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RECEIVED  
JAN 21 2020  
S.C. SUPREME COURT

January 14, 2020

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

RE: Robert Steadman vs. The State of South Carolina  
Case No: 2018-CP-42-3945

Dear Mr. Shearouse:

Please find enclosed a Notice of Appeal and an affidavit of service for the same. Also, I have enclosed a copy of the Order from which the appeal is taken. Please clock and file the copies and return them to me. Thank you for your help and if you should have any questions please feel free to call me.

RICHEY AND RICHEY, P.A.

Yours truly,

  
\_\_\_\_\_  
Rodney Richey

RWR/  
Enclosures  
cc: Jacob A. Isenberg, Esquire

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT  
APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas  
HONORABLE G. THOMAS COOPER  
2018-CP-42-3945

RECEIVED  
JAN 21 2020  
S.C. SUPREME COURT

ROBERT LEE STEADMAN, SCDC# 361264

APPELLANT,

vs.

STATE OF SOUTH CAROLINA,

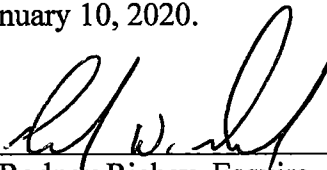
RESPONDENT.

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**NOTICE OF APPEAL**

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Robert Lee Steadman appeals the denial of his Post- Conviction Relief. The Post Conviction Relief Action was heard and denied by the Honorable G. Thomas Cooper, Circuit Judge on October 8, 2019 an Order issued on December 27, 2019 and filed on January 6, 2020. The Appellant received notice of the judgment on January 10, 2020.



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Other Counsel of Record:  
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Office of Attorney General State of SC  
Post Office Box 11549  
Columbia, SC 29211-1549

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM SPARTANBURG COUNTY

Court of Common Pleas

HONORABLE G. THOMAS COOPER

2018-CP-42-3945

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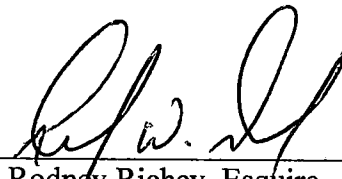
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**AFFIDAVIT OF SERVICE**

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I certify that I have served the Notice of Appeal on the State of South Carolina by depositing copy of it in the United States Mail, postage prepaid, on January 14, addressed to their attorney of record, Jacob Isenberg, Esquire Office of Attorney General State of South Carolina, Post Office Box 11549, Columbia, SC 29211-1549.

Dated: January 14, 2020



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STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

) IN THE COURT OF COMMON PLEAS  
) FOR THE SEVENTH JUDICIAL CIRCUIT  
)

Robert Lee Steadman,  
S.C.D.C. No. 361264,

) Case No.: 2018-CP-42-03945  
)

) Applicant,  
)

) **ORDER OF DISMISSAL**  
)

v. )

) State of South Carolina,  
)

) Respondent.  
)

This matter comes before the Court by way of an application for post-conviction relief filed by Robert Lee Steadman ("Applicant") on November 13, 2018. Respondent made its return on or about June 11, 2019. The Court convened an evidentiary hearing into the matter on October 8, 2019, at the Spartanburg County Courthouse in South Carolina. Applicant was present at the hearing and represented by Rodney Richey, Esquire. Jacob Isenberg, of the South Carolina Attorney General's Office, represented Respondent.

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SOUTH CAROLINA

Applicant testified on his own behalf at the evidentiary hearing. Applicant's plea counsel Michael Morin, Esquire ("Counsel") also testified. The Court had before it Applicant's records from the South Carolina Department of Corrections, a copy of the original plea transcript, the records of the Spartanburg County Clerk of Court regarding the subject convictions and the pleadings. After thorough review of the available evidence and testimony, this Court finds the application shall be dismissed with prejudice.

**I. PROCEDURAL HISTORY**

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. Applicant was charged with assault

and battery, third degree (2014-GS-42-03566), resisting arrest (2014-GS-42-03567), and child abuse with great bodily injury (2014-GS-42-03953). Michael D. Morin, Esquire, represented Applicant. Scott Spivey and Meghan Moricle, of the Seventh Circuit Solicitor's Office, prosecuted the case. On August 26, 2014, Applicant waived presentment and pled guilty to the above indictments. Rejecting the State's recommendation of a sentencing cap of 15 years, the Honorable Roger L. Couch sentenced Applicant to imprisonment for concurrent terms of time-served for assault and battery, one year for resisting arrest, and 20 years for child abuse. Applicant did not appeal his plea or sentence.

## II. STATEMENTS OF THE FACTS

The underlying facts of the crimes for which Applicant is incarcerated were articulated by the State during the plea proceeding as follows:

In regards to the child felony abuse, on October 6<sup>th</sup> of 2013, Spartanburg County Sheriff's Office responded to Spartanburg Regional Medical Center in reference to an abuse of a small child [Minor], who was 22 months of age at that time. Kelly Clune, the forensic nurse, advised that she had called the police. Officers met with Ms. Doris Steadman, Jordan Trexler, and the Defendant

Doris Steadman, who is the defendant's grandmother, told officers that she was home the evening before and heard a loud noise early in the morning at [Home Address] in Spartanburg County where the child, Jordan Trexler, Doris Steadman, Robert Steadman, and Estelle Hooks reside.

After hearing the noise, she said she went to check on the child and found the side of the "pack and play" collapsed on her. She told officers she then put the child in bed with her. The mother, Jordan Trexler, who was at work, told officers that when she arrived home she saw the injuries and brought the child to Spartanburg Regional Hospital.

The child had multiple visible bruises to her face, arms, legs, and torso, bite marks, a swollen mouth, and possible fracture to her arm

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and leg. Her mother, Jordan Trexler, attributed the visible bruises and bite marks to another child and her four year old son.

After separating Doris Steadman and Jordan Trexler, the officers were able to determine the version – the actual version of events.

Eventually Doris Steadman did admit that her grandson, Robert Steadman, Jordan's boyfriend, actually had the victim child in his room. She said she did not hear the victim scream. She did notice something was wrong with the child when Jordan came home and she brought her out of Robert's room and couldn't straighten her leg.

She told the police that Robert is violent with everyone. Jordan eventually told officers, when she got off work, she came home and got in bed with Robert and the child. She said the child began to cry and she noticed that she wasn't moving part of her body. She asked Robert what happened and he told her he didn't know, that she must have fallen out of the playpen. She did eventually tell officers that he smokes crack, marijuana, and is violent. She stated they got into a fight and he threw them out and she and Doris Steadman took the child to the ER.

Spartanburg County officers were able to speak with Mr. Steadman. He was interviewed by the Sheriff's Office on October 9<sup>th</sup> in regards to this incident. He told officers he needed help with his anger issues and drug problems.

He stated he had attempted to pick the child up Saturday night by one arm and one leg and dropped her and she hit her head on the rail. He then stated he started to pick her up and he fell on her. He said he did pull the hair out of her head because she wouldn't stop crying and he pulled her leg. He stated he probably caused the injuries behind her ear, but he doesn't remember and he told officers he does bite her all the time. He also told the officers he was responsible for everything that happened to her.

The child sustained several fractures. One to her wrist, one to her arm, and one to her leg. She had bruising that was new and bite marks all over her body, and missing hair. Upon inquiry by the Court, Applicant confirmed the above articulated facts, and upon

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review of photographs introduced to the Court, Applicant confirmed they represented the injuries he inflicted upon Victim. (Tr. 24-25)

### III. CURRENT APPLICATION

In his post-conviction relief application, Applicant alleges he is being held unlawfully for the following reasons, as excerpted from his eight page handwritten memorandum attached to the form application for relief:

1. Ineffective assistant of counsel, in that:
  - a. "Applicant's lawyer failed to object to prejudicial pictures."
  - b. "Applicant's lawyer failed to object to victim impact statements."
  - c. "Applicant's lawyer failed to object to prejudicial statements to a testifying detective."
  - d. "Applicant's lawyer failed to object to the assistant solicitor stating that the applicant had a prior record for assault and battery 2<sup>nd</sup> degree when Applicant did not."
  - e. "Applicant attempted to fire his lawyer prior to court appearance and was told that he could not do so that if he did fire his lawyer he would have to represent himself and that due to conflict of interest he could not be appointed a public defender."
  - f. "Applicant lawyer failed to make appropriate motions to suppress unfavorable evidence."
  - g. "Applicant's lawyer failed to file an appeal on his guilty plea even after Applicant asked him to, and Applicant did not knowingly and intelligently waive the right to appeal."
    - i. "I . . . was told by my attorney Michael Morin that he would file for an appeal after I was sentenced to twenty years in the South Carolina Department of Corrections on August 26<sup>th</sup>, 2014."

Applicant requests relief as follows:

- "Sentence reduction, resentencing, new plea bargain"

At the evidentiary hearing, Applicant proceeded forward only on one allegation of ineffective assistance of counsel based upon the failure to file an appeal to challenge the prejudicial sentence. Accordingly, this Court finds all other claims are dismissed with prejudice based upon Applicant's failure to proffer evidence in support.



#### IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the records submitted to it by the parties and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings based upon all of the probative evidence presented.

##### A. Ineffective Assistance of Counsel

Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Applicant must prove that counsel's performance was deficient. Strickland, 466 U.S. at 686; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether 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. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id.

(citing Strickland, 466 U.S. at 690). "When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." Yarborough v. Gentry, 540 U.S. 1, 5 (2003) (citing Strickland, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. Cullen v. Pinholster, 563 U.S. 170, 196 (2011); Harrington v. Richter, 562 U.S. 86, 109-10 (2011). "[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight." Yarborough at 6; see also Murphy v. Davis, 901 F.3d 578, 592 (5th Cir. 2018) ("[C]ounsel's performance need not be optimal to be reasonable"). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625.

Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury." United States v. Basham, 789 F.3d 358, 371-72 (4th Cir. 2015) (quoting Elmore v. Ozmint, 661 F.3d 783, 858 (4th Cir. 2011)).

In the context of a guilty plea, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he/she would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. See Blackledge v. Allison, 431 U.S. 63, 73-74 (1977) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is

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subject to summary dismissal, as are contentions that in the face of the record are wholly incredible.”). Statements made during a guilty plea should be considered conclusively, unless an Applicant presents valid reasons why he or she should be allowed to depart from the truth of his statements. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Crawford v. United States, 519 F.2d 347, 350 (4th Cir. 1975)).

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. Strickland, 466 U.S. at 696. 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. Id. At 696-97.

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**Failure to File Notice of Appeal**

Applicant contends Counsel failed to file a Notice of Appeal at his request. Though counsel is required to make certain that a defendant is made fully aware of his or her right to appeal after a trial, a different standard applies to a guilty plea:

Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are non-frivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea.

Turner v. State, 380 S.C. 223, 224-25, 670 S.E.2d 373, 374 (2008) (citations omitted); see also Roe v. Flores-Ortega, 528 U.S. 470, 480 (2000) (imposing the duty to consult when there is reason to think either that a rational defendant would want to appeal or that the particular defendant reasonably demonstrated interest in doing so); contra Frazer v. South Carolina, 430 F.3d 696 (4th Cir. 2005) (reading Flores-Ortega to mean counsel generally has a duty to consult with his client

regarding whether to pursue an appeal). Therefore, in a collateral action attacking a guilty plea, the “bare assertion that a defendant was not advised of appellate rights is insufficient to grant relief.” Jones v. State, 382 S.C. 589, 598, 677 S.E.2d 20, 23-24 (2009) (quoting Weathers v. State, 319 S.C. 59, 61, 459 S.E.2d 838, 839 (1995)).

Where an applicant reasonably demonstrates an interest in appealing, or where there is a reason to think a rational defendant would want to appeal, and where Counsel fails to either initiate that appeal or comply with Anders procedure, “White permits consideration of the full trial record on [an] issue in conjunction with appellate review of the PCR proceeding under an exception to the prohibition against appellate courts considering appeals in the absence of notice of direct appeal given and timely served.” Smith v. State, 309 S.C. 413, 415, 424 S.E.2d 480, 488 (1992) (citing Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986)).

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Here, Counsel testified he does not remember Applicant making a request to file notice of appeal. Moreover, Counsel stated he would have filed an appeal if Applicant made such a request. Counsel also testified he did not see anything appealable in Applicant’s case. Therefore, Counsel does not believe they had this discussion. Applicant testified he only took issue with the sentence. He testified he understood it was within the range of potential punishment and he agreed with the facts presented at the hearing.

Accordingly, this Court finds Applicant understood he received a sentence within the statutory range. Furthermore, this Court finds Applicant understood he received a sentence based upon the facts of the case. This Court finds Counsel presented credible testimony that no discussions about filing an appeal happened. Therefore, this Court finds Applicant has failed to overcome the burden to prove Counsel was deficient in failing to file an appeal.

To reiterate, Counsel only has a duty to consult with their client about an appeal when they have reason to believe either: 1) a rational defendant would want to appeal; or 2) this particular defendant reasonably demonstrated interest in appealing. Roe, 528 U.S. at 480. This Court finds the record reflects Counsel did not reasonably believe Applicant had an appealable issue. Moreover, this Court finds Applicant has failed to establish he had a legitimate basis to appeal. Accordingly, this Court finds Applicant has failed to overcome the burden to prove prejudice on this issue.

### V. CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

#### IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and

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2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 27 day of December, 2019.



G. THOMAS COOPER  
Presiding Judge  
Seventh Judicial Circuit

Causton

, South Carolina

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