

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT  
APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas  
HONORABLE BRIAN M. GIBBONS  
2020-CP-42-03305

ROBERT T. GENTRY, SCDC# 382135

APPELLANT,

vs.

STATE OF SOUTH CAROLINA,

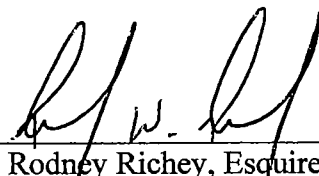
RESPONDENT.

---

**NOTICE OF APPEAL**

---

Robert T. Gentry appeals the denial of his Post Conviction Relief. The Post Conviction Relief Action was heard and denied by the Honorable Brian M. Gibbons, Circuit Judge on June 1, 2021 an Order issued on July 6, 2021 and filed on July 12, 2021. The Appellant received notice of the judgment on July 13, 2021.



---

Rodney Richey, Esquire  
Attorney for the Appellant  
33 Market Point Drive  
Post Office Box 10916  
Greenville, SC 29603  
(864) 467-0503  
(864) 467-0646 fax

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

**RECEIVED**

JUL 10 2021

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG )

Robert T. Gentry, SCDC NO. 382135 )  
Applicant, )

v. )

State of South Carolina, )  
Respondent. )

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

Case No. 2020-CP-42-0330 )

**ORDER OF DISMISSAL** )

21 JUL 12 AM 9:30  
CLERK OF COURT  
SPARTANBURG COUNTY  
AMY W. COX

FILED

This matter comes before this Court by way of Applicant Robert T. Gentry's post-conviction relief application filed September 28, 2020. Respondent made its return on December 29, 2020, requesting an evidentiary hearing be convened. An evidentiary hearing was held on June 1, 2021, at Spartanburg County Courthouse. Rodney Richey, Esquire, represented Applicant. Assistant Attorney General William Ray of the South Carolina Attorney General's Office represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Counsel J. Zachary Farr, also testified. After reviewing all records and evidence before this Court, this Court finds Applicant has not met his requisite burden of proof of establishing he is entitled to post-conviction relief and denies and dismisses this application with prejudice. Findings of fact and conclusions of law are set forth below.

#### **Procedural History**

Applicant was indicted by the Spartanburg County Grand Jury at its May 2019 term for third-degree sexual exploitation of a minor. Applicant was represented by J. Zachary Farr, Esquire, and the case was prosecuted by Assistant Solicitor Jennifer Wells of the Seventh Circuit Solicitor's Office. On January 15, 2020 Applicant proceeded to a jury trial before the Honorable J. Derham Cole, where he was convicted as indicted. Judge Cole sentenced Applicant to ten years'

imprisonment, suspended upon service of three years with an additional three years of probation with the first ninety days upon relief to be served in the home detention program. Applicant did not appeal his conviction or sentence. <sup>1</sup>

### Summary of Relevant Facts

In January, 2019 Applicant was being investigated for his role in a deadly shooting that took place in Spartanburg, South Carolina. (Tr. 1 – Tr. 16).<sup>2</sup> Spartanburg Police Department Investigator Chris Taylor testified that he met with Applicant on May 21, 2018 at the Spartanburg City Hall. (Tr. 64, 11 – Tr. 65, 6). He asked for consent to search Applicant's cell phone, which Applicant agreed to before executing a consent to search authorization form. (Tr. 65, 7 – Tr. 66, 13). He then took the form and the phone to Investigator Inderjit Kaur, who was across the hallway, to be searched. (Tr. 66, 14 – Tr. 68, 6). The phone was searched and returned directly to Applicant that same day. (Tr. 68, 9-20).

Investigator Kaur testified that she was given the phone by Investigator Taylor and asked to "dump" the phone, meaning to extract its data. (Tr. 72, 16 – Tr. 73, 10). She extracted the data, compiled it into a written report, saved the report to a CD, and placed the report in to evidence. (Tr. 74, 3 – Tr. 75, 9). She explained that once the data is pulled off the phone it cannot be manipulated or changed. (Tr. 75, 21-25).

Investigator William Reece testified that he conducted a review of the extraction report compiled by Investigator Kaur. (Tr. 94, 7-17). During his review he discovered a text message

---

<sup>1</sup> Applicant was incarcerated in the South Carolina Department of Corrections and was released on October 30, 2020.

<sup>2</sup> Applicant was in the custody of the Spartanburg County Sheriff's Office at the time of his PCR hearing while he awaited trial for two accessory to murder charges (2019-GS-42-02503; 2019-GS-42-02504). A Spartanburg County jury convicted him of both charges on June 17, 2021, and he was sentenced to thirty years' imprisonment, and fifteen years' imprisonment on each indictment, respectively.

FILED  
2021 JUL 21 9:00  
SPARTANBURG COUNTY  
SHERIFF'S OFFICE  
AND W. I. DIX

conversation between Applicant and another individual named Kenzo containing child pornography in video format. (Tr. 96, 7-19). On cross-examination he clarified that the video was not saved to the phone's video folder, but was instead only in the text message conversation. (Tr. 105, 7-21). He contacted the FBI, arranged a meeting with a special agent, and set up a time to interview Applicant about the contents of the video. (Tr. 99, 6-21). The interview took place in February, 2019, and Applicant was read his *Miranda* rights before being questioned. (Tr. 99, 22 – Tr. 100, 21). FBI Special Agent Robert Hamod testified that he attended the interview after being told by Investigator Reece that child pornography had been found on Applicant's phone. (Tr. 114, 3-16). He stated that the US Attorney's Office had declined to prosecute the matter. (Tr. 125, 1-12).

During the interview with Investigator Reece he was questioned about why he was sent the video in the first place, and he stated that he asked about it. (Tr. 156, 3-8). The evidence at trial showed that Applicant clicked on the video and viewed it because he sent a message to the sender acknowledging how bad it was. (Tr. 157, 6-12; Tr. 175, 9-13).

**Current Action before this Court**

In his PCR application, Applicant alleges he is being held in custody unlawfully because of ineffective assistance of counsel in that:

1. "Lawyer never stated what an appeal was."
2. "I didn't know the grounds for filing an appeal."
3. "Didn't have access to Law Library at Kirkland."
4. "Cohersted Jurors"
  - a. "The seriousness of my 1st case cohersted the jurors because my 1st case of Accessory before and after the fact of Murder was brought up during trial, (as stated in trial transcript). Two investigators lied on the stand. The fact that I never had an arrest record wasn't brought up.
5. "Inaffecting Asistant of Council"
  - a. "My Lawyer didn't fight the fact that I never owned the cell phone after I gave it to the police. Also the fact there was no proof that I watched the video nor did I ask for the video and the video was never saved to my phone and never sent by me.

2021 JUL 1  
AM 9:30  
CLERK OF COURT  
SPARTANBURG COUNTY  
ANTHONY COX

FILED

They made a copy of my old phone in May 2018, I returned the phone to T-Mobile afterwards and received a new phone. Date of offense is wrong and the warrant date is off. Also the Feds clearly stated they didn't want the case. I never possessed the phone anymore before the date of offense was January 2019, I was arrested February 12, 2019 on different charges, May 2019 I was served a warrant for sexual exploitation of minor. The person who sent the video was never questioned nor arrested. I was charged with a crime I didn't commit nor knew anything about."

At the PCR hearing, Applicant proceeded forward on the following allegations:

1. Ineffective Assistance of Counsel
  - a. Counsel never brought forth the fact that Applicant did not watch the video.
  - b. Counsel was not properly prepared.
  - c. Counsel never mentioned the issue that the phone was left with the police for a significant period of time.
  - d. Counsel did not address the fact that Applicant was not the owner of the phone at the time of the case.
  - e. Counsel did not call Applicant to testify about his lack of a prior record.

All other allegations raised in his initial application and amendments are deemed waived and abandoned and, accordingly, will not be addressed in this order.

#### Summary of the Testimony

During direct examination, Applicant alleged that his trial counsel was ineffective because his counsel did not inform the jury that Applicant did not watch the pornographic video. Applicant also alleged that his trial counsel did not properly prepare for the trial, nor did his trial counsel inform the jury that Applicant was not the owner of the phone during the time of the trial and that the police had possession of the phone for almost a year prior to when he was indicted. Applicant also mentioned during this evidentiary hearing that he failed to tell his trial counsel about the fact that the individual who sent him the pornographic video was not charged. Applicant alleged that one of his biggest complaints about his trial counsel was the fact that it was not mentioned that he had no prior criminal history.

During cross examination, Applicant testified that he never told his trial counsel that he

FILED  
2022 JUL 12 AM 9:30  
CLERK OF COURT  
SPARTANBURG COUNTY  
AMY W. COX

needed more time to prepare his defense. Applicant also testified that he did not watch the video and did not know what was in it, which is why he voluntarily gave his phone to Spartanburg Police Department when they were investigating his involvement in another case. Applicant stated that he was given his phone back the same day that he voluntarily gave it to the police and was not told until almost a year later what the police had found on it. Applicant also stated that he does not think he should have been convicted because he did not have a prior record, and that even though Applicant did not ask his trial counsel to present it, thought it should have been stated during his trial.

Trial counsel Zachary Farr testified he has been practicing law for nine years and has practice criminal law for the entire time. During direct examination, Mr. Farr stated that the fact that Applicant got a second phone after the police took his first phone and gave it back had nothing to do with the charges against the Applicant. Mr. Farr went on to say, in regard to Applicant's record not being brought up during trial, that Applicant could have raised that if he wanted to by offering to testify at trial, which the Applicant waived. However, Mr. Farr also mentioned that Applicant did testify through his interview with the FBI, where it was mentioned that he did not have a prior record and the jury had access to this interview. Mr. Farr stated that the fact that Applicant did not watch the video was discussed, but it did not impact his case, because that was not one of the elements that the prosecution had to prove at trial. In addition, based on the texts following the video, Mr. Farr determined that it seemed as though Applicant did watch the video. Mr. Farr testified that he believed Applicant understood the charges against him and the penalties he faced.

During cross examination, Mr. Farr again mentioned that Applicant's text messages indicated that he watched the video, as well as the fact that he discussed how not watching the

FILED  
2021 JUN 12 AM 9:30  
CLERK OF COURT  
SPARTANBURG COUNTY  
SOUTH CAROLINA  
AMY W. COX

video would impact the case. Mr. Farr stated that he knew other people involved in the distribution of the video were not charged and how it was relevant to the defense, as well as the fact that Applicant got another phone after the police took his first one, but that the prosecutor objected to bringing up the other phone. Mr. Farr also stated how Applicant's prior record was brought up during mitigation and that the investigators that testified at trial mentioned how Applicant had not been convicted, nor had he been investigated of any other crimes. Mr. Farr concluded his testimony with the fact that it was Applicant's decision to not testify at trial.

**Findings of Fact and Conclusions of Law**

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. Before this Court are the Spartanburg County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the trial transcript, and this PCR action's records. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusion of law as required by South Carolina Code Annotated Section 17-27-70 and -80.

***Ineffective Assistance of Counsel, Generally***

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show "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. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

FILED  
2021 JUL 12 11 53 AM  
CLERK OF COURT  
SPARTANBURG COUNTY  
AMY W. FOX

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. See also Rule 71.1(e), SCRPC ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."). Reasonableness is determined by the "variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant," and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny of counsel's performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually "countless" ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel's deficient performance must have prejudiced the applicant so 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. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Realistically, this matters "only in the rarest case" because "[t]he likelihood of a different result must be substantial, not just conceivable." *Harrington v. Richter*, 562 U.S. 86, 111-12 (2011) (quoting *Strickland*, 466 U.S. at 697).

FILED  
21 JUL 13 AM 9:30  
CLERK OF COURT  
Spartanburg County  
AMY W. COX

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.

***Failure to Inform the Jury that Applicant did not Watch the Video***

Applicant alleges that his trial counsel provided constitutionally ineffective assistance for failing to inform the jury that, although he did knowingly possess the video depicting child pornography, he did not watch the video. This allegation is without merit.

As laid out by § 16-15-410 of the Code of Laws of South Carolina, "An individual commits the offense of third degree sexual exploitation of a minor if, knowing the character or content of the material, he possesses material that contains a visual representation of a minor engaging in sexual activity or appearing in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation." The Sixth Amendment right to counsel does not extend so far as to require counsel to present defense that are unsupported by the evidence or the law. See *Arnette v. State*, 306 S.C. 556, 413 S.E.2d 803 (1992) (holding that an Applicant is not entitled to relief because counsel did not advise him of a frivolous defense)

The law only requires proof that a criminal defendant knowingly possess child sexual exploitation materials to be convicted of third degree sexual exploitation of a minor. Whether the defendant actually viewed the materials is not an element of the offense. It was shown through evidence presented at trial that Applicant received the video via text message, and kept it on his phone. Applicant's counsel testified at the evidentiary hearing that he knew it did not matter

FILED  
2011 JUN 12 AM 9:30  
CLERK OF COURT  
SPARTANBURG COUNTY  
ANDY W. OX

whether Applicant watched the video. Instead, what mattered, and what counsel argued, was that Applicant did not know the character of the video sent to him. Applicant's counsel testified that this argument was unsuccessful because evidence showed Applicant had actually clicked on the button to play the video. The defense Applicant claims should have been asserted is therefore not supported by the law nor the facts and evidence of his specific case. Therefore, Applicant has failed to establish that counsel's performance was deficient for attempting to defend against the charge by arguing that he never watched the video.

Furthermore, Applicant has not proven that he was prejudiced by his counsel's performance because there is no reasonable probability that the outcome of his trial would have been different had his attorney made a greater effort to show that he did not watch the video. Applicant has not shown that any reasonable jury could have found that he did not commit the crime, because none of the evidence suggests he was not knowingly in possession of child sexual abuse materials. Therefore, this Court finds that the allegation is without merit, post-conviction relief is denied on these grounds, and the application dismissed with prejudice.

***Failure to Properly Prepare for Trial***

Applicant alleges that his counsel provided constitutionally ineffective assistance for failing to properly prepare a defense. This allegation is without merit.

To establish counsel failed to adequately prepare for trial, applicant must present evidence of what counsel could have discovered or what other defenses could have been pursued had counsel more fully prepared. *Jackson v. State*, 329 S.C. 345, 495 S.E.2d 768 (1998). An applicant is not entitled to relief where no evidence is presented at the PCR hearing to show how additional preparation would have had any possible effect on the result at trial. *Skeen v. State*, 325 S.C. 210, 481 S.E.2d 129 (1997).

FILED  
2021 JUL 12 AM 10:30  
CLERK OF COURT  
SPARTANBURG COUNTY  
AMY W. COX

At the evidentiary hearing, Applicant himself refuted this claim and testified that he did believe his trial counsel had enough time before trial and was properly prepared. He explained that he had retained counsel and had met with him quite a few times. He stated that his counsel had reviewed the discovery and evidence against him, as well as possible defenses. He stated that never told counsel that he believed more time was needed to prepare. Applicant did not produce any evidence at the hearing of additional defenses or beneficial evidence may have been developed had his counsel had more time.

Counsel confirmed that he been retained by Applicant around June, 2019, and they met to discuss the case frequently before trial. They discussed the discovery in the case and he believed the video was sufficient for a conviction. He indicated that he was prepared for trial. Therefore, Applicant has not shown that his counsel was deficient or that his counsel's performance prejudiced him in any way for failing to properly prepare for trial. Therefore, this Court finds that the allegation is without merit, post-conviction relief is denied on these grounds, and is dismissed with prejudice.

***Counsel's Handling of the Cell Phone***

Applicant alleges that his counsel failed to properly present evidence that the cell phone containing the incriminating video was left with police for some extended period of time, and also that his counsel failed to show that he was not the owner of the cell phone at the time of his trial. This allegation is without merit.

As mentioned above, counsel need not present frivolous defenses unsupported by the facts, law, or evidence to fulfill the Sixth Amendment obligation to provide effective representation. Here, Applicant alleges that his counsel should have done *something* different regarding his cell phone, but the requested actions he asserts counsel should have taken would have had no effect on

FILED  
2021 JUL 12 AM 9:11  
CLERK OF COURT  
PARMERSBURG COUNTY  
ANNIE W. COX



the outcome of his trial. At trial it was shown that Applicant's phone was voluntarily turned over to the police so that it could be searched. All of the data was collected, reduced to a 30,000 page record, and the phone was returned to him on the same day. The assertion that it somehow took too long to search the phone or that the phone was left in the possession of the police is entirely immaterial to his guilt, and counsel was under no obligation to make such an argument.

Furthermore, the argument that Applicant was not the owner of the phone at the time of trial is just as immaterial. He was indicted for the crime of third degree sexual exploitation of a minor because he owned the phone at the time of the offense. He admitted at the PCR hearing that he owned the phone when he gave it to police and there is no evidence or reason to believe that purchasing a new phone later would have somehow excused or mitigated the crime. Nevertheless, the record shows that trial counsel *did* cross-examine three witnesses about whether the phone in question was Applicant's old or new phone. (Tr. 69, 8-18; Tr. 81, 21 – Tr. 82, 1; Tr. 109, 12-16). The allegation that trial counsel failed to properly show that Applicant was somehow not the owner of the phone at the time is clearly without merit.

As such, Applicant has failed to prove that his counsel was deficient in his handling and presentation of evidence regarding Applicant's ownership and possession of the cell phone. He has also failed to show any reasonable probability that the outcome of his trial would have been different had his counsel acted differently. Therefore, this Court finds that the allegation is without merit, post-conviction relief is denied on these grounds, and the application is dismissed with prejudice.

***Failure to Call Applicant to Testify at Trial***

Applicant alleges that his counsel provided constitutionally ineffective assistance for failing to call him to testify, making him incapable of showing the jury that he did not watch the

FILED  
2021 JUL 12 AM 9:39  
CLERK OF COURT  
PARANBURG COUNTY  
JIMMY W. COOPER

video or have a prior record, resulting in a guilty verdict. This allegation is without merit.

“The right to testify on one’s own behalf at a criminal trial is guaranteed by the Fifth, Sixth, and Fourteenth Amendments.” *State v. Wright*, 416 S.C. 353, 372, 785 S.E.2d 479, 489 (Ct. App. 2016) (citing *Rock v. Arkansas*, 483 U.S. 44, 51-52 (1987)). However, the right to present testimony is not without limitation. *Rivera*, 402 S.C. at 242, 741 S.E.2d at 703; *Rock*, 483 U.S. at 55. This right may be waived, and all that is necessary for a defendant to waive the right is to know that a right to testify exists. *United States v. McMeans*, 927 F.2d 162, 163 (4<sup>th</sup> Cir. 1991). Where counsel articulates valid reasons for employing a certain strategy, counsel’s choice of tactics will not be deemed ineffective assistance. *Whitehead v. State*, 308 S.C. 119, 417 S.E.2d 530 (1992).

In the present case, Applicant was informed of his constitutional right to testify, as well as his right to remain silent by the trial judge. (Tr. 136, 13 – Tr. 139, 5). His counsel initially indicated that Applicant wished to testify, however after a brief discussion Applicant changed his mind and indicated that he did not wish to take the stand. (Tr. 139, 8 – Tr. 140, 10). During the evidentiary hearing, Applicant’s trial counsel testified that he believed it was in Applicant’s best interest to not testify at trial. Applicant’s counsel thought Applicant should remain silent because Applicant’s interrogation with the FBI largely introduced the contents of his purported testimony, namely, Applicant’s lack of a prior record and Applicant’s claim that he did not watch the video.

As for deficiency, Applicant was free to testify if he wished. His counsel advised him that it might not be in his best interest, per the defense strategy. This Court finds that counsel exercised reasonable professional judgment in furtherance of a reasonable trial strategy by advising Applicant not to testify. This Court also finds that Applicant’s decision was his and his alone, made freely, knowingly, and voluntarily after being informed of his rights by the Court and after being allowed an opportunity to discuss it with his counsel.

FILED  
JUL 12 11 9:31  
CLERK OF COURT  
SPARTANBURG COUNTY  
AM W. CLK



Applicant has also failed to show he was prejudiced by his counsel's advice, or his counsel's failure to call him to testify, because no testimony was proffered at the PCR hearing. Instead, his only asserted reason for wanting to testify was to state that he had no prior record. The jury effectively heard this testimony by way of his statements made to an FBI agent during the investigatory interview which ultimately led to the subject charges.

Applicant told the trial judge that he made this decision on his own free will and without any pressure from someone else. (Tr. 139, 8 – Tr. 140, 10). The record is clear that Applicant was informed of his right to testify and knowingly waived this right with competent advice of counsel. He has therefore failed to establish deficiency or prejudice, this Court finds that the allegation is without merit, post-conviction relief is denied on these grounds, and the application is dismissed with prejudice.

FILED  
2022 JUL 12 AM 9:31  
CLERK OF COURT  
SPARTANBURG COUNTY  
ANN W. COX

### Conclusion

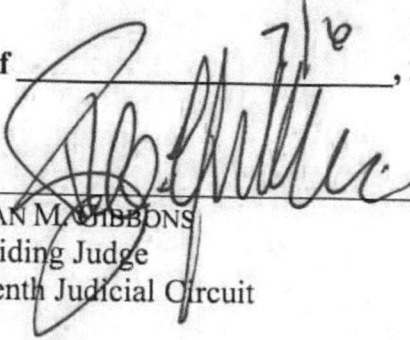
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this PCR application must be denied and dismissed with prejudice.


This Court notifies the Applicant that he must file and serve a notice of appeal within thirty days of receipt by counsel of the judgment entry's written notice to secure 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 the right to 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 Applicant's behalf. ~~Your~~ attention is directed to South Carolina Appellate Court Rule 243 for appropriate appellate procedures.

**IT IS THEREFORE ORDERED:**

1. The PCR application is denied and dismissed with prejudice; and
2. Applicant remain remained remanded to the custody of the South Carolina Department of Corrections

AND IT IS SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

  
\_\_\_\_\_  
BRIAN M. GIBBONS  
Presiding Judge  
Seventh Judicial Circuit

  
\_\_\_\_\_, South Carolina.

FILED  
2021 JUL 12 AM 9:31  
CLERK OF COURT  
SPARTANBURG COUNTY  
AMY W. COX