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August 12, 2019

RECEIVED

AUG 16 2019

S.C. SUPREME COURT

Via US Mail

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

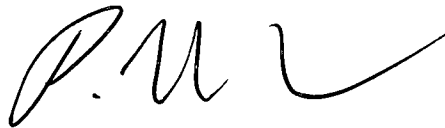
Re: *Notice of Intent to Appeal from Booker T. Hill vs. State of South Carolina C.A.*
No.: 2018-CP-23-5860

Dear Mr. Shearouse:

I was Court Appointed in the above referenced matter, and I expect that appellate defense will handle the appeal and petition for certiorari. On behalf of my client, enclosed for filing please find the Notice of Appeal and proof of service. I've enclosed a copy of the Honorable Brian M. Gibbons' Order of Dismissal to be challenged on appeal. By copy of this letter, I am also serving my client, counsel for the State of South Carolina, the South Carolina Commission of Indigent Defense - Appellate Defense Division and the Greenville County Clerk's Office.

Thank you for your assistance in this matter and if you have any questions, please feel free to contact me.

Sincerely,
LAW OFFICE OF R. MILLS ARIAIL, JR.
Attorney at Law



R. Mills Ariail, Jr.

RMAjr/dl
Enclosures (as stated)

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Brian M. Gibbons, Circuit Court Judge

Case No. 2018-CP-23-5860

RECEIVED

AUG 16 2019

S.C. SUPREME COURT

Booker T. Hill,..... Appellant,

v.

State of South Carolina Respondent.

NOTICE OF APPEAL

Appellant appeals the Honorable Brian M. Gibbons' Order of Dismissal dismissing Appellant's application for post-conviction relief. On July 19, 2019, the Honorable Brian M. Gibbons signed an order dismissing Appellant's application for post-conviction relief with prejudice. Appellant, through counsel, received written notice of entry of this order on August 1, 2109. A copy of the Honorable Brian M. Gibbons' Order of Dismissal is attached.



R. Mills Ariail, Jr.
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Telephone (864) 232-9390
Facsimile (864) 232-9392
Attorney for Booker T. Hill

Greenville, South Carolina
August 12, 2019

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

AUG 16 2019

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Brian M. Gibbons, Circuit Court Judge

Case No.2018-CP-23-5860

Booker T. Hill,..... Appellant,

v.

State of South Carolina Respondent.

CERTIFICATE OF SERVICE

I, Denise Tanner LaBeck, paralegal to R. Mills Ariail, Jr., do hereby certify that on this August 12, 2019, I served upon the below named Respondents copies of the **NOTICE OF APPEAL** by depositing copies of the same via U.S. Mail, postage prepaid, Registered Mail in an envelope addressed as set forth herein below:

Taylor Z. Smith, Esq.
Assistant Attorney General
PO Box 11549
Columbia, SC 29211
Attorney for the State of South Carolina

Greenville County Clerk's Office
Greenville County Courthouse
305 East North Street
Greenville, SC 29601

Booker T. Hill SCDC# 131643
Kirkland Correctional Institution
4344 Broad River Road
Columbia, SC 29210

SC Commission of Indigent Defense
Division of Appellate Defense
PO Box 11433
Columbia, SC 29211-1433

Denise Tanner LaBeck
Denise Tanner LaBeck

August 12, 2019

STATE OF SOUTH CAROLINA)
 COUNTY OF GREENVILLE)
)
)
 Booker T. Hill, #131643,)
)
 Applicant,)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE THIRTEENTH JUDICIAL CIRCUIT

Case No.: 2018-CP-23-5860

**ORDER OF DISMISSAL
 RECEIVED**

AUG 16 2019

S.C. SUPREME COURT

FILED-CLERK OF COURT
 PAUL B. WICKHAM
 GREENVILLE, SOUTH CAROLINA

2019 JUL 29 PM 3:36

This matter comes before the Court by way of an Application for Post-Conviction Relief filed on November 19, 2018, by Booker T. Hill (Applicant). The State (Respondent) filed a Return and Motion for More Definite Statement on May 8, 2019. An evidentiary hearing into the matter was convened before the Honorable Brian M. Gibbons on June 3, 2019, at the Greenville County Courthouse. Applicant was present at the hearing and represented by R. Mills Ariail, Jr., 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 Richard H. Warder, Esquire, (Counsel) 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 HISTORY

Applicant is presently incarcerated in the South Carolina Department of Corrections pursuant to orders of the Greenville County Clerk of Court. During its November of 2017 term, the Greenville County Grand Jury indicted Applicant for attempted murder (2017-GS-23-01832) and possession of a weapon during the commission of a violent crime (2017-GS-23-01832). During its May of 2018 term, the Greenville County Grand Jury indicted Applicant for armed



robbery (2017-GS-23-001778A). Applicant was represented by Counsel in the cases, and Assistant Solicitor Hunter C. Blouin of the Thirteenth Circuit Solicitor's Office prosecuted the case. On July 17, 2018, Applicant appeared before the Honorable Edward W. Miller and pleaded guilty to all three charges as indicted without any sentencing recommendation from the State. Judge Miller sentenced Applicant to ten years for attempted murder, ten years for armed robbery, and five years for possession of a weapon during the commission of a violent crime, with credit for time served, and with all sentences running concurrently. Applicant did not appeal his guilty pleas of sentences.

CURRENT PROCEEDING

Respondent requested at the start of the hearing that Applicant specify for the record the grounds upon which Applicant would move forward at the hearing. Applicant specified that he was moving forward only upon the allegations presented in the Application for Post-Conviction Relief, which are:

1. Ineffective Assistance of Counsel:
 - a. Counsel unreasonably failed to take the case to trial as he was hired and directed to do.
 - b. Counsel failed to contact and prepare for trial two witnesses.
 - c. Applicant told Counsel to check the store's security video.
 - d. Counsel enlisted Applicant's wife to convince Applicant to plead guilty to the charges despite Applicant's desire to go to trial.
 - e. Applicant told counsel on more than one occasion that he wanted a trial by jury since he was not guilty.
 - f. Counsel did not check on the status of the second attempted murder charge, or contact the witnesses, or do much of anything for the money he was paid.
 - g. Counsel failed to object to solicitor's statement that Applicant had committed a second murder.
 - h. Counsel failed to take any reasonable action to intercede on Applicant's behalf when solicitor referred to second attempted murder charge.
 - i. Counsel did not inform Applicant of potential sentences.
 - j. Counsel did not explain the elements of the offenses charged.



2. Involuntarily Guilty Plea

- a. Applicant did not enter his guilty pleas knowingly, intelligently, and voluntarily, and would have insisted on trial but for counsel's errors.

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

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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. The allegations are addressed fully below:

Counsel did not inform Applicant of potential sentences. Counsel did not explain the elements of the offenses charged.

The basis of these allegations is that Applicant was alleging that Counsel did not tell him the potential sentences that he could face for the charges of armed robbery, attempted murder, and possession of a weapon during the commission of a violent crime, and that Counsel did not explain to him the elements of those three crimes.

Applicant testified that Counsel did not inform him of the potential sentences that he could be facing or the elements of the offenses charged. He testified that he met Counsel on five to ten occasions during the course of Counsel’s representation of him.

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Counsel testified that he has been practicing law for forty-five years, and that his practice has been devoted exclusively to criminal law in the past fifteen to twenty years. He testified that he had participated in ten to fifteen meetings in preparation for Applicant's defense, which would have included Counsel's meetings with his investigator and his meetings with Applicant. He testified that he explained the elements of the offenses, defenses available to Applicant, and sentences to which Applicant was exposed in his case. He testified that Applicant always understood his legal advice and explanations, but that Applicant argued with him during the representation because Applicant did not agree with the law and Counsel's explanation thereof.

This Court finds that Counsel did review with Applicant the nature of the charges and the elements thereof, potential defenses that were available to Applicant, and potential sentences to which Applicant would have been exposed. At the plea hearing, Applicant affirmed to Judge Miller that he understood when Judge Miller read the indictments and potential sentences to him. Plea Tr. 5-6. Applicant has failed to meet his burden in establishing the constitutional ineffectiveness of counsel as to these allegations since he has not shown any deficiency or resulting prejudice in Counsel's performance. As such, these allegations are denied and dismissed with prejudice.

Counsel failed to contact and prepare for trial two witnesses. Applicant told Counsel to check the store's security video.

The basis of these allegations is that Applicant was alleging that he told Counsel about two potential witnesses that he wanted to call at trial and that Counsel did not contact them or call them as witnesses at trial, and that Counsel did not acquire a copy of security camera footage of the store so as to use it to defend Applicant at trial.

Applicant testified that he presented the names of two eyewitnesses to Counsel: Anthony Booth and one other person named Raheem. Applicant could not provide or remember the last name of Raheem at the time of the evidentiary hearing. He testified that Counsel told him that he



had been unable to establish contact with the two witnesses. He testified that he believed that the testimony of the two witnesses would have been beneficial to his defense if they had been called at his trial.

Applicant testified that Counsel started working on his case immediately after he hired him, but that Counsel did not explain to him the evidence gathered through discovery. He testified that he wanted Counsel to get the surveillance camera footage from the store and then show it to Applicant.

Counsel testified that Applicant did share with him the name of supposed witnesses that he suggested could be called to testify on his behalf at trial, but Counsel also testified that he believed that the two witnesses named by Applicant at the evidentiary hearing were not the same witnesses suggested to him by Applicant during the course of his representation of Applicant. Counsel testified that he attempted to contact the potential witnesses suggested to him by Applicant, did not have success in locating them, and that he would have had any witness that he had discovered testify at Applicant's trial if the testimony would have been beneficial to Applicant's defense. Counsel testified that, in accordance with his investigation of the case and his preparation of the case for trial, he had either issued a subpoena and had it served on one of the two alleged witnesses mentioned by Applicant at the evidentiary hearing, or else that he had attempted to have it served without success.

"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

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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).

Counsel testified that he reviewed all discovery with Applicant, including the store’s surveillance footage. He testified that the surveillance footage only showed the inside of the store, and not the outside; therefore, the camera only captured the portion of events that occurred inside the store. He testified that the struggle between Applicant and the victim occurred outside of the store, and so the video did not prove that Applicant did not stab the victim. He testified that the doctor who treated the victim believed that the weapon used to harm the victim was a knife but that Applicant admitted that he struck the victim, but said that he did so with his car keys and not a knife. He also testified that he believes that Applicant had wanted to claim at the time that he was never present at the store.

This Court finds that Counsel conducted reasonable investigation in preparation for the case. Applicant put forth at the evidentiary hearing the names of two individuals that he alleged could have been witnesses for him at trial, and claimed that he shared this information with Counsel. For one of the two supposed witnesses, Applicant failed to remember the witness’s last name. Counsel attempted to contact all potential witness identified for him by Applicant, and even issued a subpoena for one of the two potential witnesses mentioned by Applicant at the evidentiary hearing in preparation for trial. Applicant did not present at the evidentiary the testimony from any of the alleged witnesses, but has merely speculated that their testimony would have been helpful; Applicant therefore has failed to show that any testimony provided by these witnesses at trial

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would have been beneficial to his defense. This Court finds that Applicant's allegation that Counsel did not investigate potential witnesses is not credible in light of Counsel's testimony and Applicant's testimony at the plea hearing. During Applicant's plea hearing, Judge Miller informed Applicant that he would have the right, among other rights, to "compel in court all relevant and competent evidence" in Applicant's defense at trial, and Applicant affirmed that he understood his right, and nevertheless pleaded guilty. Plea Tr. 7.

This Court finds that Counsel adequately reviewed the discovery in the case with Applicant, including the security camera footage. Even Applicant admits that Counsel met with him on multiple occasions, but his allegation that Counsel never reviewed discovery or the store's surveillance footage with him is not credible in light of Counsel's testimony and Applicant's testimony at the plea hearing. Counsel reviewed the evidence in the case with Applicant, including the surveillance footage, and discussed its significance with Applicant. At the plea hearing, Applicant affirmed to Judge Miller that he was "totally satisfied" with Counsel and that he knew of the evidence that the State had against him. Plea Tr. 7. After the solicitor presented a recitation of the facts supporting the charges against Applicant, Applicant affirmed to Judge Miller that the solicitor's recitation was "substantially true and correct." Plea Tr. 8-9.

Applicant has failed to meet his burden in establishing the constitutional ineffectiveness of counsel as to these allegations since he has not shown any deficiency or resulting prejudice in Counsel's performance. As such, these allegations are denied and dismissed with prejudice.

Counsel did not check on the status of the second attempted murder charge, or contact the witnesses, or do much of anything for the money he was paid. Counsel failed to object to solicitor's statement that Applicant had committed a second murder. Counsel failed to take any reasonable action to intercede on Applicant's behalf when solicitor referred to second attempted murder charge.

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The basis of these allegations is that Applicant was alleging that he had a second attempted murder charge pending against him in an unrelated case and that Applicant was ineffective for allowing the solicitor to use this second case to improperly prejudice Applicant during the plea hearing of the criminal case that underlies this action.

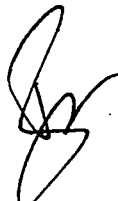
Applicant testified that he had another pending attempted murder charge against him at the time of his case. Counsel testified that Applicant's other attempted murder case and that it was ultimately dismissed. Counsel testified that the solicitor did not make any statements to the court at sentencing about that other case.

As addressed elsewhere in this Order, Counsel conducted a reasonable investigation, and this Court reaffirms that Applicant's allegations here to the contrary are without merit. This Court finds that the solicitor did not make comments to the court during sentencing about Applicant's second attempted murder case. Counsel testified that the solicitor did not make such comments to the plea court during the plea hearing. The transcript of the plea hearing gives no indication that such comments were made. Applicant's allegations that these comments were made are without merit and lack credibility.

Applicant has failed to meet his burden in establishing the constitutional ineffectiveness of counsel as to these allegations since he has not shown any deficiency or resulting prejudice in Counsel's performance. As such, these allegations are denied and dismissed with prejudice.

Guilty plea was not entered voluntarily and intelligently. Counsel enlisted Applicant's wife to convince Applicant to plead guilty to the charges despite Applicant's desire to go to trial. Applicant told counsel on more than one occasion that he wanted a trial by jury since he was not guilty. Counsel unreasonably failed to take the case to trial as he was hired and directed to do.

The basis of these allegations is that Applicant was alleging that he did not want to plead guilty but wanted a trial, but that Counsel employed multiple means to coerce him into pleading



guilty against his will, including having Applicant's wife beg him to plead guilty and threatening to intentionally lose his case at trial if he refused to plead guilty.

Applicant testified that he desired to take his case to trial. He testified that he begged Counsel on multiple occasions for a jury trial. He testified that he pleaded guilty because Counsel threatened him by telling him that he would be sentenced to thirty years in prison if he went to trial. He testified that Counsel coerced him to plead guilty. He testified that he only pleaded guilty because his wife wrote a letter to him at Counsel's request, in which she begged Applicant to plead guilty. He testified that he did not give any verbal indication to Judge Miller at the plea hearing that he was pleading guilty under duress from Counsel; rather, he testified that, during the plea hearing, he was trying to use his body language and other physical cues to send a signal to Judge Miller that he was only pleading guilty because of coercion from Counsel. When asked to demonstrate to this Court the physical cues that Applicant was allegedly attempting to give Judge Miller during the plea hearing, Applicant opened his eyes widely and looked at the Court intensely. He testified that he did not do more to alert Judge Miller to the alleged coercion on the part of Counsel because he was afraid that Counsel would take revenge upon him by intentionally losing Applicant's case if it were to thereafter go to trial.

Counsel testified that Applicant did ask for a trial during his representation, and that Counsel was preparing the case for trial in response. He testified that he advised Applicant that he believed that Applicant would be found guilty if he proceeded to trial based upon the evidence that the State would present and that Applicant could be facing extensive prison time following a trial, possibly as much as thirty years. He testified that the surveillance camera footage from inside the store showed part of the crime and that, although there was no surveillance camera footage of the struggle between Applicant and the victim outside of the store, that other evidence would have

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been used against Applicant had he taken his case to trial. He testified that Applicant admitted to him that he had attempted to steal liquor and that he had struck the victim outside the store, but that Applicant told him that he had struck victim with his car keys. He testified that he does not remember Applicant's ever being "dead set" on taking the case to trial. He testified that Applicant ultimately decided to plead guilty. He testified that he did not coerce Applicant into pleading guilty, did not threaten Applicant, and would have tried the case had Applicant backed out of Applicant's decision to plead guilty. He testified that he did not coerce Applicant through Applicant's wife. He testified that he did not see any behavior on the part of Applicant during the plead hearing, body language or eye movements, that indicated that Applicant was attempting to send secret messages to Judge Miller.

This Court finds that Counsel was not deficient in advising Applicant of the risks of proceeding to trial and the potential sentence that he could face if found guilty following a trial, and that Counsel's evaluation of the merits of Applicant's case was reasonable and competent. "A defendant who pleads guilty upon the advice of counsel may only attack the voluntary and intelligent character of the guilty plea by showing that the advice he received from counsel was not within the range of" required competence for criminal defense attorneys. Richardson v. State, 310 S.C. 360, 363, 426 S.E.2d 795, 797 (1993). Plea counsel is not deficient for advising a defendant to plead guilty based on what counsel believes the sentence would be if the defendant were convicted at trial. See Bennett v. State, 371 S.C. 198, 204-05, 638 S.E.2d 673, 676 (2006). Counsel advised Applicant that he believed that Applicant would be found guilty following a trial, and advised Applicant of the potential sentence that Applicant could face thereafter. Counsel based his advice on the evidence in the case and his reading of the case law.

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Applicant's allegations that Counsel coerced him and threatened him in order to get him to plead guilty are contradicted by Counsel's more credible testimony and by the transcript from Applicant's plea hearing, which gives no indication that Applicant was attempting to give messages to Judge Miller through eye movements or that Applicant was coerced into pleading guilty. On the contrary, Judge Miller asked Applicant during the plea hearing whether it was Applicant's free and voluntary choice to plead guilty, and Applicant affirmed that it was. Plea Tr. 6-7. After the solicitor presented a recitation of the facts supporting the charges against Applicant, Applicant affirmed to Judge Miller that the solicitor's recitation was "substantially true and correct." Plea Tr. 8-9. Applicant affirmed to Judge Miller that he was guilty. Plea Tr. 7. Applicant made his decision to plead guilty based upon Counsel's advice as to the evidence, the findings of Counsel's investigation, and the potential sentence that he could face in sentencing. Counsel did not coerce Applicant to plead guilty, threaten him with a particular sentence, or threaten to intentionally throw Applicant's case at trial if he were to proceed to trial; indeed, Counsel was preparing the case for trial in the event that it did go to trial. Applicant made his decision to plead guilty freely and without coercion, and based upon the merits of his defense and the potential sentence that could result after a trial.

Applicant has failed to meet his burden in establishing the constitutional ineffectiveness of counsel as to these allegations since he has not shown any deficiency or resulting prejudice in Counsel's performance, or that the advice given to him by Counsel was outside the range of required competence for criminal defense attorneys. As such, these allegations are denied and dismissed with prejudice.

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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:

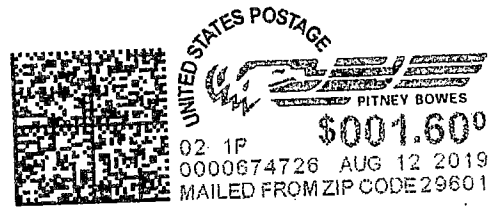
1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant will remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this _____ day of _____ 7/19, 2019.

[Signature], South Carolina

[Signature]
BRIAN M. GIBBONS
Presiding Judge

Copy mailed to
Attorney general / Ariail
on 7 / 29 / 2019



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