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November 11, 2019

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

RE: Albert Lee Witherspoon (#371774) v. State of South Carolina | 2017-CP-29-0862

Dear Mr. Shearouse:

Please find enclosed a Notice of Appeal along with the accompanying Order for the above-referenced matter. By way of this letter I am copying the Office of Appellate of Defense, as I was appointed to represent Mr. Witherspoon.

Best regards,

Donae A. Minor, Esq.
Attorney at Law

cc: Albert Lee Witherspoon (#371774)
Samuel L. Key, Esq.
Lancaster County Clerk of Court
Office of Appellate Defense

STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

The Honorable D. Craig Brown, Circuit Court Judge

Case No. 2017-CP-29-0862

Albert Lee Witherspoon, #371774, ... Petitioner,

v.

State of South Carolina,.....Respondent.

NOTICE OF APPEAL

Applicant, Albert Lee Witherspoon, appeals the order of the Honorable D. Craig Brown, dated November 4, 2019, filed November 8, 2019, and received November 11, 2019.

November 11, 2019

DONAE A. MINOR, ESQUIRE
Minor Law Offices, LLC
1750 SC Highway 160 West,
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803-504-0971
SC Bar No. 102550
ATTORNEY FOR APPLICANT

Opposing Counsel:
Samuel L. Key
Post-Conviction Relief
6th and 13th Judicial Circuits
P.O. Box 11549
Columbia, SC 29211-1549

STATE OF SOUTH CAROLINA
In the Supreme Court

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S.C. SUPREME COURT

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

The Honorable D. Craig Brown, Circuit Court Judge

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Albert Lee Witherspoon, #371774, ... Petitioner,

v.

State of South Carolina,.....Respondent.

PROOF OF SERVICE

I, Ella Williams, certify that I have served the within Notice of Appeal on Respondent by depositing a copy of the same in the United States mail, postage prepaid, on November 11, 2019, addressed as follows:

Samuel L. Key
Post-Conviction Relief
6th and 13th Judicial Circuits
P.O. Box 11549
Columbia, SC 29211-1549

I further certify that all parties required by Rule to be served have been served.

November 11, 2019

ELLA WILLIAMS
PARALEGAL TO ATTORNEY DONAE A. MINOR
1750 SC Highway 160 West,
Ste. 101-259
Fort Mill, SC 29708
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STATE OF SOUTH CAROLINA COUNTY OF LANCASTER	)	IN THE COURT OF COMMON PLEAS FOR THE SIXTH JUDICIAL CIRCUIT
Albert Lee Witherspoon, #371774, Applicant, v. State of South Carolina, Respondent.	)	C.A. No. 2017-CP-29-0862 **ORDER OF DISMISSAL**

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed by Albert Lee Witherspoon (Applicant) on August 4, 2017. Respondent made its return on May 23, 2018. An evidentiary hearing into the matter was convened on July 29, 2019, at the Lancaster County Courthouse before the undersigned. Donae A. Minor, Esquire, represented Applicant. Assistant Attorney General Lindsey A. McCallister represented Respondent.

Applicant testified on his own behalf. Michael H. Lifsey, Applicant's plea counsel, testified on behalf of Respondent. This Court had before it a copy of the records of the Lancaster County Clerk of Court, records from the South Carolina Department of Corrections, the PCR application, Respondent's Return, and the plea transcript. After a review of the record and all evidence presented, this Court finds Applicant has failed to meet his requisite burden of proof and denies this application for relief.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lancaster County Clerk of Court. In December of 2010, the

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Lancaster County Grand Jury indicted Applicant for criminal sexual conduct (CSC) with a minor – first degree (2010-GS-29-1662). Michael H. Lifsey, Esquire (Counsel), represented Applicant. Assistant Attorney General (AAG) David A. Fernandez, Esquire, prosecuted the case. On March 13, 2017, Applicant pleaded guilty to the lesser-included offense of CSC with a minor – second degree before the Honorable W. Jeffrey Young. On March 17, 2017, Judge Young sentenced Applicant to twenty years' imprisonment. Applicant did not appeal his sentence or conviction.

ALLEGATIONS

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

1. Ineffective Assistance of Counsel
    a. Counsel failed to go over discovery material with petitioner.
    b. Counsel failed to visit petitioner and go over case with petitioner.
    c. Counsel failed to get petitioner mental evaluation to see if petitioner was mentally competent.
    d. Counsel failed to appeal the petitioner's plea.
    e. Counsel failed to file for sentence reconsideration after sentence.
    f. Counsel failed to interview and investigate victim and witnesses.
    g. Counsel failed to present favorable evidence to show petitioner's innocence.
    h. Counsel failed to present character witnesses for petitioner.
    i. Counsel failed to give petitioner discovery material.
    j. Counsel failed to file motions to suppress prejudicial evidence.
    k. Counsel failed to prepare for case.
    l. Counsel failed to investigate facts and circumstances.

Through PCR counsel, Applicant amended his application on November 13, 2018, to include the following allegations:

1. Ineffective Assistance of Counsel
    a. Failure to properly investigate Applicant's case, including but not limited to interviewing potential witnesses and evaluating the veracity of evidence sought against Applicant;

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b. Failure to adequately provide Applicant with all discovery and properly discuss all discovery and evidence sought against him prior to Applicant accepting his plea bargain;
c. Failure to counsel, discuss, and explain the pending charges and consequences so that Applicant could make an informed decision as to whether to accept a plea bargain or pursue a trial;
d. Failure to discuss defense and possible challenges to the evidence with the Applicant;
e. Failure to pursue an appeal despite Applicant's request;
f. Failure to obtain a competency evaluation prior to Applicant's guilty plea, rendering his guilty plea involuntary;
g. Prejudiced Applicant by discussing [Applicant's] family['s] criminal sexual history during sentencing.

At the evidentiary hearing, Applicant did not present any testimony to support the allegations Counsel failed to file for sentence reconsideration after sentence; Counsel failed to properly investigate Applicant's case and interview potential witnesses; Counsel failed to file motions to suppress prejudicial evidence; Counsel failed to present favorable evidence to show petitioner's innocence; and Counsel failed to present character witnesses for Applicant. This Court therefore finds those allegations were abandoned, and they are denied and dismissed with prejudice.

SUMMARY OF TESTIMONY

Applicant testified he pleaded guilty to CSC – second degree, and Brandon Steen was his attorney. Applicant then testified Counsel was not present at his plea, and William Frick, Esquire, represented him. Applicant agreed the transcript of record states Counsel was his attorney, but Applicant again testified Counsel was not his attorney, and he only met with Counsel one time.

Applicant testified Counsel did not "go over things" in Applicant's case. Applicant further testified he was up for a probation violation, and he met with Counsel. According to Applicant,

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Counsel said something about a video, but Counsel did not show it to Applicant. Applicant testified Counsel merely said there was a video and left. Applicant testified someone else was with him during this meeting with Counsel, so Counsel never showed him the video. Applicant also testified Counsel did not review discovery with him. Applicant explained he already had discovery from before Counsel assumed representation, but he lost some of the paperwork when he moved, and he did not have everything. Applicant stated Counsel did not go over the information Applicant had, and Applicant did not ask Counsel to do so because Applicant was more concerned about the probation violation.

Counsel testified he has been the Chief Public Defender in Lancaster County since March 2009. Counsel recalled representing Applicant and explained the case was originally assigned to a different attorney, William Frick. Counsel testified he took over the case from Frick, and Counsel was the attorney of record at the plea hearing.

Counsel testified his office received discovery in Applicant's case, and Counsel reviewed the discovery with him. Counsel also testified he was aware Applicant and Frick met several times and discussed the case. Counsel explained the case was "in a holding pattern" when he took over, and he was not in a hurry to resolve it because Applicant was out on bond and the State had a pretty strong case against Applicant. Counsel agreed there was an occasion where he met with Applicant, but because of the nature of the case, they did not discuss the details.

Counsel explained Applicant allegedly forcibly sodomized a five-year-old boy, and the State had some physical evidence along with a video of the victim's forensic interview which would have been admissible at trial. According to Counsel, it was one of the more compelling

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videos he has ever watched. Counsel also explained the physical evidence corroborated the victim's testimony. Counsel testified he and Applicant watched and discussed the video. Counsel testified there were no viable defenses available, and this would not have been a good case to try. Counsel testified he explained all this to Applicant. According to Counsel, Counsel told Applicant he would need to make a decision at some point about what he wanted to do. Counsel testified they did not have a chance to talk more because Applicant left and never responded.

Counsel testified he would have had further discussions with Applicant if he had able to find Applicant, who was out on bond, leading up to the trial date. Counsel explained Applicant disappeared several months before the trial, and there was a period of time Applicant was not in communication with Counsel's office. Counsel testified his understanding was that Applicant had moved to Tennessee. Counsel testified Applicant did not respond to Counsel's attempts to contact him until one of the young lawyers in Counsel's office found a person who appeared to be Applicant on Facebook and sent a message. Counsel testified he was prepared for the trial to proceed in Applicant's absence until Applicant showed up on the Monday morning of his trial.

Counsel further testified the Attorney General's office had made an offer for Applicant to plead guilty to the lesser-included charge of CSC with a minor – second degree, down from CSC with a minor – first degree. Counsel explained he had no way to communicate that offer to Applicant until Applicant showed up the morning of trial. Counsel testified he asked AAG Fernandez about the offer, and Fernandez said the offer was still open. Counsel testified he and Applicant had a brief conversation, and although he would have preferred not have to try the case that day and to have worked the plea offer out it ahead of time, he felt he and Applicant had enough

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time under the circumstances. Counsel explained he and AAG Fernandez had a conference call with the plea judge a week or two earlier, when they thought it would be a trial in Applicant's absence, and the judge indicated he would not grant a continuance on that basis. Counsel testified he did not move for a continuance when Applicant showed up because he felt the judge would not grant it then if he refused to grant it in Applicant's absence.

Counsel further testified although he would have liked more time to discuss the situation with Applicant, he did not feel Applicant was prejudiced in any way because Counsel was prepared for trial, and the plea offer was still open. Counsel explained if they had more time, he would have used it to discuss if Applicant would testify at a trial. Counsel testified although Applicant had to make a decision quickly, he felt Applicant understood what he was doing. Counsel also testified, based on his interactions with Applicant, he believed Applicant understood the issues in his case. Counsel stated Applicant is "a little slow," but Counsel believed he was competent to stand trial.

Finally, Counsel explained he brought up Applicant's family's criminal sexual history in mitigation because Counsel felt he needed to offer some context or explanation for what happened. Counsel stated the circumstances of these types of crimes are often shocking to the conscience of victims and to judges. Counsel explained he represented Applicant's father on a sexual assault case in the 1990s wherein Applicant himself was a victim of sexual assault. Counsel testified he brought up that family history to try to show Applicant had a very difficult upbringing in order to give the judge some explanation of how this might have happened.

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the record and heard the testimony at the PCR hearing. This Court has observed the evidence and witnesses presented at the evidentiary hearing, judged their credibility, and weighed their testimony accordingly in its discussion below. Set forth below are findings of fact and conclusions of law as required by section 17-27-80 of the South Carolina Code.

Applicant alleges he received ineffective assistance of counsel. In a post-conviction relief action, the applicant bears the burden of proving the allegations in his 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. The courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. at 689. 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 plea counsel. Id. at 117, 386 S.E.2d at 625. First, the 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 (1984)).

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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." Id. at 117-18, 386 S.E.2d at 625. When there has been a guilty plea, the applicant must prove counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, 466 U.S. 668.

This Court finds Applicant failed to prove Counsel's performance was deficient in any way, nor was Applicant prejudiced by Counsel's performance. Counsel met with Applicant on several occasions and reviewed with him the evidence and discovery in the case. Applicant then voluntarily left South Carolina to live out of state, during which time Applicant did not respond to Counsel's repeated attempts to contact him. This Court finds Applicant ultimately chose to plead guilty rather than face the possibility of life without parole should Applicant be found guilty after a trial, and this decision was made freely and voluntarily. This Court finds the combined record of the plea transcript and the testimony from the evidentiary hearing establishes Applicant received

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effective assistance of counsel. Therefore, for the reasons stated below, the Court denies relief and dismisses the allegations with prejudice.

1. Involuntary Guilty Plea

Applicant alleges he received ineffective assistance of counsel such that his guilty plea was entered involuntarily due to Counsel's failure to adequately explain the discovery and evidence in Applicant's case and Counsel's failure to seek a mental health evaluation.

"[I]t is the prerogative of any person to waive his rights, confess, and plead guilty, under judicially defined safeguards, which are adequately enforced." Reed v. Becka, 333 S.C. 676, 685, 511 S.E.2d 396, 401 (Ct. App. 1999). An applicant who pleads guilty with the advice of counsel may collaterally attack the plea only by showing (1) counsel was deficient and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pleaded guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the competence demanded of attorneys in criminal cases." Lockhart, 474 U.S. at 56.

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). "[T]he

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voluntariness of a guilty plea is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing." Harres v. Leeke, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. Harres, 282 S.C. at 133, 318 S.E.2d at 361. However, statements made during a guilty plea should be considered conclusive, unless an applicant presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir. 1975), overruled on other grounds by United States v. Whitley, 759 F.2d 327 (4th Cir. 1985).

A. Failure to review discovery/evidence

Applicant alleges Counsel's ineffective assistance in failing to adequately review discovery with Applicant, led to Applicant entering an involuntary and unknowing guilty plea. This Court disagrees and finds the combined record from the plea hearing and the evidentiary hearing clearly establishes Counsel reviewed the discovery and evidence with Applicant, and Applicant entered his guilty plea freely and voluntarily.

The plea transcript reflects Applicant informed the court he understood the charges and the terms of the plea agreement. Tr. pp. 5, 7-8, 12. The plea court read the indictment, and Applicant indicated the facts contained in the indictment were true. Tr. pp. 5-6. The plea court explained Applicant's right to have a jury trial, and, specifically, Applicant's right to call witnesses and present a defense, and Applicant indicated he understood those rights and wished to give them up in order to plead guilty. Tr. pp. 9-10. The plea court also explained the plea agreement and clearly informed Applicant if it accepted his plea, the sentence could be up to twenty years, and it would

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be classified as a violent and most serious conviction, and Applicant again indicated he understood and wished to plead guilty. Tr. pp. 7-8.

Importantly, Applicant informed the plea court he had enough time to talk with his attorney, and there was nothing Counsel had not done that Applicant wanted him to do, nor anything Counsel had done that Applicant had *not* wanted him to do. Tr. p. 11. Applicant stated he was satisfied with Counsel's representation. Tr. p. 11. Applicant never indicated he did not understand the charges against him, the terms of the plea agreement, or that he was not entering the plea freely and voluntarily.

The Court finds Counsel's testimony credible on this issue. Counsel testified he reviewed discovery with Applicant, including watching and discussing the forensic interview of the victim. Further, Counsel testified he would have had more numerous and in-depth discussions of the case with Applicant, but Applicant voluntarily absented himself from South Carolina and did not keep in contact with Counsel until he returned on the morning his trial was set to begin. At that time, Counsel informed Applicant of the State's offer and explained Counsel did not feel Applicant had a good chance at trial because Applicant did not have a strong defense to offer. The Court finds Counsel also explained Applicant did not have to plead guilty, and he was prepared for trial had Applicant chosen that option. For all of these reasons, this Court finds Applicant's decision to enter the guilty plea was made freely and voluntarily. Though Applicant may have felt the decision was rushed, this was only so because Applicant voluntarily left the state and did not communicate with his attorney while he was gone.

Accordingly, based on the combined record of the plea transcript and the testimony presented at the evidentiary hearing, this Court finds Counsel's representation of Applicant was

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not deficient, nor was Applicant prejudiced by Counsel's representation. Counsel met with Applicant on multiple occasions to review discovery, discuss the facts of the case, and explain Applicant's constitutional rights and options for resolving the case. Further, the plea transcript reflects Applicant understood the proceedings, interacted intelligently with the plea court, and entered his guilty plea knowingly and voluntarily. Therefore, this Court denies relief and dismisses this allegation with prejudice.

B. Failure to obtain competency evaluation

Applicant alleges his plea was entered involuntarily because Counsel did not obtain a competency evaluation prior to Applicant entering his plea. The Court finds this allegation is without merit and denies relief as to this claim.

PCR counsel obtained a competency evaluation of Applicant from the Department of Mental Health, which was entered as an exhibit at the evidentiary hearing.[1] This Court has reviewed the report and adopts its finding, including the finding Applicant is competent. The Court further finds credible Counsel's testimony that while Applicant may have some intellectual challenges, Counsel believed Applicant was competent. As noted above, the plea transcript reflects Applicant interacted intelligently with the plea court, gave coherent answers to the plea court's questions, and never indicated he did not understand any part of the proceeding.

In determining if counsel is ineffective for failing to request a competency hearing, an applicant must show a reasonable probability exists that he would be found incompetent at the

[1] This report shall be sealed and is not to be opened without a court order.

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time of this trial or plea. Jeter v. State, 308 S.C.230, 417 S.E.2d 594 (1992). Counsel may reasonably rely on his own perceptions in deciding if a client is competent to stand trial. Id. Because Applicant has failed to present any evidence of incompetency, the Court denies relief on this ground, and this allegation is hereby dismissed with prejudice.

2. Mitigation

Applicant also alleges he was unfairly prejudiced due to Counsel's ineffective assistance when Counsel brought up Applicant's family's criminal sexual history during sentencing. Based on a review of the plea transcript and Counsel's credible testimony at the evidentiary hearing, this Court finds this allegation is without merit.

Counsel testified he felt he needed to offer some context or explanation for what happened because the crime was shocking to the conscience of victims and to judges. Counsel explained he represented Applicant's father on a sexual assault case in the 1990s wherein Applicant himself was a victim of sexual assault. Counsel testified he brought up that family history to try to show Applicant had a very difficult upbringing in order to give the judge some explanation of how this might have happened. The Court finds this testimony to be credible. The Court additionally finds Counsel was not deficient because Counsel's decision to bring up Applicant's family history in mitigation was a reasonable strategic choice.

Strickland requires defense counsel be given leeway to make reasonable strategic decisions. No particular set of detailed rules for counsel's conduct can satisfactorily take account of the variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how best to represent a criminal defendant. Strickland, 466 U.S. at 688-689. "Representation is an art, and an act or omission that is unprofessional in one case may be sound

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or even brilliant in another." Id. at 691. Therefore, judicial scrutiny of counsel's performance must be highly deferential. Id. at 689. Where counsel articulates a valid strategic reason for his action or inaction, counsel's performance should not be found ineffective. Roseboro v. State, 317 S.C. 292, 454 S.E.2d 312 (1996); Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992).

Because Counsel articulated a valid strategic reason for presenting this evidence in mitigation, Counsel was not deficient, and therefore, not constitutionally ineffective. The Court denies relief on this ground, and this allegation is dismissed with prejudice.

3. Failure to File Appeal

Finally, Applicant alleges Counsel failed to file a notice of appeal, despite Applicant's request Counsel do so. The Court finds this allegation is without merit and denies relief as to this issue.

The plea transcript reflects the plea court informed Applicant of his right to appeal the entry of his guilty plea and sentence within ten days of the plea. Tr. p. 12. At the evidentiary hearing, however, Applicant did not offer any testimony about whether he asked Counsel to file a notice of appeal. On the other hand, Counsel unequivocally testified Applicant never made such a request, and if Applicant had, Counsel would have filed one. This Court finds Counsel's testimony to be credible.

Accordingly, because Applicant failed to present any evidence to support his claim, the Court denies relief as to this issue. See, e.g., Roe v. Flores-Ortega, 528 U.S. 470, 484, 120 S. Ct. 1029, 1038, 145 L. Ed. 2d 985 (2000) ("If the defendant cannot demonstrate that, but for counsel's deficient performance, he would have appealed, counsel's deficient performance has not deprived

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him of anything, and he is not entitled to relief."). This allegation is therefore dismissed with prejudice.

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 relief. Counsel was not deficient in any manner, nor was Applicant prejudiced by Counsel's representation. Therefore, this application for post-conviction relief is denied, and Applicant's claims are dismissed with prejudice.

Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR (providing the appropriate procedure to perfect an appeal). 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. Further, Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to Rule 243, SCACR, for the appropriate procedures for appealing a judgment in a PCR action.

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IT IS THEREFORE ORDERED:

1. The application for post-conviction relief is denied, and Applicant's claims are dismissed with prejudice; and
2. Applicant shall be remanded to the custody of the Respondent.

AND IT IS SO ORDERED.

D. CRAIG BROWN
Presiding Circuit Court Judge
Sixth Judicial Circuit

11-4, 2019

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