STATE OF SOUTH CAROLINA
In the Supreme Court

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Sep 18 2020
S.C. SUPREME COURT

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
Jennifer B. McCoy, Presiding Judge

2018-CP-07-0237

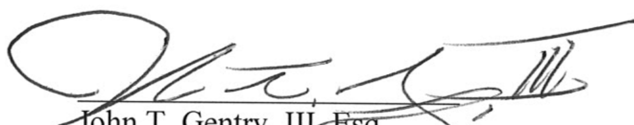
PHILENZA PRITCHETT, # 361339, Petitioner,

v.

THE STATE OF SOUTH CAROLINA, Respondent.

NOTICE OF APPEAL

NOW COMES the Petitioner in the above-captioned Post-Conviction Relief matter, acting by and through his undersigned counsel, giving notice of his appeal from the Order of Dismissal filed August 2, 2020 denying his Post-Conviction Relief Application.



John T. Gentry, III, Esq.
CLEKIS LAW FIRM, P.A.
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ATTORNEY FOR PETITIONER

This 18th day of September, 2020.

Other Counsel of Record:
Benjamin Limbaugh, Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211
Attorney for Respondent
(803) 734-3737

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2018CP0700237

Philenza Pritchett		South Carolina State Of	

PLAINTIFF(S) DEFENDANT(S)

Submitted by:	Attorney for: ☐ Plaintiff ☐ Defendant ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.

☒ **ACTION DISMISSED (*CHECK REASON*):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☒ Other: **Application Denied and Dismissed**

☐ **ACTION STRICKEN (*CHECK REASON*):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: ______________________

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: ______________________

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

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

Order of Dismissal

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk: ______________________

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.
Note: Title abstractors and researchers should refer to the official court order for judgment details.
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

s/ J. B. McCoy | 2764 | 8/25/2020

Circuit Court Judge | **Judge Code** | **Date**

For Clerk of Court Office Use Only

This judgment was entered on **August 28, 2020**, and a copy mailed first class or placed in the appropriate attorney's box on **August 31, 2020**, to attorneys of record or to parties (when appearing pro se) as follows:

John Thomas Gentry III Clekis Law Firm, PA 171 Church Street, Suite 160 Charleston, SC 29401-3137

Sara Elyssa Gunton PO Box 11549 Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

MK

Court Reporter

Jerri Ann Roseneau - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL CIRCUIT

2020 AUG 28 PM 4:28
TERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

Philenza Pritchett, #361339,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

2018-CP-07-0237

ORDER OF DISMISSAL

This matter comes before the Court by way of an application for post-conviction relief filed by Philenza Pritchett ("Applicant") on February 7, 2015. Respondent made its return on or about May 5, 2018. The Court convened an evidentiary hearing on this matter on November 4, 2019, at the Beaufort County Courthouse in Beaufort, South Carolina. Applicant was present at the hearing and represented by John T. Gentry, III, Esq. Sara E. Gunton, Esq., of the South Carolina Attorney General's Office, represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Applicant's trial counsel, Jessica Saxon, Esq., also testified. The Court has before it Applicant's records from the South Carolina Department of Corrections, a copy of the original trial transcript, the records of the Beaufort County Clerk of Court regarding the subject convictions, Applicant's direct appeal records, and the pleadings. The Court finds as follows:

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Beaufort County Clerk of Court. In May 2010, the Beaufort County Grand Jury indicted Applicant for armed robbery (2010-GS-07-0872), possession of a

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weapon during the commission of a violent crime (2010-GS-07-0873), kidnapping (2010-GS-07-0875), unlawful carrying of a pistol (2010-GS-07-0876), and conspiracy (2010-GS-07-0877). The charges resulted from an April 2010 incident in which Applicant and accomplices robbed a Kangaroo gas station at gunpoint. Tr. p. 82, ll. 1-21. The victim recognized Applicant's voice and identified him. Tr. p. 83, ll. 16-25. Applicant was eventually apprehended in an automobile with a handgun matching the description provided by the victim at his feet. Tr. p. 85, ll. 1-12. Pursuant to a search warrant, officers searched the automobile and also found the clothing Applicant was wearing in the surveillance video from the robbery. Tr. p. 86, ll. 1-9.

Jessica Saxon, Esquire, and Helen Dovell, Esquire, represented Applicant at trial. Assistant Solicitor Lynorr Musser, Esquire, prosecuted the case. On August 25, 2014, proceeded to trial before the Honorable Brooks P. Goldsmith. The jury found Applicant guilty as indicted of armed robbery, possession of a weapon during the commission of a violent crime, kidnapping, unlawful carrying of a pistol, and conspiracy. On August 28, 2014, Judge Goldsmith sentenced Applicant to imprisonment for fifteen years for armed robbery, five years for possession of a weapon during the commission of a violent crime, fifteen years for kidnapping, one year for unlawful carrying of a pistol, and five years for conspiracy, all to be served concurrently.

Applicant filed a timely notice of appeal. Lara M. Caudy, Esquire, of the Office of Appellate Defense perfected the appeal. The South Carolina Court of Appeals affirmed Applicant's conviction in an unpublished opinion filed December 21, 2016. *State v. Pritchett*, Op. No. 2016-UP-523 (Ct. App. 2016). The remittitur was returned to the circuit court on February 7, 2017.

Present Application

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In his post-conviction relief application, Applicant alleges he is being held unlawfully for the following reasons (excerpted verbatim):

1. Ineffective Assistance of Counsel

    a. Applicant alleges his right to effective assistance of counsel … was violated both prior to and during his jury trial. He also alleges that his decision to reject certain plea bargains were not voluntarily and intelligently entered, all due to specific errors and omissions by trial counsel that adversely affected his right to due process of law.

    b. Failing to make appropriate for the court's consideration a jury charge of 'mere presence' that would have been presented to the jury and effectively applied to all charges for which Applicant was charged, convicted, and sentenced.

    c. Trial counsel failed to adequately prepare for pre-trial hearings by failing to obtain available impeachment materials with respect to the *Neil v. Biggers* hearing that would have materially changed the outcome of said hearing pertaining to the victim's identification of Applicant.

By and through PCR counsel Gentry, Applicant amended his application by filing on October 28, 2019, to allege the following reasons (excerpted verbatim):

1. Applicant's Trial Counsel was in effective for failing to make appropriate for the court's consideration a jury charge of "mere presence" that would have been presented to the jury and effectively applied to all charges for which the Applicant was charged, convicted, and sentenced.

2. Applicant's Counsel failed to keep Applicant abreast of plea negotiations and timely present said plea offers to the Applicant before expiration of said plea offers.

3. Applicant's Counsel was ineffective where Counsel's insufficient and deficient advice resulted in Applicant's rejection and/or lapse of a plea bargain which would have resulted in a more favorable sentence to Applicant than the outcome of the trial.

4. Applicant's Trial Counsel failed to adequately prepare for pre-trial hearings by failing to obtain available impeachment materials with respect to a Neil vs. Biggers hearing that would have materially changed the outcome of said hearing pertaining to the Victim's identification of the Applicant.

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5. Trial Counsel was ineffective for failing to question witnesses for the State concerning any deals they may have been given, or any favorable consideration they hoped to have received, at the time of their original testimony, in exchange for their cooperation and testimony at Applicant's trial.

6. Trial Counsel was ineffective for failing to question witnesses for the prosecution concerning charges that could have been brought against them concerning this case, and any conversations they had with law enforcement, or anyone affiliated with the Solicitor's Office concerning their potential exposure to criminal charges.

7. Trial Counsel was ineffective for failing to consistently object to leading questions posed by the State where said examination either directly suggested the desired inculpatory response or lead witnesses to alter previous testimony which was advantageous to the defense.

8. Trial Counsel was ineffective for failing to request criminal records on all of the State's witnesses who were neither law enforcement nor experts.

9. Trial Counsel was ineffective for failing to order or look for the in dash camera of Officer Simmons speaking with witness and victim Makia Fulton for purposes of impeachment.

10. Applicant's Counsel was ineffective for failing to interview and investigate potential witnesses favorable to the defense in Applicant's trial.

11. Applicant's Counsel was ineffective for failing to request criminal records for the Victim, Makia Fulton.

12. Applicant's Counsel was ineffective for failing to call certain witnesses favorable to the defense of Applicant's case.

13. Applicant's Counsel was ineffective by failing to object to certain law enforcement testimony where said law enforcement witnesses had not been classified as experts on the subject matter of said testimony.

14. Applicant's Counsel was ineffective for failing to obtain rulings from the court to preserve certain issues for appeal.

15. Applicant's Counsel was ineffective for failing to properly object to certain court decisions which would have preserved said issues for appeal.

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16. Applicant's Counsel was ineffective for failing to present a closing argument to the jury in which she adequately reviewed the standard of proof and illustrated for the jury how the evidence adduced at Applicant's trial fit that standard.

17. Applicant's Counsel was ineffective for failing to object to improper jury charges given at Applicant's jury trial.

At the evidentiary hearing, Applicant proceeded on the following three allegations:

1. Defense counsel was ineffective for failing to allow Applicant to reject a plea offer in December of 2013, without a comprehensive understanding of "the fact that at the jury trial the presiding judge could deny or request for jury instruction of mere presence, not only on the kidnapping and armed-robbery charges, but also on the unlawful carrying charge." (Tr. p. 5, ll. 12-20)

2. Defense counsel was ineffective for failing to adequately explain the legal standards for obtaining a jury instruction on mere presence for the unlawful carrying charge, and failed to request a mere presence charge for both the kidnapping and armed-robbery charge.

3. Defense counsel was ineffective for failing to adequately explain to Applicant both that trial judge would decide whether or not the evidence would allow for the introduction of Makia Fulton's identification of Applicant at trial, and whether or not the evidence supported a request for a mere presence jury charge.

Applicant abandoned any other allegations contained in his original application and subsequent amended application for post-conviction relief, and this Court will only address the allegations presented during the evidentiary hearing.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has thoroughly reviewed the record in its entirety. Additionally, this Court heard the testimony presented at the evidentiary hearing and was able to observe the witnesses presented, which allowed the Court to scrutinize the credibility presented. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

A. Ineffective Assistance of Counsel

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The Sixth Amendment to the United States Constitution guarantees a defendant the right to effective assistance of counsel. U.S. Const. amend. VI; *Strickland v. Washington*, 466 U.S. 668 (1984); *Lomax v. State*, 379 S.C. 93, 665 S.E.2d 164 (2008).

In a post-conviction relief action, an applicant has the burden of proving the allegations in his application. Rule 71.1(e), SCRCP; *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant alleges ineffective assistance of counsel as a ground for relief, they must present evidence to satisfy the two prong test enumerated in *Strickland v. Washington,* 466 U.S. 668, 687 (1984), to determine whether counsel's "assistance was so defective as to require a reversal of" applicant's sentence. First, the applicant must show counsel's performance was deficient; and second, the applicant must show they were prejudiced by that deficiency. *State v. Stalk*, 383 S.C. 559, 560-61, 681 S.E.2d 592, 594 (2009).

In order to prove deficient performance under the first prong of *Strickland*, the burden is on applicant to show that counsel's representation fell below an objective standard of reasonableness. *Strickland*, 466 U.S. at 687-88. The proper measure of attorney performance remains simply reasonableness under prevailing professional norms. *Id.* In considering whether counsel's performance was reasonable:

> Judicial scrutiny of counsel's performance must be highly deferential, as it is all too tempting for a defendant to second-guess counsel's assistance after conviction or an adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable.... A fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight.

Strickland, 466 U.S. at 689; *Edwards v. State*, 392 S.C. 449, 456-57, 710 S.E.2d 60, 64 (2011).

"[W]hen counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel." *Smith v. State*, 386 S.C. 562, 567, 689

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S.E.2d 629, 632 (2010) (citing *Caprood v. State*, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000)). "[C]ounsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Butler*, 286 S.C. at 442, 334 S.E.2d at 814 (*quoting Strickland*, 466 U.S. at 690). The applicant must overcome this presumption to receive relief. *Cherry v. State*, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

Even if the applicant can establish that counsel's performance was deficient, they must still overcome their burden to demonstrate prejudice from that deficiency. The second prong of *Strickland* requires the applicant to prove that counsel's deficient performance prejudiced applicant to the extent that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceedings would have been different." *Cherry*, 300 S.C., at 117-18, 386 S.E.2d, at 625 (citing *Strickland*, 466 U.S., at 694).

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 applicant 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.*, 466 U.S., at 696-97.

1. Failure to Convey Plea Offer

Applicant alleges counsel was ineffective in failing to properly convey a December 2013 plea offer, which led to Applicant being "forced to go to trial" in August 2014. (Tr. p. 6-7). In order to prevail upon a claim that counsel did not adequately convey a plea offer, an applicant must present evidence to show that counsel was aware of a favorable plea offer, and Applicant

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would have taken the plea offer had counsel told him about it. *State v. Bell*, 410 S.C. 436, 765 S.E.2d 4 (Ct. App. 2014); *see also* U.S.C.A Const.Amend. 6.

Our Supreme Court has held "a defendant has the right to effective assistance of counsel during the plea bargaining process." *Davie v. State,* 381 S.C. 601, 607, 675 S.E.2d 416, 419 (2009) (*abrogated on other grounds by Smalls v. State*, 422 S.C. 174, 810 S.E.2d 836 (2018). As a general rule, defense counsel has the duty to communicate formal offers from the prosecution to accept a plea on terms and conditions that may be favorable to the accused." *Missouri v. Frye,* 132 S.Ct. 1399, 1408 (2012).

At the evidentiary hearing, Applicant first testified he didn't remember any plea offers in December 2013, but then recanted and recalled trial counsel explaining a plea offer of "I think 4, 3 to 5, or something like that. Tr. p. 11, ll. 17-24; p. 12, ll. 7-11. Applicant testified he told trial counsel he would take that offer. Tr. p. 12, ll. 15-16. However, Applicant recalled trial counsel stating that the State rejected that offer, countering with "take 10 years or we go to trial." Tr. p. 12, ll. 17-18. After trial counsel explained the new 10 year plea offer to Applicant, he expressed to trial counsel that he wanted to go to trial instead. Tr. p. 12, ll. 22-23. Applicant went on to explain that trial counsel kept pushing him to take the 10 year offer, and that it was a good plea to accept. Tr. p. 13, ll. 18-20. Applicant recalled being upset with this plea offer, adding "[l]ike how is 10 years a good plea[?]." Tr. p. 13, ll. 22-23.

Counsel testified she received an offer from the solicitor in December 2013 for "strong-armed robbery as a YOA or for a cap of 5 years." Counsel explained she went to the detention center at least twice during the week of December 2nd, and spoke with Applicant regarding his case. Counsel explained to Applicant "that he had an active YOA 5-year cap versus a risk of 70 years cumulatively if he was found guilty on each charge." Counsel testified she met with

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Applicant in court on December 19th and 20th to go over the plea offer again, and spoke with the solicitor and the judge regarding this offer. Counsel recalled the judge was leaning towards a 4 year sentence out of the 5 year cap. Counsel explained Applicant wanted to think it over, but she "strongly encouraged him to take the offer." Counsel stated Applicant came back the next day, and expressed he did not want to take the offer, adding that Applicant was "very adamant about maintaining his innocence." After Applicant expressed he did not wish to accept the plea offer, Counsel again went over the risks Applicant would face at trial. Although she expressed her concerns regarding his defense as it could easily be discredited at trial, Applicant did not change his mind. Tr. p. 33-38. Counsel recalled the solicitor enumerated the plea offers that had been extended to Applicant on the record at trial:

> Solicitor Musser: [T]he State had made an offer to the defendant for a plea to strong-armed robbery with a cap of … ten, and … that was rejected. That offer expired August 16th. It's my understanding and I just wanted Ms. Saxon to confirm on the record that she did review that offer with her client and that it was rejected.
>
> Ms. Saxon: We did. We had talked about that, as well as the other plea offers that had come over the course of this case, and Mr. Pritchett has consistently wanted to assert his right to trial.

Trial Tr. p. 108-109.

Applicant has failed to meet his burden of showing any ineffectiveness on the part of Counsel by way of this allegation. Applicant presented *no evidence* to satisfy his burden of showing prejudice, as his testimony during the evidentiary hearing reflected he was aware of the plea offers extended by the State and made a knowing decision to reject them and proceed to trial because he believed the offer(s) were too high. Furthermore, counsel provided lengthy and detailed testimony regarding her conversations with Applicant about the plea offers, and Applicant's strong desire to reject them because he maintained his innocence to the charges.

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Therefore, the Court finds no deficiency on the part of Counsel, nor any prejudice to Applicant regarding his decision to reject the plea offers and proceed to trial. Accordingly, Applicant's request for relief by way of this allegation is **DENIED**.

2. *Failure to Request Jury Instruction on Mere Presence*

Applicant alleges Counsel was ineffective in failing to request jury instructions on mere presence and failing to explain a mere presence charge to Applicant, because he was not aware the trial judge could deny that charge.

Applicant has failed to meet his burden of showing any ineffectiveness. Counsel made the strategic decision at trial to limit the mere presence charge only to apply to the unlawful carry charge, explaining based on the facts presented by the State at trial, a mere presence charge would only make sense as applied to the unlawful carry charge. The trial judge charged the hand of one is the hand of all as to the armed robbery, kidnapping, and possession of a weapon during the commission of a violent crime charges. Counsel requested the trial court charge the jury for mere presence regarding the unlawful carry of a weapon, however, the trial judge denied the request.

Furthermore, this issue was raised on direct appeal, and the Court of Appeals upheld the trial court's charge finding and dismissed Applicant's appeal.[1] Counsel articulated valid trial strategy for her decision to only request a mere presence charge as to the unlawful carry charge, which was ultimately denied by the trial judge, and upheld on direct appeal. Thus, the Court cannot find any conceivable prejudice to Applicant. Accordingly, Applicant has failed to meet his burden under *Strickland*, and his request for relief by way of this allegation is **DENIED**.

3. *Failure to Explain the Admissibility of Witnesses' Identification Testimony*

---

[1] The issue was framed to the Court of Appeals as to whether the trial court erred in declining to charge mere presence in reference to the unlawful carrying of a pistol charge when the hand of one is the hand of all theory was charged to the jury and the evidence presented supported giving a mere presence charge. *State v. Pritchett*, Op. No. 2016-UP-523 (Ct. App. 2016).

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Applicant alleges Counsel was ineffective for failing to explain to Applicant that the trial judge would ultimately decide whether or not a witnesses' audio identification of Applicant would be admissible as evidence at trial. Applicant has failed to meet his burden of showing any ineffectiveness on behalf of Counsel as to this allegation, as Applicant did not offer what, if anything, would have changed had he known this information.

Counsel testified she received from the solicitor on August 20, 2014, via e-mail, additional information not contained in the incident report regarding the identification witness. Tr. p. 55, ll. 4-7. Counsel explained she had a strong argument against the audio identification of Applicant by State's witness, and based on the evidence could attempt to discredit its validity, arguing in closing that the witness did not immediately identify Applicant to police.

Furthermore, this issue was raised on direct appeal. The Court of Appeals upheld the admissibility of the witnesses' identification testimony, and dismissed Applicant's appeal. Applicant has failed to provide any evidence to show how Counsel was ineffective in the handling of this evidence. Therefore, the Court cannot find any conceivable prejudice to Applicant. Accordingly, Applicant has failed to meet his burden under *Strickland*, and his request for relief by way of this allegation is **DENIED**.

III. 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

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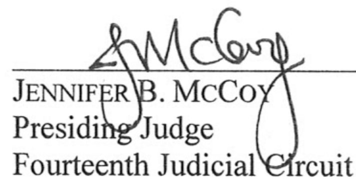
appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP provides that if the Applicant wishes to seek appellate review, 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

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

AND IT IS SO ORDERED this 25 **day of** August**, 2020.**



JENNIFER B. MCCOY
Presiding Judge
Fourteenth Judicial Circuit

Charleston, South Carolina

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