THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM LAURENS COUNTY
Court of Common Pleas

J. Mark Hayes, II, Presiding Circuit Judge – Laurens County

C/A No. 2016-CP-30-251

MAURICE ANTHONY ODOM (#199677),

Appellant,

v.

STATE OF SOUTH CAROLINA,

Respondent.

NOTICE OF APPEAL

Maurice Anthony Odom appeals the Order of Dismissal issued by the Honorable J. Mark Hayes, II, on August 22, 2021. The PCR hearing was held by WebEx on January 26, 2021. The Appellant timely filed a Motion to Reconsider on August 10, 2021. Judge Hayes issued his Order Denying Motion for Reconsideration on August 19, 2022, which was received by the Appellant on August 26, 2022. The motion hearing was held by WebEx on June 22, 2022.

THE HENDERSON LAW FIRM, P.C.
Trial Attorney for the Appellant

By:_____
Carson M. Henderson
109-B Oak Avenue
Greenwood, S.C. 29646
Phone: (864) 953-0011
Fax: (864) 229-8001

Greenwood, South Carolina

August 30, 2022

Other Counsel of Record:

Zachary W. Jones, Esquire
S.C. Attorney General's Office
P.O. Box 11549
Columbia, S.C. 29211

S.C. Commission on Indigent Defense
Appellate Division
1330 Lady Street, Suite 401
Columbia, S.C. 29201

STATE OF SOUTH CAROLINA COUNTY OF LAURENS	)	IN THE COURT OF COMMON PLEAS FOR THE EIGHTH JUDICIAL CIRCUIT
Maurice Anthony Odom, #199677, Applicant, v. State of South Carolina, Respondent.	)	2016-CP-30-251 **ORDER DENYING MOTION FOR RECONSIDERATION**

This matter comes before the Court by way of a motion for reconsideration filed by Applicant Maurice Anthony Odom on August 12, 2021, challenging this Court's order of dismissal filed August 9, 2021. A hearing to consider Applicant's motion was held remotely via the WebEx virtual courtroom on June 22, 2022. Applicant was present at the hearing and represented by Carson Henderson, Esquire. Assistant Attorney General Zachary W. Jones, of the South Carolina Attorney General's Office, represented Respondent the State of South Carolina. After once again reviewing the matter, this Court declines to alter or amend its prior order.

PROCEDURAL HISTORY

Applicant was indicted at the February 2012 term of the Laurens County Grand Jury for burglary (2012-GS-30-311), criminal conspiracy (2012-GS-30-314), and grand larceny (2012-GS-30-317). Eli Wiygul, Esquire, represented him. Deputy Solicitors Warren Mowery and C. Dale Scott prosecuted the case. On June 9–11, 2014, Applicant proceeded to a jury trial before the Honorable Donald B. Hocker, after which he was found guilty as indicted. Applicant was sentenced to imprisonment for fifteen years for burglary (second degree, violent), five years for criminal conspiracy, and five years for grand larceny. All sentences were to run concurrently.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected by

briefing by Appellate Defender Lara M. Caudy. The South Carolina Court of Appeals affirmed Applicant's conviction by an unpublished opinion. *State v. Odom*, Op. No 2015-UP-561 (Ct. App. Filed Dec. 23, 2015). The remittitur was sent January 8, 2016.

Applicant filed an application for post-conviction relief on March 17, 2016, alleging he is being held unlawfully for the following reasons:

1. Ineffective assistance of counsel
2. Malicious prosecution/Prosecutorial misconduct
3. Violation of 8th Amendment
4. Denied Directed Verdict
5. "Insufficiency of the evidence"
6. "Unlawful conduct of judge..."
7. Speedy Trial Violation
8. "I wasn't there for the qualification of the jurors..."
9. "The juror was also involved in premature deliberations..."
10. "the dogman stated the dog didn't take him to a car on the side of the road."
11. "They told the judge that they didn't know anything about phone records that judge Griffith order-ed to see if I was in the area at the time but the fact remains Judge Griffith did order[] that record."
12. Juror misconduct/conflict of interest

On January 8, 2021, Applicant filed an amended Application alleging the following claims:

1. Failure to Object to Judge's Reference to God
2. Failure to Object to the Indictment
3. Failure to Object to the Solicitor's Statement: "You Determine what the Truth Is."
4. Failure to object, ask for a curative instruction, and request a mistrial for the solicitor's opening statement: "But I submit to you that he [co-defendant and witness Christopher Mixon] is before you with no promises, no rewards, no hope of anything like that. He is simply here to tell you the truth and I believe you will find him in spite of his criminal record to be a credible witness."
5. Ineffective assistance of counsel based on "the way [counsel] objected to the following testimony from witness Ramesh Patel": "It looked all too familiar because it had just happened two weeks ago the same way."
6. Failure to object to the following statement: "Well, if he knows that the DVD is what he – he made a DVD according to his testimony and I would have to assume that Solicitor would not show him a DVD that was not made by him[.]"
7. Failure to introduce document indicating Christopher Mixon had a driver's license.
8. Ineffective for asking a witness if Christopher Mixon was "a member of the gang called Boss."
9. Failure to object to NCIC document indicating Applicant was the owner of the vehicle.
10. Failure to object to Applicant's South Carolina DMV Record.

11. Failure to properly preserve the record regarding which of the Petitioner's convictions could be used against him if he testified during the trial.
12. Failure to object to portions of the solicitor's closing argument.
13. Failure to object to solicitor's closing statement in which he told the jurors: "they do their best. And I submit to you that Tyrone Goggins is a good, experienced, capable police officer and investigator as his sixteen years would document."

Respondent filed a Return on March 30, 2017, requesting an evidentiary hearing. An evidentiary hearing into the matter was convened on January 26, 2021, via the WebEx virtual courtroom platform. Applicant was present at the hearing and represented by Carson Henderson, Esquire. Assistant Attorney General Brianna L. Schill, of the South Carolina Attorney General's Office, appeared on behalf of Respondent.

At the commencement of the hearing, Applicant indicated he would be going forward on the allegations contained in his amended application for post-conviction relief, and the following allegations from his initial application: (1) speedy trial violation allegation (2) allegation regarding phone records ("They told the judge that they didn't know anything about phone records that judge Griffith ordered to see if I was in the area at the time but the fact remains Judge Griffith did order[] that record"); and the allegation that "Applicant wanted to present a defense but wasn't allowed to."

After a review of the record and all evidence presented, this Court denied and dismissed the application with prejudice. The Court's order of dismissal set forth specific findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80. Upon Applicant's motion for reconsideration, this Court declines to alter or amend any of the findings and conclusions set forth in its order of dismissal, all of which are adopted and incorporated in this order.

SUMMARY OF FACTS

Just after 2:43 a.m. on November 11, 2011, Deputy Nick Moye of the Laurens County Sheriff's Office heard a security alarm going off as he drove by a BP gas station and

convenience store located on Highway 72 in Clinton, South Carolina, a short distance away from an exit off of Interstate 26.[1] (Tr. p. 75; pp. 78–79; p. 93; p. 263). Upon hearing the alarm, Deputy Moye notified dispatch of what he had heard, learned the store's security company had just reported the alarm to law enforcement, and drove towards the store to investigate. (Tr. pp. 76–77). As he approached the store, he observed one of the store's side windows had been shattered, and, when he drove closer, he saw a man climb out of the broken window and flee towards the back of the store. (Tr. pp. 81–84; p. 90). In response, Deputy Moye pursued the fleeing man but was unable to apprehend him before the man escaped into a wooded area directly behind the store. (Tr. pp. 83–84). The deputy then returned to the store, secured the scene, and waited for other officers to arrive. (Tr. p. 83).

Shortly thereafter, numerous law enforcement officers arrived at the scene along with Hardik Patel, the owner of the store, and his brother, Ramesh Patel. (Tr. p. 84; pp. 91–94). Once the store was secured, the Patels looked inside, discovered substantial damage to the store, and found merchandise scattered all over the store's floor. (Tr. p. 83). They then reviewed the surveillance footage captured by the store's security system and observed two masked burglars smash one of the store's windows with a rock, enter the store, and fill black trash bags with cartons of cigarettes along with money from a cash register drawer. (Tr. pp. 102–04; pp. 111–13). Additionally, they observed one of the burglars smash the store's office's mirrored window, enter the office, and steal more cigarettes and money from inside. (Tr. p. 104; p. 107). The brothers then took an inventory of the money and goods gathered by the burglars during the break-in and determined those items had a cumulative value of over $5,000. (Tr. pp. 98–98; pp. 122–23; p. 273).

[1] The store's hours of operation were 8:00 a.m. to 10:00 p.m. (Tr. p. 92).

Meanwhile, the investigating officers attempted to locate the suspects involved in the burglary and found a black Chrysler 300 parked nearby along the eastbound side of Interstate 26 a short distance away from an exit ramp. (Tr. p. 264; p. 268). Officer Tyrone Goggins of the Clinton Department of Public Safety then responded to the vehicle's location, verified the vehicle had not been there long due to the fact its engine was still warm, and learned the vehicle was registered to Applicant Maurice Anthony Odom at an address in Wilmington, North Carolina. (Tr. p. 261; pp. 264–65; p. 267). In response, Officer Goggins asked another officer to remain in position to watch the vehicle while he confirmed there were no other vehicles parked along Interstate 26 in that area. (Tr. pp. 268–70; p. 272). After verifying Applicant's vehicle was the only vehicle in the area, Officer Goggins returned to the store, requested assistance from a State Law Enforcement Division ("SLED") tracking team, met with the victims, reviewed the surveillance footage of the incident, and inspected the scene. (Tr. pp. 272–80). During his inspection, the officer located the burglars' abandoned trash bags, which were filled with cartons of cigarettes from the store, along with a rock on the floor of the store's office. (Tr. p. 171; pp. 278–80). Officer Goggins then collected the rock as evidence and returned the stolen property to the Patels after it was inventoried. (Tr. p. 114; p. 278; pp. 281–82).

Shortly thereafter, at approximately 5:00 a.m., members of the SLED tracking unit, including Senior Agent Reid Creswell, arrived at the scene of the incident. (Tr. pp. 188–90; p. 193; p. 202; p. 215; p. 237; p. 251). Upon arriving, Senior Agent Creswell was advised of the specific location where the suspect entered the wooded area behind the store after the break-in and verified the suspect's trail had not been contaminated by anyone else entering the woods. (Tr. pp. 208–09; p. 216; p. 237). He then deployed Judy, a bloodhound-bluetick hound mixed-breed dog trained in tracking human scents, at a neutral location near where the suspect entered the wooded

area and followed her into the woods. (Tr. pp. 191–92; pp. 207–08; p. 239). Shortly after Judy entered the wooded area, she indicated she had picked up a scent and began tracking the scent through the woods. (Tr. pp. 218–19; pp. 240–41). As Senior Agent Creswell followed Judy through the woods, he personally observed signs of environmental disturbances confirming a person had recently fled along the path Judy was tracking and eventually began observing footprints. (Tr. p. 219; p. 242; pp. 246–47). As they continued along the trail, Judy led Senior Agent Creswell to a location near Interstate 26 where the footprints the agent had observed converged with another set of footprints. (Tr. p. 222; pp. 243–46). Judy then led Senior Agent Creswell to a location along Interstate 26 directly across from where Applicant's car had been parked a short time earlier before she lost the suspect's scent.[2] (Tr. p. 212; p. 214; p. 222; pp. 248–49). However, by that time, Applicant's car was no longer present because someone had removed it from its position along the side of Interstate 26 when the officer who had been asked to maintain surveillance of the car failed to do so during the time period the tracking team was following the suspect's trial. (Tr. pp. 286–87).

Subsequently, on November 18, 2011, Officer Goggins drove to an address he found for Applicant in Barnwell, South Carolina, in an attempt to speak with him about the incident and see if his vehicle was at that address. (Tr. pp. 290–91). After arriving at Applicant's address, Officer Goggins was unable to locate Applicant. (Tr. p. 292). However, he found Applicant's vehicle parked there and verified it was the same vehicle that had been parked along Interstate 26 at the time of the incident. (Tr. pp. 297–98). Furthermore, the officer located Christopher Mixon at that

[2] During trial, Senior Agent Creswell explained vehicles rapidly travelling along Interstate 26 would have dissipated the scent that had been left there by the suspect, which explained why Judy lost the trail at that location. (Tr. pp. 211–12; pp. 223–24; p. 247).

location, and Mixon was taken into custody based on outstanding warrants for his arrest.[3] (Tr. p. 292). Thereafter, Officer Goggins spoke with Mixon, Mixon inculpated himself and Applicant in the burglary of the BP gas station and convenience store on the date of the incident, and Applicant was arrested for his crimes. (Tr. p. 181; p. 296). Applicant was then indicted for second-degree burglary, grand larceny, and conspiracy, and he proceeded to trial. (Tr. p. 13; Indictments).

Mixon testified for the prosecution and recounted the details of his and Applicant's roles in the incident. (Tr. pp. 153–54). Specifically, Mixon stated Applicant drove the two of them to the BP gas station and convenience store located on Highway 72 on November 11, 2011, they dropped off a rock Applicant had brought with them at the store, and Applicant then drove them away from the store and parked his vehicle along the side of Interstate 26. (Tr. pp. 155–59). After that, Mixon indicated the two of them walked back to the store, Applicant smashed one of the store's windows with the rock, an alarm went off, and they climbed through the window and began loading the store's tobacco products into some trash bags they had brought along with them. (Tr. pp. 160–63; p. 165). Shortly after that, Mixon testified he saw a police officer arrive at the store, Applicant also saw the officer, and Applicant quickly fled back out of the broken window and away from the scene. (Tr. pp. 166–67). After Applicant fled, Mixon stated he ran across the street from the store, went into the woods, and began making his way back to Applicant's vehicle. (Tr. pp. 167–68). Roughly two hours later, Mixon testified he met back up with Applicant and the two of them fled from the area in Applicant's car. (Tr. pp. 169–70). Mixon stated he then received some money from Applicant for his participation in the break-in, returned home, and was arrested some time later. (Tr. pp. 170–71).

[3] At the time of Mixon's arrest, an officer from the Barnwell Police Department was assisting Officer Goggins. (Tr. p. 292).

Officer Goggins testified about his investigation into the burglary, which led to Applicant's arrest. (Tr. pp. 261–98). During his testimony, Officer Goggins confirmed to the jury Applicant's car was parked along Interstate 26 at the time of the incident and its engine was still warm at that time. (Tr. pp. 264–68). Additionally, the officer stated someone removed the car from the area during the search for the burglars at a time when no officers were watching the vehicle, and he noted the SLED tracking team tracked the suspect who fled through the woods to a location in close proximity to where Applicant's car had been parked. (Tr. pp. 268–69; pp. 286–88). Furthermore, Officer Goggins noted Applicant's vehicle was later found at Applicant's home in Barnwell just a few days after the incident in the same area where he located Applicant's accomplice in the crimes. (Tr. pp. 288–93; pp. 297–98).

APPLICANT'S MOTION FOR RECONSIDERATION

In his motion for reconsideration, Applicant raises twenty-five arguments for amending the Court's order of dismissal. The Court has considered—and rejected—each of these arguments for the following reasons:

1. Failure to Object to the Trial Judge's Reference to God

Applicant reiterates his argument that Trial Counsel was ineffective for failing to object when the trial judge exhorted jurors to ask God for wisdom, guidance, and understanding. This Court analogized the trial judge's comment to a "truth-seeking" jury charge, which the South Carolina Supreme Court has held improper under *State v. Aleksey*, 343 S.C. 20, 538 S.E.2d 248 (2000), and *State v. Beaty*, 423 S.C. 26, 813 S.E.2d 502 (2018). However, the Court found Applicant had failed to prove prejudice regarding the language used in this case.

Applicant now argues the trial judge's statement was not analogous to a "truth-seeking" instruction; instead, he claims it was an invitation for the jurors to consider "outside evidence"—

i.e., the will of God—in Applicant's trial. This Court is not persuaded that a juror's private prayers to God constitute "outside evidence" and are, therefore, inappropriate during jury deliberations. Moreover, Applicant has provided no legal authority for this proposition. Therefore, this Court declines to alter its initial disposition of this issue.

2. Failure to Challenge Indictment

Applicant admits that the indictment *does* sufficiently allege a crime, as this Court found; however, he contends the indictment was still improper because it erroneously stated Applicant's co-conspirator was "unknown," when in fact Mixon had been arrested before Applicant and had implicated Applicant in the conspiracy.

If, as Applicant concedes, the Court correctly found that the issue of a co-conspirator's identity is immaterial to the validity of a conspiracy indictment, then such a minor inaccuracy in identifying a co-conspirator must, likewise, be immaterial. Applicant cites no authority to the contrary in his motion for reconsideration. Therefore, this Court declines to alter its initial disposition of this issue.

3. Failure to Object to Solicitor's "Truth" Statement

Applicant reiterates his argument that Trial Counsel was ineffective for failing to object to the solicitor's use of "truth-seeking" language during statements to the jury, arguing those statements were improper and misstated the jury's duty to hold the State to its proper standard under the "reasonable doubt" burden of proof.

This Court acknowledges that the State embraced "truth-seeking" language during its presentation that was later deemed improper in *Beaty*. However, as discussed in the prior order, *Beaty* was decided after Applicant's trial and concerned only statements by judges, not arguments from prosecutors; therefore, Trial Counsel—who is not required to be clairvoyant in anticipating

changes in the law—had no grounds to object to that language at the time. Even if Trial Counsel should have objected, failure to do so in this case was not prejudicial because the comments did not so infect the trial with unfairness as to constitute a denial of due process. Applicant has not argued against any of the reasons this Court gave for ruling as it did. Therefore, this Court declines to alter its initial disposition of this issue.

4, 5, 6, and 7. Failure to Object to Solicitor's Witness Credibility Statements

Applicant repeats his contention that the solicitor "vouched" for Applicant's co-defendant Mixon and for Officer Tyrone Goggins. This Court's prior order explained that the solicitor's arguments regarding the credibility of those witnesses were properly based on permissible inferences from the record, rather than on impermissible personal assurances or information not presented to the jury. Applicant's motion for reconsideration does not engage at all with this Court's lengthy legal analysis of this issue in its order of dismissal.

Applicant also argues that Trial Counsel should have objected when the solicitor characterized Mixon's testimony as "uncontradicted." Applicant asserts, without any citation to supporting authority, that this amounted to an improper comment on Applicant's failure to testify. Of course, a prosecutor may not directly comment on a defendant's failure to testify. In general, however, it is not improper for a prosecutor to remark that some portion of the State's evidence is unexplained or uncontradicted. *See, e.g.*, 23A C.J.S. *Criminal Procedure and Rights of the Accused* § 1762; *Comment or Argument by Court or Counsel that Prosecution Evidence is Uncontradicted as Amounting to Improper Reference to Accused's Failure to Testify*, 14 A.L.R.3d 723. In this case, the solicitor did not directly mention Applicant's failure to testify or claim that only Applicant could contradict Mixon's testimony. The Court, therefore, declines to reconsider its findings or conclusions on this issue.

8. Failure to Request a Sidebar to Argue Objection to Ramesh Patel's Testimony that Another Burglary had Occurred Two Weeks Prior

Applicant contends that Trial Counsel should have requested a sidebar when she objected to Ramesh Patel's statement regarding previous burglaries at the site of the break-in. Applicant argues this failure allowed the jury to hear Mr. Patel's statement and to speculate that Applicant might have been involved in the earlier break-in.

This Court found no prejudice could have resulted from the Trial Counsel's omission because nothing about the statement implicated Applicant in the prior burglary. In addition, the Court noted the statement was struck from the record, and the jury was instructed to disregard it. Applicant has not presented any facts or legal arguments refuting these findings. Therefore, the Court sees no reason to alter its prior disposition of this issue.

9. Failure to Object to the Trial Court's Statement Regarding the DVD

Applicant argues the trial judge vouched for the solicitor when he said, "I would have to assume that [the] Solicitor would not show [the witness] a DVD that was not made by him." This Court has already considered Applicant's vouching argument regarding this issue and rejected it as unpersuasive. As explained in this Court's order of dismissal, the trial judge's remark was made in the context of admitting the DVD into evidence, and the defense had no valid objection to the DVD's authenticity. The only question was whether the DVD should be admitted as an exhibit by way of Officer Goggins or Mr. Patel. In this context, there was no likelihood that the jury would interpret the trial judge's remark as a general endorsement of the solicitor's credibility or trustworthiness. Because Applicant has still failed to show any prejudice arising from the judge's comment, this Court declines to alter its prior order.

10. Allegations Regarding Cell Phone Records

Applicant claims Trial Counsel should have inspected Applicant's case files from his pending case in Newberry, which would have allowed Trial Counsel to obtain cell phone records using the cell phone order from that case. However, Applicant has failed to show that the cell phone records would have exonerated him. The burden is on Applicant to prove, by a preponderance of the evidence, that his attorney's alleged errors prejudiced his case. Rule 71.1(e), SCRCP; *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Without knowing what the cell phone records would have revealed, Applicant's claim that he was prejudiced by Trial Counsel's failure to obtain them is merely speculative. Accordingly, this Court declines to amend its prior findings on this issue.

11. Allegation of Ineffective Assistance for Asking Witness if he Belonged to a Gang Called "Boss"

"Why on Earth," Applicant asks, did Trial Counsel cross-examine Mixon about whether he belonged to a gang called Boss? Applicant's question was answered at the evidentiary hearing: Trial Counsel testified that Applicant *told her* Mixon was a member of a gang call Boss. This Court recalls Trial Counsel's demeanor at the evidentiary hearing and finds her testimony highly credible.

Contrary to Applicant's claims in his motion for reconsideration, Trial Counsel *did* present a valid trial strategy for pursuing that line of questioning: she was attempting to impeach Mixon with evidence of his involvement in gang activity. Trial Counsel testified that Applicant seemed very confident Mixon would "flub his testimony" if pressed about his gang affiliations. This Court finds no reason to depart from its previous findings on this issue.

12, 13, 14, and 15. Failure to Introduce Document Showing Mixon had a Driver's License or to Object to Evidence Regarding Applicant's Ownership of the Vehicle

Applicant claims Trial Counsel should have introduced evidence that Mixon had a driver's license in order to prove that Mixon could have driven the car that was used to escape from the crime scene. He also contends Trial Counsel should have kept out evidence showing that Applicant owned the getaway car. The Court considered these arguments in its order of dismissal and found them meritless, as the identity of the driver was not material to the issue of Applicant's culpability in the burglary. In addition, Trial Counsel credibly testified that Applicant never denied owning the car in his conversations with her. Applicant cites no legal authority justifying departure from the court's prior findings. For these reasons, the Court declines to alter or amend its prior findings on these issues.

16, 17, 18, 19, 20, 21, 22, 23, and 24. Allegations Regarding Applicant's Decision Not to Testify

Applicant alleges he wanted to testify at trial, but he was unable or unwilling to do so because Trial Counsel did not seek a ruling limiting the use of Applicant's prior convictions to impeach him. Applicant states he has multiple prior convictions for burglary and CSC with a minor and was afraid of the prejudicial effect those convictions would have if admitted to impeach his testimony; therefore, Applicant claims he reluctantly declined to testify at trial.

The Court acknowledges that the State is required to disclose to defense counsel, in writing, the prior record of a defendant and which part(s) of the prior record it intends to use to impeach a defendant, when (as in this case) more than ten years have elapsed since the defendant's release from confinement. *See* Rule 609, SCRE. Trial Counsel should have required this disclosure from the State. However, any prejudice resulting from Trial Counsel's failure to do so in this case is purely speculative. At the evidentiary hearing, Applicant did not present any testimony he would have given at trial but for Trial Counsel's errors. Applicant also failed to show how his testimony at trial would likely have led to a different result. Therefore, Applicant has not met his burden of

proving prejudice by a preponderance of the evidence. Rule 71.1(e), SCRCP; *Butler*, 286 S.C. 441, 334 S.E.2d 813. Accordingly, this Court declines to alter or to amend its prior findings on these issues.

25. Cumulative Error

Applicant urges this Court to find that the above issues had a cumulatively prejudicial effect. However, the cumulative error doctrine is not recognized in South Carolina. Rather, our PCR courts apply the standard articulated in *Strickland v. Washington*, 466 U.S. 668 (1984). That is, for each allegation of ineffective assistance of counsel, the applicant must prove both deficiency and prejudice. Appending a general assertion of prejudice to a list of alleged deficiencies, based on the purported "cumulative error" of those deficiencies, is not enough to support the individualized findings of prejudice required under *Strickland* and our precedents.

CONCLUSION

The Court finds Applicant has failed to present any information or argument that would require this Court to reconsider, alter, or amend its previous order. *See I'On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000) (stating the purpose of a motion to alter or amend is to "enable the [Court] to rule properly after it has considered all relevant facts, law, and arguments"); *see also Wilder Corp. v. Wilke*, 330 S.C. 71, 77, 497 S.E.2d 731, 734 (1998) (noting the proper use of a Rule 59(e) motion is to preserve issues raised to, but not ruled upon by, the trial court). Accordingly, Applicant's motion to alter or amend pursuant to Rule 59(e), SCRCP, is **DENIED.**

The Court notes Applicant must file and serve a notice of appeal within thirty days from post-conviction relief counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453,

409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

AND IT IS SO ORDERED this 19th day of December, 2022.

J. MARK HAYES, II
Presiding Judge
Eighth Judicial Circuit

Laurens, South Carolina