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August 29, 2019
Clerk of Court
Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211

Re: Alfred Q. Dunkin v State 374134, 2018-CP-26-4480

Dear Clerk Shearouse:

Please find the enclosed Notice of Appeal, Proof of Service, in the above Horry 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:
Jacob Isenberg, Esq
Alfred Q Dunkin 374134
Horry County Circuit Court Clerk

THE STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

Honorable John C Hayes, Circuit Judge

Case No.: 2018-CP-26-4480

Alfred Q Dunkin 374134.....PETITIONER

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, Jacob Isenberg Esq. Office of the S.C. Attorney General, PO Box 11549, Columbia, SC 29211-1549 and the Horry County Clerk of Court, PO Box 677, Conway, SC 29526. I further certify that all parties required by Rule to be served have been served this August 29, 2019.

James K Falk
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Charleston, SC 29402

THE STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM HORRY COUNTY

Court of Common Pleas

Honorable John C Hayes, Circuit Judge

Case No.: 2018-CP-26-4480

Alfred Q. Dunkin, Jr. 374134.....PETITIONER

V.

State of South Carolina.....RESPONDENT

NOTICE OF APPEAL

The Petitioner Alfred Q Dunkin. appeals the Honorable John C. Hayes' August 14, 2019 Order of Dismissal. Undersigned counsel received notice of entry of the order on August 8, 2019. A copy of the order on appeal is attached hereto.

James K Falk
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August 29, 2019

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

Clerk of Court- Horry County CP
PO Box 677
Horry, SC 29526

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	
	)	
Alfred Q. Dunkin, S.C.D.C. No. 374134,	)	Case No.: 2018-CP-26-4480
	)	
Applicant,	)	
	)	**ORDER OF DISMISSAL**
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

This matter comes before the Court by way of an application for post-conviction relief filed by Alfred Q. Dunkin ("Applicant") on August 2, 2018. Respondent served its return on December 3, 2018. The Court convened an evidentiary hearing into the matter on June 18, 2019, at the Horry County Courthosue in Conway, South Carolina. Applicant was present at the hearing and represented by James K. Falk, Esquire. Jacob A. Isenberg, of the South Carolina Attorney General's Office, represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Applicant's plea counsel, Erin Bailey, Esquire ("Counsel") also testified. The Court had before it Applicant's records from the South Carolina Department of Corrections, a copy of the original plea transcript, the records of the Horry County Clerk of Court regarding the subject convictions, and the pleadings. After a thorough review of all the evidence and testimony presented, this Court finds Applicant has not met his burden of establishing any constitutional deprivations or other grounds entitling him to relief and denies and dismisses this application with prejudice.

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Horry County Clerk of Court. Applicant was indicted at the April 2017 term of the Horry County Grand Jury for armed robbery (2017-GS-26-01879). Applicant later waived presentment of an indictment to the grand jury for accessory after the fact to murder (2017-GS-26-03245).[1] The underlying facts, as affirmed by Applicant at his plea, are as follows:

> [O]n Wednesday, November 4th, 2015, law enforcement responded to 2221 Technology Boulevard, Conway section of Horry County. And they responded to a call for a shooting. There they found the victim, Mr. Craig Gray. He had sustained several gunshot wounds and ultimately did die as a result of those wounds. And, what transpired was that Mr. Dunkin and his codefendant Jordan Principe went to Mr. Gray's apartment allegedly to purchase marijuana. However, there was a gun on Mr. Principe. Mr. Dunkin knew that the gun was there and knew that at some point, Mr. Principe had wanted to conduct a robbery, and he went with Principe to the location. During the exchange, there was an altercation. Ultimately, Mr. Principe did shoot the victim, Mr. Gray. And the charge of accessory after the fact comes from [the] fact that Mr. Dunkin was the one that hid the gun and took other steps to conceal the crime that had occurred.

(Plea Tr. 8-9). Erin E. Bailey, Esq. represented Applicant. Joshua D. Holford, Esquire, and Cara Walker, Esquire, of the Fifteenth Circuit Solicitor's Office, prosecuted the case. On August 28, 2017, Applicant pled guilty before the Honorable Steven H. John as above indicted. Sentencing was held in abeyance pending Applicant's testimony in the matter of State v. Jordan Principe.[2] On October 3, 2017, the Honorable Larry B. Hyman, Jr. sentenced Applicant to imprisonment for concurrent terms of fourteen years. Applicant did not appeal his plea or sentence.

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[1] Applicant was additionally indicted at the January 2016 term for murder (2016-GS-26-00265), and possession of a weapon during the commission of a violent crime (2016-GS-26-00264). These indictments were dismissed *nolle prosequi* as part of his guilty plea.

[2] Mr. Principe waived his right to a jury trial to plead guilty to voluntary manslaughter on or about October 2, 2017. See State v. Jordan Pasquale Principe, 2015 A26 20400886. Mr. Principe received a sentence of twenty-five years.

II. PRESENT APPLICATION

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

1. "Ineffective Assistance of Counsel"
2. "Plea was not knowing, intelligently, and voluntarily made."

Applicant requests relief as follows:

- Reversal and Remand

At the evidentiary hearing, Applicant specified his ineffective assistance of counsel claims were a failure to investigate the getaway driver, and failure to prepare defenses for armed robbery. Additionally, Applicant went forward on an allegation his plea was rendered involuntary due to duress.

III. SUMMARIZATION OF EVIDENTIARY HEARING TESTIMONY

Applicant

Applicant testified on his own behalf at the evidentiary hearing. Applicant testified he met with Counsel a lot of times before the plea hearing.

Additionally, Applicant testified he did not want to plead to anything saying he killed anyone. Specifically, Applicant testified he was at an apartment with Principe, Craig, and Craig's girlfriend. He further testified Craig and Principe got into an argument over the quality of marijuana. Thereafter, Craig told his girlfriend to go grab the shotgun. At this point, Principe started to shoot Craig. Applicant testified he was devastated because Craig was his friend.

At some point, Applicant testified Principe him wanted to snatch the weed from Craig. Applicant testified his response was a flat no.

Applicant testified he listened to the questions presented at his plea hearing. However, Applicant testified Counsel directed him to answer yes or no to every question. He further testified

to being under duress throughout the entire hearing. Applicant testified this duress came from wanting to spend less time in prison.

Applicant again testified he would not plea to anything stating he killed anybody. He further testified Counsel came back with an offer of accessory after the fact and armed robbery.

Applicant testified Counsel worked very hard for him. He further testified the eventual plea agreement was contingent upon testifying against Principe. However, Applicant testified Principe pled so he did not have to testify to get the plea agreement.

Counsel

Counsel testified on behalf of Respondent at the evidentiary hearing. Counsel testified she originally took this case after the previous lawyer was removed. According to Counsel, she began with a thirty year offer based upon pleading guilty to murder. At this point, Counsel was aware Applicant gave previous statements beneficial for the Assistant Solicitor's case against Principe. Thereafter, Counsel testified she met with Applicant in jail. Counsel testified she notified Applicant they would meet again after she received discovery.

On February 22, 2017, Counsel met with Applicant for over two hours. Counsel testified they met after Applicant and Principe took a polygraph because they repeatedly accused each other of murder.

Counsel testified she emailed the Assistant Solicitor about his stance on the case in March 2017. A few days later, Counsel met with Applicant to discuss his options. Thereafter, Counsel emailed the jail on behalf of Applicant in regards to medication issues. She met with Applicant again in May 2017.

In June 2017, Counsel received forensic evidence on the weapon fired at the crime scene. Thereafter, she met with Applicant to review this evidence. After this meeting, Counsel testified

she sent a very detailed letter to the Assistant Solicitor arguing Applicant was not the shooter. The Assistant Solicitor responded with an offer to recommend twenty years in exchange for pleading guilty to manslaughter. Counsel testified Applicant rejected this offer because he would not accept responsibility for killing anybody.

Counsel testified there was evidence to show a plan to take drugs without paying. Counsel further testified evidence showed Applicant had general knowledge Principe was carrying a gun. Counsel also testified Applicant was the middleman, or contact, between Principe and Craig.

Counsel testified the common goal all along was to get an offer of accessory. Counsel testified they got this offer with a recommendation of ten to twenty years. Therefore, Counsel testified she told Applicant to expect the court to give him between ten and twenty years.

Counsel testified they discussed defenses to armed robbery. Specifically, Counsel testified they discussed abandonment based upon Applicant potentially ditching the plan to rob Craig. Counsel testified the main issue on this charge was they had a getaway drive waiting outside.

Counsel testified Applicant had a hard time accepting the legal theory of hand of one is the hand of all. Counsel testified she explained to Applicant even the getaway driver could be convicted under hand of one is the hand of all. Counsel testified she did not know why the getaway driver was not charged. However, Counsel testified she did not push to have the getaway driver prosecuted. Counsel testified she was hopeful the getaway driver would support Applicant's version of events.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed 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 records submitted to it by the parties and the

legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings based upon all of the probative evidence presented.

A. Ineffective Assistance of Counsel

Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his 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, Applicant 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 v. Washington, 466 U.S. 668, 686 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Applicant must prove that counsel's performance was deficient. Strickland, 466 U.S. at 686; 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, 286 S.C. at 442, 334 S.E.2d at 814. "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). "When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." Yarborough v. Gentry, 540 U.S. 1, 5 (2003) (citing Strickland, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons

counsel may have had for proceeding as they did. Cullen v. Pinholster, 563 U.S. 170, 196 (2011); Harrington v. Richter, 562 U.S. 86, 109-10 (2011). "[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight." Yarborough, 540 U.S. at 6; see also Murphy v. Davis, 901 F.3d 578, 592 (5th Cir. 2018) ("[C]ounsel's performance need not be optimal to be reasonable."). 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 Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury." United States v. Basham, 789 F.3d 358, 371-72 (4th Cir. 2015) (quoting Elmore v. Ozmint, 661 F.3d 783, 858 (4th Cir. 2011)).

In the context of a guilty plea, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. See Blackledge v. Allison, 431 U.S. 63, 73-74 (1977) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible."). Statements made during a guilty plea should be considered conclusively, unless an Applicant presents valid reasons why he or she should be allowed to depart from the truth of his statements.

Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Crawford v. United States, 519 F.2d 347, 350 (4th Cir. 1975)).

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. Strickland, 466 U.S. at 696. 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. Id. at 696-97.

1. Failure to Investigate the Getaway Driver

Applicant contends Counsel was deficient based upon her failing to investigate the basis for his getaway driver not being prosecuted. In reviewing a claim that defense counsel failed to properly investigate a defense to a crime, a court's principle concern is whether the investigation "was itself reasonable." Taylor v. State, 404 S.C. 350, 364, 745 S.E.2d 97, 104 (2013). However, defense counsel is not deficient in conducting a reasonable investigation as long as they interview potential witnesses "when it is reasonable to do so." Edwards v. State, 392 S.C. 449, 457, 710 S.E.2d 60, 65 (2011).

Here, Applicant testified he told Counsel to find out the reason this getaway driver was never charged. Applicant further testified he told Counsel finding the answer to this mystery would lead to his charges getting dropped. Applicant testified he told Counsel he believed his participation level being the same as the getaway driver. Thereafter, Applicant testified he told Counsel the getaway driver would support his version of events. Finally, Applicant testified Counsel ignored this investigation which caused him to have no real leverage to get the charges dropped.

Thereafter, Counsel conceded she did not request to interview the getaway driver. Counsel also conceded she advised Applicant the getaway driver probably should have been prosecuted. Counsel credibly testified she formed this opinion after reviewing the getaway driver's interview with police. After review, Counsel credibly testified she planned to call the driver as a favorable witness in the event of trial. Counsel credibly recalled somebody told her this witness had disappeared out of state. Counsel credibly testified the Assistant Solicitor had a record of the getaway driver's location. Therefore, she would have had to request it for an opportunity to contact the getaway driver. However, Counsel credibly testified this request would have presented a risk in preserving the positive ongoing plea negotiations.[3] Additionally, Counsel credibly testified interrogating the getaway driver could have presented a risk in eliciting forthcoming and favorable testimony from her at trial.[4]

Accordingly, the testimony reflects both Applicant and Counsel were aware the getaway driver was not charged. It further reflects Applicant requested Counsel to track down an explanation. Counsel had no direct line of contact with this witness. Therefore, the Assistant Solicitor was the only source of information for an explanation or location. As previously mentioned, the testimony paints a picture both Applicant and Counsel were dedicated to pursuing a plea offer to absolve him of responsibility for the death. Thus, Counsel reasonably decided not to pursue an explanation through the Assistant Solicitor based upon the risk of eliminating ongoing plea negotiations. Furthermore, Counsel and Applicant essentially agree the getaway driver's testimony was going to corroborate his version of events. Therefore, Counsel reasonably decided

[3] Specifically, Counsel credibly testified it would have been suspicious to request contact information based upon prior review of the getaway driver's police interview.

[4] Counsel noted concern with the getaway driver's unpredictable reaction to being tracked down for an interview since her initial disappearance was without explanation.

not to pursue an explanation from the getaway driver based upon the risk of unintentionally jeopardizing potential impact as a favorable trial witness. As a result, Applicant has failed to overcome the burden to prove Counsel was deficient for failing to investigate the getaway driver's legal situation.

Additionally, Applicant contends the failure to investigate the getaway driver's legal situation caused him to miss his opportunity to get the charges dropped. The prejudice prong is dependent upon whether counsel's deficiencies "affected the outcome of the plea process." Frierson v. State, 417 S.C. 287, 789 S.E.2d 762 (Ct. App. 2016), aff'd as modified, 423 S.C. 257, 815 S.E.2d 433 (2018). To establish it through witness corroboration an applicant "must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing." Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998). "Hearsay" is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted. SCRE 801. Mere "speculation" about the details of what a witness would testify about is insufficient to establish prejudice. Dalton v. State, 376 S.C. 130 at 143, 654 S.E.2d 870 at 877.

Here, Applicant testified he could have applied reasoning behind not charging the getaway driver to his own case. Applicant testified the roadmap to securing this explanation was merely asking somebody who knew. Applicant testified the getaway driver would have explained how she did not get charged if Counsel actually asked. Applicant testified the getaway driver would have also corroborated neither agreed to participate with Principe. Thereafter, Applicant testified he could have used this to get the Assistant Solicitor to drop his charges. However, the getaway driver did not testify at this evidentiary hearing. Accordingly, this Court finds Applicant's testimony about the getaway driver's golden ticket to getting his charges dropped is merely

insufficient speculation. Therefore, Applicant has failed to overcome the burden to prove a failure to investigate the getaway driver's legal circumstances caused his charges not to be dropped.

2. Failure to Prepare a Defense for Armed Robbery

Counsel credibly testified as to discussing the defense of abandonment one time with Applicant in regards to armed robbery. Counsel credibly testified this defense would be difficult to present based upon his knowledge followed by his decision to go. Counsel then credibly recalled telling Applicant affirmatively ditching the plan to rob could support abandonment. However, Counsel credibly testified the main issue would be explaining why Applicant went there. Counsel credibly testified she notified Applicant there was evidence of a getaway driver, knowledge of a planned robbery, and knowledge of a weapon. Thereafter, Counsel credibly testified there was also evidence Applicant contacted Craig to carry out this drug deal with Principe.

Finally, Counsel credibly testified the initial offer was thirty years for murder when she was assigned the case. Counsel credibly testified she notified Applicant the Assistant Solicitor would negotiate the murder charge. However, Counsel credibly testified she also informed Applicant the Assistant Solicitor said an armed robbery charge was non-negotiable. Thereafter, Counsel credibly testified the goal was to ensure Applicant could plead without accepting responsibility for the murder. Counsel credibly recalled writing a lengthy argument to the Assistant Solicitor after the forensic evidence was released. Counsel then credibly testified about receiving an offer for twenty years based upon manslaughter and armed robbery. However, Counsel credibly recalled Applicant did not want to plead to a charge taking responsibility for killing Craig. Thereafter, Counsel credibly recalled receiving an offer for the recommendation of ten to twenty years based upon accessory after the fact and armed robbery. Counsel credibly

testified this offer was contingent upon Applicant testifying at Principe's trial. Counsel credibly testified Applicant was satisfied and accepted this offer.

Accordingly, this Court finds Counsel reasonably decided not to investigate this defense when she successfully negotiated to reduce the murder charge which was their primary objective. Therefore, Applicant has failed to overcome the burden to prove Counsel was deficient based upon a failure to investigate.

Additionally, Applicant contends Counsel's failure to sufficiently explain the defense of abandonment caused him to overlook the potential success of using it. The South Carolina Supreme Court has found deficient counsel does not prejudice an applicant where the basis for their decision to avoid trial was a favorable plea. Goins v. State, 397 S.C. 568, 575, 726 S.E.2d 1, 4 (2012). (finding no prejudice where evidence showed Applicant accepted the plea after State offered to dismiss certain charges). Furthermore, an applicant must present some evidence that had counsel done an investigation he would have found a witness or evidence that was helpful. Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009).

Here, Applicant testified he would not accept a plea agreement which forced him to take responsibility for murder. Counsel credibly recalled Applicant would not accept a plea offer for murder and armed robbery. Counsel further credibly recalled Applicant would not accept a plea offer for manslaughter and armed robbery. However, Counsel credibly testified the Assistant Solicitor informed her the armed robbery charged would not be dropped when she was assigned to this case. Counsel credibly testified she informed Applicant the armed robbery charge could not be negotiated. Thereafter, Counsel credibly testified Applicant was satisfied with accepting a plea offer for the charges of accessory and armed robbery. The testimony reflects Applicant avoided trial for armed robbery to accept a favorable deal regarding his murder charges. It further

reflects he willingly engaged in negotiations despite knowledge the armed robbery charge would not be reduced or dropped. Therefore, this Court finds Applicant has failed to overcome the burden to prove he was prejudiced by any deficient failure to investigate defense of abandonment.

2. Involuntary Plea based upon Duress

Applicant alleges he pled guilty under duress. To find a guilty plea voluntarily and knowingly, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Roddy v. State, 339 S.C. 29, 528 S.E.2d 418 (2000). Also, an applicant's statements during the plea hearing are considered "conclusive unless [he] presents valid reasons why he should be allowed to depart from the truth" of them. Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007). Finally, the plea colloquy can cure any alleged deficiency if counsel not properly advise an applicant about the consequences of accepting it. See Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997) (stating that plea counsel's deficient performance can be cured by the plea court's colloquy).

Here, Applicant testified Counsel promised him his sentence would only be for ten years. However, at the plea hearing, Applicant stated he was not promised anything in exchange for pleading guilty. (Tr. 7, L. 10). Applicant testified he lied throughout the plea hearing to get a reduced sentence. On the other hand, Counsel credibly testified she notified Applicant his sentence could be anywhere between ten and twenty years. Counsel further credibly testified she notified Applicant she would advocate for ten years at the plea hearing.

At the sentencing hearing, Counsel stated the range was between ten and twenty. (Tr. 8, L. 19). She further requested ten years based upon Applicant's help with prosecuting Principe. (Tr. 9, L. 7-19). After that, Applicant stated his belief the sentencing judge would make a fair decision on the matter. (Tr. 10, L. 18-9). This supports his testimony in answering whichever way

possible to get a lesser sentence. However, the testimony contradicts his claim of being guaranteed ten years to enter into an agreement. Accordingly, Applicant has failed to provide a valid reason to depart from his conclusive statement no promises were made in exchange for pleading guilty. Therefore, this Court finds Applicant entered a knowing and voluntary guilty plea.

III. CONCLUSION

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

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and

2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 8th **day of** August**, 2019.**

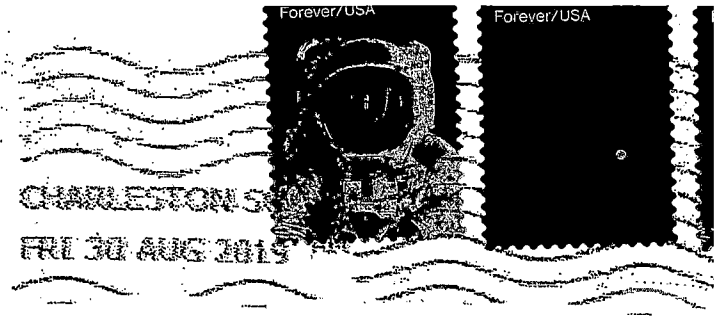
John C. Hayes III

Rock Hill SC

#14

JOHN C. HAYES, III
Presiding Judge
Fifteenth Judicial Circuit

_____, South Carolina



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