

THE STATE OF SOUTH CAROLINA

In the Supreme Court

APPEAL FROM THE COUNTY OF CHESTERFIELD

Court of Common Pleas

The Honorable Circuit Court Judge, Michael G. Nettles

Case No. 2020-CP-13-0530

Brenton X. Davis # 354996 Petitioner,

v.

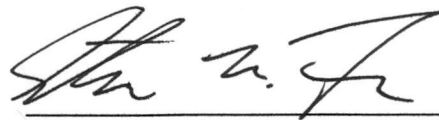
State of South Carolina, Respondent.

NOTICE OF APPEAL

The Petitioner appeals the Honorable Judge Michael G. Nettles Order filed denying post conviction relief to the Petitioner.

The Order was received by the undersigned counsel on October 8, 2021. A copy of the said Order on appeal is attached to this Notice.

This is the 9th day of October 2021.



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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA)
 COUNTY OF CHESTERFIELD)
)
)
 Brenton X. Davis, #354996,)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE FOURTH JUDICIAL CIRCUIT

Case No.: 2020-CP-13-0530

ORDER OF DISMISSAL

Christy F. Gaddy
 CLERK OF COURT
 CHESTERFIELD COUNTY, S.C.

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This matter comes before this Court by way of Applicant’s post-conviction relief application filed August 13, 2020. Respondent made its return on July 1, 2021, and amended July 29, 2021, requesting an evidentiary hearing be convened. An evidentiary hearing was held on August 23, 2021, virtually via Webex. Steven W. Fowler, Esquire, represented Applicant. Assistant Attorney General Chelsey F. Marto represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Counsel Wallace H. Jordan, Jr. also testified through telephone. After reviewing all records and evidence before this Court, this Court finds Applicant cannot meet 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 is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Chesterfield County Clerk of Court. In July 2018, the Chesterfield County Grand Jury indicted Applicant for murder (2018-GS-13-0420). Wallace Jordan, Jr., Esquire represented Applicant. Kernard Redmond, Esquire, prosecuted the case. On August 26, 2019, Applicant pled guilty to the lesser included offense of voluntary manslaughter before the Honorable Paul M. Burch. Applicant was sentenced without negotiation or

recommendation to seventeen years' imprisonment. Applicant, through Counsel, filed a motion to reconsider the sentence to be credited for time spent on house arrest. Accordingly, Judge Burch credited Applicant an additional 219 days' time served while on house arrest. Applicant did not appeal his conviction or sentence.

Summary of Relevant Facts

On January 21, 2017, the victim was at a trailer park with his pregnant friend. (Tr. 9). Children were also there. (Tr. 9). The victim began receiving phone calls from Applicant and his co-defendants. (Tr. 9). Applicant and his co-defendants spent some time trying to get the victim out of the residence. (Tr. 9). The victim finally exited the house, an argument ensued, and gunshots were fired. (Tr. 9-10). The victim runs away, being followed by a co-defendant, while more shots are fired. (Tr. 10). The SLED firearms analysis indicated at least three different guns had been fired during the incident and that shot shells were found on the ground. (Tr. 10). However, at least four firearms were on scene and four individuals were charged in the exchange. (Tr. 10). The victim was shot four times, with one of the shots puncturing his lungs, being fatal. (Tr. 11). All wounds were from behind. (Tr. 11).

Law enforcement began investigating early on. (Tr. 11). One of the most important pieces of evidence were cell phone records, because Applicant indicated he never left Marlboro County. (Tr. 11). The cell phone records were requested in January 2017, placing Applicant in Chesterfield County, in the vicinity of Hillian Edwards Road. (Tr. 11). Incriminating cell phone records were recovered from Applicant's phone, in which Applicant makes mention of procuring firearms. (Tr. 12). Applicant was charged under accomplice liability. (Tr. 11-12).

The investigator also spoke at the plea hearing. He stated they secured text messages sent between Applicant and his co-defendants stating they would do something to the victim the week

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following the exchange of messages, to which everyone responded affirmatively. (Tr. 17). The co-defendants constantly communicated the week leading up to the incident. (Tr. 18). The following morning, Applicant sent a text to a New York number, the location of the godfather of the gang, confirming the incident was finished. (Tr. 18). On January 23, 2017, law enforcement went to Applicant's residence to execute a search warrant, when they were informed by his uncle and grandmother that he was preparing to go back to New York, but his car would not start. (Tr. 19).

Applicant told law enforcement several times that he never went to Chesterfield County and that he was in Laurinburg and came back to Bennettsville. (Tr. 19). However, when asked why his phone pinged in Chesterfield when he was really in Laurinburg, Applicant shrugged his shoulders. (Tr. 19).

Current Action before this Court

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

1. Ineffective Assistance of Counsel.
2. Involuntary Guilty Plea.

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

1. Ineffective Assistance of Counsel.
 - a. Failure to request a continuance
 - b. Failure to procure a private investigator
 - c. Failure to secure all discovery and evidence
 - i. Failure to secure witness statements earlier in the process
 - ii. Failure to secure phone records earlier in the process
2. Involuntary Guilty Plea.

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

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Summary of the Testimony

Applicant Testimony

Applicant stated he met with Counsel one or two times and that Counsel hired someone to help with the case, whose name Applicant could not remember. Applicant stated he primarily met with the other person about the case. Applicant stated he did not remember them saying they were a part of Counsel's office, but that Counsel introduced them both to one another. Applicant stated he could not say whether the discussions were productive. Applicant stated he had questions during those meetings, but did not know who the person he was trying to communicate with was.

Applicant stated that he did not receive his full discovery as soon as he would have preferred to make a fully informed decision concerning the plea. Specifically, he wished he had received phone records and two witness statements, from Shameika Ingram and Michael Ray respectively, earlier in the process. Applicant's testimony concerning when he received this discovery fluctuated between receiving it the day before trial and after the plea hearing occurred.¹ Applicant stated he was pushing his attorney for a complete copy of the discovery since the case's inception; roughly for fourteen months total. Applicant claimed this discovery constituted pages of material and that he only saw it one time. Accordingly, Applicant stated he did not have sufficient enough time to prepare for the case. Applicant also said he thought there should have been more discovery associated with the case.

Concerning the phone records specifically, Applicant testified that the records consisted

¹ The record reflects that Applicant entered his plea after opening arguments made in his trial. Accordingly, this Court finds that Applicant's repetitive statements that he received the discovery in question the day before trial necessarily mean he received the discovery prior to the plea hearing.

of texts from a co-defendant's phone and a pinging location on his phone. Applicant stated that the location of the cell phone pings were not included and that his co-defendants' cell phone records were also not included. Applicant stated these records were provided to him the day before trial and, if provided to him earlier, it would have made a difference by giving him a greater opportunity to prepare for the case. Applicant claimed that he was surprised to receive the phone records at the last minute because he thought they had everything together before the plea. Applicant claimed that if he had received the records earlier in the process he would not have entered the guilty plea.

Applicant claimed that Michael Ray's and Shameika Ingram's witness statements should have been procured but were not included in the discovery. Applicant testified that, in her statement, Ingram stated that Applicant was present at the incident with a shotgun, but that the victim was shot with a handgun. Applicant stated that had he known of this statement earlier he would have notified Counsel and wanted a private investigator to look into it. Applicant stated that Ray lied in his statement by saying Applicant told him something about the case. Applicant stated Ray was a convicted felon, which renders his statement incredible. Accordingly, Applicant states that the statement should have been rebutted at trial. Applicant testified that the statements were made before the plea hearing and would have made a difference in his decision to plead if he had obtained them sooner. He claims Counsel was "lacking in performance" by not securing the statements sooner.

Applicant also claims Counsel was ineffective for failing to procure a private investigator. Applicant stated that he thinks a private investigator is good to have on a murder case and, in retrospect, he would have tried to obtain one. Applicant testified he told Counsel to obtain a private investigator and that Counsel informed him that he had to personally retain one

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if he wanted one. Applicant claimed he did not know he had to personally retain a private investigator early on and, as a result, did not have enough time to get the money together before the plea.

Applicant stated he asked Counsel for a continuance when they got the phone records and then Counsel went in the back to speak with the Judge and the Prosecutor, but did not know what was discussed. Applicant stated no request for a continuance was ever put on the record.

On cross-examination, Applicant stated no one forced him into pleading and that it was his decision to plead. Applicant stated he was adequately prepared for entering the plea and that he recalls telling the court he was satisfied with Counsel, though, at the PCR hearing, he stated he lied due to nerves. Applicant stated that he received all discovery prior to the plea hearing. Applicant testified he entered the plea knowing he had just received the new information. Applicant stated that the witness statements would have been helpful because it would have provided with him more information concerning the case. Applicant stated he asked Counsel for a continuance, but told the Court at the plea hearing that he was ready to proceed forward because of nerves. Applicant stated that he thought the private investigator would have helped his case because he would have "had more questions" or would have been strategized the situation. Applicant stated that he believed all cases similar to his have a private investigator involved. When asked if he could point to something specific benefits a private investigator would have provided, Applicant stated he could not. Applicant stated he decided to plead after discussing a private investigator with his attorney and knowing one was not procured. In retrospect, Applicant testified he would have gone to trial on the murder charge instead of pleading to the lesser-included offense of voluntary manslaughter.

On redirect examination, Applicant stated he received the witness statements and cell

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phone log the day before trial, but not before entering the plea. Applicant stated that if he received the discovery earlier, he may not have pled. When asked why he thought cases similar to his usually require a private investigator, Applicant stated that that is "just what [he] learned" and that he asked his attorney to hire one, but was told hiring one was his job. Applicant stated that he was nervous because he wanted as little time as possible, the room was crowded, and it was his first time going through the process.

Counsel Testimony

Counsel stated he has been practicing law for fourteen or fifteen years and part of his practice has been criminal work that entire time. Counsel stated he was retained early on in the case and represented Applicant at his initial bond and subsequent bond hearings. Counsel stated he met with Applicant a significant number of times, including several meetings for bond and several more for discovery over the course of two years. Counsel testified other members of his office also met with Applicant in preparation of his case.

Counsel testified that there was no discovery missing before the plea. Counsel stated there was a significant amount of discovery associated with the case that came in at different times, which is typical in cases such as Applicant's. Counsel stated they received a lot of the discovery early, including witness statements and photographs. As time progressed, Counsel testified that he received more discovery regarding technology and phone records. Counsel stated he did not remember when they received phone records, but that it was before the plea. Counsel stated that the day before trial they received information pertaining to the specific identities of individuals associated with the case, but all other discovery and substantive information was provided before that day. Counsel stated the identifying information was not provided early out of safety concerns for the witnesses.

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Counsel testified he never personally hired a private investigator for Applicant's case. Counsel stated he has worked with private investigators before when they were retained by his clients' in criminal matters, but stated the decision to retain a private investigator rests with his clients and he does not hire them, nor does he make the decision as to whether or not one is needed on a case. Counsel stated he does not remember discussing a private investigator with Applicant, but stated he discussed the decision with Applicant's father early in the process, though nothing ultimately came to fruition. Counsel declined to offer an opinion as to whether a private investigator was needed.

Counsel stated that Applicant spoke to him about a continuance after opening argument at trial, but he told Applicant it was very unlikely that the Judge would grant a continuance at that point. Counsel stated the decision to plead was difficult for Applicant, but the decision was ultimately Applicant's to make and Counsel believed Applicant knew what he was doing when pleading.

On cross-examination, Counsel stated he was unaware of any discovery that was not received until after the plea. Counsel stated the only information that was not released until right before the plea was identifying information of witness because of safety concerns. Counsel stated this is not uncommon, especially since Applicant was taken off of bond leading up to the plea because he confronted a potential witness. Counsel stated the Ray and Ingram statements were provided early by way of incident reports in the initial crop of discovery provided. Counsel stated Ingram was not willing to speak with Counsel about the case. Counsel stated the statements were fairly significant in the case. Counsel stated a private investigator could have been helpful in this case, but he did not pursue it. Counsel stated they would have been a welcome addition to the team, but it was not his responsibility to hire one. less of nerves,

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Counsel stated Applicant knew what he was doing at the plea hearing and that the nerves were likely due to the process itself and the consequences related to the killing. Counsel stated that, in addition to himself, Counsel stated Applicant met with his paralegal and an associate attorney, Will Curtis, participated in some meetings. Counsel again stated that he met with Applicant when he was retained, before and after several bond hearings, and again several more times leading up to the plea hearing.

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 Chesterfield 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 17-27-80 (2003).

Ineffective Assistance of Counsel

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*.

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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. 11-11 (2011) (quoting *Strickland*, 466 U.S. at 697).

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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.

Involuntary Guilty Plea

Applicant implies in his application that her plea was invalid. For a guilty plea to be valid, the record must establish the defendant had a full understanding of the consequences of her plea and the charges against her. *Dalton v. State*, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Boykin v. Alabama*, 395 U.S. 238, 242 (1969)). Further, an applicant can attack the voluntary, knowing and intelligent character of a guilty plea entered on advice of counsel by showing counsel's advice in taking the plea fell below an objective standard of reasonableness. *Porter v. State*, 368 S.C. 378, 629 S.E.2d 353 (2006). "That a guilty plea must be intelligently made is not a requirement that all advice offered by the defendant's lawyer withstand retrospective examination in a post-conviction hearing." *McMann v. Richardson*, 397 U.S. 759, 770 (1970). Rather, "whether a plea of guilty is unintelligent . . . depends as an initial matter, not on whether a court would retrospectively consider counsel's advice to be right or wrong, but on whether that advice was within the range of competence demanded of attorneys in criminal cases." *Id.* at 771.

After a full review of the plea transcript, this Court finds Applicant's plea was freely, voluntarily, knowingly, and intelligently entered. Specifically, Applicant stated he was satisfied with Counsel, that he discussed the charge with his attorney, that Counsel advised all of his

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questions, and Counsel contacted everyone he requested Counsel contact. (Tr. 5). Applicant stated he was ready to move forward with the plea. (Tr. 5). Applicant stated he understood the sentencing range for the charge he was pleading to was between two and twenty years. (Tr. 5-6). Applicant stated he was pleading guilty because he was guilty of the crime he was pleading to. (Tr. 6). Applicant stated he understood he was waiving his rights to a jury trial where he would have to be found guilty beyond a reasonable doubt through a unanimous verdict, to call and confront witnesses, to remain silent, the presumption of innocence, and the right to appeal from a guilty conviction. (Tr. 6-7). Applicant confirmed he was not promised anything nor threatened into pleading. (Tr. 7). Applicant stated he was not on any substance nor suffered from any mental impairment impacting his understanding of the plea. (Tr. 7-8). Applicant stated he had never been treated for mental health concerns. (Tr. 8). Applicant stated he understood the violent and most serious distinctions of the crime pled to and the implications that has. (Tr. 8). Accordingly, this Court finds the plea was freely, voluntarily, intelligently, and knowingly entered. Thus, relief is denied on this ground.

Failure to Request Continuance

Applicant claims Counsel was ineffective for failing to seek a continuance. This Court agrees with Counsel's determination that it would be highly unlikely that the Trial Judge would grant a continuance while the trial was underway. Thus, Counsel was not deficient for failing to request a continuance. Additionally, Applicant failed to show how the continuance request would not only be granted, but would have changed the results of the proceedings. Applicant failed to meet either prong of the *Strickland* analysis. Accordingly, relief is denied on this ground.

Failure to Investigate and Procure Discovery

Applicant alleged Counsel was constitutionally ineffective because he failed to procure

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two witness statements and cell phone records in a timely manner. *Strickland* makes clear that defense counsel “has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.” 466 U.S. at 691. When highlighting failure to investigate as a ground for a larger ineffective assistance of counsel claim, judicial determination of this claim’s validity is evaluated for “reasonableness [under] all the circumstances” with “a heavy measure of deference to counsel’s judgments” applied. *Id.* However, at a minimum, counsel must interview potential witnesses and make independent investigations regarding the facts and circumstances of the case. *Ard v. Catoe*, 372 S.C. 318, 642 S.E.2d 590 (2007). At the PCR hearing, Applicant is required to present evidence or witnesses he alleges Counsel did not properly investigate at the evidentiary hearing. *Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). Additionally, whether Applicant was prejudiced by Counsel’s failure to investigate is contingent on whether the evidence presented would have led Counsel to change his recommendation regarding the plea. *Stalk v. State*, 383 S.C. 559, 562, 681 S.E.2d 592, 594 (2009).

Applicant claims Counsel was ineffective in failing to procure all discovery further in advance of the plea. This discovery specifically consists of two witness statements and cell phone records. Concerning the witness statements, this Court finds Counsel credibly testified that these statements were received in the initial packet of discovery as incident reports. Concerning the cell phone records, Counsel credibly testified that the information in the records were released to Counsel and Applicant earlier than the day before trial and the only discovery not disclosed until the day before trial were the identifications of the witnesses. This Court finds withholding witnesses’ identifications because of safety concerns was reasonable, particularly in light of the fact that Applicant engaged in witness intimidation tactics leading up to the plea.

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CLERK OF COURT
CHESWORTH COUNTY, S.C.
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Accordingly, this Court finds all discovery was provided to Applicant prior to the plea hearing. This finding is also partially substantiated by Applicant's testimony, who repetitively stated he received the pertinent discovery the day before trial. Thus, even if Applicant's timeline were correct, if he received the discovery the day prior to trial this would have necessarily meant he received it prior to the plea, which was entered after a jury was picked and opening arguments delivered. Accordingly, this Court finds that there was no "missing" discovery, nor any discovery undisclosed to Applicant until after the plea. Thus, because the missing discovery does not exist, Counsel cannot be found deficient on this ground.

Further, even if there was missing discovery, the burden of proving that the discovery itself or the timing of the delivery of the discovery would have affected his decision to plead. Applicant has not made a showing and, accordingly, no prejudice found. Thus, because Applicant failed to meet either prong on the *Strickland* analysis, relief is denied on this ground.

Failure to Hire Private Investigator

Applicant alleged Counsel was constitutionally ineffective because he failed to hire a private investigator. An applicant for post-conviction relief cannot show that he was prejudiced by counsel's failure to call a favorable expert witness to testify at trial if that witness does not later testify at the PCR evidentiary hearing or otherwise offer testimony within the rules of evidence; mere speculation as to what such testimony might be is insufficient to satisfy an applicant's burden of proof. *Lorenzen v. State*, 376 S.C. 521, 530, 657 S.E.2d 771, 776-77 (2008) (citing *Dempsey v. State*, 363 S.C. 365, 369, 610 S.E.2d 812, 814 (2005); *Porter v. State*, 368 S.C. 378, 386, 629 S.E.2d 353, 358 (2006)), *abrogated on other grounds by Smalls v. State*, 422 S.C. 174, 180-81 n.2, 810 S.E.2d 836, 839 n.2 (2018).

This Court finds Counsel was not deficient for failing to hire a private investigator on

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Applicant's behalf. Counsel credibly testified that beyond a brief conversation about a private investigator becoming involved in the case with Applicant's father, but there was seemingly no discussion between Counsel and Applicant himself about the possibility of hiring one. Counsel credibly testified that he would have been fine if Applicant hired one to join in assisting the defense, but Applicant seemingly declined to exercise this option by ultimately not hiring one and, instead, entering a plea while knowing a private investigator was never hired. Thus, Counsel was not deficient for failing to hire a private investigator when Applicant never communicated to Counsel that he wanted one.

Further, beyond stating that a private investigator would have been nice, he was unable to point to anything the investigator would have done that would have impacted his decision to plea. Applicant, by failing to call the private investigator to testify at the PCR hearing or otherwise present testimony that would have been provided had Counsel retained a private investigator on the case, failed to meet his burden in showing prejudice. All Applicant proffered at the hearing was mere speculation concerning what a private investigator would have revealed had they been hired, which is insufficient in establishing prejudice. *Clark v. State*, 315S.C. 385, 434 S.E.2d 266 (1993) (Mere speculation regarding the witness's testimony is insufficient to establish prejudice). Thus, neither prong of the *Strickland* analysis has been met and relief is denied on this ground.

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

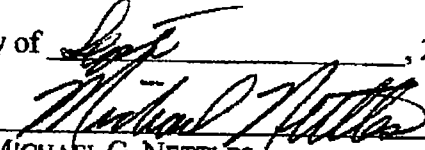
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thirty days of receipt by counsel of the judgment entry's written notice to secure appropriate appellate review. See Rule 203, SCACR Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has the right to appellate counsel's 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 be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 29 day of Sept, 2021.


MICHAEL G. NETTLES
Presiding Judge
Fourth Judicial Circuit

, South Carolina.

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