

The Grose Law Firm, LLC

404 Main Street, Greenwood, South Carolina 29646

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October 31, 2016

The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211

RECEIVED

NOV 03 2016

S.C. SUPREME COURT

Re: *Korey Lamar Love v. State of South Carolina*
Case Number: 2015-CP-23-02618

Dear Mr. Shearouse:

Enclosed for filing, please find Mr. Love's Notice of Appeal. By copy of this letter to the Clerk of Court for Greenville County, I am filing a copy of the Notice of Appeal in the Circuit Court records.

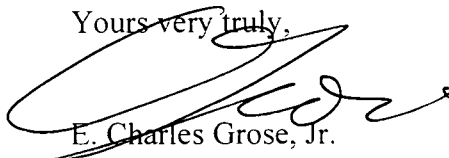
Also enclosed are the orders of the Honorable Daniel D. Hall dated, March 23, 2016, dismissing his application for post-conviction relief, and September 23, 2016 (filed on October 6, 2016), denying Mr. Love's Rule 59(e), SCRCP motion.

Because this appeal involves a post-conviction relief case, I understand there is not a filing fee.

Thank you for your attention to this matter. If you have any questions or require additional information, please do not hesitate to contact me.

With kindest regards, I am

Yours very truly,



E. Charles Grose, Jr.

cc: Mr. Korey Love
Karen C. Ratigan, Esquire
Clerk of Court, Greenville County

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

NOV 03 2016

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions
Daniel D. Hall, Circuit Court Judge

S.C. SUPREME COURT

Case No. 2015-CP-23-02618

Korey Lamar Love, Petitioner,

v.

State of South Carolina, Respondent.

Notice of Appeal

The petitioner, Korey Lamar Love, appeals the order of the Honorable Daniel D. Hall, dated, March 23, 2016, dismissing his application for post-conviction relief. This appeal is taken from the order of Judge Hall dated September 23, 2016 and filed on October 6, 2016, denying his Rule 59(e), SCRCF motion.

By



E. Charles Grose, Jr.
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The Grose Law Firm, LLC
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(864) 538-4405 (fax)
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Attorney for the Korey Love

October 31, 2016
Greenwood, South Carolina

Other Counsel of Record:

Karen C. Ratigin, Esquire
S.C. Attorney General's Office
PO Box 11549
Columbia, SC 29211-1549

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

NOV 03 2016

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions
Daniel D. Hall, Circuit Court Judge

S.C. SUPREME COURT

Case No. 2015-CP-23-02618

Korey Lamar Love, Petitioner,

v.

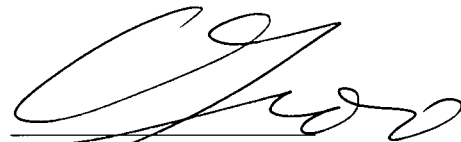
State of South Carolina, Respondent.

Certificate of Service

I certify that I have served a copy of this pleading on the State of South Carolina by placing a copy in the US Mail, postage prepaid, on the date reflected below, addressed to

Karen C. Ratigan, Esquire
S.C. Attorney General's Office
PO Box 11549
Columbia, SC 29211-1549

October 31, 2016



E. Charles Grose, Jr.
The Grose Law Firm, LLC.
404 Main Street
Greenwood, SC 29646
(864) 538-4466

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
Korey Lamar Love,)
S.C.D.C. No. 353157,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
C.A. No. 2015-CP-23-2618

ENTERED COMPUTER

ORDER

FILED IN COURT
GREENVILLE CO. S.C.
PAUL D. WICKENSIMMER
2016 OCT 6 PM 2 10

The above-captioned case is a post-conviction relief matter arising from an application filed April 20, 2015. Applicant was represented by E. Charles Grose, Jr., Esquire and Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented Respondent. An evidentiary hearing was convened on February 17, 2016 at the Greenville County Courthouse and the final order of dismissal was signed by this Court on March 23, 2016 and filed April 4, 2016.

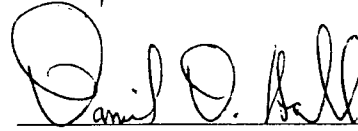
This matter is back before the Court by way of Applicant's Motion to Alter or Amend pursuant to Rule 59(e), SCRCP, filed on April 12, 2016. Respondent made its return to this motion on April 18, 2016.

Based upon careful reconsideration of all of the evidence in this case and upon full consideration of Applicant's motion and supporting memorandum, this Court is not persuaded to alter or amend the judgment. This Court further finds that oral argument would not aid in the reconsideration of the original judgment. This Court finds the previous order of dismissal fully comports with the requirements of Rule 52(a) SCRCP.

IT IS THEREFORE ORDERED:

1. That Applicant's Motion to Alter or Amend is denied and dismissed.

AND IT IS SO ORDERED this 23rd day of September, 2016.

A handwritten signature in black ink, appearing to read "Daniel D. Hall". The signature is written in a cursive style with a large initial "D".

Daniel D. Hall
Presiding Judge
Thirteenth Judicial Circuit

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NO: 2015CP2302618

FILED-111 OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
NOV 6 PM 2 11

Korey Love vs. South Carolina State Of

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a),
SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy:
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

Dated at Greenville, South Carolina, this .

Court Reporter:

PRESIDING JUDGE - Daniel D Hall

This judgment was entered on the , and a copy mailed first class this , to attorneys of record or to parties (when appearing pro se) as follows:

E. Charles Grose Jr. 404 Main Street Greenwood,
SC 29646

Karen Ratigan

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court
- Clerk of Court

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
Korey Lamar Love,)
S.C.D.C. No. 353157,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)

IN THE COURT OF COMMON PLEAS
C.A. No. 2015-CP-23-2618

SCANNED

ORDER OF DISMISSAL

ENTERED COMPUTER

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMMER
2016 APR 4 PM 9 22

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed April 20, 2015. The Respondent made its return to the PCR application on July 17, 2015. An evidentiary hearing was held on February 17, 2016 at the Greenville County Courthouse. The Applicant was present and represented by E. Charles Grose, Jr., Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

Prior to the commencement of the PCR hearing, counsel for the Applicant made three motions. First, counsel requested a continuance to investigate a letter received by the Applicant, arguing it was newly-discovered evidence. This Court denied the motion, as the Applicant came into possession of this letter in 2012. Second, counsel requested to hold the record open in order to have depositions of two purported alibi witnesses (who had also given affidavits). This Court denied the motion, as the hearing date was well known by the parties and these witnesses could have been deposed in advance of the hearing if they were unable to appear. This Court, however, allowed the affidavits to be admitted into evidence.¹ Third, counsel requested to

¹ Applicant's Exhibits 2 and 3.

amend the PCR application. This Court denied the motion, finding the late amendment did not provide adequate notice to opposing counsel.²

Kendel Love, assistant solicitor Howard L. Steinberg, and the Applicant's trial counsel, Fletcher N. Smith, Jr., Esquire testified at the PCR hearing. The Court had before it the trial transcript, the Greenville County Clerk of Court records, the South Carolina Department of Corrections records, the PCR application, the return, the appellate records, and Applicant's Exhibits 2 and 3.³

PROCEDURAL HISTORY

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Applicant was indicted at the January 2011 term of the Greenville County Grand Jury for possession of a pistol by a person under 18 years of age (2010-GS-23-4508), attempted armed robbery (2010-GS-23-4509, count 1), possession of a weapon during commission of a violent crime (2010-GS-23-4509, count 2), and murder (2010-GS-23-4510). He was represented by Fletcher N. Smith, Jr., Esquire.

After the State called the case to trial, the Applicant was found guilty. On November 8, 2012, the Honorable Edward W. Miller sentenced the Applicant to concurrent terms of 5 years for possession of a pistol by a person under 18 years of age, 20 years for attempted armed robbery, 5 years for possession of a weapon during commission of a violent crime, and 50 years for murder.

² This Court also notes the Applicant's counsel – at the close of the case – moved under Rule 15(b), SCRCP to conform the pleadings to the evidence presented and this Court denied that motion.

³ Applicant's Exhibits 1 and 4 were marked for identification but not moved into evidence. As such, they are not a part of the court record and cannot be considered by this Court.

A notice of appeal was filed at the South Carolina Court of Appeals. Benjamin J. Tripp, Esquire of the South Carolina Commission on Indigent Defense, Division of Appellate Defense perfected the appeal in the form of an Anders⁴ brief. The Court of Appeals dismissed the appeal. State v. Love, Op. No. 2014-UP-177 (S.C. Ct. App. filed April 23, 2014). The Remittitur was sent on May 19, 2014.

ALLEGATIONS

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

1. Ineffective assistance of trial counsel.
 - a. "During opening statement and closing argument, making burden shifting comments that conveyed to the jurors that Applicant had the burdern [sic] of proving his defense, including [sic] his alibi."
 - b. "During opening statements, promising the jurors that the defense would call certain alibi witnesses, which trial counsel never called to testify, thereby undermining [sic] the defense's credibility with the jurors."
 - c. "Not calling witness that supported Applicant's alibi defense."
 - d. "During direct testiony [sic], eliciting from the Applicant that he had been incarcerated on these charges for 2 1/2 years."
 - e. "Emphasizing during closing argument that the Applicant had been incarcerated for 2 1/2 years on these cahrges [sic]."
 - f. "Failing to make a specific objection the trial court judge's instrucing [sic] the jurors 'in order to establish an alibi it must be shown that the defendant was at another specified place at the time the crime was committed.'"
 - g. "During juror deliberations, failing to object to the trial court judge answering a question from the jurors by providing factual information."
2. Ineffective assistance of appellate counsel.
 - a. Failing to appeal the trial court judge's instrucing [sic] the jurors 'in order to establish an alibi it must be shown that the defendant was at another specified place at the time the crime was committed.'"

⁴ Anders v. California, 386 U.S. 738, 87 S. Ct. 1396 (1967).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, “[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence.” Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel’s ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). In order to prove prejudice, an applicant must show “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). “A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial.” Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052).

A.

This Court finds the Applicant failed to meet his burden of proving trial counsel did not call alibi witnesses and properly present an alibi defense.

Kendel Love, the Applicant's younger brother, stated he was 12-13 years old in 2007 and that he, the Applicant, and his father lived with Demetrius Jackson's family at that time. Love stated he and the Applicant had a curfew while they were staying at the Jacksons' home and that it was 10:30 p.m. on weekdays and 12:00-1:00 a.m. on weekends. Love stated an adult would have known if the Applicant had not observed the curfew. Love stated on cross-examination that he knew the Applicant was home on the night in question because he "was always there."

Trial counsel testified the defense strategy was to argue alibi and to challenge the credibility of the State's witnesses. Trial counsel testified the Applicant and Leslie Jackson each testified at trial as to the Applicant's alibi. Trial counsel testified the Applicant told him to contact alibi witnesses and that he talked to them. Trial counsel testified he did not call Kendel Love as an alibi witness at trial because he was "wishy-washy" and would not have been a good witness. Trial counsel testified Jerome Love and Demetrius Jackson were on standby at trial as potential alibi witnesses. Trial counsel testified Jerome Love had an outstanding arrest warrant so he had an agreement with the State and the trial judge that Love would not be arrested. Trial counsel testified he could not subpoena Jerome Love, however, because he could not locate him and Love would not come meet with him in his office. Trial counsel testified Jerome Love showed up right before court but noted the State had provided recordings of calls from the jail where Jerome Love had made racist statements to the Applicant. Trial counsel testified he had Demetrius Jackson under subpoena but decided not to call him. Trial counsel noted Demetrius Jackson had a prior conviction that could be used to impeach him.⁵ Trial counsel testified he believed he could make an alibi argument through just the Applicant and Leslie Jackson.

Assistant solicitor Howard Steinberg testified he was one of the two prosecutors on this

⁵ Trial transcript, pp.399-400.

case. Steinberg testified he turned over full discovery to trial counsel, which included recordings of phone calls made from the Applicant to family members while he was in jail. Steinberg testified he would have cross-examined and attempted to impeach Jerome Love with these calls if he had testified at trial. Steinberg testified he saw Jerome Love outside of the courthouse and noted the State had agreed – after a prior meeting with trial counsel and the trial judge – not to arrest him on a pending arrest warrant during the Applicant’s trial.

This Court finds the Applicant did not meet his burden of proving either that trial counsel’s performance was deficient or that he was prejudiced as a result. This Court finds trial counsel articulated valid reasons that he did not call Kendel Love, Jerome Love, or Demetrius Jackson as alibi witnesses at the Applicant’s trial. See Roseboro v. State, 317 S.C. 292, 294, 454 S.E.2d 312, 313 (1995) (finding where trial counsel articulates a valid reason for employing a certain strategy, such conduct should not be deemed ineffective assistance of counsel). As such, trial counsel’s performance cannot be deemed deficient.

Regardless, this Court finds the Applicant cannot demonstrate he was prejudiced because Kendel Love, Jerome Love, or Demetrius Jackson did not testify. This Court finds there is no reasonable probability that these witnesses would not have affected the outcome of the Applicant’s trial. See Johnson v. State, 325 S.C. at 186, 480 S.E.2d at 735. Initially, this Court finds the Applicant has failed to show these witnesses, when combined with the rest of the defense case, would have established a complete alibi. See Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995) (finding that trial counsel’s failure to present a purported alibi witness was not ineffective when that witness’s testimony was insufficient to establish an alibi defense); State v. Robbins, 275 S.C. 373, 271 S.E.2d 319 (1980) (holding that since an alibi derives its potency as a defense from the fact that it involves the physical impossibility of the

defendant's guilt, a purported alibi which leaves it possible for the defendant to be the guilty person is no alibi at all). This Court finds Kendel Love was not a credible or compelling witness because, while he stated the Applicant would have been home on the evening of the crime, he could not explain why he recalled that particular date. Though this Court examined the affidavits from Jerome Love and Demetrius Jackson, it does not find such to be compelling evidence. In any event, even if these witnesses had been called in the defense case, they would have been easily attacked with impeachable evidence by the State. This Court finds Jerome Love and Demetrius Jackson would have merely added – at best – cumulative testimony to Leslie Jackson. As such, this Court finds there is no reasonable probability that calling additional alibi witnesses would have changed the outcome of the Applicant's trial. See Johnson v. State, 325 S.C. at 186, 480 S.E.2d at 735.

B.

This Court finds the Applicant failed to meet his burden of proving trial counsel made improper comments in his opening statement.

Trial counsel testified that, during his opening statement, he said he would prove the Applicant's alibi. Trial counsel confirmed his opening statement also noted the names of several alibi witnesses, including Kendel Love, Jerome Love, and Demetrius Jackson. Trial counsel testified his strategy in opening argument was to take a powerful position that they were going to prove their defense. Trial counsel testified he did not mislead the jury because he put up an alibi defense.

This Court finds the Applicant did not meet his burden of proving either that trial counsel's performance was deficient or that he was prejudiced as a result. In his opening argument, trial counsel stated the defense was going to prove the Applicant was not guilty

because he was home on the night of the murder. (Trial transcript, p.58). Trial counsel noted they were going to call alibi witnesses: Leslie Jackson, Jerome Love, and Demetrius Jackson. (Trial transcript, pp.58-59). As explained supra, trial counsel did not call Jerome Love or Demetrius Jackson as witnesses but presented the alibi defense through the testimony of the Applicant and Leslie Jackson. This Court finds trial counsel was not deficient in making these comments in his opening argument. It is axiomatic that counsel's arguments to the jury do not constitute evidence. See Ex parte Morris, 367 S.C. 56, 64, 624 S.E.2d 649, 653 (2006) ("It is well established that counsel's statements regarding the facts of a case and counsel's arguments are not admissible evidence."); South Carolina Dep't of Transp. v. Thompson, 357 S.C. 101, 105, 590, S.E.2d 511, 513 (Ct. App. 2003) ("Arguments made by counsel are not evidence."). Trial counsel was merely staking out a strong position in opening argument. This was not deficient representation. See, e.g., Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 597 (2007) ("There is a strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in the case."). This Court finds there was no error because trial counsel did present an alibi defense to the jury. Regardless, the Applicant failed to demonstrate he suffered any prejudice. As discussed supra, any testimony from Jerome Love or Demetrius Jackson would have been cumulative to Leslie Jackson's testimony. The Applicant cannot demonstrate there was a reasonable probability that trial counsel's statement that he would call these individuals – which was ultimately not the case – affected the outcome of the Applicant's trial. See Johnson v. State, 325 S.C. at 186, 480 S.E.2d at 735.

C.

This Court finds the Applicant failed to meet his burden of proving trial counsel should

not have elicited testimony that the Applicant had been incarcerated prior to trial.

Trial counsel testified his strategy in noting the Applicant had been in jail for 2.5 years was to show the Applicant was the victim and had been falsely accused.

This Court finds the Applicant did not meet his burden of proving either that trial counsel's performance was deficient or that he was prejudiced as a result. During trial counsel's opening argument, he noted the Applicant had been indicted "for approximately two and a half years." (Trial transcript, p.57). During his direct examination of the Applicant, trial counsel asked if he had been in jail for 2.5 years and the Applicant said yes. (Trial transcript, p.430). Trial counsel testified he chose to emphasize this point because he wanted to show the Applicant had been falsely accused and this would help the idea of his victimization. This Court finds that, especially when combined with an alibi defense, this was a reasonable trial strategy. See Roseboro v. State, 317 S.C. at 294, 454 S.E.2d at 313; see also Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992) ("Courts must be wary of second-guessing counsel's trial tactics."). This Court finds this was clearly a part of trial counsel's strategy, as he reemphasized the Applicant's lengthy imprisonment during his closing argument. (Trial transcript, p.453). This Court finds the Applicant failed to demonstrate he suffered any prejudice as the result of trial counsel's mention of his 2.5-year incarceration. This is especially true, as a State witness also noted in her testimony that she visited the Applicant in jail after he was arrested on these charges. (Trial transcript, p.238). See Cherry v. State, 300 S.C. at 117-18, 386 S.E.2d at 625.

D.

This Court finds the Applicant failed to meet his burden of proving trial counsel should have objected to the alibi jury instruction.

Trial counsel testified he believed the trial judge's alibi charge was consistent and not

objectionable. Trial counsel testified he did not believe the alibi charge was burden-shifting.

This Court finds the Applicant did not meet his burden of proving either that trial counsel's performance was deficient or that he was prejudiced as a result. The trial judge charged the jury on the defense of alibi. (Trial transcript, p.483). While trial counsel voiced an objection "out of an abundance of caution" regarding the "mere denial" language of the charge, the trial judge explained the charge was proper because "he can't just say he wasn't there, he's gotta specify where he was." (Trial transcript, p.485). This Court finds there was no error in trial counsel not further challenging the jury charge because it was a proper charge on the defense of alibi. See State v. Peer, 320 S.C. 546, 553, 466 S.E.2d 375, 380 (Ct. App. 1996) (holding a trial court has a duty to give a requested instruction that correctly states the law applicable to the issues and is supported by the evidence). Similarly, the Applicant cannot prove he suffered any prejudice from this jury charge because it was a proper instruction on the defense of alibi.

E.

This Court finds the Applicant failed to meet his burden of proving trial counsel should have objected to the manner in which the trial judge responded to a jury question.

Trial counsel confirmed the trial judge answered the jury's question by sending back the name of the twin brother at issue. Trial counsel testified the trial judge did so because the jury did not want to listen to the twins' testimony again.

This Court finds the Applicant did not meet his burden of proving either that trial counsel's performance was deficient or that he was prejudiced as a result. During jury deliberations, the jury sent out a note: "Which twin says [Applicant] shot [victim] because [victim] saw [Applicant]s face? Did Ricky or Rashad say that first? Can you answer that for us

without us listening to the twins' testimony again?" (Trial transcript, p.495). After discussion with the parties, the trial judge asked the bailiff to tell the jury the testimony would be replayed. (Trial transcript, p.497). After a pause and discussion, the trial judge noted "the foreperson says all they wanna know is the name of the person who said it." Over trial counsel's objection, the trial judge stated "just gonna tell 'em Rashad Simmons." (Trial transcript, p.497). As trial counsel objected, his performance cannot be deemed ineffective. Regardless, the Applicant failed to demonstrate he suffered any prejudice from the trial judge acquiescing to the jury's request to simply have the name of the witness rather than listening to two witnesses' testimony. This Court finds there is no reasonable probability that answering the jury's question in this manner changed the outcome of the Applicant's trial. See Johnson v. State, 325 S.C. at 186, 480 S.E.2d at 735.

F.

Accordingly, as to all of the aforementioned issues, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that trial counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that trial counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by trial counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to

present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

CONCLUSION

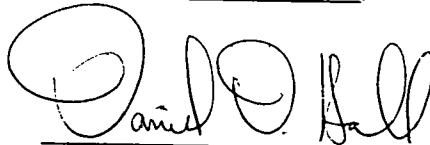
Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient and the Applicant was not prejudiced by counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 23rd day of March, 2016.



Daniel D. Hall
Presiding Judge
Thirteenth Judicial Circuit

Greenville, South Carolina.

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NO: 2015CP2302618

FILED - CLERK OF COURT
GREENVILLE, S.O.S.
PAUL B. WICKENSIMER
2016 APR 4 PM 9:22

Korey Love vs. South Carolina State Of

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- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**
SCRC (Vol. Nonsuit); Rule 12(b), SCRC; Rule 41(a),
 Rule 43(k), SCRC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):**
 Rule 40(j) SCRC; Bankruptcy:
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:
Dated at Greenville, South Carolina, this .

Court Reporter:

PRESIDING JUDGE - Daniel D Hall

This judgment was entered on the , and a copy mailed first class this , to attorneys of record or to parties (when appearing pro se) as follows:

E Charles Grose Jr. 404 Main Street Greenwood,
SC 29646

Attorney General Office

ATTORNEY(S) FOR THE PLAINTIFF(S)

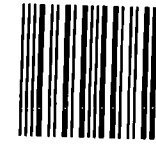
ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court
- Clerk of Court

The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646



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29211

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The Honorable Daniel E. Shearouse
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