applicant also had a bag of methamphetamine, which weighed 33.01 grams. (GP Tr. 9.)

On February 23, 2016, agents executed a search warrant at Applicant's house on Matthew Heights Road. (GP Tr. 9-10.) Applicant was present at his home with several other subjects. (GP Tr. 10.) During a search of the shed behind Applicant's residence, agents recovered 5.27 grams of methamphetamine and digital scales. (GP Tr. 10.) Agents also recovered a ledger book in Applicant's bedroom. Applicant was charged with PWID methamphetamine. (GP Tr. 10.)

On May 4, 2016, the drug unit executed a search warrant on Applicant's residence. (GP Tr. 10.) Agents located several "skins" from a Kubota utility vehicle, however, no utility vehicle was located. (GP Tr. 10.) Neighbors told agents they had seen Applicant with a Kubota utility vehicle within the last three days. (GP Tr. 10.) Agents walked into a clearing behind the neighborhood and located the utility vehicle bottomed out on a stump. (GP Tr. 10.) Damage to the utility vehicle was estimated at around \$4,000.00. (GP Tr. 10.)

### **III. ALLEGATIONS RAISED**

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

1. Ineffective assistance of counsel
  - a. "Failed to do a true and factual investigation of the charges indicted"
  - b. "Failed to ascertain and challenge elements of the traffic stop (in which leads to arrest in conviction) through evidentiary hearings"
  - c. "Attorney waived preliminary hearing without the permission of the defendant, though defendant informed the court of his written consent to have such hearing by signed documentation, which was timely filed and presented"
2. Involuntary Guilty Plea
  - a. "Attorney failed to inform defendant of the consequences of his plea and allowed defendant to enter a plea made through fear, ignorance, coercion, and not in the best interest of his rights that have been afforded to him by the U.S. Constitution"
3. Due Process Violations



- a. "Counsel prejudiced defendant's right to challenge State's evidence by falling below a competence and legal skill through suppression of the drugs due to illegal traffic stop. Counsel waived Defendant's Constitutional right to a preliminary hearing. Counsel action forced and coerced Defendant to accept a plea of guilty and an unreasonable sentence from the court"
4. "Brady Violations"
  - a. "Counsel failed to provide such documents, evidence in which the State provided. Such documents would have provided a competent understanding of tangible proof to move forward in trial"

On October 12, 2018, Applicant filed an amended application to include the following allegation:

1. Ineffective Assistance of Counsel:
  - a. Counsel failed to adequately raise the issue regarding the weight of the drugs that were only field tested and no SLED report was issued as to the actual weight of the drugs.

An evidentiary hearing was held on October 17, 2018, Applicant informed this Court he intended to proceed on the following grounds for relief:

1. Counsel failed to do a true and factual investigation of Applicant's charges;
2. Counsel failed to challenge the elements of the traffic stop through an evidentiary hearing;
3. Counsel waived Applicant's preliminary hearing without his permission;
4. Brady violations;
5. Counsel failed to adequately raise the issue regarding the weight of the drugs that were only field tested and no SLED report was issued as to the actual weight of the drugs;
6. Involuntary guilty plea.

#### **IV. TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING**

##### *Applicant's Testimony*

During the evidentiary hearing, Applicant testified on his own behalf. Applicant testified he met with Counsel two or three times while he was in jail. Applicant testified he asked Counsel to review the video of the traffic stop because he believed the officers were being dishonest regarding the reason for the stop. Applicant testified at the time of the traffic stop he had an active pick-up order because he left a halfway house. Applicant testified Counsel discussed the traffic



stop with him and she thought it was a bad stop. However, Applicant testified Counsel told him no judge would throw it out because he was caught with stuff on him. Applicant testified he asked Counsel for a copy of the South Carolina Law Enforcement Division (SLED) report, which he never received. Applicant testified the amount of drugs on him would have been reduced because of purity levels. Applicant believes he needed to see the SLED report in order to make a good decision on whether to enter a guilty plea. Applicant testified he believes he could have received a better plea deal had the weight of the drugs been checked. Applicant testified he was told he could be found guilty of PWID based on weight and he could be looking at a mandatory twenty-five years based on his prior drug charges. Applicant testified life without the possibility of parole may have come up prior to the guilty plea. Applicant testified that he thinks he asked for a preliminary hearing, but he never received one.

Applicant testified Counsel was very sweet, but he was a little unhappy with her representation. Applicant testified he asked her to review footage from Hot Spot and the traffic stop, but she never did. Applicant testified the two officers who pulled him out of the car that night no longer work for the sheriff's office.

On cross-examination, Applicant testified he did not recall waiving his constitutional rights, but he did recall telling Judge Addy that he was satisfied with Counsel. Applicant testified he recalled agreeing with the facts of the case presented by the State. Applicant testified he recalled telling Judge Addy he was pleading guilty because he was guilty and did not want to go to trial. Applicant testified he avoided a twenty-five year sentence by pleading guilty. Applicant testified on re-direct that not enough was said during the plea hearing about the traffic stop to highlight the misdeeds of the officers. Applicant testified he believes the outcome could have been different if more information was provided to the court about the traffic stop.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

### *Counsel's Testimony*

Counsel also testified at the post-conviction relief hearing. Counsel testified she has been with the Eighth Circuit Public Defender's Office for three years and was appointed to represent Applicant. Counsel testified Applicant did not have a preliminary hearing because it is typical to waive those hearings and she sent a letter to Applicant regarding the waiver. Counsel testified the preliminary hearing would not have made a difference because the search warrant was valid and if the trafficking charge was dismissed, the State would just directly indict Applicant. Counsel testified Applicant was out on bond for a previous case and was noticed for a bond revocation hearing. During that hearing, Counsel testified Applicant was allowed to attend an in-patient treatment facility, but if he failed to successfully complete that program a pick-up order would be issued. Applicant was kicked out of the in-patient facility on January 1, 2017. Counsel testified she advised Applicant to turn himself in to law enforcement since he was in violation of his bond. Counsel testified shortly thereafter Applicant was arrested on these charges. Counsel testified she met with Applicant in jail on June 1, 2017, and discussed two SLED reports<sup>1</sup> and the weight of the drugs. Counsel also testified she saw the video of the traffic stop and offered Applicant the opportunity to see it as well. Counsel testified she did not think it was a bad stop but believed there was a standing issue since it was not Applicant's vehicle. Counsel testified she discussed her concerns with a suppression hearing Applicant. Counsel testified she believes if they had moved forward with a suppression hearing and lost, the offer from the State would have been off the table. Counsel testified the State had strong evidence against Applicant and if he had proceeded to trial he would have been convicted. Counsel testified she believes it was in Applicant's best interest to plead guilty.

---

<sup>1</sup> Respondent entered SLED reports as Exhibit 1 during the hearing.

Counsel testified she tried to get Applicant's charges reduced to non-violent and asked for five years, even though she believed ten years would be reasonable in Applicant's case. Counsel testified the initial offer from the State was in the ten to fifteen year range, which she communicated to Applicant. Counsel testified she received several other offers from the State, all of which were communicated to Applicant. Counsel testified she explained Applicant's constitutional rights to him and went over a plea waiver form<sup>2</sup>, which she signed and she observed Applicant sign. Counsel testified she would have taken Applicant's case to trial had he wanted to proceed to trial.

On cross-examination, Counsel testified she did discuss the SLED reports with Applicant, but does not recall if she showed the reports to Applicant. Counsel testified she discussed the possibility of a suppression hearing with Applicant and that those are typically done the day of trial. Counsel testified she talked to Assistant Solicitor Josh Thomas extensively about the case. Counsel testified Applicant knew there was a pick-up order issued for him. Counsel testified she discussed enhancements with Applicant and was concerned about Applicant going to trial on a trafficking third offense charge. Counsel testified Applicant was able to plead to trafficking first offense. Counsel testified she did not request any confirmatory testing on the drugs recovered from Applicant because she did not want to risk adding weight to the drugs.

#### **V. APPLICABLE LAW**

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his or her 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, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the

---

<sup>2</sup> Respondent admitted plea waiver form as Exhibit 2 during the hearing.

A handwritten signature in black ink, consisting of a large, stylized 'S' or 'J' shape with a long, sweeping tail that loops back towards the main body of the signature.

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.

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, 300 S.C. 115. First, the 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 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.” Id. at 117-18, 300 S.C. 115. 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).

#### **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**

This Court viewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the plea transcript, and Applicant’s records from the South Carolina Department of Corrections, the application for post-conviction relief, and the legal arguments made by the



attorneys. Set forth below are the relevant findings of fact and conclusion of law as required by S.C. Code Ann. § 17-27-80 (2003).

**Ineffective Assistance of Counsel**

This Court finds Applicant has failed to meet his burden of proving he is entitled to post-conviction relief on any of his allegations of ineffective assistance of counsel. Applicant has failed to prove both deficiency on the part of Counsel and any prejudice therefrom. Moreover, this Court notes the record reflects the knowing and voluntary nature of Applicant's guilty plea. Furthermore, after observing the witnesses and passing on their credibility, this court finds Counsel's testimony to be credible. By contrast, this Court finds Applicant's testimony lacks credibility.

*Counsel failed to investigate Applicant's charges and challenge the traffic stop*

Applicant alleges Counsel was ineffective for failing to view the traffic stop video and obtain SLED reports on the drug analysis conducted on the drugs found on Applicant. "[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Walker v. State, 397 S.C. 226, 235, 723 S.E.2d 610, 615 (Ct. App. 2012) (reversed on other grounds by Walker v. State, 407 S.C. 400, 756 S.E.2d 144 (2014)). 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), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018) (citing Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)).

This Court finds Counsel's performance did not fall below the standard of professional norms. This Court finds credible Counsel's testimony that she reviewed the video of the traffic



stop and the SLED reports analyzing the drugs found on Applicant. This Court also finds credible Counsel's testimony that she discussed the SLED reports with Applicant and the possibility of a suppression motion. This Court also finds credible Counsel's testimony that a suppression motion was unlikely to be successful and it was not in Applicant's best interest to pursue a suppression motion as he faced significantly higher sentence if convicted at trial. This Court also finds credible Counsel's testimony that the search warrants executed on Applicant's residence were valid. Here, Applicant has failed to show what additional investigation Counsel should have undertaken in this case and how that would have affected his decision to accept the plea offer from the State. Consequently, this allegation must be denied and dismissed with prejudice.

*Counsel failed to request a preliminary hearing*

Applicant asserts counsel was ineffective for failing to request a preliminary hearing on his behalf. The purpose of a preliminary hearing is "solely to determine whether sufficient evidence exists to warrant the defendant's detention and trial." Rule 2(a), SCRCrimP. However, a defendant has no constitutional right to a preliminary hearing. See State v. Ballington, 346 S.C. 262, 269, 551 S.E.2d 280, 283 (Ct. App. 2001). ("[A] defendant has no constitutional right to a preliminary hearing. Thus, although Applicant may have timely requested a preliminary hearing, his right to have the hearing ended with the grand jury's indictment. Furthermore, the circuit court judge could not restore the right to a preliminary hearing by ordering a post-indictment preliminary hearing.") (citations omitted) (overruled on other grounds by State v. Belcher, 385 S.C. 597, 685 S.E.2d 802 (2009)).

At the evidentiary hearing, Counsel testified it is typical practice within the Eight Circuit Public Defender's Office to waive preliminary hearings. Counsel testified she sent a letter to Applicant indicating the preliminary hearing for his charges had been waived. Counsel testified



discovery in this case was not an issue and a preliminary hearing in Applicant's case would not have made a difference in the outcome in his case.

This Court finds Counsel was not deficient in failing to request a preliminary hearing as Applicant was probably indicted by the Greenwood County Grand Jury based on sufficient probable cause. Applicant has failed to establish that he was not properly indicted by the grand jury, that there was not sufficient probable cause for indictments on his charges, or that his charges would have been dismissed had a preliminary hearing been held. Therefore, this Court finds Applicant has failed to meet his requisite burden and this allegation is denied and dismissed with prejudice.

#### Brady<sup>3</sup> Violations

Applicant alleges Counsel was ineffective for failing to provide him with documents, SLED reports, and evidence the State provided to Counsel. Applicant alleges these documents would have allowed him to understand the case the State had against him in order to move forward with trial. Applicant testified he met with Counsel two or three times prior to his plea. During one of the meetings, Applicant testified Counsel went over discovery for Applicant's PWID methamphetamine charge, but did not discuss his trafficking charge. Counsel testified she received all discovery from the State and reviewed it with Applicant. Counsel also testified she watched the video of the traffic stop and offered Applicant the opportunity to view the video himself. Counsel testified the State had strong evidence against Applicant and, because of his criminal history, he was looking at a significant amount of jail time. Counsel testified she discussed a suppression hearing with Applicant, but felt it would not be successful and once that motion was denied any plea offer would be off the table.

---

<sup>3</sup> Brady v. Maryland, 373 U.S. 83 (1963).

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by several loops and a final flourish.

This Court finds credible Counsel's testimony that she received discovery from the State and reviewed discovery with Applicant. This Court finds Applicant has failed to establish any deficiency of Counsel or any prejudice. Therefore, this allegation must be denied and dismissed with prejudice.

*SLED Reports and Analysis*

Applicant alleges Counsel failed to raise the issue regarding the weight of the drugs and obtain SLED reports showing the actual weight of the drugs. Applicant testified he requested the SLED reports from Counsel, but never received the reports. Applicant testified if the drugs had been tested the amount attributed to him would have been reduced based on the purity levels of the drugs. Counsel testified she did obtain two SLED reports showing the drug weights and analysis for all of the substances in Applicant's case. Counsel testified she showed Applicant the SLED reports during one of their meetings. Counsel testified the SLED analysis showed the net weight of the methamphetamine recovered from Applicant during the traffic stop was 33.04 grams. Counsel testified the SLED analysis report showed 5.27 grams of methamphetamine was recovered when officers executed a search warrant at Applicant's residence. Counsel testified both SLED reports provided analysis that substantiated all of Applicant's drug charges.

This Court finds credible Counsel's testimony that she obtained the SLED reports and reviewed them with Applicant. This Court also finds credible Counsel's testimony that the results from the SLED analysis supported Applicant's charges. This Court finds Applicant has failed to establish deficiency of Counsel or any prejudice for this allegation. Therefore, this allegation must be denied and dismissed with prejudice.

A handwritten signature in black ink, consisting of several loops and a long vertical stroke, located in the bottom right corner of the page.

### Involuntary Guilty Plea

Applicant alleges Counsel did not discuss the consequences of his plea and the plea was not in his best interest. Applicant alleges his plea was entered through fear, ignorance, and coercion. This Court finds Applicant's guilty plea was freely and voluntarily made. In evaluating issues concerning guilty pleas, this Court will consider the entire record, including the transcript of the guilty plea proceeding and the evidence presented at the post-conviction relief hearing. Roddy v. State, 339 S.C. 29, 528 S.E.2d 418 (2000). Voluntariness of a guilty plea is not merely determined by an examination of a specific inquiry by the plea court alone but rather is determined by the record of both the guilty plea proceeding and the post-conviction relief hearing. Id. In order to find a guilty plea was knowingly and voluntarily 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 (1969). 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 v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 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).

This Court finds this allegation is without merit, and Applicant has failed to carry his burden of proving his guilty plea was involuntarily made. The records before this Court, and particularly the transcript of Applicant's plea proceeding, show that Applicant engaged in a thorough colloquy with the court before electing to forgo his constitutional rights and knowingly, voluntarily, and intelligently enter a plea of guilty. This Court finds Applicant knew the charges



he was facing and understood the plea he was entering to the lesser-included offense, including the significant benefit of avoiding a potential twenty-five year sentence on the trafficking methamphetamine charge alone based on his negotiated plea. This Court also finds Applicant was properly and fully advised of his constitutional rights and knowingly and voluntarily waived those rights to accept a favorable negotiated plea based on the advice of competent Counsel.

Therefore, this Court finds Applicant had a full understanding of the consequences of his plea and the charges against him, and the plea court correctly found Applicant's plea was freely, voluntarily, and intelligently made. This allegation is denied and dismissed with prejudice.

### 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. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

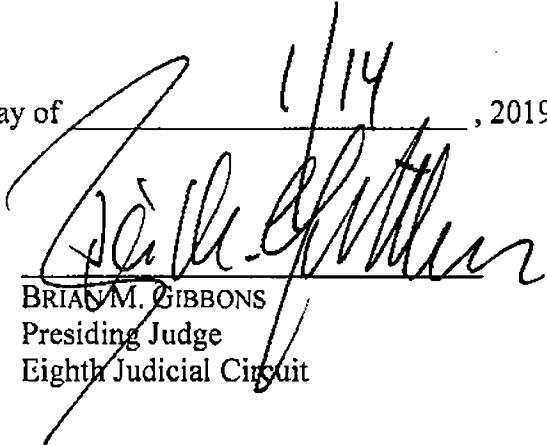
The Court notes Applicant must file and serve a notice of appeal within thirty days from post-conviction relief counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCR, provides that if Applicant wishes to seek appellate review, post-conviction relief 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.

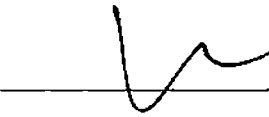
A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

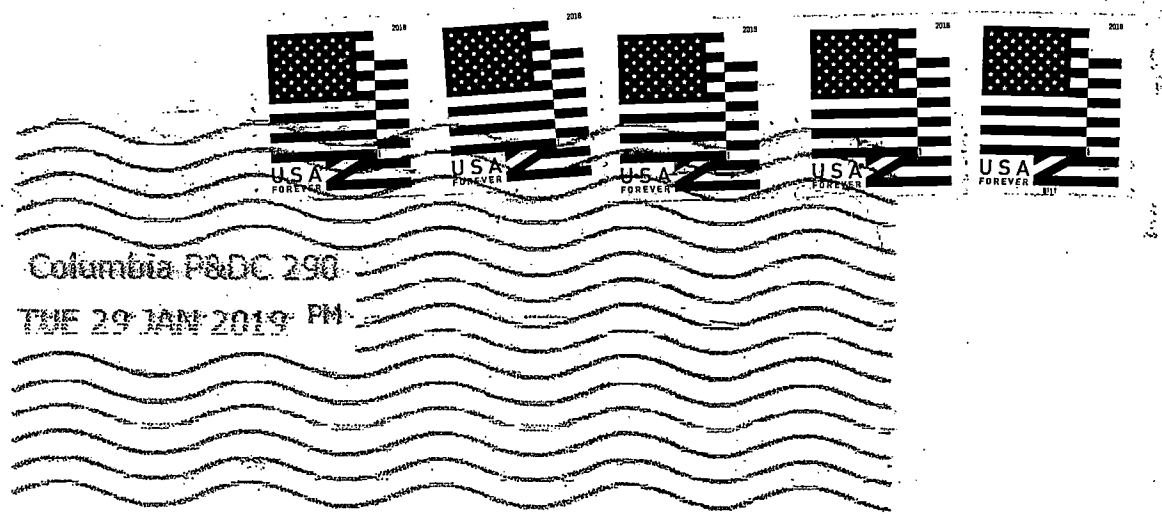
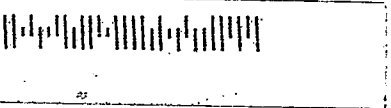
**IT IS THEREFORE ORDERED THAT:**

1. The application for post-conviction relief is denied and dismissed with prejudice; and
2. Applicant will remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

**AND IT IS SO ORDERED** this \_\_\_\_\_ day of 1/14, 2019.

  
BRIAN M. GIBBONS  
Presiding Judge  
Eighth Judicial Circuit

, South Carolina



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