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July 26, 2019

RECEIVED

JUL 29 2019

S.C. SUPREME COURT

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

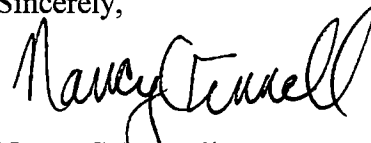
RE: Christian P. Rollins, #375131 v. State of South Carolina  
Case No. 2018-CP-06-00188

Dear Mr. Shearouse:

Enclosed for filing is a notice of appeal in the above case. Also enclosed are the following:

- (1) Proof of service of the notice of appeal on the respondent.
- (2) A copy of the order which is to be challenged on appeal.

Sincerely,



Nancy C. Fennell

cc: Taylor Z. Smith  
Assistant Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211-1549

Christian P. Rollins

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

RECEIVED

JUL 29 2019

APPEAL FROM BARNWELL COUNTY  
Court of Common Pleas

S.C. SUPREME COURT

J. Cordell Maddox, Jr., Circuit Court Judge

Case No. 2018-CP-06-00188

Christian P. Rollins, #375131,

Appellant

v.

State of South Carolina,

Respondent.

NOTICE OF APPEAL

Christian P. Rollins appeals the Order of the Honorable J. Cordell Maddox, Jr., dated June 25, 2019, a copy of which is attached. Appellant received written notice of entry of this Order on July 1, 2019.

July 26, 2019



Nancy C. Fennell  
Post Office Box 2176  
Irmo, South Carolina 29063  
(803) 553-1772  
Attorney for Appellant

Other Counsel of Record:  
Taylor Z. Smith  
Assistant Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211-1549  
Attorney for Respondent  
(803) 734-3970

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM BARNWELL COUNTY  
Court of Common Pleas

J. Cordell Maddox, Jr., Circuit Court Judge

Case No. 2018-CP-06-00188

Christian P. Rollins, #375131,

Appellant

v.

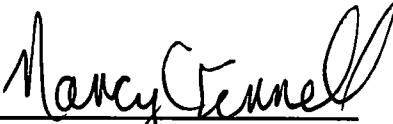
State of South Carolina,

Respondent.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Respondent by depositing a copy of it in the United States Mail, postage prepaid, on July 26, 2019, addressed to Respondent's attorney of record, Taylor Z. Smith, Assistant Attorney General, P.O. Box 11549, Columbia, South Carolina 29211-1549.

July 26, 2019

  
Nancy C. Fennell  
Post Office Box 2176  
Irmo, South Carolina 29063  
(803) 553-1772  
Attorney for Appellant

RECEIVED  
JUL 29 2019  
S.C. SUPREME COURT

STATE OF SOUTH CAROLINA )  
COUNTY OF BARNWELL )

IN THE COURT OF COMMON PLEAS  
FOR THE SECOND JUDICIAL CIRCUIT

Christian P. Rollins, #375131, )  
Applicant, )  
v. )  
State of South Carolina, )  
Respondent. )

Case No.: 2018-CP-06-0018

**Order of Dismissal**

RHONDA D. McELVEEN  
CLERK OF COURT  
BARNWELL COUNTY, S.C.

2019 JUN 27 AM 11:21

FILED FOR RECORD

This matter comes before the Court by way of an application for post-conviction relief filed on June 5, 2018, by Christian P. Rollins (Applicant). The State (Respondent) filed a Return on October 8, 2018, which included a motion for a more definite statement and requested an evidentiary hearing on Applicant's allegations. Respondent filed an Amended Return January 22, 2019. An evidentiary hearing into the matter was convened before the Honorable J. Cordell Maddox on May 14, 2019, at the Aiken County Courthouse. Applicant was present at the hearing and represented by Nancy C. Fennell, Esquire. Assistant Attorney General Taylor Z. Smith of the South Carolina Attorney General's Office appeared on behalf of Respondent. At the hearing, Applicant testified on his own behalf, and Assistant Public Defender Laura A. McCann testified on behalf of Respondent. 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.

**PROCEDURAL AND FACTUAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Barnwell County Clerk of Court. During its January of 2018 term, the Barnwell County Grand Jury indicted Applicant for armed robbery (2018-GS-06-00009). The charge resulted from an incident occurring on December 6, 2016, wherein Applicant and two

co-defendants, armed with firearms, ran inside the victim's trailer after a drug deal, fired a shot into the ceiling, and stole prescription pills and the victim's purse, which contained \$600.00 in cash and other important documents like her children's birth certificates. Applicant and the co-defendants ran from the trailer down the driveway and jumped into a burgundy-colored car and drove away. Plea Tr. 16-19.

On January 16, 2018, Applicant appeared before the Honorable Doyet A. Early, III, and pleaded guilty as indicted. Ms. McCann (Plea Counsel) represented Applicant at the plea hearing, and Deputy Solicitor David W. Miller prosecuted the case. Judge Early sentenced Applicant to imprisonment for the minimum sentence of ten years with credit for time served. Applicant did not appeal his guilty plea or sentence.

#### **CURRENT PROCEEDING**

During the evidentiary hearing, Applicant proceeded on the following allegations:

1. Ineffective Assistance of Counsel:
  - a. Plea Counsel failed to inform Applicant of all of the elements of the crime with which he was charged.
  - b. Plea Counsel failed to explain to Applicant the range of time to which he was exposed for each charge.
  - c. Plea Counsel failed to show Applicant the video evidence related to his case.
  - d. Plea Counsel failed to fully investigate and/or explain the evidence supporting the charges against Applicant.
  - e. Plea Counsel failed to request fingerprint evidence.
  - f. Plea Counsel recommended that Applicant take a plea bargain before receiving necessary evidence.
  - g. Plea Counsel failed to investigate and/or explain defenses available to Applicant.
  - h. Plea Counsel recommended a plea agreement based on contradictory witness statements.

An evidentiary hearing was held on March 14, 2019. At the start of the hearing, Applicant abandoned any and all allegations that may have been raised in either the original or amended

application but are not contained in the list provided above. As such, those abandoned allegations are denied and dismissed.

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

This Court has thoroughly reviewed the record in its entirety. Additionally, this Court heard the testimony presented at the evidentiary hearing and was able to observe the witnesses presented at the evidentiary hearing, which allowed the Court to scrutinize the credibility of all witnesses presented. 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).

Applicant, like all other defendants, has a right to the assistance of effective counsel as provided by the Sixth Amendment to the United States Constitution. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008). Applicant has the burden of proving the allegations in his post-conviction relief action, and when alleging that trial counsel was constitutionally ineffective, he must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that it cannot be relied upon as having produced a just result.” Strickland, 466 U.S. at 686

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, Applicant must prove that counsel’s performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). “Counsel is strongly presumed to have rendered adequate

assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel’s deficient performance must have prejudiced Petitioner such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel’s alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985). The “prejudice prong ordinarily requires more than simply a defendant’s assertion that but for counsel’s deficient performance he would not have pled but would have gone to trial.” Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 595 (2009).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, 466 U.S. 668.

Moreover, Strickland does not require a finding of ineffectiveness merely for deviation from some rigid rule of representation. Rather, Strickland requires the post-conviction relief applicant to prove “counsel made errors so serious that counsel was not functioning as the ‘counsel’ guaranteed the defendant by the Sixth Amendment.” Id. at 697. Therefore, the function of the post-conviction relief court is to determine if “in light of all the circumstances, the identified

acts or omissions were outside the wide range of professional competent assistance” required of a criminal defense attorney.” Id. at 690.

“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, 74 (1977)). “Indeed, where a thorough colloquy is conducted, courts must exercise caution in setting aside the guilty plea.” Garren v. State, 423 S.C. 1, 12, 813 S.E.2d 704, 712 (2018); see Jamison v. State, 410 S.C. 456, 469-71, 765 S.E.2d 123, 129-30 (2014) (observing that “guilty plea[s] must be treated as final in the vast majority of cases” and instructing that caution must be exercised so as not to “undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea”).

Based on this standard set forth above, this Court finds Applicant has failed to meet his requisite burden of establishing any constitutional ineffectiveness of counsel as to any of his various allegations. Each allegation is addressed fully below:

***Plea Counsel failed to inform Applicant of all of the elements of the crime with which he was charged. Plea Counsel failed to explain to Applicant the range of time to which he was exposed for each charge.***

Applicant testified that Plea Counsel met with him multiples times during the course of his case, about once per month. Applicant testified that Plea Counsel discussed the charge of armed robbery with him but did not discuss the elements of the offense. Applicant testified that he and Plea Counsel discussed taking his case to trial, that Plea Counsel did not discuss potential sentences with him, and that Plea Counsel informed him that he could face thirty or more years in prison if he were to be found guilty at trial.

Plea Counsel testified that she met with Applicant at least once a month during the course of her representation of him and that she met with him on at least twenty occasions before his plea hearing. Plea Counsel testified that she explained the elements and the potential sentences to Applicant during their meetings.

This Court finds that Plea Counsel did adequately explain to Applicant the elements of the offense with which Applicant was charged and the potential sentences to which he could be exposed for the charge over the course of her representation, during which time Plea Counsel met with Applicant at least twenty times. Applicant's own testimony was that Plea Counsel told him that he could face thirty or more years, which belies his allegation that Plea Counsel never discussed potential sentences with him. Plea Counsel informed the sentencing court at the plea hearing that she had informed Applicant of the charge and the potential sentences, and Applicant affirmed to the court that he understood the charge and the potential sentences. Applicant has failed to meet his burden in establishing the ineffectiveness of counsel as to these allegations since he has not shown either deficiency or prejudice in Plea Counsel's performance. As such, these allegations are denied and dismissed with prejudice.

***Plea Counsel failed to fully investigate and/or explain the evidence supporting the charges against Applicant. Plea Counsel failed to request fingerprint evidence. Plea Counsel failed to show Applicant the video evidence related to his case. Plea Counsel recommended that Applicant take a plea bargain before receiving necessary evidence.***

Applicant testified that he never saw the State's evidence against him. He testified that he wanted to see any fingerprint evidence obtained from the cartridge casing recovered by police from the scene of the crime, that Plea Counsel told him that she had requested that evidence from the State and that it could take up to a year to get fingerprint evidence from the State, that Plea Counsel told Applicant that she could only help him if his fingerprints were not on the casing recovered

from the scene, and that he never got to see any fingerprint evidence. Applicant testified that he requested that Plea Counsel show him the video recording of a statement or statements made by one of his co-defendants, but that Plea Counsel never showed him the video. Applicant further claims that he and Plea Counsel never met to prepare for trial, that he first learned about the State's evidence against him during the solicitor's recitation of facts during Applicant's plea hearing, and that Applicant would have taken his case to trial he had had all of the State's evidence against him before pleading guilty. Applicant testified that he informed Plea Counsel during the plea hearing that he wished to withdraw his plea and take his case to trial, but that Plea Counsel would not allow him to do so.

Plea Counsel testified that she did file discovery motions under Brady v. United States, 397 U.S. 742 (1970), and Rule 5 of the South Carolina Rules of Criminal Procedure, and received discovery from the State in response. She testified that she discussed the State's facts and evidence in detail with Applicant before his plea hearing. Plea Counsel said that her investigator's examination of the scene of the crime and conversations with the State's witnesses did not produce information that was favorable to Applicant's defense. Plea Counsel testified that she never received fingerprint evidence from the State and that the solicitor had informed her that the State had not conducted its own fingerprint analysis on the casing as it did not believe that fingerprint evidence was necessary for its case against Applicant. She testified that it would have been harmful to Applicant's defense had a fingerprint examination of the casing produced a print from Applicant, and that the lack of fingerprint evidence would not have yielded much benefit to Applicant's defense.

As to the video recording of the co-defendant's statement, Plea Counsel testified that she initially tried to show the recording to Applicant but was unable to do so due to a technical problem

with her computer. She testified that she was able to play the video for him later, and that she reviewed both co-defendants' statements and the victim's statement with Applicant. She testified that the statement recorded on the videotape was similar to other statements that the State had in its possession and that the recording was not helpful to Applicant's defense.

Plea Counsel testified that she does not remember whether Applicant informed her during the plea hearing that he wanted to withdraw his guilty plea, and noted that the Public Defender's Office had lost the file created during her representation of Applicant; however, Plea Counsel also testified that she would have notified the sentencing court of Applicant's desire to withdraw his plea and taken his case to trial had he told her of a desire to go to withdraw and go to trial. The plea transcript gives no indication that Applicant wanted to withdraw his guilty plea during the plea hearing, and neither Applicant nor Plea Counsel mentioned Applicant's alleged desire to withdraw his guilty plea during that hearing. Applicant testified that he did affirm to the sentencing court that he was satisfied with Plea Counsel's representation and testified that he declined the offer of the sentencing court to make a statement.

"Counsel's concern is the faithful representation of the interest of his client and such representation frequently involves highly practical considerations as well as specialized knowledge of the law." Tollett v. Henderson, 411 U.S. 258, 267-68 (1973). "Although counsel should conduct a reasonable investigation into potential defenses, Strickland does not impose a constitutional requirement that counsel uncover every scrap of evidence that could conceivably help their client." Tucker, 350 F.3d at 442 (quoting Green v. French, 143 F.3d 865, 892 (4th Cir. 1998)). "In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to

counsel's judgements." Strickland, 466 U.S. at 691; Wiggins v. Smith, 539 U.S. 510, 521-22 (2003).

This Court finds that Plea Counsel's testimony with respect to these allegations is credible, whereas Applicant's testimony is not credible. Plea Counsel thoroughly investigated the evidence and explained it to Applicant. Plea Counsel made a reasonable and strategic judgment that any fingerprint analysis performed on the bullet would have been largely irrelevant and unhelpful to Applicant's defense in light of the witness testimonies that would have been presented at trial; therefore, it was reasonable to advise Applicant on the merits of his defense before any fingerprint analysis was completed on the bullet. Plea Counsel did show the co-defendant's videotaped statement to Applicant. Applicant affirmed at the plea hearing that he was "completely and totally satisfied" with Plea Counsel's representation of him, that Plea Counsel was adequately prepared to defend him, and that there was nothing further that he wanted Plea Counsel to do for him other than speak on his behalf at the plea hearing. Plea Counsel conducted a reasonable investigation into the evidence of the case and potential defenses available to Applicant. Applicant has failed to meet his burden in establishing the ineffectiveness of counsel as to these allegations since he has not shown either deficiency or prejudice in Plea Counsel's performance. As such, these allegation are denied and dismissed with prejudice.

***Plea Counsel recommended a plea agreement based on contradictory witness statements.***

Applicant testified that he was concerned with statements of the witnesses and/or co-defendants that he believed to be contradictory. Plea Counsel testified that the co-defendant's videotaped statement was similar to other statements that the State had in its possession and that the recording was not helpful to Applicant's defense. Plea Counsel testified that the co-defendants would have testified against Applicant should he have gone to trial, and that they would have

presented testimony that the armed robbery was a planned crime in which Applicant was involved. Plea Counsel testified that she believed that Applicant would have been found guilty despite any discrepancies in the co-defendants' and victim's statements because the discrepancies did not negate the elements of the offense. She also testified that the victim was one of Applicant's relatives, and would have likely testified against Applicant had the case gone to trial, negating any usefulness of contradictory co-defendant testimony. Plea Counsel testified that she had a motherly approach to her interactions with Applicant, but that she did not tell Applicant that he had to plead guilty.

This Court finds that Plea Counsel conducted a reasonable investigation in the evidence of the case, including the victim's and co-defendants' statements, and has discussed elsewhere in this Order the reasonableness of Plea Counsel's evaluation of the quality and helpfulness of the evidence. Applicant affirmed at the evidentiary hearing that the sentencing court had informed him that he could have exercised his trial rights rather than pleading guilty, and that he would have had the right to confront the State's witnesses thereby, and that the sentencing court informed him that he would be waiving those rights by pleading guilty. Plea Counsel did not tell Applicant that he had to plead guilty, but presented the State's evidence and her advice to him so that he could make his own decision about whether to plead guilty or take his case to trial. Further, at the plea hearing, Applicant affirmed that he was pleading guilty of his own free will. Applicant has failed to meet his burden in establishing the ineffectiveness of counsel as to this allegation since he has not shown either deficiency or prejudice in Plea Counsel's performance. As such, this allegation is denied and dismissed with prejudice.

***Plea Counsel failed to investigate and/or explain defenses available to Applicant.***

Applicant testified that Plea Counsel did not discuss with him potential defenses and that they never met to prepare for trial. Plea Counsel testified that she did discuss potential defenses with Applicant and the way in which the co-defendants' and victim's statements would have been detrimental to Applicant's defense at trial. Plea Counsel testified that Applicant disputed certain factual allegations by the State, but that the disputed points did not form the basis of any of the elements of the offense. Notably, Plea Counsel nevertheless relayed Applicant's disagreements with the State's factual summary to the sentencing court during the plea hearing by informing the sentencing court that Applicant disputed taking the victim's purse when he fled the scene, disputed holding the firearm that was fired into the victim's ceiling, and disputed that the victim's children were present in the trailer during the robbery.

This Court finds that Plea Counsel's testimony with respect to this allegation is credible, whereas Applicant's testimony is not credible. Plea Counsel did investigate potential defenses by evaluating the quality and helpfulness of the evidence, as has been noted in findings elsewhere in this Order. Plea Counsel did explain any available potential defenses to Applicant. As has also been found elsewhere in this Order, Applicant affirmed at the plea hearing that he was highly satisfied with Plea Counsel's representation and that he was waiving his trial rights by pleading guilty. Applicant has failed to meet his burden in establishing the ineffectiveness of counsel as to this allegation since he has not shown either deficiency or prejudice in Plea Counsel's performance. As such, this allegation is denied and dismissed with prejudice.

## CONCLUSION

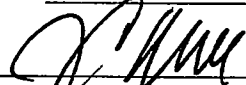
Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

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), SCRCP, 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.

### **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.

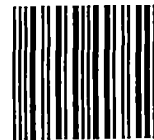
AND IT IS SO ORDERED this 25 day of June, 2019.

  
\_\_\_\_\_  
J. CORDELL MADDOX  
Presiding Judge

Anderson, South Carolina



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