

THE STATE OF SOUTH CAROLINA

In the Supreme Court

APPEAL FROM THE COUNTY OF DARLINGTON

Court of Common Pleas

The Honorable Circuit Court Judge, Michael G. Nettles

Case No. 2020-CP-16-0889

REGINALD A. DUDLEY SCDC # 381767..... Petitioner,

v.

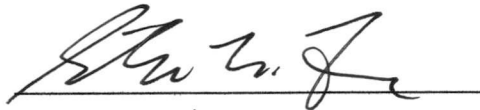
State of South Carolina, Respondent.

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 25, 2021. A copy of the said Order on appeal is attached to this Notice.

This is the 27 TH day of October, 2021.



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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA)
COUNTY OF DARLINGTON)

IN THE COURT OF COMMON PLEAS
FOR THE FOURTH JUDICIAL CIRCUIT

Reginald A. Dudley, #381767,)
Applicant,)

Case No.: 2020-CP-16-0889

v.)

ORDER OF DISMISSAL

State of South Carolina,)
Respondent.)

This matter comes before this Court by way of Applicant's post-conviction relief application filed October 9, 2020. Respondent made its return on December 18, 2020, 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. Plea counsel Robert Stucks also testified. 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 Darlington County Clerk of Court. In July 2017, the Darlington County Grand Jury indicted Applicant for assault and battery of a high and aggravated nature (2017-GS-16-0842). Robert Stucks, Esquire represented Applicant. Assistant Solicitor General My Bell prosecuted the case. Waiving venue, Applicant pled guilty as indicted in Chesterfield County to a recommendation of twelve years' imprisonment before the Honorable Paul M.

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Burch, circuit court judge, on October 16, 2019. Judge Burch sentenced Applicant to fifteen years' imprisonment. Applicant did not appeal his plea or sentence.

Summary of Relevant Facts

On March 17, 2017, Applicant, along with a co-defendant, went to the Darlington Motel because Victim, William Steen, Jr., owed Applicant and his co-defendant forty dollars. (Tr. 7-8). A video in the motel showed both men exiting a vehicle and going into a motel room, following the victim. (Tr. 8). The video shows Applicant striking Victim, who then falls inside the room. (Tr. 8). Both Applicant and his co-defendant went inside the room. (Tr. 8). Another co-defendant was charged with accessory after the fact. (Tr. 8). This co-defendant witnessed the entire ordeal and was prepared to testify that Applicant and a co-defendant struck Victim multiple times in the head and body causing significant bodily injury. (Tr. 8).

Victim was present at the plea hearing in a wheelchair, but was unable to address the Court, due to the extent of the injuries. (Tr. 8). Injuries incurred include a rib fracture, a skull fracture, spinal cord injury, spinal fracture, splenic laceration, subdermal hematoma, and epidermal hematoma. (Tr. 8-9). At the time of the plea hearing, Victim required around the clock care. (Tr. 9).

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. "Plea not knowingly and voluntarily entered."
2. "My attorney had a direct conflict of interest representing me. Mr. Stucks was a city judge in the city of Darlington while representing me."
 - a. "I hired Mr. Stucks in the summer of 2017. See attached article. He never disclosed this. My charges originated in the city of Darlington."

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

1. Invalid Guilty Plea
 - a. Involuntary plea
2. Ineffective assistance of Counsel
 - a. Failure to procure medical records in discovery.
 - i. Medical records would have revealed the victim was faking his injuries.
 - b. Counsel continued to represent Applicant after another attorney was retained in his stead.
3. Conflict of interest
 - a. Counsel was a city judge at the time of the 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.

Summary of the Testimony

Applicant's Testimony

Applicant stated that his plea was invalid because he did not understand the classification of violent versus non-violent at the time and did not understand the type of plea he was entering. He stated he did not know about the plea hearing until the day of court. He stated he did not know why he was not made aware of the hearing before the court day. Applicant stated he was told if he did not go to the plea hearing he would have a warrant put out for his arrest.

Applicant testified he hired another attorney, Kevin Etheridge, to handle the case instead of Counsel. Applicant testified he hired him about a month before the guilty plea hearing and that he discussed the case with him and asked him to help Counsel with the case. Applicant stated he then became upset with Counsel's performance and asked Mr. Etheridge to handle the entire case. Applicant testified he let Counsel know of this decision around the same time. Applicant stated he hired Mr. Etheridge in place of Counsel because Counsel was not adequately prepared for anything.

Applicant testified he received a call from Counsel the morning of the plea hearing, telling him to appear at Chesterfield. He stated he told Counsel he did not want to go because

Mr. Etheridge was representing him. Applicant also stated that he tried to get in touch with Mr. Etheridge but he was out of town and had not been notified of the hearing. Applicant stated he did not know why Counsel kept contacting him about the case and that Counsel did not inform the Court that Applicant wanted him relieved and replaced by Mr. Etheridge. Counsel represented Applicant for over a year prior to Mr. Etheridge being retained. Applicant stated Counsel told him that he could not represent him on subsequent charges unrelated to this action because he had since become a city judge and the subsequent charges were incurred in that city.

Applicant stated that Counsel was ineffective because he failed to obtain medical records from the victim and that the only thing he filed was a motion for discovery, which did not result in production of the medical documents. Applicant stated the only discovery he felt was missing was the medical records. Applicant testified that the medical records would have shown that nothing was wrong with the victim medically and they would have been in conflict with the testimony given at the plea hearing. Applicant claimed the victim's injuries were not as severe as he acted like they were and that this was prejudicial because it made Applicant look like he hurt the victim when he actually did not.

Applicant stated Counsel told him on the day of the plea that he would be locked up for another pending charge. Applicant stated he told Counsel throughout the entire process that he did not want to plead. He had turned down the same offer in Darlington the previous month and wanted to proceed to trial. Applicant stated Counsel did not know who the victim was when they appeared at the plea hearing and Applicant had to inform him who he was. Applicant stated he talked to Counsel about the plea the morning of the hearing, that he only spoke to Counsel about the case twice, and that every time he tried to talk to Counsel about the case, he told Applicant he had nothing to worry about, which made Applicant believe that he would be relieved of the

charges and face no additional jail time.

Applicant stated, in retrospect, had he gone to trial he would have had a chance of beating the case. He stated he was simply present at the scene of the crime and the victim could have been cross-examined on that point.

Applicant stated that when he told the plea judge he was satisfied with Counsel, he really meant Mr. Etheridge. He stated that he was not talking about Counsel because, as far as Applicant was concerned, Counsel was not his lawyer anymore, even though he was representing him at the plea hearing. Applicant stated that Counsel was supposed to let the Court know he was not representing him anymore, but did not.

Applicant stated he was also displeased because he never received a receipt back when he paid Counsel for his services. Applicant stated he used to give Counsel's brother the money owed, even though his brother was not an attorney.

On cross-examination, Applicant stated he understood Counsel was the attorney representing him at the plea hearing. Applicant stated he waived venue and the plea took place in Chesterfield County. Applicant stated he did not know the State recognized Counsel as his attorney until refreshed by the plea hearing transcript. When asked why he did not interject at the

attorney until refreshed by the plea hearing transcript. When asked why he did not interject at the plea hearing when Counsel was recognized as his attorney, he stated he did not know he could interject because this was his first time in court and his first offense. Applicant stated he did not remember any motion or hearing taking place through which representation was substituted, but stated he thought Counsel was off the case because of discussions with both attorneys. Applicant stated he thought those conversations were sufficient enough to relieve Counsel. Applicant stated he did not know Counsel was the Darlington City Judge when he was represented by him.

Applicant stated he appeared because he was afraid a warrant would be put out on him if

he did not appear. When asked if he recognized the distinction between appearing in court and proceeding forward with the plea colloquy, Applicant again stated that this was his first time being in Court and that he had been talked into pleading and did not know any better. Applicant stated he decided not to go to trial because of advice from Counsel. Applicant stated he really wanted to go to trial but Counsel kept telling him not to until he gave in.

Applicant stated that Counsel told him that the Judge did not have to actually impose the State's recommendation of twelve years' imprisonment. This, coupled with Counsel's reassurances that Applicant should not worry about the case, led Applicant to believe he would either face no additional time in prison or the charges would be dropped either entirely or to a lesser offense. Applicant stated he, in part, wanted to plead because he was afraid of being convicted of other offenses.

Applicant testified that he thought the medical records would have shown that the victim was not injured and that, though he remembers the victim being wheeled into the room in a wheelchair, he stated he remembered seeing the victim almost stood up before being stopped by his father. Applicant testified that the victim lied about his injuries and the medical records would have corroborated that theory.

On re-direct examination, Applicant stated that Counsel told him he would handle the substitution of counsel issue. Applicant stated he was told this on the morning of October 16, 2019, prior to the plea. Applicant stated he did not know there was a difference between showing up at court to avoid an arrest warrant and pleading guilty because no one told him he did not have to go forward with the plea when showing up at court that day. However, Applicant stated he now believes he could have told the Court he was there to avoid a bench warrant he could have gone to trial instead. Applicant stated that the victim showed up to roll call in a wheelchair

but that he saw the victim walking out of a gas station with beer in his hands thereafter.

Counsel Testimony

Counsel testified he has been practicing law for about twelve years and half of that has been criminal work. Counsel stated he was retained in the case and began preparing to work on it from March 2017 up until the date of the plea hearing. Counsel stated he discussed the decision to plead with Applicant prior to the plea hearing and ensure Applicant knew he had to be at the hearing. Counsel testified the plea hearing occurred in Chesterfield and Applicant waived venue because Chesterfield had Court that week and they wanted to move the case. He testified that they met several times about the case and that the crux of the case was a video that he reviewed with Applicant reviewed it with him. Counsel testified that based upon the video he told Applicant the State could likely meet their burden of proof.

Counsel stated Applicant was arrested by Darlington City Police Department March 2017 and Counsel became a city judge in July 2017. Counsel stated he told Applicant he was a city judge and that he could not assist him with cases involving subsequent charges. Counsel stated he thought Applicant conceded that he had this knowledge in part while testifying at the PCR hearing when he stated that Counsel told him he could not assist with subsequent charges.

Counsel stated Applicant pled before the matter could be put on a trial roster. Counsel stated Applicant had two options: plea or trial. Counsel stated Applicant told him he did not want a trial and pled because there was a "litany of charges" dismissed *nolle prosequi* in exchange for the plea. Counsel stated he told Applicant he could enter the plea with a recommendation, but the judge could reject it. Counsel stated he did not think the Judge would sentence him to the maximum sentence, but that he told Applicant he could not guarantee anything. Counsel stated that the State was recommending twelve years.

Counsel stated he knew Mr. Etheridge but that he did not hear anything from him concerning the case. Counsel stated he knew Applicant was represented by other attorneys on other charges pending at the time, but never heard anything about another attorney being substituted in as counsel on the charges he was hired to represent Applicant on. Counsel stated that he thought Mr. Etheridge would have contacted the solicitor's office if he had been hired as attorney on this case.

Counsel stated he reviewed the discovery and provided Applicant with a copy, which he discussed with Applicant. Counsel stated he did not believe anything was missing. Counsel stated he did not recall medical records being provided, but discussed the missing records with Applicant. Counsel stated no medical records were provided after the plea hearing. Counsel testified that the victim and his family were at the plea hearing. Counsel testified he never discussed with Applicant about the victim faking his injuries. He stated that both the State put the injuries on the record and the victim's mother, a nurse, discussed them at the plea hearing as well. Counsel stated he had no reason to doubt that the victim was injured.

On cross-examination, Counsel stated he met with Applicant four or five times. Counsel stated he was never made aware that Applicant hired another attorney to replace him and that Applicant never brought this to his attention. Counsel stated that medical records would have been provided before trial, but Applicant decided to plead instead. Counsel stated that he had no reason to believe the victim was faking his injuries, due to the fact that he was in the hospital for months. Counsel stated he considered a negotiated plea, but Applicant did not want a negotiated sentence.

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 Darlington County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the plea 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*.

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), SCRCP ("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).

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.

Invalid 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.

Applicant entered his plea freely, knowingly, intelligently, and voluntarily. Applicant was informed of the charges indicted for and that he was pleading to assault and battery of a high and aggravated nature. (Tr. 4). Applicant stated he understood the State was recommending twelve years' imprisonment. (Tr. 4). Applicant stated he was satisfied with his lawyer and was ready to go forward with the plea. (Tr. 4). Applicant waived venue in Darlington so the plea could be heard in Chesterfield. (Tr. 5). Applicant stated he understood that he could be sentenced up to twenty years. (Tr. 5). Applicant waived his right to a trial, where he would have to be found guilty beyond a reasonable doubt by every individual on the jury. (Tr. 5-6). Applicant stated he understood he was waiving his right to remain silent, present defenses, call and confront witnesses, the presumption of innocent, and the right to appeal from a guilty conviction if the case proceeded to trial. (Tr. 6). Applicant stated he discussed these waivers with Counsel and

understood them. (Tr. 6). Applicant stated no one promised or threatened him with anything to get him to plead, that he had no mental health issues affecting his ability to understand the plea, and that he had not consumed any drugs or alcohol within 24 hours impacting his understanding of the plea. (Tr. 7). Accordingly, this Court finds Applicant knowingly, intelligently, voluntarily, and freely entered his plea and is not permitted to withdraw it now.

Failure to Procure Discovery

Applicant claims Counsel was ineffective for failing to procure all discovery concerning the case; specifically, the victim's medical records prior to the plea. *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.* At the PCR hearing, Applicant is required to present evidence or witnesses he alleges Counsel did not properly investigate. *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).

This Court finds Counsel's testimony credible concerning this issue. Specifically, this Court finds that discovery was conducted, Counsel reviewed it, and met with Applicant many times. Based upon the plea transcript, there was a video of Applicant going into the room where the altercation took place. It remains clear that Applicant was there when the beating took place. Accordingly, Counsel was reasonable in declining to investigate the issue further because there

was no need for extensive investigation. Concerning the medical records specifically, it is very clear that the victim incurred severe injuries. Specifically, at the PCR hearing Counsel stated the victim was in the ICU, was in a coma, and required a lot of long-term treatment, which is also supported by the plea transcript. (Tr. 8-9). Counsel credibly testified that these records would have been secured had Applicant proceeded to trial and that he had no reason to doubt the extensive nature of the victim's injuries.

Furthermore, Applicant maintained the burden of proof in presenting the medical records or other discovery he perceived as missing prior to the plea to establish prejudice. Applicant did not do so and, instead, relied upon mere speculation when bringing these claims before this Court. This is insufficient to justify post-conviction relief. Accordingly, Applicant has failed to meet either prong of the *Strickland* test and, as a result, relief is denied upon this ground.

Continued Representation Past Substitution of Counsel

Applicant claims Counsel was ineffective because he continued representation of Applicant after Applicant allegedly hired another attorney to represent him. This Court finds this claim is patently without merit. This Court finds that Mr. Etheridge was not retained to represent Applicant on this case and to find otherwise is pure conjecture. No showing of a motion or hearing to substitute counsel has been made by Applicant. Additionally, this Court does not believe that Mr. Etheridge would have discussed the case with him if he was represented by another attorney.

This finding is substantiated by the plea transcript. Specifically, at the plea hearing the State identified Applicant as being represented by Counsel. Thereafter, Applicant seemingly made no attempt to correct this mistake. (Tr. 4). This Court finds Applicant's excuse for not identifying Mr. Etheridge as his current attorney, specifically that he did not know he could

speaking up, to be implausible. This Court finds Applicant's testimony at the PCR hearing that, after this introduction at the plea hearing, when the Court asked if he was satisfied with Counsel's performance he thought the Court was talking about Mr. Etheridge to be patently false.

If Mr. Etheridge had been substituted in as counsel on record, it remains incumbent on Applicant to subpoena Mr. Etheridge to testify to that effect at the PCR hearing. Applicant did not do this and, accordingly, did not meet his burden of proof. Thus, relief is denied on this ground.

Conflict of Interest

Applicant claims he is entitled to relief because Counsel allegedly had a conflict of interest because he was a Darlington City Judge while the case was pending in Darlington County. "To establish a violation of the Sixth Amendment right to effective counsel due to a conflict of interest arising from multiple representation, a defendant who did not object at trial must show an actual conflict of interest adversely affected his attorney's performance." *Thomas v. State*, 346 S.C. 140, 143, 551 S.E.2d 254, 256 (2001) (citing *Jackson v. State*, 329 S.C. 345, 354, 495 S.E.2d 768, 773 (1998)). An actual conflict of interest occurs where counsel owes a duty to a party whose interests are adverse to the applicant's. *Fuller v. State*, 347 S.C. 630, 633-34, 557 S.E.2d 664, 665 (2001). Where an applicant demonstrates that counsel actively represented conflicting interests and that an actual conflict of interest adversely affected his lawyer's performance, prejudice is presumed. *Gonzales v. State*, 419 S.C. 2, 10, 795 S.E.2d 835, 839 (2017) (citing *Strickland*, 466 U.S. at 692) (emphasis added). However, "[t]he mere possibility of a conflict of interest is insufficient to impugn a criminal conviction." *Fuller*, 347 S.C. at 634, 557 S.E.2d at 665.

"The Sixth Amendment right to conflict-free representation, like the right to counsel

itself, may be the subject of a waiver." *United States v. Swartz*, 975 F.2d 1042, 1048 (4th Cir. 1992). "The state can establish a waiver only by proving an intentional relinquishment or abandonment of the right." *Hoffman v. Leeke*, 903 F.2d 280, 288 (4th Cir. 1990). "To be valid, a waiver of a conflict of interest must not only be voluntary, it must be done knowingly and intelligently." *Thomas v. State*, 346 S.C. 140, 144, 551 S.E.2d 254, 256 (2001) (citing *Swartz* at 1048-49). "Whether there has been a waiver depends on the particular facts of each case and the court must make as thorough and long an inquiry as necessary to determine whether the accused is voluntarily, knowingly[,] and intelligently waiving his right." *Hoffman*, 903 F.2d at 288.

This Court finds that Applicant is not entitled to relief based upon a conflict of interest. First, Applicant seemingly was aware that Counsel was a Darlington City Judge. This is borne out by his testimony that Counsel informed him he could not represent him on subsequent charges. Additionally, Counsel credibly testified that he informed Applicant that he was a city judge and, because he was a city judge, could not handle subsequent cases on his behalf. Applicant, knowing that his attorney was a Judge and continuing forward with the representation seemingly waived this potential conflict in entering the plea.

Even if this potential conflict was not waived, Applicant has failed to show any prejudicial effect of the potential conflict. There has been no showing that the potential conflict impacted Counsel's performance or Applicant's decision to plead. Applicant has merely acknowledged a possibility of a conflict existing, which does not warrant relief. Accordingly, 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

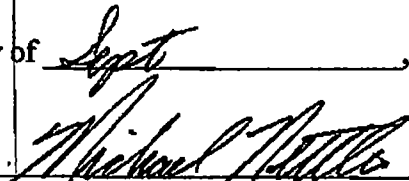
application. Therefore, this PCR application must be denied and dismissed with prejudice.


This Court notifies the Applicant that he must file and serve a notice of appeal within 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), SCRCP 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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SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY S.C.

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