

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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APPEAL PICKENS PICKENS COUNTY
Court of Common Pleas

S.C. SUPREME COURT

The Honorable Leticia Verdin, Thirteenth Circuit Court Judge

Case No. 2016-CP-23-04850

Jaquese Hyatt, #00363113.....Petitioner

v.

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

NOTICE OF APPEAL

Petitioner, Jacquese Hyatt, by and through undersigned counsel, William G. Yarborough III, hereby appeals the Order of Dismissal issued by Honorable Leticia Verdin in the above-captioned case. The Order of Dismissal was filed on January 20, 2021 and sent to Counsel on January 28, 2021. A copy of the Order of Dismissal is attached to this notice.

Respectfully Submitted,

/s/ William G. Yarborough III, #10271
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Greenville, SC
January 29, 2021

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF GENERAL SESSIONS
THIRTEENTH JUDICIAL CIRCUIT

Jaquese Hyatt)
Applicant)
v.)

Case Number: 2016-CP-23-04850

Order Denying PCR Application

State of South Carolina)
_____)

FILED-CLERK OF COURT
PAUL B. WICKER
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Applicant asserts the following grounds for relief in his petition:

1. Ineffective assistance of counsel;

- a. Failure to properly and adequately investigate, develop and prepare case for trial.
- b. Failure to properly and adequately discern, develop and discuss the facts, witnesses, law and defenses with client.
- c. By taking case when it was set for trial only several days later
- d. Failure to properly, correctly and prudently advise the client of potential outcomes of the case
- e. Failure to adequately, properly and correctly advise client of state's witnesses and evidence
- f. Failure to file or argue critical pre-trial or post-trial motions
- g. Failure to investigate, contact or develop alibi witnesses
- h. Due to the various and numerous acts and/or omissions on the part of the defense counsel in his representation of client. The client's guilty plea was coerced and as such was not knowingly, intelligently and voluntarily entered due to defense attorney's deficient performance.
- i. Defendant's counsel's deficient performance prejudiced client to the extent there is a reasonable probability that but for council's unprofessional errors, the result of the proceedings would have been different..
- j. The clients reserved the right to amend the supporting facts of item 11 of the application upon receipt and review of trial transcript.

2. Involuntary guilty plea

By Amendments Petitioner also asserts the following additional grounds for relief:

- I. Trial Counsel was ineffective pursuant to *Strickland v. Washington* for failing to contemporaneously and properly object to the trial judge's improper comments on the Applicant's decision to plead guilty and the weight of the evidence as it related to Applicant's decision whether to plead guilty.

- II. Trial Counsel was ineffective for failing to adequately investigate the suppression issue and inconsistent witness statements.
- III. Alternatively, Trial Counsel was ineffective for failing to advise Applicant on his rights, the most probable outcome of a jury trial as opposed to pleading guilty, and on the probable outcome of various pre-trial motions Applicant learned of from other inmates, "jailhouse lawyers" should he proceed to trial. The advice from these inmates, rather than advisement from his attorney, swayed Applicant to proceed to trial believing that the motions would be successful and would result in dismissal of the charges. The net result was the expiration of the plea offer with an eight (8) year sentence recommendation. Had Trial Counsel adequately advised Applicant, Applicant would not have proceeded to trial and instead would have plead guilty pursuant to plea offer with an eight (8) year sentencing recommendation.
- IV. Under the facts and reasons alleged in Ground III, Trial counsel was ineffective for failing to advise Applicant before trial that the eight (8) year plea offer would be revoked should he go to trial, and that he would consequently face a minimum sentence of ten (10) year imprisonment for each armed robbery charge.
- V. Trial Counsel was ineffective for failing to review significant discovery with Applicant and advise him accordingly in the context of potential success at trial or in deciding whether to accept any plea offer.
- VI. Trial Counsel was ineffective for failing to communicate to Applicant an additional, previously extended plea offer and advise him accordingly.
- VII. Trial Counsel was ineffective for failing to adequately explain any parole implications of any sentence he may receive, leading Applicant to believe he would serve only 30-40% of any sentence he may receive.

Applicant and Ivan Toney, Esq. were the only witnesses called to testify. Correspondence between Mr. Toney and applicant were admitted into evidence.

As to grounds 1 (a-c) and 1(g) above, Applicant has failed to produce testimony or evidence of what a proper investigation or a delay in the trial would have produced. Accordingly, Applicant has not meet his burden of proof on these issues.

As to grounds 1 (d-e), Mr. Toney's correspondence made part of the records refutes these assertions. Accordingly, they are denied.

As to grounds 1 (h-j) and 2, the transcript refutes the contention. Accordingly, these grounds are denied.

As to Amended ground (I), to the extent trial counsel should have objected, the failure was

harmless and did not prejudice Applicant.

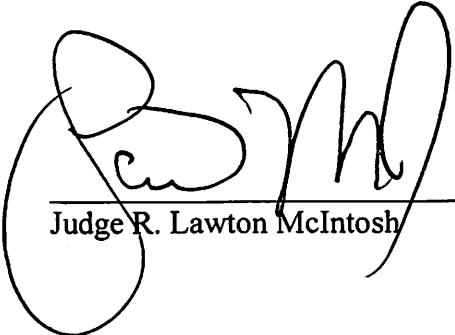
As to Amended ground (II), Applicant presented no evidence in support of this contention. Accordingly, this ground is denied.

As to Amended grounds (III) and (IV), this allegation is refuted by Mr. Toney's credible testimony as well as his correspondence to Applicant. Accordingly, amended grounds (III) and (IV) are denied.

As to Amended grounds (V, VI and VII) these contentions are refuted by Mr. Toney's testimony, the transcript and Mr. Toney's correspondence to Applicant. Accordingly, these grounds are denied.

Attorney General to prepare a formal order.

AND IT IS SO ORDERED.



Judge R. Lawton McIntosh

Anderson, South Carolina

Dated: 1-15-21

Copy mailed to
Attorney General / B. Yarborough
on 1-20-21