

**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**

Christopher Eric Russell, Respondent,

v.

State of South Carolina, Petitioner.

Appellate Case No. 2017-002256

Appeal From Greenville County
Perry H. Gravely, Circuit Court Judge

Unpublished Opinion No. 2021-UP-405
Submitted November 1, 2021 – Filed November 17, 2021

AFFIRMED

Attorney General Alan McCrory Wilson and Senior
Assistant Deputy Attorney General Megan Harrigan
Jameson, both of Columbia, for Petitioner.

Deputy Chief Appellate Defender Wanda H. Carter, of
Columbia, for Respondent.

PER CURIAM: The State appeals the post-conviction relief (PCR) court's order denying its Rule 60(b)(1), SCRPC, motion. On appeal, the State argues the PCR court abused its discretion because the corrected trial transcript showed a defect with the original transcript and the only remaining evidence to support granting

relief was Christopher Eric Russell's own self-serving testimony. We find the PCR court did not abuse its discretion in denying the State's motion because the corrected transcript does not dispositively indicate trial counsel conveyed the twenty-year plea offer to Russell, Russell testified he did not receive the twenty-year plea offer, and the PCR court found his testimony credible. Accordingly, we affirm pursuant to Rule 220(b), SCACR, and the following authorities: Rule 60(b)(1), SCRCR ("On motion and upon such terms as are just, the [PCR] court may relieve a party or his legal representative from a final judgment, order, or proceeding for . . . [a] mistake, inadvertence, surprise, or excusable neglect . . ."); *Rouvet v. Rouvet*, 388 S.C. 301, 308, 696 S.E.2d 204, 207 (Ct. App. 2010) ("The decision to grant or deny a motion made pursuant to Rule 60(b) is within the sound discretion of the [PCR court]."); *Mangal v. State*, 421 S.C. 85, 92, 805 S.E.2d 568, 571 (2017) ("On review of a PCR court's resolution of procedural questions arising under . . . the South Carolina Rules of Civil Procedure, we apply an abuse of discretion standard."); *Rouvet*, 388 S.C. at 308, 696 S.E.2d at 207 ("An abuse of discretion occurs when the order of the [PCR] court is controlled by an error of law or where the order is based on factual findings that are without evidentiary support."); *id.* at 309, 696 S.E.2d at 208 ("In determining whether to grant relief under Rule 60(b)(1), the court must consider the following factors: '(1) the promptness with which relief is sought; (2) the reasons for the failure to act promptly; (3) the existence of a meritorious defense; and (4) the prejudice to the other party.'" (quoting *Micronics, Inc. v. S.C. Dep't of Revenue*, 345 S.C. 506, 510-11, 548 S.E.2d 223, 226 (Ct. App. 2001))); *Thompson v. State*, 423 S.C. 235, 247, 814 S.E.2d 487, 493 (2018) (explaining this court defers to "the PCR court's credibility findings as to witnesses who testified before the PCR court"); *Jackson v. State*, 342 S.C. 95, 97-98, 535 S.E.2d 926, 927 (2000) (reversing the PCR court's denial of relief when counsel failed to properly advise the petitioner about whether the crime was a misdemeanor or felony, the petitioner testified he would not have pled guilty had he known the crime was a felony, and "there was no evidence contradicting or conflicting with petitioner's testimony that would support the PCR [court's] finding that petitioner would not have pled"); *Bell v. State*, 410 S.C. 436, 440-44, 765 S.E.2d 4, 6-8 (Ct. App. 2014) (acknowledging Bell's testimony was self-serving but noting this court defers to the PCR court's findings on credibility), *overruled on other grounds by Smalls v. State*, 422 S.C. 174, 181 n.2, 810 S.E.2d 836, 839 n.2 (2018).

AFFIRMED.¹

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

HUFF, THOMAS, and GEATHERS, JJ., concur.