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October 30, 2019

RECEIVED

OCT 31 2019

S.C. SUPREME COURT

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

RE: Laterria D. Hill a/k/a Laterrica Hill #370974 v. State of South Carolina

Dear Sir or Madam:

Enclosed please find for filing an original and a copy of a Notice of Appeal and Certificate of Service.

Kindly return a clocked copy to me in the enclosed envelope. Please feel free to contact me should you have any questions. Thank you.

Yours truly,

Tommy A. Thomas,
Attorney at Law

TAT/jem
cc: Brianna Schill, Esq.
Appellate Defense
Laterria D. Hill #370974

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED
OCT 31 2019
S.C. SUPREME COURT

APPEAL FROM YORK COUNTY
Court of Common Pleas
Post Conviction Relief

Roger E. Henderson., Circuit Court Judge

Lower Court Case No.: 2018-CP-46-0260

Laterria D. Hill a/k/a Laterrica Hill #370974,..... Appellant,

vs.

State of South Carolina, ...Respondent.

NOTICE OF APPEAL

The Appellant, Laterria D. Hill a/k/a Laterrica Hill #370974 , appeals the Order of Dismissal signed by the Honorable Roger E. Henderson, dated September 18, 2019 and filed on October 1, 2019. Appellant received written notice of entry of this order on October 4, 2019.

Respectfully submitted,

Tommy A. Thomas
Attorney for Appellant
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Irmo, SC 29063
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October 30, 2019

APPEAL FROM YORK COUNTY
Court of Common Pleas
Post Conviction Relief

Roger E. Henderson., Circuit Court Judge

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S.C. SUPREME COURT

Lower Court Case No.: 2018-CP-46-0260

Laterria D. Hill a/k/a Laterrica Hill #370974,..... Appellant,

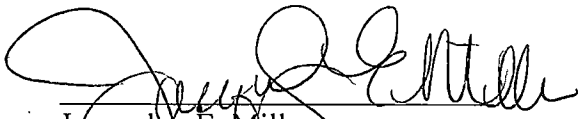
vs.

State of South Carolina, ...Respondent.

CERTIFICATE OF SERVICE

I, Jacquelyn E. Miller, Secretary to Tommy A. Thomas, Esq., certify that I have served a copy of an Order of Dismissal by depositing a copy of it in the United States Mail, postage prepaid and the return address clearly shown on said envelope to:

Brianna Schill, Esq.
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211-1549



Jacquelyn E. Miller
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October 30, 2019

STATE OF SOUTH CAROLINA COUNTY OF YORK	IN THE COURT OF COMMON PLEAS FOR THE SIXTEENTH JUDICIAL CIRCUIT
Laterria D. Hill, a.k.a Laterrica Hill, SCDC #370974, Applicant, v. State of South Carolina, Respondent.	2018-CP-46-0260 **ORDER OF DISMISSAL**

This matter comes before the Court by way of an application for post-conviction relief filed by counsel, Tommy A. Thomas, Esquire, on behalf of Laterria Hill, a.k.a Laterrica Hill (Applicant), on January 30, 2018. The State (Respondent) filed a return and motion to dismiss on April 18, 2018. An evidentiary hearing into the matter was convened on August 12, 2019, at the Moss Justice Center. Applicant was present at the hearing and represented by Tommy A. Thomas, Esquire. Assistant Attorney General Brianna L. Schill of the South Carolina Attorney General's Office appeared on behalf of Respondent. At the hearing, Applicant testified on her own behalf. Applicant's husband (Husband), Assistant Public Defender Mindy Hervey Lipinski (Lipinski) of the Sixteenth Circuit Public Defender's Office, Reginald I. Lloyd, Esquire, (Lloyd), and Assistant Solicitor Christopher W. Epting (Epting) of the Sixteenth Circuit Solicitor's Office also testified. After a review of the record and all evidence presented, this Court finds Applicant has failed to meet her requisite burden of proof and denies and dismisses this application with prejudice.

I. PROCEDURAL HISTORY

The records before this Court establish Applicant is presently in the South Carolina Department of Corrections. Applicant was indicted at the February 2015 term of the York County

Grand Jury for Entering a Bank with Intent to Steal (2015-GS-46-00690). Lipinski and Lloyd represented Applicant. Epting prosecuted the case. On September 8, 2016, Applicant appeared with Lloyd and Lipinski before the Honorable Daniel D. Hall where she pled guilty but mentally ill. Pursuant to negotiations, Applicant was sentenced to five years imprisonment, with incarceration to commence January 1, 2017.

Applicant filed a timely notice of appeal. On March 6, 2017, the South Carolina Court of Appeals issued an Order dismissing the appeal for Appellant's failure to provide a sufficient explanation as required by Rule 2013(d)(1)(B)(iv) of the South Carolina Appellate Court Rules (SCACR). The Remittitur was mailed March 24, 2017.

II. FACTUAL HISTORY

The following facts were presented at the plea hearing:

> [I]n October of 2014 the defendant entered the Airpoint Federal Credit Union here on Old Point School Road. That she had a firearm on her person. Her sweatshirt was pulled up to obscure her face. She did present that firearm to the victim, the teller in this case and got approximately $10,000. At which point she fled. She was located in neighborhood near where the bank was located in a vehicle matching the description. At that point officers continued to investigate. They found the sweatshirt, the gun which was loaded and the money in the vehicle that Miss Hill was driving. Miss Hill was placed under arrest at that point for robbing the bank. Back at the police station she did give a statement cooperating with the police admitting involvement but denying there was premeditation or planning that went into the robbery.

(GP Tr. 9, l. 23- p. 10 l. 13).

III. PCR APPLICATION

In her application, Applicant alleges that she is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
2. "Involuntary Guilty Plea"

On August 6, 2019, Applicant, through counsel, submitted an amended application

alleging:

1. Failure to inform Applicant she was entering into a negotiated plea;
2. Failure to discuss defenses; and
3. Failure to inform her of consequences of pleading guilty but mentally ill.

IV. SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

Applicant's Testimony

Applicant testified she is serving time for entering a bank with intent to steal, and that she pled guilty to this charge and received a sentence of five years. Applicant testified she retained Lloyd approximately two weeks prior to her guilty plea. Applicant testified Lipinski represented her for approximately one year. Applicant testified she met with Lipinski in person approximately five or six times. Applicant testified the only evidence she reviewed with Lipinski were pictures of her entering the bank. Applicant testified Lipinski informed her of the strength of the case against her, telling her that she was guilty, and that if she went to trial she would get the maximum sentence.

Regarding her mental health, Applicant testified she saw a therapist and was diagnosed with post-partum depression and Post-Traumatic Stress Disorder. Applicant testified she was married at the time and she had children – the oldest being nine years old and the youngest was nearly two years old. Applicant testified she was six months pregnant at the time of the incident. Applicant testified she got a mental health evaluation from Dr. Donna Schwartz Maddox. After reviewing the report by Dr. Maddox, Applicant testified the report indicated she could not "conform her conduct to the law." Applicant testified she had issues concerning miscarriages, finances, and suicidal thoughts at the time of the incident, but testified finances did not have anything to do with the incident.

Applicant testified she received an initial plea offer of five-to-seven years, and then a second plea offer that resulted in her five-year sentence. Applicant testified she never wanted to accept plea offers and was still thinking about trial, but after Lipinski kept telling her what could happen if she went to trial, she began to consider taking a plea. Applicant testified she consulted with Lloyd after she received the last offer from Lipinski. Applicant testified Lloyd told her he did not understand why she was not evaluated when she was first incarcerated and that he did not know why she could not get probation. Applicant testified her and her husband visited Lloyd in person and also consulted with him over the telephone. Applicant testified she decided to enter the plea because she thought she was would be sentenced to probation. Applicant testified Lloyd called her prior to her plea hearing and informed her the sentence would be a zero-to-five recommended sentence. Applicant testified she was told she would get no more than five years, and that the sentence would be zero-to-five. Applicant also testified Lloyd told her she would be in a mental health institution for some time, not in SCDC. However, Applicant acknowledged that she knew she would eventually be sent to the general population in SCDC. Applicant testified she never went to a mental health institution, but rather went straight to the general population of SCDC. Applicant testified she has issues with her mental health classification because it affects her ability to do "anything" in SCDC – it affects her custody. Applicant testified her mental health classification has been more of a restriction, and not helpful. Applicant testified her plea was not freely and voluntarily given because of her confused state of mind.

On cross-examination, Applicant testified she had a one-year old child and was pregnant at the time of the offense. Applicant further testified she was not pregnant at the time of her guilty plea hearing and her youngest child at that time was approximately a year-and-a-half. After reviewing the report by Dr. Maddox, Applicant testified the report stated that she knew the

difference between right and wrong at the time of her offense. After reviewing the transcript of her plea hearing, Applicant testified she told the plea court that she was not being treated for any mental health issues at the time of her plea. Applicant testified she told the plea court she was not taking any medication at the time of her guilty plea hearing. Applicant testified she told the plea court she clearly understood what she was doing at her guilty plea hearing. Applicant testified she recalled discussing with the plea court the meaning of pleading guilty but mentally ill. Applicant testified the plea court informed her that once she was properly medicated, she would be placed within the general population of SCDC.

Applicant testified she told the plea court she did not have any questions. Applicant testified she told the plea court she was not threatened or coerced into pleading guilty but mentally ill. Applicant testified she told the plea court that she was satisfied with her representation from counsel. Applicant testified she told the plea court she did not need any more time with her attorneys. Applicant testified she waived her constitutional rights at her guilty plea hearing. Applicant testified she was told at her plea hearing that the plea was being offered as a negotiated plea, and that the plea court could not give her more or less than five years. Applicant testified she agreed with the facts presented by the State at her plea hearing. Applicant testified she told the plea court she was pleading freely and voluntarily.

Applicant further testified she initialed the plea waiver form which indicated: (1) the plea was not the product of any promises other than the negotiated sentence; (2) the plea was a negotiated plea; (3) she was not under the influence of medication or alcohol at her plea hearing; (4) she was pleading freely and voluntarily; (5) she waived her constitutional rights; and (6) she was satisfied with her representation from Lloyd and Lipinski.

On redirect, Applicant testified she "vaguely" remembered her plea hearing. Applicant testified she thought she was going to a mental facility, but that it turned out to be "R and E," which was where "everyone goes." Applicant testified she did not spend any time at a mental health facility.

Husband's Testimony

Husband testified he did not think Applicant deserved five years because it was her first offense. Husband testified the incident was out of character for Applicant. Husband testified he was with Applicant when she met with Lloyd. Husband testified he was with Applicant when she decided to accept the plea offer. Husband testified the promise of being housed at a mental health facility "swayed" her to plead guilty but mentally ill. Husband testified two-to-three family members spoke on Applicant's behalf at her plea hearing.

On cross-examination, Husband testified he was not present for every conversation between Applicant and Lloyd, or between Applicant and Lipinski. Husband testified Lloyd told him Applicant would receive zero-to-five years.

Lipinski's Testimony

Lipinski testified she has been practicing law for twenty years, all of which has been criminal law. Lipinski testified she met with Applicant more than ten times, and that Applicant did not show up for some of her appointments. Lipinski testified the discussions of pleading guilty but mentally ill came about because this incident was out of character for Applicant. Lipinski testified Applicant had a longstanding job, and Lipinski began to suspect something more was going on with Applicant. Lipinski stated Epting agreed that Applicant did not seem to be the typical criminal. Lipinski testified Epting needed a reason to go below the minimum ten-year sentence, so Lipinski decided to get Applicant a mental health evaluation. Lipinski testified, based

on the report by Dr. Maddox, Applicant knew the difference between right and wrong at the time of the offense.

Lipinski testified she received discovery and reviewed it with Applicant. Lipinski testified Applicant never denied committing the offense. Lipinski testified she showed Applicant still photos from the bank, which depicted her committing the offense, as well as photographs of the items associated with the robbery in her car trunk. Lipinski also testified they discussed the fact that her google search history revealed that she searched "how to load a gun" on YouTube. Lipinski testified she discussed the elements of the charge with Applicant as well as possible defenses to the extent that Applicant had them. Lipinski testified she told Applicant entering a bank with the intent to steal had a lower sentencing range, and that they discussed the consequences of pleading guilty but mentally ill to that charge. Lipinski testified she advised Applicant that, given the evidence against her, it was unlikely that she would get a not guilty verdict to an armed robbery charge. Lipinski testified Applicant did not understand why she could not receive a sentence of only probation.

Lipinski testified she told Applicant the State could potentially convict her of armed robbery, and that the State was only willing to do a negotiated sentence of five years to the lower charge. Lipinski testified the plea negotiated decreased from seven years to five years after they submitted the report from Dr. Maddox. Lipinski testified she tried to get a split sentence, but Epting was not "on board" with a split sentence. Lipinski testified Applicant was always going to receive an active prison sentence, and that she told Applicant this. Lipinski testified Epting was adamant about an active sentence because the bank teller was "traumatized," and because Applicant brandished a loaded gun during the commission of the robbery. Lipinski testified she

explained to Applicant "over and over again" that a probation only sentence was not going to be an option for Applicant.

Lipinski testified she discussed with Applicant the consequences of pleading guilty but mentally ill. Lipinski testified she told Applicant she might end up in a mental health ward or a pod in SCDC, although she would eventually be placed in the general population. Lipinski testified she told Applicant she would not be in the mental health ward for long. Lipinski testified she was very clear to Applicant that she would not be going to a mental hospital, and that any mental health evaluations or treatment would be done through SCDC. Lipinski testified she also advised Applicant that she would most likely be placed quickly in general population because she was doing well at the time. Lipinski testified she believed it was in Applicant's best interest to plead guilty but mentally ill because it would help her in the future in terms of gaining employment.

Lipinski testified Applicant first rejected a plea offer on the record, and that for a time they anticipated going to trial. Subsequent to that, Lloyd called Lipinski and told her Applicant hired him. Lipinski testified Lloyd asked her if he would be able to help Applicant, and she indicated he could possibly get her another offer on the table. Lipinski testified she came to the plea hearing to assist, but that Lloyd was representing Applicant at the time of the plea hearing.

Lipinski testified Applicant did not give her any indication that she did not understand what was happening prior to or at the time of her plea hearing. Lipinski testified Applicant asked coherent and thoughtful questions throughout her representation of Applicant. Lipinski testified Applicant might have been in denial about what was going to happen to her, but Applicant seemed to understand what Lipinski was telling her.

On cross-examination, Lipinski testified she believed "the perfect storm" of factors caused Applicant to commit the offense. Lipinski testified Applicant is the victim of sexual abuse in the

past. Lipinski also testified Applicant had suffered from PTSD, which Lipinski used in mitigation. Lipinski reiterated that she had to tell Applicant on several occasions she was not going to get probation due to the fact that she robbed a bank with a loaded gun. Lipinski testified the State always had the opportunity to pursue an armed robbery charge, and Applicant could get up to thirty years for that charge.

Epting's Testimony

Epting testified he is employed by the Sixteenth Circuit Solicitor's Office and that he was the Assistant Solicitor assigned to Applicant's case. Epting testified he never offered a deal consisting of only probation. Epting testified active prison time was "always on the table" because of the concern of the victims and the nature of the offense.

Epting testified he ultimately offered Applicant the option to plead guilty but mentally ill because Lipinski gathered mitigating evidence and obtained the report from Dr. Maddox. Epting testified he did not have any reason to argue with Lipinski regarding the report from Dr. Maddox. Epting testified Applicant did not have representation at the beginning of her case, and that he told her she should get an attorney. Epting testified Applicant told him she planned to retain Jack Swerling. Epting testified Applicant seemed "normal" during these conversations.

On cross-examination, Epting testified he offered the option to plead guilty but mentally ill in part because of her lack of a criminal history and her low chance of recidivism. However, Epting testified it was equally important that the victim, who was traumatized by the event, would not have been happy with a sentence of only probation.

Lloyd's Testimony

Lloyd testified he has been practicing law since 1993, and almost all of his practice has been in criminal law. Lloyd testified he became involved in Applicant's case because Victor Li

was representing her and could not help her. Lloyd testified he agreed to talk with her and set up a meeting with Applicant and Husband. Lloyd learned at some point Lipinski and Li were involved in Applicant's case, as well as possibly Jack Swerling. Lloyd testified he discussed the history of Applicant's case with Lipinski. Lloyd learned from Lipinski that Applicant rejected a plea offer, and the State subsequently withdrew the plea offers. Lloyd testified he received discovery including the report from Dr. Maddox. Lloyd testified Applicant never told him about the report, and that he learned about it when he received it with Applicant's case file.

Lloyd testified it was apparent to him the plea deal was the best option for Applicant as he did not see any valid defenses. Lloyd testified he never told Applicant or Husband Applicant would receive a sentence of only probation. Lloyd testified Epting never offered a sentence consisting of only probation.

Lloyd testified he had a number of conversations with Applicant via telephone. Lloyd testified he informed her the State might not even put a plea offer back on the table as the State was adamant about going to trial after Applicant rejected the initial plea offer. Lloyd testified Lipinski told him to reach out to Epting regarding offering another plea deal. Lloyd testified he was able to get the Solicitor's Office to agree to reoffer a plea, which allowed Applicant to plead guilty but mentally ill to a negotiated sentence of five years.

Lloyd testified he discussed the consequences of pleading guilty but mentally ill with Applicant. Lloyd testified he and Applicant discussed these consequences in person and over the phone. Lloyd testified he never told Applicant she would be housed anywhere other than SCDC because the court could not turn her over to anyone other than SCDC. Lloyd testified that after informing Applicant and her family the offer was five years at SCDC, Applicant's family still could not understand why Applicant could not receive a sentence of only probation. Lloyd testified

he explained to Applicant and her family if she went to trial, she would be on trial for armed robbery and would face a sentence of ten-to-thirty years.

Lloyd testified Applicant never indicated to him she did not understand what was happening with her case. Lloyd testified Applicant might have been in denial, but that did not mean she did not understand what was happening in her case.

Lloyd testified he believed it was in Applicant's best interest to plead guilty but mentally ill, and that it was ultimately Applicant's choice to enter the plea. Lloyd testified he would have taken Applicant's case to trial if that is what she ultimately wanted, but he would have advised her a trial would not be in her best interest due to the amount of evidence against her.

On cross-examination, Lloyd testified Applicant likely would have been a sympathetic defendant, and he took this into account when discussing going to trial. Lloyd testified it was his opinion Applicant would be found guilty of armed robbery. Lloyd testified there was never a discussion of a plea consisting of a recommended zero-to-five sentence. Lloyd testified the Solicitor's Office would not offer a recommended zero-to-five year sentence because the victim was traumatized.

Lloyd testified he met with Applicant and her family in a courtroom conference room prior to the plea hearing to discuss the terms of the plea agreement and to discuss what would transpire during the plea hearing. Lloyd testified Husband discussed with him the probation issue while in the side conference room, and that later Husband pitched the idea of a probation sentence to the Solicitor's Office.

Applicant's Rebuttal Testimony

In rebuttal, Applicant testified she, in addition to her family, thought she was looking at a zero-to-five year sentence prior to her plea hearing.

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the relevant portions of the record and has heard the testimony and arguments presented at the PCR hearing. This Court also had before it the records of the York County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the application, the State's Return, and the plea transcript. This Court has reviewed the plea court record and has heard the testimony of both Applicant, Lipinski, Lloyd, and Epting. This Court has therefore weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusion of law as required by S.C. Code Ann. Sec. 17-27-80 (2003).

In a post-conviction relief action, Applicant bears the burden of proving the allegations in his or her application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove "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. at 443, 334 S.E.2d at 814. The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. at 689. A PCR applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, Applicant must prove counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance

by its "reasonableness under professional norms." Id. (quoting Strickland, 466 U.S. at 688). Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985).

Allegation 1: Failure to Tell Applicant She was Entering a Negotiated Plea

In her application, Applicant asserts Lipinski and Lloyd failed to inform her she was entering a negotiated sentence. This Court has reviewed the evidence and disagrees. This Court finds Lipinski, Lloyd, and Epting's testimony on this issue credible, while also finding Applicant's testimony on this issue not credible. Both Lipinski and Lloyd testified they both told Applicant the State was only willing to offer a negotiated five-year sentence. Epting testified he never offered a zero-to-five year recommended sentence. Moreover, the plea court informed Applicant her guilty plea was being presented as a negotiated plea. (GP Tr. 9). The plea court further informed Applicant accepting a negotiated plea meant the plea court could sentence Applicant to no more or no less than the five years, and Applicant testified she understood this. (GP Tr. 9). Applicant also initialed the plea waiver form, indicating she was entering a negotiated plea.

Additionally, Applicant has failed to establish any resulting prejudice from any alleged deficiency as Applicant was clearly aware of the fact that she was entering into a negotiated plea, as evidenced by the plea waiver form and the plea court's colloquy. As such, Applicant received the sentence she bargained for under the terms of the plea agreement. Accordingly, this Court

Plea counsel is not required to specifically advise a defendant of a collateral consequence of a plea, but when counsel undertakes to give advice on a collateral consequence and that advice is erroneous, grounds exist for post-conviction relief. See Smith v. State, 329 S.C. 280, 283, 494 S.E.2d 626, 628 (1997); Hinson v. State, 297 S.C. 456, 458, 377 S.E.2d 338, 339 (1989) (finding plea counsel ineffective for giving incorrect advice regarding parole eligibility). However, the applicant must prove he relied on the misinformation to receive post-conviction relief. Frasier, 351 S.C. at 389, 570 S.E.2d at 174–75 (citing Smith, 329 S.C. 280, 494 S.E.2d 626; Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)).

Applicant testified she was told she would be sent to a mental health hospital, not to SCDC, and that she relied on statements made by Lipinski and Lloyd indicating she would be sent to a mental health hospital. Applicant also acknowledged she was told she would eventually be sent to SCDC. Both Lloyd and Lipinski testified they discussed the consequences of pleading guilty but mentally ill with Applicant. Lipinski testified she told Applicant she might end up in a mental health ward or a pod, although she would eventually be placed in the general population. Lipinski testified she was very clear to Applicant that she would not be going to a mental hospital, and that any mental health evaluations or treatment would be done through SCDC. Lipinski testified she also advised Applicant that she would most likely be placed quickly in general population because she was doing well at the time.

Lloyd testified he and Applicant discussed the consequences of pleading guilty but mentally ill in person and over the phone. Lloyd testified he never told Applicant she would be housed anywhere other than SCDC because the court could not turn her over to anyone other than SCDC. Accordingly, this Court finds neither Lipinski nor Lloyd gave incorrect information to Applicant, and therefore neither were deficient.

VI. 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 her 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 shall be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 18th day of September, 2019.

ROGER E. HENDERSON
Presiding Judge
Sixteenth Judicial Circuit

Chesterfield, South Carolina.

TOMMY A. THOMAS
ATTORNEY AT LAW
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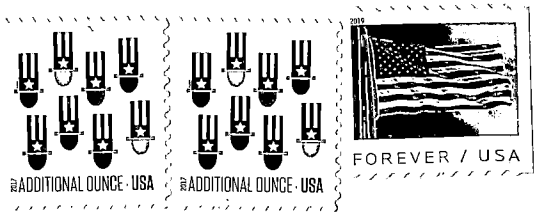
IRMO, SC 29063



The South Carolina Supreme Court
Clerk, Daniel Shearouse
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