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September 9, 2019

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

RECEIVED

SEP 16 2019

S.C. SUPREME COURT

Re: Henry Dingle v State, 356021, 2017-CP-43-0642

Dear Clerk Shearouse:

Please find the enclosed Notice of Appeal, Proof of Service, in the above Sumter 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:

Janell Gregory, Esq

Henry Dingle 356021

Sumter County Circuit Court Clerk

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

SEP 16 2019

S.C. SUPREME COURT

APPEAL FROM SUMTER COUNTY

Court of Common Pleas

Honorable Brooks P Goldsmith, Circuit Judge

Case No.: 2017-CP-43-0642

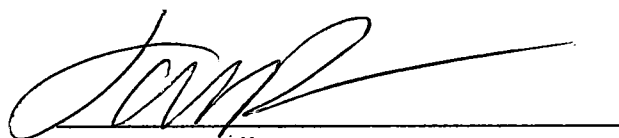
Henry Dingle, Jr. 356021.....PETITIONER

V.

State of South Carolina.....RESPONDENT

NOTICE OF APPEAL

The Petitioner Henry Dingle, Jr. 356021 appeals the Honorable Brooks P Goldsmith's August 28, 2019 Order of Dismissal. Undersigned counsel received notice of entry of the order on September 10, 2019. A copy of the order on appeal is attached hereto.



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

September 10, 2019

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

Clerk of Court- Sumter CP
215 N Harvin St
Sumter, SC 29150

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

SEP 16 2019

S.C. SUPREME COURT

APPEAL FROM SUMTER COUNTY

Court of Common Pleas

Honorable Brooks P Goldsmith, Circuit Judge

Case No.: 2017-CP-43-0642

Henry Dingle, Jr 356021.....PETITIONER

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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, Janell Gregory, Esq. Office of the S.C. Attorney General, PO Box 11549, Columbia, SC 29211-1549 and the Sumter County Clerk of Court. I further certify that all parties required by Rule to be served have been served this September 10, 2019.



James K Falk
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STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

2017-CP-43-642

Henry Oneal Dingle, Jr., #356021,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

ORDER OF DISMISSAL

This matter comes before the Court by way of an application for post-conviction relief filed on April 10, 2017, by Henry Dingle, Jr. (Applicant). The State (Respondent) filed a return on February 15, 2018, requesting an evidentiary hearing. An evidentiary hearing into the matter was convened on July 31, 2019, at the Sumter County Courthouse. Applicant was present at the hearing and represented by James K. Falk, Esquire. Assistant Attorney General Janell H. Gregory of the South Carolina Attorney General's Office appeared on behalf of Respondent. During the hearing, Applicant testified on his own behalf. Steven S. McKenzie, Esquire (Counsel) also testified. After a review of the record and all evidence presented, this Court finds Applicant has failed to meet his requisite burden of proof and denies this application.

PROCEDURAL HISTORY

The records before this Court establish Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Sumter County Clerk of Court's order of commitment. During its April 2016, the Sumter County Grand Jury indicted Applicant for four counts of attempted murder, criminal conspiracy, unlawful carrying of a pistol, and possession of a weapon

during the commission of a violent crime (2016-GS-43-0524).¹

Counsel represented Applicant and Assistant Solicitor Bronwyn McElveen of the Third Circuit Solicitor's Office prosecuted the case. On April 22, 2016, Applicant pled guilty pursuant to a negotiated plea to four counts of attempted murder, criminal conspiracy, and unlawful carrying of a pistol before the Honorable George C. James, Jr. In exchange for his guilty plea, the State nolle prossed the possession of a weapon during the commission of a violent crime charge. Pursuant to plea negotiations, Judge James sentenced Applicant to imprisonment for concurrent terms of eighteen years and six months for each charge of attempted murder, five years criminal conspiracy, one year for unlawful carrying of a pistol. Applicant did not appeal his conviction or sentence.

SUMMARY OF FACTS

Facts leading to the four counts of attempted murder, criminal conspiracy, unlawful carrying of a pistol, and possession of a weapon during the commission of a violent crime

On December 29, 2015, at approximately 9:40AM, officers were told about shots being fired on Miller Road near the UPS headquarters in Sumter. (GP Tr. 21.) A second shooting was reported at approximately 11:34AM at the Popular Square Apartments. At 2:30PM on the same day another call was received for shots being fired at Main Street in Sumter. (GP Tr. 21.) Finally, at 3:30PM, law enforcement responded to Frazier Street in reference to shots being fired in a two vehicle collision. (GP Tr. 21.) Officers found a Kia and Nissan that had hit each other head on. (GP Tr. 21-22.) Both vehicles sustained front end damage and the collision was a result of the two

¹ Applicant was also indicted for third degree assault and battery by a mob (2016-GS-43-0484), failure to stop for a blue light, second offense, possession with intent to distribute cocaine base or crack, possession with intent to distribute crack cocaine near a school (2016-GS-43-0483), possession with intent to distribute cocaine, third offense (2016-GS-43-0485), but is only challenging the offenses associated with indictment 2016-GS-43-0524 in his post-conviction relief action.

cars driving down the road firing shots at each other. (GP Tr. 22.) The disagreement between the two groups was allegedly over drug territory. (GP Tr. 22.)

Officers set up a perimeter and began searching for subjects. (GP Tr. 22.) Using a K-9 officer, they were able to locate four individuals who had been in one vehicle together. (GP Tr. 22.) The individuals were identified as Eric Phillips (Phillips), Rominique Lewis Brand (Brand), Rodriques Lewis (Lewis), and Jaquan Wells (Wells). (GP Tr. 22.) A witness identified that group as being the subjects that fled from the Nissan. (GP Tr. 22.) Further investigation revealed that Applicant was the driver of the Kia and Jerquez Spann (Spann) was the passenger. (GP Tr. 22.) The owner of the vehicle told law enforcement that he had loaned Applicant the Kia. (GP Tr. 22.) Officers located a .44 Magnum Ruger handgun in a wooded area near Milton and Brunson Street. (GP Tr. 22.) There were .380 caliber shell casings, .40 caliber shell casings, 9 millimeter shell casings, and one box of Winchester 410 rounds, which shows there was some sort of criminal conspiracy to have a shootout over drug territory. (GP Tr. 22-23.)

During the guilty plea hearing, Applicant admitted to having the .44 Magnum and shooting the firearm during the incident. (GP Tr. 23.) Applicant claimed he was shot at first, and the plea judge asked Applicant at that time if he wanted to back away from his negotiated plea to assert a self-defense claim. (GP Tr. 23.) The plea judge asked Counsel if Applicant wanted to go forward with this and Applicant responded, "Yes, sir." (GP Tr. 24.) McElveen also responded stating it was a tough situation because everyone is a victim and a defendant in that scenario. (GP Tr. 24.) Applicant provided further explanation to the plea judge stating the shooting was not over drug territory, but had something to do with "something that somebody stole something from them." (GP Tr. 24.) Applicant claimed he had nothing to do with the theft, but that he just happened to be around at the time of the shooting. (GP Tr. 24-25.) McElveen told the plea judge that Applicant's co-defendant, Spann, also told the State that Applicant had a firearm and was in the

vehicle with him at the time of the shooting. (GP Tr. 25.) McElveen explained, according to the State's evidence, Applicant and Spann did go out there with the intention of killing the people that fired shots earlier in the day in Sumter. (GP Tr. 25.)

ALLEGATIONS RAISED

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

1. Ineffective Assistance of Counsel
 - a. Failure to investigate potentially exculpatory evidence
 - b. Failure to discover potentially exculpatory evidence
 - c. Failure to have a negotiated plea for five years enforced

On July 31, 2019, an evidentiary hearing was convened. Applicant proceeded with the hearing on all of the allegations set forth in his application. Additionally, although not alleged in his application, Applicant provided testimony indicating his guilty plea was involuntary.

At the outset of the hearing, this Court conducted a colloquy with Applicant to ensure he was aware of the consequences of his decision to proceed with his post-conviction relief matter only challenging the offenses associated with indictment 2016-GS-43-0524. Applicant testified he understood he was waiving all post-conviction relief claims as they pertain to his remaining charges. Applicant testified he understood he could not file a successive application raising issues pertaining to those charges that could be addressed before this Court during this hearing. Applicant testified he had enough time to review this decision with his attorney and he did not have any questions for this Court or his attorney. Applicant testified no one threatened or coerced him into withdrawing his claims on his remaining charges. This Court found Applicant knowingly, intelligently, and voluntarily waived his post-conviction claims on the remaining indictments in this matter and allowed Applicant to proceed challenging only his convictions on indictment 2016-GS-43-0524.



SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

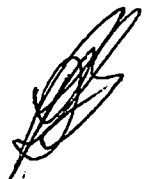
Applicant's Testimony

Applicant testified that he understood that if he is successful in his post-conviction relief claim that he would go back to square one at the Sumter County Solicitor's Office because winning his post-conviction relief matter would not exonerate him. Applicant testified he understands he could face additional time that would not necessarily be run concurrent to what he is currently serving.

Applicant testified there were four shootings in Sumter County that started at around 9:00AM. Applicant testified he did not have a gun at the early morning shooting. Applicant testified he just came to talk to someone and someone shot at him. Applicant testified he was a victim in that incident, however, he did not report it to police. Applicant testified at the 3:30PM shooting, he was at his friend's house. Applicant testified it was normal for him to be there because he stayed over there often. Applicant testified at the time of the shooting he was at his friend's house just talking to his friend, smoking cigarettes and drinking soda.

Applicant testified after the 9:30AM shooting, he went and got his gun and kept it in his car. Applicant testified he was scared for his life and was not trying to hurt anyone. Applicant testified a car came up to him and he recognized the subjects in the car. Applicant testified one of the subjects held a gun out of the window. Applicant testified they all had guns. Applicant testified he never got to tell law enforcement his side of the story. Applicant testified the other subjects got to tell their side of the story. Applicant testified the subjects in the vehicle fabricated a story that Applicant fired back.

Applicant testified he only met with Counsel one time during his representation. Applicant testified he retained Counsel. Applicant testified Counsel never investigated or came up with a trial strategy. Applicant testified Counsel never discussed a "stand your ground" defense.



Applicant testified he pled guilty because everything happened so fast. Applicant testified if he did not plead guilty to all of the charges he would be going to trial the next day. Applicant testified he understood his cocaine charges were a third offense and he faced ten to thirty years at trial.

Applicant testified that the facts of the attempted murder charge do not fit what happened that day. Applicant testified the "stand your ground" law says he has the right to react. Applicant testified his due process rights were violated. Applicant testified he would not currently be held at McCormick if he did not have the attempted murder charges. Applicant testified he had a right to stand his ground. Applicant testified during the guilty plea hearing the judge asked him why were you shooting and Applicant responded he didn't mean to that they started shooting at me. Applicant testified Counsel told him to say "yes" to everything at the guilty plea hearing. Applicant testified he never intended to hurt anyone, he was just acting in self-defense.

During cross-examination, Applicant testified he never went over discovery with Counsel and only met with him once. Applicant testified his family retained Counsel. Applicant testified he recalled waiving his constitutional rights. Applicant testified he recalled his attorney telling him that he was facing 270 years if he were to be convicted of all of his charges. Applicant testified he recalled pleading guilty to each of his charges as they were read to him during the plea hearing. Applicant testified he knew it was a negotiated plea and he knew how much time he would be getting on his charges.

Applicant testified he recalled telling the plea judge that he had enough time to talk with Counsel, but also testified he felt rushed but did not tell the judge because he just wanted to get the plea over with. Applicant testified he recalls the State going over the facts for each of his charges. Applicant testified he recalled the plea judge asking him if he wanted to back off and assert self-defense during the plea hearing and Applicant responded he did not. Applicant testified he did not want to plead to the attempted murder charges but agreed to do it just to get it over with.

On re-direct, Applicant testified he did not intend to hurt anyone. Applicant testified he believes his Fourteenth Amendment right to due process was violated because the facts do not fit the elements of the crime. Applicant testified it is an unconstitutional sentence.

Testimony of Counsel

Counsel testified he was retained in this case. Counsel testified if he was only representing Applicant on the attempted murder charges alone his strategy would have been to go to trial in that case, but "stand your ground" is not applicable to Applicant's case because Applicant told law enforcement he was on Frazier Street because he was getting weed from Quon.² Counsel testified in order to win a "stand your ground" case, you cannot be committing a crime. Counsel testified he believes the shooting was a drug deal gone bad because Quon was in the other car that was involved in the vehicle collision with Applicant's vehicle. Counsel also testified Applicant gave contradictory statements to law enforcement. Counsel testified Applicant also changed his story. Counsel testified Applicant admitted to have a .44 Magnum and officers located one near the scene of the shooting. Counsel testified the amount of charges Applicant had hurt his case. Counsel testified Applicant was not at his friend's house at the time of the incident because he admitted he was operating one of the vehicles involved in the collision. Counsel testified Applicant ran from the scene and did not "stand his ground." Counsel testified he did not understand why Applicant ran from the scene if he did not do anything wrong.

Counsel testified he had a number of conversations with Applicant regarding his plea. Counsel testified they were going to try his drug case with Jeff Young, but the solicitor asked what kind of sentence they could expect and Judge Young said Applicant needed to do thirty. Counsel testified on April 14, 2016, he met with Applicant and told him Judge Young would not accept the

² Counsel testified Wells was known by "Quon."

18.5 year plea negotiation. Counsel testified he told Applicant if Judge Young tried the case he would get a thirty year sentence. Counsel testified he had to go judge shopping and Judge James agreed to take the plea for 18.5 years. Counsel testified Applicant asked to speak to McElveen and Applicant asked McElveen to give him less time, but she would not go below 18.5 years, especially since Judge Young would give him thirty if he went to trial. Counsel testified Applicant got heated with McElveen and walked down the hallway towards McElveen and a deputy had to intervene.

Counsel testified McElveen would not allow Applicant to plead to only the drug charges. Counsel testified he believed the public was demanding justice on the shootings because they occurred in broad daylight. Counsel testified if Applicant had only been charged with the attempted murders he would have liked to have tried the case because he wanted to see how the witnesses would have held up under cross-examination.

On cross-examination, Counsel testified he would have taken the attempted murder charges to trial, but it does not mean he would have won. Counsel testified he would have entertained a guilty plea on the attempted murder charges as well even if they were standing alone.

Counsel testified he has been practicing law for twenty-five years. Counsel testified he obtained discovery and reviewed discovery with Applicant. Counsel testified he met with Applicant more than one time. Counsel testified he discussed the difference between a negotiated plea and a straight up plea with Applicant. Counsel testified he was retained to get Applicant the best deal he could. Counsel testified Applicant said to him, "get me the best deal you can get me." Counsel testified Applicant never told him he wanted a trial on any of his charges.

Counsel testified he reviewed Applicant's constitutional rights with him. Counsel testified he absolutely believed it was in Applicant's best interest to plead guilty because he saved himself at least thirteen years by pleading guilty. Counsel testified the only defense Applicant could have

had to these cases was to say he was not present, to provide an alibi. Counsel testified in the beginning Applicant told him he was not there, but then changed his mind.

Counsel testified McElveen never extended a five year plea offer. Counsel testified Applicant never asked for a trial or told Counsel they needed to prepare for trial. Counsel testified Applicant never provided any resistance to pleading guilty to all of the charges in his negotiated plea. Counsel testified Applicant was only concerned with how much time he would get.

On re-direct, Counsel testified the first time he talked to Applicant, Applicant claimed that he was not even present at the shooting. Counsel testified the stand your ground defense would not have worked because Applicant was buying weed.

Testimony of Applicant in Rebuttal

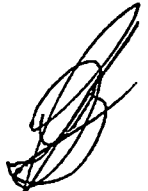
Applicant testified based on Counsel's testimony, it was clear Counsel did not study his case. Applicant testified he bought weed earlier that day, not at the time of the shooting. Applicant testified he was fleeing the scene because someone was shooting at him, so of course he ran.

Testimony of Counsel in Rebuttal

Counsel testified Applicant's claims are inconsistent with what he told law enforcement. Counsel testified Applicant told law enforcement he was buying weed from Quon.

APPLICABLE LAW

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his or her application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813.



The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 300 S.C. 115. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 300 S.C. 115. With respect to guilty plea counsel, the applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

This Court viewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the immunity hearing transcript, guilty plea hearing transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, and the legal arguments made by the attorneys. Set forth below are the relevant findings of fact and conclusion of law as required by S.C. Code Ann. § 17-27-80 (2003).

A handwritten signature in black ink, located in the bottom right corner of the page. The signature is stylized and appears to consist of several overlapping loops and lines.

Ineffective Assistance of Counsel

This Court finds Applicant has failed to meet his burden of proving he is entitled to post-conviction relief on any of his allegations of ineffective assistance of counsel. Applicant has failed to prove both deficiency on the part of Counsel and any prejudice therefrom.

Counsel was ineffective for failing to investigate and discover potentially exculpatory evidence

Applicant alleges Counsel was ineffective for failing to challenge the attempted murder, criminal conspiracy, and weapon charges against him as he believed he had a "stand your ground" defense. Applicant testified Counsel only met with him one time and did not investigate his case or come up with a trial strategy. Applicant testified Counsel never discussed the possibility of asserting a "stand your ground" defense in his case.

Counsel testified Applicant retained him and instructed Counsel to, "get me the best deal you can get me." Counsel testified Applicant never wanted to proceed to a trial on any of his charges. Counsel testified Applicant was only concerned with how much time he was going to serve. Counsel testified Applicant even requested a meeting with McElveen in order to try to persuade her to give him less than the 18.5 years. Counsel testified Applicant changed his story and gave law enforcement conflicting statements regarding the shootings that occurred. Counsel testified Applicant told law enforcement he was buy weed from Quon, which Counsel said would have precluded any "stand your ground" defense. Counsel said "stand your ground" is not a defense when you are engaged in criminal activity at the time.

This Court finds the testimony of Counsel with respect to these allegations very credible, whereas Applicant's testimony is not credible. This Court finds Applicant has failed to establish any deficiency on behalf of Counsel as Counsel investigated Applicant's case and provided him with a very favorable deal, which is what Counsel testified he was hired to do. Counsel further assessed a "stand your ground" defense would not be applicable to Applicant since he was, by his

own admission, engaged in criminal activity at the time of the shooting. Applicant provided Counsel with no indication he wanted to go to trial.

Additionally, Applicant has failed to establish any resulting prejudice from any alleged deficiency as Applicant was clearly aware of the terms of his negotiated guilty plea prior to pleading guilty to all of his charges. Based on the forgoing, Applicant has failed to meet his burden to establish deficiency or prejudice as set forth in Strickland and this allegation must be denied and dismissed with prejudice.

Counsel failed to enforce the five year plea deal that was offered to Applicant

Applicant alleges Counsel was ineffective for failing to have the five year plea deal enforced. However, Counsel testified no five year plea offer was extended to Applicant. Counsel also testified that Applicant met with McElveen in an effort to negotiate a deal less than 18.5 years, but that McElveen would not agree to anything less. It is unreasonable to believe a five year plea offer was ever extended considering the number and severity of Applicant's charges.

This Court finds the testimony of Counsel with respect to these allegations very credible. This Court finds Applicant has failed to show how Counsel was deficient as Counsel testified there was never a five year plea offer in this case. Additionally, Applicant himself attempted to negotiate less time with McElveen, which was unsuccessful. Applicant has also failed to establish any resulting prejudice from this alleged deficiency. Based on the forgoing, Applicant has failed to meet his burden to establish deficiency and prejudice as set forth in Strickland and these allegations must be denied and dismissed with prejudice.



Involuntary Guilty Plea³

Counsel testified he went over Applicant's constitutional rights with him prior to Applicant entering his guilty plea. Counsel testified it was Applicant's decision whether to accept the negotiated plea and ultimately Applicant decided to accept the plea. Counsel testified Applicant never indicated to him that he did not want to plead guilty and proceed to trial. Counsel testified it was in Applicant's best interest to plead guilty. Counsel testified he saved himself fifteen years by taken the negotiated plea.

A review of the record shows, after McElveen read the facts of the attempted murders, conspiracy, and weapons offense charges, Applicant told the plea judge, "I didn't mean to intentionally. They came – they just came and started shooting at me." (GP Tr. 23.) The plea judge responded, "Well do you want to stop now and you all assert self-defense? I've got – you were firing a weapon at who, those four people?" (GP Tr. 23.) The plea judge asked Counsel if Applicant wanted to go forward with the plea, and Applicant responded, "Yes, sir." (GP Tr. 24.) The plea judge asked Applicant if he was guilty, and Applicant responded, "Yes, sir." (GP Tr. 24.) Counsel testified at no time did Applicant ever indicate to him or the plea court that he was not wanting to go forward with his plea.

Later, Applicant was given a second opportunity to back away from the plea when he stated, "I just want to ask for some mercy and some leniency, if you can, so I can at least be out to raise my kids." (GP Tr. 29.) Following that request, the plea judge stated, "[Counsel] does he want to back away? Because the leniency, I certainly can't give him anything less than 18 and a half years." (GP Tr. 29.) Counsel explained Applicant understood he was going to receive the

³ Although not specifically alleged, Applicant provided testimony indicating his plea was involuntary, therefore this allegation is being addressed.

18.5 years. Applicant also told the plea judge he understood and then proceeded with his guilty plea. (GP Tr. 29.)

This Court finds Applicant's guilty plea was freely, intelligently, and voluntarily made. In evaluating issues concerning guilty pleas, this Court will consider the entire record, including the transcript of the guilty plea proceeding and the evidence presented at the post-conviction relief hearing. Roddy v. State, 339 S.C. 29, 528 S.E.2d 418 (2000). Voluntariness of a guilty plea is not merely determined by an examination of a specific inquiry by the plea court alone but rather is determined by the record of both the guilty plea proceeding and the post-conviction relief hearing. Id. In order to find a guilty plea was knowingly and voluntarily entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238 (1969). Further, "[a] guilty plea is a solemn, judicial admission of the truth of the charges" against the applicant; thus, an applicant's right to contest the validity of such a plea is usually foreclosed. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, admissions "made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements." Id. (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975)); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

This Court finds this allegation is without merit, and Applicant has failed to carry his burden of proving his guilty plea was involuntary. The records before this Court, and particularly the transcript of Applicant's plea proceeding, show Applicant engaged in a thorough colloquy with the court before electing to forgo his constitutional rights and knowingly, voluntarily, and intelligently enter a plea of guilty. The plea court even provided Applicant two opportunities to withdraw his guilty plea when his responses caused the plea judge to question whether Applicant wanted to continue with his plea. In both instances, Applicant reassured the plea judge that he

wanted to proceed with his guilty plea and never indicated to the plea court or Counsel that he did not want to plead guilty. This Court finds Applicant knew the charges he was facing and understood the terms of his negotiated plea. This Court also finds Applicant was properly and fully advised of his constitutional rights and knowingly and voluntarily waived those rights to accept a favorable plea.

Therefore, this Court finds Applicant had a full understanding of the consequences of his plea and the charges against him, and the plea court correctly found Applicant's plea was freely, voluntarily, and intelligently made. Based on these findings, Applicant's allegations regarding his plea being involuntary are 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.

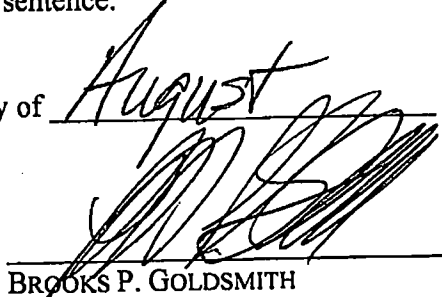
The Court notes Applicant must file and serve a notice of appeal within thirty days from post-conviction relief counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant 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:

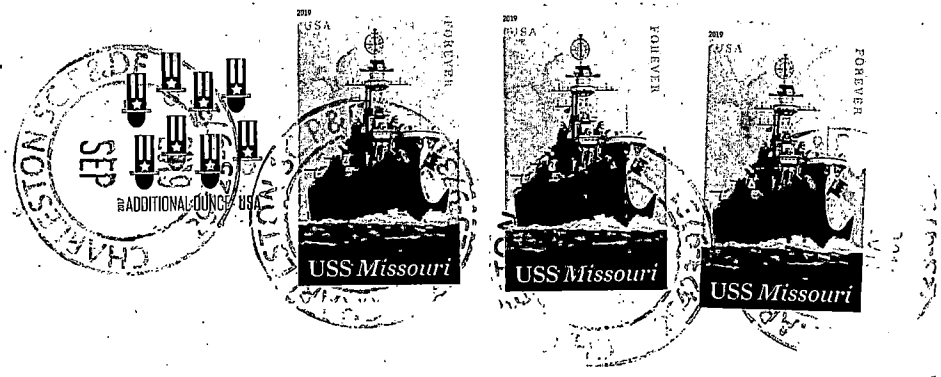
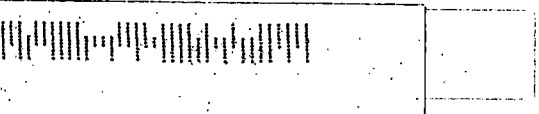
1. The application for post-conviction relief is denied and dismissed with prejudice; and
2. Applicant will remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 28 day of August, 2019.



BROOKS P. GOLDSMITH
Presiding Judge
Third Judicial Circuit


_____, South Carolina



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