STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM MARION COUNTY
D. Craig Brown, Circuit Court Judge

2019-CP-33-00281

Larry White, # 371303,

Appellant,

v.

STATE OF SOUTH CAROLINA,

Respondent.

NOTICE OF APPEAL

Larry White, # 371303, appeals the Order Denying PCR But Granting Belated Appeal denying his Application for Post-Conviction Relief filed October 26, 2020, issued by the Honorable D. Craig Brown, Presiding Judge, Twelfth Judicial Circuit. Counsel for Appellant was served with notice of the Order by letter dated November 18, 2020. Pursuant to the Order, Appellant also appeals his guilty plea of July 30, 2018.

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STATE OF SOUTH CAROLINA COUNTY OF MARION	IN THE COURT OF COMMON PLEAS FOR THE TWELFTH JUDICIAL CIRCUIT
Larry Anthony White, # 371303 Applicant, v. State of South Carolina, Respondent.	2019-CP-33-0281 **ORDER DENYING PCR BUT GRANTING BELATED APPEAL**

I. INTRODUCTION

The matter before the Court is Larry Anthony White's (Applicant) action for post-conviction relief (PCR). Applicant commenced this PCR action on April 22, 2019. Applicant alleged ineffective assistance of counsel rendering his guilty plea unknowing and involuntary. The State made its return on July 8, 2019, requesting an evidentiary hearing be held on the issues. Thereafter, Applicant, through appointed counsel, amended his allegations and included ineffective assistance of counsel for failure to file an appeal on December 16, 2019.

An evidentiary hearing into the matter convened on December 17, 2019, at the Florence County Courthouse before the undersigned. Applicant, and Bradley C. Richardson, Esquire (Counsel) testified at the hearing. Also before the Court were the Marion County Clerk of Court's records of the underlying charges, Applicant's records from the South Carolina Department of Corrections (SCDC), the plea transcript, and the records of this PCR action.

After a full review of the record before the Court, and after observing the testimony presented, the Court finds, for the reasons discussed below, Counsel was not constitutionally ineffective; therefore, this PCR action is denied and dismissed with prejudice.

I. FACTS & PROCEDURAL HISTORY

Applicant is confined in SCDC pursuant to the orders of commitment of the Marion County Clerk of Court. Applicant was indicted at the July 2017 term of the Marion County Grand Jury for first-degree burglary; attempted murder; armed robbery; two counts of kidnapping; conspiracy; and possession of a weapon during the commission of a violent crime. (2017-GS-33-00416). Applicant was represented by Bradly C. Richardson, Esquire (Counsel). Assistant Solicitor Fitzlee McEachin prosecuted the case.

Applicant's charges stem from a home invasion and shooting of Terrance Williams. On December 22, 2016, Applicant and two co-defendants broke into Williams's residence around 12:30 am. Applicant and his co-defendants broke into the house attempting to rob the location. Upon entry, Applicant shot Williams in the stomach. (Tr. 7–8).

On July 30, 2018, Applicant pleaded guilty to first-degree burglary and attempted murder before the Honorable William H. Seals, Jr. Applicant pleaded guilty with negotiated concurrent fifteen year sentences on both charges, and his remaining charges were dropped in exchange for his guilty plea. Judge Seals accepted Applicant's guilty plea and sentenced him to serve concurrent terms of fifteen years' imprisonment. Applicant did not appeal his plea or sentence.

II. ALLEGATIONS

Applicant timely commenced this PCR action on April 22, 2019. In his original PCR application, Applicant alleged:

1. Ineffective assistance of Counsel;
    a. Counsel did not help Applicant to the best of his ability; and
    b. Counsel withheld evidence from Applicant.

On December 16, 2019, Applicant, through PCR counsel, amended his PCR application, alleging:

1. Involuntary guilty plea:
    a. Failure to properly investigate the facts and circumstances surrounding the case;

b. Failure to conduct an adequate amount of meetings with Applicant to review the discovery; and

2. Ineffective assistance of Counsel for failure to properly file a notice of appeal:
   a. Applicant asserts he is entitled to a belated appeal pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974).

Applicant requests relief in the form of a new trial, or, alternatively, a belated appeal pursuant to *White v. State*.

III. PCR TESTIMONY

Applicant testified he was on probation when he was arrested on the charges subject to this PCR action, his probation was revoked because of these charges, and he was incarcerated at Lee Correctional Institution (Lee) while these charges were pending. Applicant recalled that Counsel was appointed to represent him on these charges, and Applicant wanted to hire a private attorney to represent him; however, Applicant could not afford to retain counsel.

Applicant asserted he met with Counsel three times while his charges were pending. Applicant testified he first met Counsel on May 14, 2017, at the Marion County Courthouse for a continuance hearing. Applicant explained he was transferred to Lee in April 2017. Applicant testified that in February 2018, he received a flash drive with the discovery in the mail from Counsel. However, Applicant was unable to review the discovery until Counsel visited him in July 2018.

In their first meeting, Counsel informed Applicant of a twenty-year open plea offer. Applicant testified he rejected the initial plea offer. Applicant testified his first meeting with Counsel was in a holding cell and lasted about five-to-ten minutes. Applicant stated Counsel briefly described what his co-defendant was saying against Applicant. Applicant explained his co-defendant was the sister of one of the victims in the case. Applicant testified he was not allowed

to have pictures of the evidence, and the discovery was on a flash drive which he did not see until July 2018.

Applicant testified he and Counsel met for the second time on July 11, 2018. In their second meeting, Counsel visited him at Lee for an extended period of time, and during this meeting, Counsel and Applicant reviewed all the video statements, and the evidence from the flash drive together. Applicant testified that Counsel also informed him the State's plea offer had dropped from twenty-years to seventeen-years. Applicant again rejected the State's plea offer.

Applicant testified he met with Counsel a third time when he was transported back to Marion County. At the third meeting, Counsel informed Applicant the State had dropped the plea offer to fifteen-years. Applicant told Counsel he wanted to accept the State's offer.

Applicant testified he was indicted before he pleaded guilty, and the indictment was a multi-count indictment. Applicant stated he asked Counsel why his indictment was not true-billed or signed. Applicant also asked Counsel why he was charged with conspiracy to commit kidnapping, but the indictment was for criminal conspiracy. Applicant recalled the warrant numbers were the same, but the charge was changed on the indictment. Applicant asked Counsel about this issue, and Counsel told him he would look into it; however, Applicant never heard back from Counsel regarding this issue. However, Applicant only pleaded guilty to attempted murder and first-degree burglary, and his other charges were dismissed.

Applicant testified he asked Counsel how he was identified, and Counsel did not really address the issue. Applicant stated his co-defendant's statement implicated him, but his co-defendant lied in her statement and kept herself out of the statement. Applicant testified he was identified by his co-defendant, but not by the victims. Applicant testified Counsel advised him briefly about ways to challenge the identification and discussed his co-defendant testifying at trial.

Applicant testified he understands he could get life for first-degree burglary, but Counsel told him there was no doubt he would get life at trial.

Applicant testified he and Counsel discussed the statements he gave to law enforcement, but Counsel did not tell him how they could defend the statements at trial. Applicant testified he told Counsel he wanted to go to trial, but Counsel kept telling Applicant he would get a life sentence at trial.

Applicant asserted he never received all the discovery before he pleaded guilty. Applicant recalled Counsel sending him a letter eighteen days before the plea informing him that Counsel was still waiting to get all the discovery.

Applicant testified that Counsel told him if he wanted to see his daughter graduate, the best thing to do was to plead guilty. Counsel told Applicant the trial was set for the following week, and at that point, Applicant felt they were not ready for trial because he did not know if Counsel had prepared for trial. Applicant testified that part of his decision to plead guilty was because he did not know if Counsel was ready for trial. However, Applicant recalled telling the plea court, under oath, that no one had threatened him into pleading guilty.

Counsel testified he was appointed to represent Applicant in November 2017. Counsel stated he sent Applicant a letter on November 20, 2017, advising Applicant of the representation. Counsel testified that at that point, he had not received any discovery, so he filed a motion for the discovery. Counsel also told Applicant he would be in touch with him when the discovery came, and sent Applicant some forms to fill out. Counsel testified he received the discovery in December 2017, and started reviewing it.

Counsel recalled first meeting with Applicant in May of 2018. Counsel stated he moved for a continuance because the State was calling the case to trial. Counsel testified he had previously

attempted to visit Applicant at Lee, but there was a prison riot and Lee was on lockdown, so Counsel could not meet with him. Counsel stated he sent Applicant a letter on May 3, 2018, explaining why he had not met with him yet, that the case had been called for trial, and that Counsel had moved for a continuance. Additionally, Counsel informed Applicant he would be transported to Marion County for the continuance hearing. Counsel recalled Applicant was transported on May 11, 2018, and he was able to meet with Applicant in a solicitor's room in the courthouse to meet. Counsel testified he discussed his view of the discovery in this meeting.

Counsel testified that because Applicant's YOA sentence was revoked and he was in Lee, there were more steps to go through to meet with Applicant. Counsel testified he met with Applicant in July 2018, and had to get clearance from SCDC to bring a computer and thumb drive to review with Applicant. Counsel testified that he had already sent Applicant the written discovery he had, but that day, he went to review the media with Applicant. Counsel stated that in July, he was able to go over everything not provided on paper. Additionally, Counsel had notes on the interviews in the discovery, and the pros and cons of the State's case. Counsel testified he met with Applicant from 9:30 am until 2:00 pm.

Counsel informed Applicant that at that time, he did not have true-billed copy of the indictment. However, Counsel informed Applicant essentially the true-billed indictment was a "ticket to ride" in General Session, explained the Grand Jury process, and that in Counsel's experience, it is rare for a Grand Jury to take no position or no-bill an indictment. Further, Counsel told Applicant he could not appear at trial without a true-billed indictment. Further, Counsel explained there were no changes between the copy he had in their meeting had the one eventually true-billed.

Counsel could not recall looking into the multicount indictment issue. However, Counsel thought a multicount indictment in this case was proper because all the charges arose from the same event. Counsel did, however, go over each charges and elements of the charges with Applicant. Counsel recalled the State's theory was basically felony murder; first-degree burglary—unlawfully entered the home and shot someone; and kidnapping—the shot victim (Williams) was left on the floor, and the co-defendant's sister (Grant) was then taken from the home, driven away, and left near an amphitheater. Grant immediately identified her sister as one of the assailants, and gave a general description of the other two assailants. Counsel recalled Grant's sister, a co-defendant, and she decided to cooperate with law enforcement after being in jail a few weeks. She then implicated Applicant in the crimes. Counsel also recalled the vehicle used in the robbery had Applicant's fingerprints on the outside of the case, and he had access to the car because Applicant's girlfriend had rented the car. Counsel explained to Applicant his fingerprints were on the outside of the car so they could argue he was not in the car during the robbery. Counsel also explained to Applicant the co-defendant's statements could be challenged, but Grant's general description of Applicant corroborated the co-defendant's statements. Finally, Counsel informed Applicant that the other co-defendant's DNA was found at the scene, and Counsel was told he might testify against Applicant at trial.

Counsel recalled the May continuance was granted, but the court informed him the trial could go forward in August. Counsel originally asked for continuances in both terms. Counsel stated he requested the discovery of the projectile, cell phones, and any proffers on July 12, 2018. Further, Counsel explained to Applicant it would be the State's burden at trial, and it would have to turn over any evidence it intended to use.

Counsel testified the case was put on the August 2018 trial roster, and he requested for Applicant to be transferred back to Marion County to prepare for trial, which was done. Counsel stated he spoke to Applicant in the holding cell and at the Public Defender's Office, and Applicant wanted to see his daughter. Counsel explained to Applicant if he was found not guilty, he would be released after serving his probation revocation, and also told Applicant about the plea offer. Counsel recalled that Applicant brought up his daughter again. Counsel told Applicant that if convicted at trial the minimum he could get would be fifteen years. However, Counsel also told Applicant that in his experience, defendants do not get the minimum if they go to trial. Counsel also told Applicant he could get life if convicted at trial. Counsel told Applicant that it was Applicant's choice whether to go to trial or plead, but if Applicant wanted to go to trial he would be ready.

Counsel testified he explained to Applicant that Applicant would be parole eligible after serving eighty-five percent of his sentence and that the charges were considered most-serious offenses. Finally, Counsel testified he attempted to file an appeal for Applicant, but he failed to perfect the appeal.

IV. DISCUSSION

This Court has reviewed the entire record and evidence introduced at the hearing, and the Court has also observed the 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 (2014).

Applicant alleged his guilty plea was unknowing and involuntary due to ineffective assistance of Counsel for failure to investigate, and failure to adequately meet and review the

discovery with Applicant. Applicant also alleged Counsel was ineffective for failing to file a direct appeal of his guilty plea.

For the reasons discussed below, this Court finds Applicant knowingly and voluntarily pleaded guilty. The Court finds Counsel reasonably investigated the case, met with Applicant, and reviewed the discovery with Applicant. Further, Applicant has failed to show prejudice resulted because the Court is not convinced Applicant would have chosen to go to trial rather than plead guilty despite Counsel's alleged deficiencies. Therefore, the Court denies relief on the allegations regarding Counsel's performance before and during the guilty plea. However, this Court finds Applicant is entitled to a belated appeal pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35, (1974).

1. Involuntary guilty plea

Applicant alleged his guilty plea was unknowing and involuntary due to ineffective assistance of Counsel for failure to investigate, and failure to adequately meet and review the discovery with Applicant. The Court disagrees.

To establish ineffective assistance of counsel, the PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Strickland v. Washington*, 466 U.S. 668, 687–88 (1984); *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). "The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases." *Watson v. State*, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985).

The test for determining the validity of a guilty plea is "whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant."

Alford, 400 U.S. at 31. Counsel must, at a minimum, make some effort to interview potential witnesses identified by the defendant, and make an independent investigation of the facts and circumstances of the case. *Edwards v. State*, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011); *Walker v. State*, 407 S.C. 400, 405, 756 S.E.2d 144, 147 (2014). However, counsel is presumed to have adequately assisted and exercised reasonable professional judgment in making decisions in the case. *Edwards*, 392 S.C. at 456, 710 S.E.2d at 64. "[W]here counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel." *Whitehead v. State*, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992).

"[A] defendant entering a guilty plea must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." *Pittman v. State*, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999). Plea counsel is not deficient for advising a defendant to plead guilty based on what counsel believes the sentence would be if the defendant were convicted at trial. *See Bennett v. State*, 371 S.C. 198, 204–05, 638 S.E.2d 673, 676 (2006). To prove prejudice, the applicant must show a reasonable probability he would not have pleaded guilty and would have insisted on going to trial absent plea counsel's alleged deficiency. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

Investigation

Applicant alleged Counsel was ineffective for failing to adequately investigate the facts and circumstances surrounding case. The Court disagrees.

Counsel must, at a minimum, make some effort to interview potential witnesses identified by the defendant, and make an independent investigation of the facts and circumstances of the case. *Edwards v. State*, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011); *Walker v. State*, 407 S.C. 400, 405, 756 S.E.2d 144, 147 (2014). To support a claim that trial counsel was ineffective for

failing to interview or call potential witnesses, a PCR applicant must produce the witnesses at the PCR hearing or otherwise introduce the witnesses' testimony in a manner consistent with the rules of evidence. *Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). The applicant's mere speculation about what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice. *Id.*

This Court finds that Counsel reasonably investigated the case. As an initial matter, Applicant has failed to testify or provide any evidence that Counsel could have discovered had Counsel more thoroughly investigated the case. Applicant has the burden of proving his allegations before the Court, and Applicant's failure to submit anything Counsel should have discovered during his investigation clearly does not meet that burden. Second, the Court's finding Counsel reasonably investigated the case is based on the following credible testimony from the PCR hearing.

Counsel received the bulk of the discovery in December 2017, and started reviewing the discovery. Counsel discussed the discovery with Applicant when he was able to meet with Applicant. Counsel provided Applicant with all the written discovery, and visited Applicant at Lee to review the discovery not on paper. Counsel reviewed Grant's statements and Grant was unable to identify Applicant. Counsel also reviewed the co-defendant's statements and advised Applicant of potential defenses and trial strategies for attacking the statements. Applicant's DNA was not found at the scene, but the other male co-defendant's DNA was. Counsel advised Applicant that Grant's sister was going to testify against him at trial, and the other co-defendant might testify against him at trial. Counsel reasonably felt it would be improper to attempt to interview the co-defendants because they were represented by counsel. Counsel attempted to get all the discovery before the trial, including the projectile, the cell phones, and any proffers in advance of trial.

Based on the credible testimony by Counsel, and lack of evidence or testimony that Counsel did not reasonably investigate, this Court finds Counsel reasonably investigated the case and, therefore, was not deficient.

Further, this Court finds Applicant has failed to show he would not have pleaded guilty despite Counsel's alleged failure to investigate. Applicant testified he pleaded guilty because he wanted to see his daughter graduate, and because Counsel advised him he could get a life sentence if convicted at trial. Indeed, Applicant could have received a life sentence for a first-degree burglary conviction alone; however, Applicant also faced the serious charges of kidnapping and first-degree burglary. Applicant pleaded to first-degree burglary and attempted murder with a negotiated sentence for the minimum exposure he faced. This Court is not convinced Applicant would have chosen otherwise had Counsel more fully investigated. The Court finds credible Applicant's testimony he pleaded guilty because he did not want to get a life sentence, and he wanted to see his daughter graduate. Therefore, Applicant has failed to show prejudice resulted from Counsel's alleged deficient investigation.

Based on the foregoing, Applicant's allegation Counsel was ineffective for failing to investigate is denied and dismissed with prejudice.

Meeting and Reviewing Discovery

Applicant alleged Counsel was ineffective for failing to conduct an adequate amount of meetings with Applicant to review the discovery. The Court disagrees.

"[T]here is no established 'minimum number of meetings between counsel and client prior to trial necessary to prepare an attorney to provide effective assistance of counsel.'" *Moody v. Polk*, 408 F.3d 141, 148 (4th Cir. 2005) (quoting *U.S. v. Olson*, 846 F.3d 1103, 1108 (7th Cir. 1988)).

As noted above, Applicant testified he was on probation when he was arrested on the charges subject to this PCR action, his probation was revoked because of these charges, and he was incarcerated at Lee while these charges were pending. Counsel also testified it was difficult to meet with Applicant while he was at Lee; however, he was able to visit Applicant at Lee for an extended period of time on July 11, 2018, and reviewed all the non-written discovery with Applicant. Counsel advised Applicant of potential defenses regarding his identification, and potential defenses regarding his finger prints being on the outside of the car used in the crime. Counsel also arranged for Applicant to be transferred to Marion County leading up to trial to prepare the case more fully.

This Court finds Counsel was not deficient for failing to adequately meet with Applicant and explain the discovery to him. The Court finds, given the specific circumstances of the case, that Counsel met with Applicant a reasonable amount of time to prepare the case for trial. While the circumstances did present some difficulty in meeting, the Court finds Applicant was fully aware of the evidence against him, and he knowingly pleaded guilty to the charges.

The Court also finds credible Counsel's testimony he told Applicant he would be ready for trial, he told Applicant he could get a life sentence if convicted at trial, and that the State's plea offer was the minimum Applicant could get if convicted at trial. The Court finds not credible Applicant's testimony Counsel told him he would get a life sentence if convicted at trial. Further, the Court is not convinced Applicant pleaded guilty because he was unsure Counsel was ready for trial. The Court is convinced, however, that Applicant pleaded guilty to get the minimum sentence he was exposed to, rather than the life plus he could have received at trial. Therefore, Applicant has failed to show Counsel was deficient in the number of meetings he had with Applicant, and

has failed to show prejudice resulted from Counsel's alleged deficiency. Accordingly, this allegation is denied and dismissed with prejudice.

Finally, even though Counsel informed the plea court he failed to explain to Applicant the charges he pleaded to were no-parole (eighty-five percent) and most serious offenses, Counsel had no constitutionally imposed duty to explain that information to Applicant for Applicant's guilty plea to be knowing and voluntary. *See Pittman v. State*, 337 S.C. at 599, 524 S.E.2d at 624 ("[A] defendant entering a guilty plea must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived.").

Defendants must be advised of the direct consequences of their plea, but not the collateral consequences. *Smith v. State*, 329 S.C. 280, 283, 494 S.E.2d 626, 628 (1997). "The distinction between 'direct' and 'collateral' consequences of a plea, while sometimes shaded in the relevant decisions, turns on whether the result represents a definite, immediate and largely automatic effect on the range of the defendant's punishment." *Cuthrell v. Dir., Patuxent Inst.*, 475 D.2d 1364, 1366 (4th Cir. 1973). "The imposition of a sentence may have a number of collateral consequences, however, and a plea of guilty is not rendered involuntary in a constitutional sense if the defendant is not informed of the collateral consequences." *Brown v. State*, 306 S.C. 381, 382-83, 412 S.E.2d 399, 400 (1991). However, if counsel chooses to advise the defendant of collateral consequences, he must provide correct advice. *Smith*, 329 S.C. at 283, 494 S.E.2d at 628.

Parole eligibility and the consequences of the charges being most serious offenses are collateral consequences. Therefore, Counsel is not deficient for failing to advise Applicant of those collateral consequences. Further, nothing has been presented before this Court to indicate that

Counsel erroneously advised Applicant of those collateral consequences. Therefore, Applicant has failed to show Counsel was deficient in this respect.

Further, the Court finds Applicant was aware of the nature and crucial elements of the charges against him based on Counsel's credible testimony he explained the charges and elements to Applicant. The Court finds Applicant was aware of the maximum and mandatory minimum penalties he faced based on Applicant's and Counsel's testimony that Counsel explained the sentencing exposure to Applicant. And, Applicant was aware of the nature of the constitutional rights he waived by pleading guilty as evinced by the plea colloquy with the trial court. Tr. 6. Therefore, Applicant knowingly and voluntarily pleaded guilty, and these allegations are denied and dismissed with prejudice.

2. Belated appeal

Applicant alleged Counsel failed to file an appeal of his guilty plea after Applicant requested Counsel to do so. Counsel testified he attempted to file an appeal, but failed to perfect the appeal on Applicant's behalf. Further, the State consented to Applicant receiving a belated appeal pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35, (1974). Therefore, based on the forgoing, this Court finds Applicant is entitled to a belated direct appeal pursuant to *White*, and grants relief in the form of a belated appeal only.

V. CONCLUSION

Based on all the foregoing, the Court finds Counsel was not constitutionally ineffective for failure to investigate, and failure to adequately meet with Applicant to review the discovery. This Court finds Counsel reasonably investigated the case, met with Applicant, and reviewed the discovery with him. Further, Counsel was not deficient in failing to explain to applicant the charges were classified as no-parole offenses and were considered most-serious as these are considered collateral consequences of sentencing. Finally, Applicant has failed to show he was prejudiced by

any of Counsel's alleged deficiencies regarding the guilty plea as the Court believes Applicant pleaded guilty to receive a guaranteed minimum sentence. However, this Court finds Applicant is entitled to a belated appeal pursuant to *White v. State.*

The Court notes 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. 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 PCR. 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 appropriate procedures for appeal.

THEREFORE:

1. The Court denies relief and dismisses the allegations relating to Applicant's guilty plea with prejudice;
2. Grants Applicant a belated appeal pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35, (1974);and
3. Applicant shall be remanded to the custody of the State.

AND IT IS SO ORDERED.

D. CRAIG BROWN
Presiding Judge
Twelfth Judicial Circuit

Florence, South Carolina

10-14, 2020.