

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

James Dator, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2010-152170

Appeal From Charleston County
Kristi Lea Harrington, Circuit Court Judge

Unpublished Opinion No. 2013-UP-133
Heard March 12, 2013 – Filed April 3, 2013

AFFIRMED

Appellate Defender Robert M. Pachak, of Columbia, for
Petitioner.

Attorney General Alan McCrory Wilson, Chief Deputy
Attorney General John W. McIntosh, Senior Assistant
Deputy Attorney General Salley W. Elliott, and Assistant
Attorney General Ashleigh Rayanna Wilson, all of
Columbia, for Respondent.

PER CURIAM: In this post-conviction relief (PCR) action, this court granted a writ of certiorari to review the denial of Petitioner's PCR claim. Petitioner contends trial counsel rendered ineffective assistance of counsel by failing to make a Confrontation Clause objection when the State presented a witness to testify by telephone. We affirm, pursuant to Rule 220(b), SCACR, and the following authorities: *Moore v. State*, 399 S.C. 641, 646, 732 S.E.2d 871, 873 (2012) ("The burden is on the applicant in a PCR proceeding to prove the allegations in his application."); *Strickland v. Washington*, 466 U.S. 668, 687 (1984) (noting that in addition to deficient performance, a Petitioner must also prove "the deficient performance prejudiced the defense"); *Goins v. State*, 397 S.C. 568, 575, 726 S.E.2d 1, 4 (2010) (holding a PCR claim failed despite trial counsel's deficient performance because Petitioner failed to prove prejudice).

AFFIRMED.

SHORT, THOMAS, and PIEPER, JJ., concur.