

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Edgar W. Dickson, Circuit Court Judge

Case No. 2016-CP-38-1565

Adrienne Randolph #366491.....Applicant/Appellant

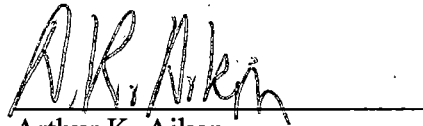
v.

State of South Carolina.....Respondent/Respondent

NOTICE OF APPEAL

This is a post-conviction relief case. Appellant appeals from the Order of Dismissal entered in this case on April 13, 2020. Appellant received written notice of the entry of the Order of Dismissal entered on April 13, 202 by mail on April 13, 2020. A copy of the Order of Dismissal appealed from is attached.

May 13, 2020



Arthur K. Aiken
Aiken & Hightower, PA
PO Box 90707
Columbia, SC 29290
Telephone: 803-799-5205
Fax: 803-799-5206
Email: art@aikenandhightower.com
ATTORNEYS FOR APPELLANT

OTHER COUNSEL OF RECORD:
South Carolina Attorney General's Office
Assistant Attorney General Benjamin Limbaugh
PO Box 11549
Columbia, SC 29201
ATTORNEYS FOR RESPONDENT

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)
)
)
Adrienne Randolph, #366491)
Applicant,)
)
v.)
)
State of South Carolina,)
)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
THE FIRST JUDICIAL CIRCUIT

Case No. 2016-CP-38-1565

ORDER OF DISMISSAL

The above-captioned matter is before the court based on a post-conviction relief (PCR) application filed by Adrienne Randolph, on December 15, 2016. This Court convened an evidentiary hearing into this matter on December 12, 2017 at the Dorchester County Courthouse. Applicant was present at the hearing and represented by Arthur Aiken, Esquire. Ruston W. Neely, Esquire, of the South Carolina Attorney General's Office, represented Respondent. Applicant's plea counsel was Carl B. Grant (Counsel), Esquire, who was present and testified. This Court had the opportunity to listen to the testimony of Applicant and Counsel. This Court had before it the records of the Orangeburg County Clerk of Court regarding the subject conviction, the guilty plea transcript, Applicant's records from the South Carolina Department of Corrections, and the pleadings in this matter.

I. PROCEDURAL HISTORY

In January 2014, the Orangeburg County Grand Jury indicted Applicant for murder (2014-GS-38-0011). Solicitor Harrison Bell, Esquire, prosecuted the case. On December 16, 2015, Applicant pleaded guilty to the lesser included offense of voluntary manslaughter before the Honorable Maite Murphy. Pursuant to a negotiated sentence, Judge Murphy sentenced Applicant to imprisonment for eighteen years and six months.

Applicant filed a timely notice of appeal. Counsel perfected the appeal. After review, the South Carolina Court of Appeals dismissed Applicant's appeal on March 10, 2016 for Appellant's failure to provide a sufficient explanation for appealing. State v. Randolph, Appellate Case No. 2015-002630 (S.C. Ct. App. filed March 10, 2016). The remittitur was returned to the circuit court on April 1, 2016.

II. ALLEGATIONS

In his PCR application, Applicant alleged she is being held unlawfully for the following reasons:

1. "Stand my ground"
 - a. "It was self-defense"
2. "Weapon registered"
3. "My attorney told me to take the plea and it was not my decision"
 - a. "My family also told me the same thing, for me to take the plea because if not, I could get 30 years to life in prison."

At the evidentiary hearing, Applicant alleged her guilty plea was involuntary because Counsel and her family advised her to take the guilty plea.

III. SUMMARY OF TESTIMONY

Applicant testified she pleaded guilty because Counsel told her she would receive 30 years' to life imprisonment if she didn't. Applicant testified she told Counsel she wanted to continue with the trial, but changed her mind after she was offered the plea deal and spoke with Counsel and her family. Applicant testified her family told her Counsel told them to tell her she should take the plea deal. On cross-examination, Applicant admitted she could have continued with the trial if she had wanted. Applicant also admitted her family and Counsel did not make her plead; it was her choice.

Counsel testified he spent a lot of time speaking with Applicant and preparing for trial. Counsel testified he explained the sentence ranges with Applicant and recommended she take the plea deal because it was a good deal and the evidence against her was overwhelming. Counsel testified that the family spoke with her about the decision to take the plea and that they told her it was ultimately her decision. Counsel testified that he explained the advantages and disadvantages of taking the plea, but that it was her decision whether or not to accept the plea.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court reviewed the record in its entirety, listened to the testimony given, and heard the arguments presented at the evidentiary hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. This Court finds Counsel's testimony was credible and persuasive. Therefore, this Court dismisses Applicant's application for the reasons set out below:

A. Ineffective Assistance of Plea Counsel

This Court finds the record fully supports the knowing and voluntary nature of Applicant's guilty plea. Applicant bears the burden of proving the allegations in her application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). "A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Thus, an applicant must show both error and prejudice to win relief in a PCR proceeding." Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001).

The court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. For the reasons set out below, this Court finds the record and credible testimony support Applicant had a full understanding of the charges and consequences of her guilty plea:

Involuntary Guilty Plea

Applicant asserts her guilty plea was entered involuntarily as the result of ineffective assistance of counsel. 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 her plea and the charges against her. See Boykin, 395 U.S. at 243. In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. See Harris v. Leeke, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

The transcript reflects the guilty plea was knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. 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). Statements made during a guilty plea should be considered conclusively, unless an Applicant presents valid reasons why she should be allowed to depart from the truth of her statements. See Crawford v. U.S., 519 F.2d 347, 350 (4th Cir. 1975)

(overruled on other grounds by U.S. v. Whitley, 759 F.2d 327 (4th Cir.1985)). Applicant presented no reasons to show that she should be allowed to depart from the truth of the statements he made during her guilty plea hearing.

An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an objective standard of reasonableness, and there is a reasonable probability, but for trial counsel's errors, he would not have pleaded guilty, but would have insisted on going to trial instead. See Roscoe, 345 S.C. at 20, 546 S.E.2d at 419. Given the Applicant's burden of proof and the analysis to be applied to this claim, the Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it will be treated as such.

An applicant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy, 339 S.C. at 34, 528 S.E.2d at 421. "[T]he 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." Dalton, 376 S.C. at 138, 654 S.E.2d at 874. Admissions "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." Id. at 137-38, 654 S.E.2d at 874.

Having reviewed the pleadings, considered the applicable law, and reflected upon the plea transcript and testimony provided at the evidentiary hearing, this Court denies Applicant's request for post-conviction relief. Applicant admitted she could have continued with the trial after her discussions with Counsel and her family. This Court finds Counsel appropriately made

a recommendation she take the plea due to the weight of evidence against her and the quality of the offered plea deal. This Court also finds Applicant's own testimony indicates her will was not overborn by Counsel's recommendation or her discussions with her family.

Based on the record, this Court also finds the evidence against Applicant was overwhelming and any error of Counsel would not have prejudiced Applicant. Therefore, Applicant cannot prove prejudice where the evidence against her was overwhelming. See Harris v. State, 377 S.C. 66, 79, 659 S.E.2d 140, 147 (2008).

This Court finds Applicant has failed to prove her plea was involuntary, unknowing, or unintelligent. Therefore, this Court finds Applicant has failed to prove Counsel was deficient or she was prejudiced by any alleged deficiency of Counsel. Accordingly, this Court denies and dismisses this allegation.

IV. CONCLUSION

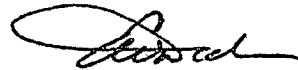
Based on the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant her application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes Applicant must file and serve a notice of appeal within thirty (30) days from 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, her post-conviction relief attorney must serve and file a notice of appeal on Applicant's

1. The Application for post-conviction relief is denied and dismissed with prejudice; and

2. Applicant must be remanded to the custody of the Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 3rd day of April, 2020.



EDGAR W. DICKSON
Presiding Judge
1st Judicial Circuit

Danzon, South Carolina