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February 5, 2019

Clerk of Court
Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211

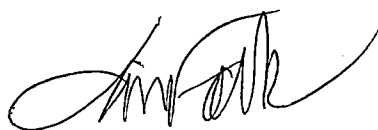
Re: Chad P. Stalnakar 369754 v State, 2017-CP-10- 0272

Dear Clerk Shearouse:

Please find the enclosed Notice of Appeal, Proof of Service, and AMENDED ORDER DENYING APPLICANT'S "MOTION TO RECONSIDER, ALTER OR AMEND PURSUANT TO RULE 59 (E), SCRCPP" in the above Charleston County PCR action. Please return a clocked copy of the Notice of Appeal and Proof of Service in the enclosed SASE.

Should you have any additional questions please do not hesitate to contact my office.

With best regards, I am,



James K Falk

Thank you for your assistance.

Cc:

Benjamin Limbaugh, Esq
Chad P. Stalnakar 369754
Charleston County Circuit Court Clerk

RECEIVED

FEB 08 2019

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Honorable Deadra L. Jefferson, Circuit Judge

RECEIVED

FEB 08 2019

S.C. SUPREME COURT

Case No.: 2017-CP-10-0272

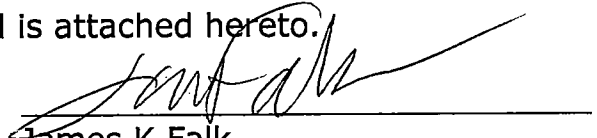
Chad P. Stalnaker 369754.....PETITIONER

V.

State of South Carolina.....RESPONDENT

NOTICE OF APPEAL

The Petitioner Chad P. Stalnaker appeals the Honorable Deadra L. Jefferson's January 7 2018 AMENDED ORDER DENYING APPLICANT'S "MOTION TO RECONSIDER, ALTER OR AMEND PURSUANT TO RULE 59 (E), SC RCP". Undersigned counsel received notice of entry of the order on January 20, 2019. A copy of the order on appeal is attached hereto.



James K Falk
Falk Law Firm
PO Box 1058
Charleston, SC 29402

February 5, 2019

Benjamin Limbaugh, Esq.
Office of S.C. Attorney General
PO Box 11549
Columbia, SC 29211-1549

Clerk of Court- Charleston CP
100 Broad Street
Charleston, SC 29401

THE STATE OF SOUTH CAROLINA

In The Supreme Court

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FEB 08 2019

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

S.C. SUPREME COURT

Honorable Deadra L. Jefferson, Circuit Judge

Case No.: 2017-CP-10-0272

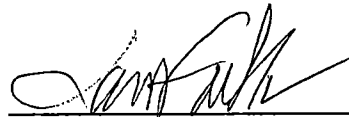
Chad P. Stalnaker 369754PETITIONER

V.

State of South Carolina.....RESPONDENT

CERTIFICATE OF SERVICE

I, James Falk, certify that I have today served the within notice of appeal upon the Respondent by depositing a copy of it in the U.S. Mail, postage prepaid, addressed to its attorney of record, Benjamin Limbaugh Esq. Office of the S.C. Attorney General, PO Box 11549, Columbia, SC 29211-1549 and the Charleston County Clerk of Court. I further certify that all parties required by Rule to be served have been served this February 5, 2019.



James K Falk
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PO Box 1058
Charleston, SC 29402

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
Chad P. Stalnaker, #369754,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2017-CP-10-272

AMENDED¹
ORDER DENYING APPLICANT'S
"MOTION TO RECONSIDER, ALTER
OR AMEND PURSUANT TO RULE
59(E), SCRPC"

Presiding Judge:	Hon. Deadra L. Jefferson
State's Attorney:	Kelly Oppenheimer, Esq.
Trial/Plea Counsel:	William L. Runyon, Jr., Esq.
	Stan W. Jaskiewicz, Jr., Esq.
Applicant's Attorney:	James K. Falk, Esq.
Date of Hearing:	July 23, 2018
Court Reporter:	Joyce C. Rueger

FILED
2019 JAN 15 AM 10:00
CLERK OF COURT

This matter comes before this Court by way of Applicant's "Motion to Reconsider, Alter or Amend Pursuant to Rule 59(e), SCRPC," asking this Court to alter or amend its order of dismissal denying Applicant's application for post-conviction relief.

I.

Chad P. Stalnaker (Applicant) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. During its September 2014 term, the Charleston County Grand Jury indicted Applicant for attempted murder (2014-GS-10-05431) and possession of a weapon during the commission of a violent crime (2014-GS-10-05434). William L. Runyon, Jr., Esquire, and Stan W. Jaskiewicz, Jr., Esquire, represented him on these charges. Assistant Solicitors Daniel W. Cooper and David L. Osborne, both of the Ninth Circuit Solicitor's Office, prosecuted the case. On September 12-14, 2016, Applicant proceeded to a jury trial before the Honorable

W. Jeffrey Young. On the third day of trial and following the State's case-in-chief, on September 14, 2016, Applicant decided to enter a guilty plea to the weapons charge and to the lesser-included offense of attempted murder, assault and battery of a high and aggravated nature. Judge Young accepted the plea and sentenced Applicant to a term of imprisonment of ten (10) years for assault and battery of a high and aggravated nature and five (5) years for the weapons charge. The sentences were to be served consecutively. Applicant did not appeal.

II.

On January 18, 2017, Applicant filed an application for post-conviction relief. In this application, Applicant alleges he is being held unlawfully for the following reasons:

1. Ineffective Assistance of Counsel; and
 - a. "Applicant's defense counsel failed to move for a change in venue, rendering ineffective assistance, depriving the right to a fair trial;"
 - b. "Defense Counsel ineffective and deficient for failing to object and/or remove a juror who had a conflict of interest;"
 - c. "Counsel ineffective and deficient for failing to object to attempted murder indictment, which alleged intent of murder but the evidence revealed that the alleged victim began the confrontation, started the fight, and was the aggravating force;"
 - d. "Defense Counsel ineffective and deficient for failing to request charges to the court on self-defense/stand your ground, defense of others and protection of persons and property with the Castle Doctrine;"
 - e. "Defense Counsel ineffective for failing to move/motion for a Stand Your Ground hearing;"
 - f. "Counsel ineffective for un-objected trial error. For counsel failed to object to inadmissible hearsay evidence. . . . Counsel failed to object to solicitors [sic] opening remarks of hearsay, which he quoted the alleged victim was stabbed 16 times;"
 - g. "Defense Counsel ineffective for failing to object to State's failure to disclose potentially exculpatory evidence;"
 - h. "Counsel failed to obtain, investigate, introduce newly discovered evidence. . . . Counsel failed to obtain, investigate, and introduce the alleged victims [sic] toxicology report;"
 - i. "Counsel failed to obtain and introduce medical reports of the alleged victims [sic] injuries. . . . Counsel failed to investigate and or obtain any

1 Amended to correct scrivener's error.

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true medical report to determine the exact number of stab wounds as well details such as [but not limited to] whether the stabs wore [sic] through and through or entry and exit;"

- j. "Counsel failed to obtain, investigate and introduce the Police Chief's involvement. The police chief never disclosed any statements from the incident until I personally discovered a video of him telling his version of the story of the case at hand;"
- k. "Counsel was extremely deficient when attempting to use, explain and identify the map graphic the State introduced as evidence to illustrate [sic] the locations and routes of defendant and alleged victim. . . . Counsel failed to discredit the alleged victim who stated he was heading home but went the total opposite direction;"
- l. "Counsel was ineffective and deficient for failing to interview and or call any defense witnesses;"
- m. "Counsel deficient and ineffective for failure to investigate the State's witnesses. Counsel failed to investigate the alleged victim, the State's main witness. . . . Defense Counsel failed to impeach all the State's main eye-witness witnesses who all openly admitted to consuming alcohol beyond a clear point;"
- n. "Counsel failed to interview/call an independent expert witness. Counsel never investigated the State's medical witness, and was taken by surprise at the State's expert testimony. Counsel did not seek an independent witness to challenge or agree with the State's expert;"
- o. "Counsel was ineffective for failing to present any mitigation evidence that would have helped with plea negotiations as well as sentencing;"
- p. "Defense Counsel failed to properly advise client of plea deal. . . . Defense Counsel said the deal was if I, the defendant plead guilty the State would reduce the charge from attempted murder to Assault and Battery High and Aggravated Nature. Defense Counsel advised the defendant that [ABHAN] was a common misdemeanor, that it would be a non-violent sentences and that I would do 55% of the time. Defense Counsel also advised defendant that he would be eligible for parole every year. With work credits and good time the sentence could even be less than 55%;"
- q. "Defense Counsel ineffective and deficient for failing to advise client of the right to withdraw his plea;"
- r. "Counsel extremely ineffective by failing to communicate. Not only failed to communicate but in fact had a complete breakdown in communication;"
- s. "Defense Counsel failed to tell me he was no longer my active counsel;"
- t. "Defense Counsel failed to advise me of the right to testify;"

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- u. "Defense Counsel suffered from serious health problems and was on medication. Counsel never informed me that he was on serious prescription medication that altered the state of his mind;"
 - v. "Defense Counsel beyond ineffective and deficient for failing to obtain complete discovery, failed to interview witnesses – State and defense, failed to move for a stand your ground hearing, failed to move for a change of venue, failed to properly instruct/charge the jury, failed to introduce material evidence, failed to object – failed to object to State's failure to disclose evidence and State's failure to correct false evidence, failed to advise client on: testifying, plea deal, appeal, failed to investigate the scene, failed to communicate, failed to disclose medication usage and condition. . . . Defense Counsel failed to expose and impeach witness who visited the alleged victim in the hospital potentially corroborating stories, Counsel failed to cross defendant's girlfriend and ask about her statements originally made;"
 - w. "Counsel failed to interview detectives;"
 - x. "Counsel failed to call EMS to testify who would of [sic] testified that the alleged victim did not know what happened;"
 - y. "Trial Counsel found ineffective for failing to raise a meritorious Fourth Amendment claim that defendant was improperly detained;"
 - z. "With regards to defense counsel failing to advise me of an appeal. Applicant was denied the right to a direct appeal of his sentence;" and
 - aa. "Trial Counsel did not attempt to prepare Applicant to testify in his own defense."
2. Prosecutorial Misconduct.
- a. "The State failed to disclose a news broadcast of the alleged victim and States [sic] main witness. . . . The State failed to disclose material impeachment evidence related to the States [sic] primary witness who is also the alleged victim;"
 - b. "The State failed to disclose the alleged victims [sic] toxicology report;"
 - c. "The State failed to disclose any medical/forensic report(s);"
 - d. "The State failed to correct false testimony, the State gave omission of hearsay to the jury and judge . . . the State failed to correct the judge's misunderstanding;"
 - e. "The State failed to disclose potentially exculpatory evidence of the Police Chief of Charleston's: notes, speeches, meetings with the alleged victim, video(s) – any and all inadvertent of the Chief in the case at hand;"
 - f. "The State held misconduct for the prosecuting solicitor Daniel Cooper should of [sic] either recused himself or disclosed a conflict of interest;"
 - g. "The State failed to uphold their plea deal offer in which was detrimentally relief on by the defendant. The offer informed was a non-

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violent sentence at 55% with parole eligibility every year, starting with the first year;"

- h. "The judge never questioned the defendant or informed that the charge and sentence were of great severity;" and
- i. "The State forced the alleged victim to testify."

Respondent filed its return and partial motion to dismiss on July 7, 2017, requesting an evidentiary hearing be held on Applicant's allegations of ineffective assistance of counsel and requesting Applicant's allegations of prosecutorial misconduct be summarily dismissed. Subsequently, through his counsel, Applicant filed an amended application for post-conviction relief on July 10, 2017. In this amendment Applicant raised the following grounds for relief:

1. "Trial counsel provided ineffective assistance of counsel for failing to make contemporaneous objections to the conduct described in the above paragraph and thereby failed to preserve these issues for appellate review;" and
2. "Applicant further alleges that trial counsel's failure to preserve these issue[s] for appellate review diminished his options for direct review and coerced him to accept a guilty plea."

A hearing into the matter was convened at the Charleston County Courthouse on July 23, 2018, before this Court. Applicant was present at the hearing and represented by James K. Falk, Esquire. Assistant Attorney General Kelly Oppenheimer of the South Carolina Attorney General's Office represented Respondent. At the hearing, Applicant proceeded on the following allegations:

1. Ineffective assistance of counsel for failing to move for a change in venue;
2. Ineffective assistance of counsel for failing to strike a juror;
3. Ineffective assistance of counsel for eliciting racial slurs made by Applicant;
4. Ineffective assistance of counsel for misinforming Applicant as to the consequences of his plea;
5. Ineffective assistance of counsel for failing to present evidence of self-defense and defense of others;
6. Ineffective assistance of counsel for failing to introduce evidence of the victim's toxicology report;
7. Ineffective assistance of counsel for failing to present mitigation evidence;
8. Ineffective assistance of counsel for failing to advise Applicant of his right to testify; and
9. Involuntary guilty plea.

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[Signature]

After hearing all the testimony presented at the evidentiary hearing, as well as arguments from both parties, this Court issued an order of dismissal on November 7, 2018, denying and dismissing the application with prejudice.

“A motion to alter or amend the judgment shall be served not later than ten (10) days after receipt of written notice of the entry of the order.” Rule 59(e), SCRCPP. “The purpose of Rule 59(e), SCRCPP, to alter or amend the judgment, is to request the [ruling] judge to ‘reconsider matters properly encompassed in a decision on the merits.’” Collins Music Co. v. IGT, 353 S.C. 559, 562, 579 S.E.2d 524, 525 (Ct. App. 2002). Subsequently, on November 20, 2018, Applicant, through his counsel, filed a “Motion to Reconsider, Alter or Amend Pursuant to Rule 59(e), SCRCPP.” Respondent submitted and filed its return on November 29, 2018.

III.

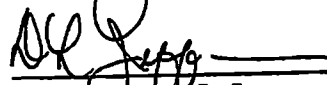
This Court finds its order of dismissal contains the required findings of facts and conclusions of law as required by S.C. Code Ann. § 17-27-80 (1976) and Rule 52(a), SCRCPP. See also McCray v. State, 305 S.C. 329, 408 S.E.2d 241 (1991). Having carefully reviewed the entire record in this matter, this Court finds there is no basis for altering or amending its prior ruling.² Therefore, this Court hereby denies Applicant’s motion in its entirety, and affirms the previous Order of Dismissal.

This Court notes if Applicant desires to secure appellate review of this order and the order of dismissal, a notice of appeal must be filed and served within thirty (30) days of the service of this order. Applicant is directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of appeal has been timely filed.

² The Court, in its discretion, has considered this matter based upon the motions submitted by the parties and the post-conviction

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[Signature]


AND, IT IS SO ORDERED this 7th day of Jan., 2019.

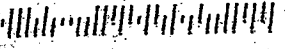


HON. DEADRA L. JEFFERSON
Presiding Judge
Ninth Judicial Circuit

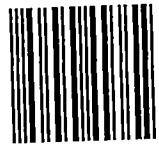
Charleston, South Carolina

relief file, since oral argument will not aid the Court in reaching its decision. See Rule 59(f), SCRPC.

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