WALLER
—LAW GROUP—

September 26, 2019

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

Re: John Edward Haynes vs. State of South Carolina
C/A No: 2015-CP-09-0215

Dear Mr. Shearouse:

Please find enclosed one (1) original and one (1) copy each of Applicant's Notice of Appeal and Certificate of Service in the above referenced case. I would appreciate you filing the original and returning the clocked copies in the enclosed envelope.

I was appointed to represent Mr. Haynes in this matter and am also enclosing a copy of the Order of Dismissal. If you have any questions, please do not hesitate to ask. My telephone number is 803-520-7278.

Sincerely,

Jonathan D. Waller

Cc: Benjamin Limbaugh, South Carolina Office of Attorney General

Enclosures

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STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CALHOUN COUNTY
Maitè Murphy, Circuit Court Judge

2015-CP-09-0215

John Edward Haynes, # 354464,

Appellant,

v.

STATE OF SOUTH CAROLINA,

Respondent.

NOTICE OF APPEAL

John Edward Haynes, # 354464, appeals the Order of Dismissal denying his Application for Post-Conviction Relief filed August 15, 2019, issued by the Honorable Maitè Murphy, Presiding Judge, First Judicial Circuit. Counsel for Applicant received notice of entry of the Order of Dismissal on September 25, 2019.

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ATTORNEY FOR PETITIONER

September 26, 2019

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STATE OF SOUTH CAROLINA
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APPEAL FROM CALHOUN COUNTY
Maitè Murphy, Circuit Court Judge

2015-CP-09-0215

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that one copy of the Appellant's Notice of Appeal in the above-entitled case has been served upon opposing counsel, Benjamin Limbaugh, Assistant Attorney General, by mailing in an envelope properly addressed with postage prepaid on this day, to his office located at P.O. Box 11549, Columbia, SC 29211.

Christopher Leventis

Christopher Leventis

September 26, 2019

STATE OF SOUTH CAROLINA)
COUNTY OF CALHOUN)

IN THE COURT OF COMMON PLEAS
IN THE FIRST JUDICIAL CIRCUIT

2019 AUG 15 P 4:51

John Edward Haynes, #354464,
Applicant,

v.

State of South Carolina,
Respondent.

Case No.: 2015-CP-09-0215

ORDER OF DISMISSAL

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Calhoun County Clerk of Court. In May 2010, the Calhoun County Grand Jury indicted Applicant for incest (2010-GS-09-0069) and criminal sexual conduct with a minor under the age of 16, second degree (2010-GS-09-0070). Mark Wise, Esquire, and Robert Douglas Mellard, Esquire, represented Applicant. Assistant Solicitors Sarah A. Ford, Esquire, and Benjamin Harrison Bell, Jr., Esquire, prosecuted the case. On February 25-28, 2013, Applicant proceeded to trial before the Honorable Diane S. Goodstein. The jury found Applicant guilty as indicted. Judge Goodstein sentenced Applicant to imprisonment for consecutive terms of ten years for incest, provided that upon the service of five years, the balance is suspended with probation for five years and twenty years for criminal sexual conduct.

Applicant filed a timely notice of appeal. David Alexander, Esquire, of the Office of Appellate Defense perfected the appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on May 6, 2015. State v. Haynes, Op. No. 2015-UP-228 (S.C. Ct. App. filed May 6, 2015). The remittitur was returned to the circuit court on December 1, 2015.

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

1. "Ineffective Assistance of Counsel"

a. "Applicant was provided with deficient representation by his attorney in that the conduct of his attorney was objectively unreasonable under the circumstances. Strickland v. Washington, 466 U.S. 668 (1984). The outcome of Applicant's proceeding was prejudiced and it is reasonable probable that the outcome would have been different had counsel's performance not been deficient. Strickland, 466 U.S. at 694."
b. "Trial counsel failed to actively investigate the facts surrounding to build defense which could have demonstrated Applicant's legal innocence of the charges against him." (Counsel testimony)
c. Counsel should have moved for a directed verdict once there was testimony that the victim seduced Applicant. (He did. ROA 302, 303)
d. "Counselor failure to investigate, prepare for trial, or request a continuance" (Counsel testimony)
e. "Trial attorney failure to request on lesser included offenses. Victim initiated situation which incest was established by her action." (Requested Automatism charge)
f. "Trial attorney was ineffective for not moving to have charges dismissed after victim told DSS employee, using her words, 'when in on Mr. Haynes, when he was asleep, he was drunk, that he didn't know anything about it." (Directed verdict motion)
g. "Trial counselor should have motion to have 'incest' charge dismissed due to wrong statute in body of indictment – Section 16-3-655 of the South Carolina Cod of Laws as Amended." (Indictment facially valid)
h. "Trial counselor was ineffective for not bringing to the court's attention that Applicant was already tried and convicted in family court, an Alford plea was excepted, and also the family court was adjudicated, then Applicant was indicted for General Sessions Court before adjudication. It's double jeopardy." (Counsel testimony)
i. "Counsel was ineffective for not motioning to have charges dismiss before the jury was sworn because at that point 'only evidence' was what victim told DSS and the doctors and her examiners and that was she seduce him, she committed the act." (Directed Verdict Motion)
j. "The attorneys that represented [Applicant] on these charges in court failed to function as the counsel that the Constitution's Sixth Amendment guarantees."

2. "Brady Violation"
   a. "Trial counsel was ineffective, and the court errored in not granting relief at trial, because the solicitor didn't disclose potent exculpatory material, related to his criminal sexual conduct, second degree and incest charges." (Got all discovery)
   b. "Trial counselor was ineffective and the prosecution team, the Solicitor's Office of Calhoun County, violated Applicant's 5th Amendment and 14th Amendment constitutional rights by withholding material favorable evidence to Applicant."
3. Trial Court Error
   a. "Counselor was ineffective, and court errored once there was testimony the victim seduce Applicant, the court should have dismiss the charges, and vacate this sentence."
   b. "Applicant's conviction should be reversed because the D.N.A. evidence was

collected from him in violation of the fourth and fourteenth amendments of the United States Constitution and Article I, Section 3 and 10 of the South Carolina Constitution. The DNA testing that was ordered by the Hon. Edgar Dickson on May 18, 2012. Applicant never received a copy to this day."

4. Lack of Jurisdiction
    a. "Trial Court had no jurisdiction where Applicant was indicted for SCS Second Degree and Incest, but the court allowed the State to proceed to trial, knowing the statements by the victim would be presented." (What?)
5. "Double Jeopardy"
    a. "Trial counselor was ineffective for not bringing to the court's attention that Applicant was already tried and convicted in family court, an Alford plea was excepted, and also the family court was adjudicated, then Applicant was indicted for General Sessions Court before adjudication. It's double jeopardy."
    b. "Trial counselor was ineffective because the family court 'was not over' when the Calhoun County Sheriff Department called Applicant to station and served warrants without probable cause."

Statement of Facts

Complainant was fifteen when she gave birth to her first child and seventeen when she gave birth to her second. R. 34, 11. 1-8. R. 35, 11. 1-7. Appellant John Haynes ("Haynes") is complainant's stepfather. R. 30, 11. 11 - 12. The State's DNA expert testified that the chances that Haynes was the father of these two children were 99.9%. R. 93, 1.8 -95, 1.24.

At trial, complainant claimed that Haynes began sexually abusing her when she was approximately twelve or thirteen, eventually forcing her to have intercourse and impregnating her. R. 31, 1. 1 1 - 35, 1. 10. After complainant denied or said she did not remember making multiple statements regarding Haynes to a psychologist and to a DSS worker, Haynes called both of these witnesses in his case. R. 51, 1. 1 - 60, 1. 2.

Dr. Marc Harari ("Harari") performed a psychological evaluation of complainant. R. Ill, 11. 19-22. Harari testified that complainant told him that she had sex with Haynes when he was drunk and "entirely unaware that he had sexual relations." R. 113, 1. 20 - 114, 1. 5. She told Harari that she loved her stepfather and wanted to have his children. R. 114, 11. 15 - 19.

The DSS worker, Eula Clark ("Clark") testified that complainant told her all of her friends were having babies and she wanted a baby, too. R. 124, 11. 21 - 25. She said she loved Haynes and had sex with him because she wanted a baby. R. 125, 11. 5-16. Complainant also told Clark that Haynes did nothing wrong and did not know what happened because Haynes was drunk and unaware of what was happening. R. 126, 1. 5 - 127, 1. 20. Complainant told Clark that she only claimed Haynes raped her because she thought that was what everybody wanted to hear. R. 127, 11. 21 - 25. Clark told her a judge would not believe her story and complainant then claimed Haynes raped her. R. 132,11. 1-25.

Following the testimony of these two witnesses, the defense called a psychiatrist, Dr. Amanda Salas. R. 143, 11. 2-4. The defense intended to offer Dr. Salas to educate the jury on whether it is possible to have sex and remain totally unconscious. R. 147, 1. 24 - 152, 1. 5. The State objected on relevance and that Dr. Salas had not performed any tests on Haynes to determine whether he had what the solicitor termed "sex somnia." R. 144, 1. 17 - 346, 1. 8. Judge Goodstein told the defense to proffer Dr. Salas' testimony and then she would rule. R. 151, 1. 3 - 152, 1. 6.

Dr. Salas was board certified in general psychiatry, child adolescent psychiatry, and forensic psychiatry. R. 154, 11. 20 - 22. She had previously been qualified to testify in court as an expert witness. R. 156, 11. 6-10. She explained that "the term automatism relates to involuntary behavior that occurs in a state of unconsciousness." R. 156, 11. 14 - 20. She researched medical literature on automatism. R. 157, 11. 9-19. She testified that people can engage in activities while they are unconscious and have no awareness of what they are doing. R. 157, 1. 20 - 359, 1. 18. When defense counsel asked about automatism and sexual performance,

the State objected on the grounds that Dr. Salas had "no background in urology or the medical side of male physiology. R. 158, 11. 19 - 25.

After discussion, the court agreed that Dr. Salas was an expert in psychiatry, but did not "know that she is an expert in the field of automatism." R. 159, 1. 23 - 160, 1. 1. Defense counsel asked Dr. Salas further questions about her knowledge of automatism. R. 160, 1. 10 - 167, 1. 5. She researched automatism in PubMed, a scientific database. R. 160, 1. 15 - 162, 1. 1 1. She read the abstracts of articles she found concerning automatism and said that any physician, not just a psychiatrist, would have the knowledge to interpret them. R. 161, 1. 8 - 162, 1. 11. She explained that males can have erections while unconscious. R. 164, 1. 21 - 166, 1. 19. She explained the "parasympathetic nervous system" and that erections can occur while unconscious and are controlled by this part of the nervous system. R. 164, 1. 21 - 166, 1. 19. The State again objected that Dr. Salas was not an expert in this area. R. 166, 11. 21 - 25. Defense counsel then moved to have Dr. Salas qualified as an expert in psychiatry and automatism and the court allowed voir dire. R. 167, 11. 1-16.

On voir dire, Dr. Salas testified that she learned about automatism in medical school and during both neurology and psychiatry rotations. R. 168, 11. 1-12. She admitted she was not an automatism researcher, but when the State asked her if she had only a "generalized knowledge" of automatism, she replied that she had "specialized knowledge in terms of having a medical degree that allows me to know that automatism exists and how to identify it." R. 168, 1. 13 - 169, 1. 7. She agreed that she did not promote herself as "somebody who studies automatism" and that she had not written any papers on automatism. R. 169, 11. 11 - 17. She had treated patients who exhibited automatism. R. 170, 1. 21 - 171, 1. 3. At this point, the State concluded its voir dire and argued Dr. Salas did not have "specialized training or knowledge in order to help define a

fact on this particular subject in this case" and also objected that her testimony was irrelevant. R. 171, 11. 7 - 17.

Defense counsel argued her testimony was relevant because of complainant's testimony that she had sex with Haynes while he was drunk and unaware of what was happening. R. 171, 1. 18 - 172, 1. 18. Defense counsel argued that Dr. Salas's knowledge was "superior to the jurors' knowledge" and that she could educate them about whether what the complainant said happened was possible. R. 172, 11. 19-25. He then proffered Dr. Salas's testimony that an unconscious man can have an erection, ejaculate, impregnate a woman, and never awaken. R. 173, 1. 11 - 176, 1. 3.

The trial judge then questioned defense counsel about whether Dr. Salas would offer an opinion as to whether Haynes suffered from automatism and could have impregnated complainant while unconscious. R. 176, 11. 1 1 - 22. Defense counsel stated she would not offer such an opinion. R. 176, 11. 11 - 22. Judge Goodstein asked, "So, what she's prepared to testify, there is this thing called automatism and it can happen?" Trial counsel agreed, while relating Dr. Salas's opinions to sexual performance. R. 177, 11. 1 - 5. The trial judge also asked whether Dr. Salas had any information about how much alcohol Haynes consumed, and defense counsel said she did not. R. 177,11. 4 -9.

Judge Goodstein then ruled she would not allow Dr. Salas's testimony and would not qualify her as an expert. R. 178, 1. 3 - 182, 1. 20. The trial judge concluded that the psychiatrist's testimony could only "invite the jury to speculate" because she had not examined Haynes and could not testify whether Haynes had automatism. R. 178, 1. 3 - 179, 1. 14. Judge Goodstein noted that diminished capacity is not a defense. R 178, 1. 24 - 179, 1. 6. ~~His~~ The court debated whether Dr. Salas was not an expert because she only read "summaries" of forty articles. R. 179,

1. 15 - 180, 1. 9. Defense counsel argued that Dr. Salas' s information was admissible because the information she had was relevant and "lay people without some additional information can't solve it." R. 181, 11. 9 - 20. While the trial judge agreed that the jury needed "appropriate expert testimony regarding . . . automatism," the court ultimately concluded that because Dr. Salas could not "take the next step to relate [automatism] to this defendant," her testimony was inadmissible. R. 181, 1.21-182, 1. 20.

Findings of Fact 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, which allowed the Court to scrutinize the credibility 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 has alleged numerous instances of ineffective assistance of counsel against trial counsel, William Brunson. Each allegation is addressed fully below.

The Sixth Amendment to the United States Constitution guarantees a defendant the right to effective assistance of counsel. 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).

In a post-conviction relief action, an 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 [it] cannot be relied upon as having produced a just result." Strickland, 466 U.S. 668; Butler, 286 S.C. at 442, 334 S.E.2d at 814.

Strickland does not guarantee perfect representation, only a "'reasonably competent attorney.' " 466 U. S. at 687 (quoting McMann v. Richardson, 397 U. S. 759, 770 (1970)); Representation is constitutionally ineffective only if it "so undermined the proper functioning of the adversarial process" that the defendant was denied a fair trial. Strickland, 466 U.S. at 686. Just as there is no expectation that competent counsel will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be remote possibilities. See generally Id.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, an 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 an attorney provided representation within the range of competence required in criminal cases. Butler, 286, 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). The 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 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." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Although courts may not indulge "post hoc rationalization" for counsel's decision making that contradicts the available evidence of counsel's actions, Wiggins, 539 U.S. at 526–527, neither

may they insist counsel confirm every aspect of the strategic basis for his or her actions. There is a "strong presumption" that counsel's attention to certain issues to the exclusion of others reflects trial tactics rather than "sheer neglect." Yarborough v. Gentry, 540 U. S. 1, 8 (2003) (per curiam). After an adverse verdict at trial even the most experienced counsel may find it difficult to resist asking whether a different strategy might have been better, and, in the course of that reflection, to magnify their own responsibility for an unfavorable outcome. Strickland, however, calls for an inquiry into the objective reasonableness of counsel's performance, not counsel's subjective state of mind. Id. at 688; Harrington v. Richter, 562 U.S. 86 (2011)

With respect to prejudice, an applicant must demonstrate "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome." Id. at 694. It is not enough "to show that the errors had some conceivable effect on the outcome of the proceeding." Id. at 693. Counsel's errors must be "so serious as to deprive the defendant of a fair trial, a trial whose result is reliable." Id. at 687; Harrington, 562 U.S. 86.

"Surmounting Strickland's high bar is never an easy task." Padilla v. Kentucky, 559 U.S. 356, 371 (2010). An ineffective assistance of counsel claim can function as a way to escape rules of waiver and forfeiture and raise issues not presented at trial, and so the Strickland standard must be applied with scrupulous care, lest "intrusive post-trial inquiry" threaten the integrity of the very adversary process the right to counsel is meant to serve. Strickland, 466 U.S. at 689–690. Even under de novo review, the standard for judging counsel's representation is a most deferential one. Unlike a later reviewing court, the attorney observed the relevant proceedings knew of materials outside the record and interacted with the client, with opposing counsel, and with the judge. It is "all too tempting" to "second-guess counsel's assistance after conviction or adverse sentence." Id.

at 689; see also Bell v. Cone, 535 U. S. 685, 702 (2002); Lockhart v. Fretwell, 506 U. S. 364, 372 (1993). The question is whether an attorney's representation amounted to incompetence under "prevailing professional norms," not whether it deviated from best practices or most common custom. Strickland, 466 U.S at 690.

In assessing prejudice under Strickland, the question is not whether a court can be certain counsel's performance had no effect on the outcome or whether it is possible a reasonable doubt might have been established if counsel acted differently. Wong v. Belmontes, 558 U. S. 15 (2009); Strickland, 466 U.S. at 693. Instead, Strickland asks whether it is "reasonably likely" the result would have been different. Id. at 696. This does not require a showing that counsel's actions "more likely than not altered the outcome," but the difference between Strickland's prejudice standard and a more-probable-than-not standard is slight and matters "only in the rarest case." Id. at 693, 697. The likelihood of a different result must be substantial, not just conceivable. Id. at 693; Harrington, 562 U.S. 86.

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. Applicant's allegation is addressed fully below:

Failure to Investigate

Applicant alleges that plea counsel was ineffective for failing to properly investigate the facts of the case. Counsel testified that he received and reviewed all of the discovery in this case. Counsel testified that he does not believe that there was anything that was in the family court case that was not in the Solicitor's file. Counsel has a duty to undertake reasonable investigations or to make a decision that renders a particular investigation unnecessary. Strickland v. Washington, 466 U.S. 668, 691, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). Thus, "[a] criminal defense attorney has

the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State." McKnight v. State, 378 S.C. 33, 46, 661 S.E.2d 354, 360 (2008). Moreover, counsel's decision not to investigate should be assessed for reasonableness under all the circumstances with heavy deference to counsel's judgment. Simpson v. Moore, 367 S.C. 587, 597, 627 S.E.2d 701, 706 (2006). "[C]ounsel's conversations with the defendant may be critical to a proper assessment of counsel's investigation decisions...." Strickland, 466 U.S. at 691, 104 S.Ct. 2052. "[A] court deciding an actual ineffectiveness claim must judge the reasonableness of counsel's challenged conduct on the facts of the particular case, viewed as of the time of counsel's conduct." Id. at 690, 104 S.Ct. 2052. Bagwell v. State, 410 S.C. 259, 265, 763 S.E.2d 630, 633–34 (Ct. App. 2014).

Based on these reasons, this Court finds plea counsel was not ineffective on this ground and this allegation is denied and dismissed with prejudice.

Failure to Move for a Directed Verdict

Applicant alleges that counsel was ineffective for failing to move for a directed verdict or failing to move to dismiss charges. Applicant alleges that counsel should have moved for a directed verdict or should have moved to have the charges dismissed due to evidence that was presented by the State or evidence that was failed to be produced at trial. Counsel testified that he did in fact move for a directed verdict at trial and that the judge denied his motion. The record directly supports counsel's testimony, that in fact, a directed verdict was made and ruled upon. Based on the record directly refuting Applicant's allegation, this Court finds trial counsel was not ineffective on this ground and this allegation is denied and dismissed with prejudice.

Family Court Concerns

Applicant alleges that counsel was ineffective for failing to bring to the court's attention that he was already tried in Family Court and he should not have been tried in General Sessions. Applicant testified that he believes that since he was going through the process in Family Court he could not be charged in General Sessions at the same time. Applicant testified that he thought he took an Alford Plea in Family Court. Applicant testified that he felt that the State could not use the DNA evidence from the DSS case against him in his General Sessions case. Counsel testified that the Family Court matter did not preclude the State bringing General Sessions charges against Applicant. Counsel testified that he received all of the evidence from the Family Court proceedings. Counsel testified that he tried to explain to Applicant multiple times that he could be in Family Court and General Sessions. Counsel testified that he challenged one of the DNA tests taken in the Family Court case as the method being insufficient for use in General Sessions. Counsel testified that he did not challenge the DNA test on its chain of custody, as he felt there was not merit to that issue.

Based on these reasons, this Court finds plea counsel was not ineffective on this ground and this allegation is denied and dismissed with prejudice.

Trial Court Error

This Court finds Applicant failed to present any testimony, argument, or evidence at the hearing concerning the allegation in his application that the trial court erred in admitting the detective's testimony. Additionally, the Court finds this allegation is a direct appeal issue and is procedurally barred by S.C. Code Ann. § 17-27-20(b) (2003). Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 420 (1993). Applicant could have raised

this issue on appeal. The failure to do so has waived this allegation as grounds for relief, and the allegation is dismissed.

Conclusion

Based on all the foregoing, this 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.

This Court notes Applicant must file and serve a notice of appeal within thirty 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 (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:

1. The application for Post-Conviction Relief is denied and dismissed with prejudice; and

2. Applicant shall be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 8 day of Aug, 2019.

THE HONORABLE *MAITE MURPHY*
Presiding Judge
Tenth Judicial Circuit

Summerville, South Carolina

treet, Suite 2B
:9201

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US POSTAG
FIRST-CLASS

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