

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT
APPEAL FROM ALLENDALE COUNTY
Court of Common Pleas
The Honorable Roger Young, PCR Action Judge
2021-CP-03-00092

JAYCOBY WILLIAMS, #294469,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

NOTICE OF APPEAL

Jaycoby Williams appeals the denial of his post-conviction relief application. The post-conviction relief action was heard and denied by the Honorable Jaycoby Williams, circuit court judge, on November 27, 2023, and was denied by written order issued filed on December 19, 2023. Applicant received notice of the judgement on January 3, 2024.

/s Chelsey F. Marto
Chelsey F. Marto, Esquire
Attorney for the Applicant
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Other Counsel of Record:
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Columbia, SC, 29211-1549

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Jan 04 2024

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA)
COUNTY OF ALLENDALE)
))
))
Jaycoby Williams, SCDC #294469,)
))
Applicant,)
v.)
))
State of South Carolina,)
))
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL
CIRCUIT

Case No. 2021-CP-03-00092

ORDER OF DISMISSAL

FILED FOR RECORD
2023 DEC 19 PM 12:00
ELAINE SABB
CLERK OF COURT
ALLENDALE COUNTY, S.C.

This matter is before the Court pursuant to an application for post-conviction relief (PCR) filed by Jaycoby Williams (Applicant) on May 14, 2021. On November 27, 2023, an evidentiary hearing convened before the Honorable Roger M. Young, Sr. Applicant was present and represented by Chelsey F. Marto, Esquire. Assistant Attorney General Bryan Hall represented Respondent. At the hearing, Applicant testified on his own behalf and called as a witness Ian C. Deysach, Esquire (Counsel). Respondent did not call any witnesses. Following a thorough review of the trial transcript and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant did not meet his burden of proof. Thus, this Court denies relief and dismisses this application with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a thirty-five (35) year sentence. In July 2015, the Allendale County Grand Jury indicted Applicant for murder (2015-GS-03-00086). This charge arose from a shooting incident involving Applicant and the victim that occurred on or around May 29, 2015, in which Applicant shot the victim in the presence of at least two witnesses.

On April 3-5, 2017, Applicant proceeded to a jury trial before the Honorable Perry Buckner. Ian C. Deysach, represented Applicant, and Assistant Solicitors Korey Williams and Brian Hollen prosecuted the case. Judge Buckner sentenced Applicant to thirty-five (35) years imprisonment. Applicant filed a timely notice of appeal. On January 13, 2021, the Court of Appeals affirmed the Applicant's conviction, finding the trial court's error in limiting Applicant's cross-examination of Raheem Devoe was a harmless error not resulting in prejudice to Applicant.¹ The Remittitur was sent on February 3, 2021.

CURRENT APPLICATION

Applicant timely commenced this PCR action on May 14, 2021, alleging he is being held in custody unlawfully for the following reasons:

Ineffective Assistance of Counsel

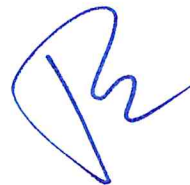
- a. Failure to request a jury charge on voluntary manslaughter.
- b. Failure to investigate DNA evidence and shell casing at the crime scene.
- c. Failure to investigate a video from Hardee's parking lot.
- d. Failure to adequately prepare for trial.
- e. Failure to request a copy of the t-shirt that was sent for testing.

On October 28, 2021, Respondent filed a return requesting an evidentiary hearing. On October 3, 2023, Applicant filed an amended application, raising the following allegations:

Ineffective Assistance of Counsel

- a. Failure to request a jury charge on voluntary manslaughter.
- b. Failure to ensure sequestration motion was applied.
- c. Failure to investigate DNA evidence and shell casings at the crime scene.
- d. Failure to request a copy of the analysis report for the t-shirt.
- e. Failure to adequately prepare for trial.
- f. Failure to effectively cross-examine Rahem Devoe about his criminal history.

¹ *State v. Williams*, Op. No. 5791 (S.C. Ct. App. filed Jan. 13, 2021).



At the evidentiary hearing, Applicant proceeded solely on the allegations contained in his amended application. Before this Court are the Allendale County Clerk of Court records of the subject conviction; Applicant's records from the South Carolina Department of Corrections; the trial transcript; appellate records; and the records of the current PCR action.

TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

At the evidentiary hearing, Applicant testified that Counsel represented him "pretty good," and felt like Counsel was prepared for trial. On cross-examination, Applicant denied being present at the scene. Applicant testified Counsel should have investigated DNA evidence and shell casing and should have requested a copy of a report on a T-shirt. Applicant testified he believed an investigation into those items would have changed the outcome of the case. Applicant testified that Counsel should have ensured witnesses complied with sequestration motion at trial, and Applicant believed witnesses were kept in the same room. Applicant also testified that Counsel should have cross-examined Rahem Devoe on Devoe's criminal history. Applicant testified that he was unsure why he thought Counsel should have requested a voluntary manslaughter charge but wishes the jury had convicted him of voluntary manslaughter instead of murder.

Ian C. Deysach (Counsel) testified that he adequately prepared for trial. Counsel testified he received full discovery from the State and reviewed all discovery materials with Applicant. Counsel testified the State's evidence included two (2) eyewitnesses that witnessed Applicant shoot the victim. Regarding DNA evidence, on cross-examination, Counsel did not dispute that the trial transcript reflects shells casings were not found at the scene of the crime, and lead investigator Richard Johnson testified that DNA testing was unnecessary in this case because the crime scene was outside, and Applicant was seen by two (2) eyewitnesses who that Applicant shot the victim. According to Counsel, Applicant's defense was denial of being present at the scene and



denial of being identified as the shooter. Counsel testified he believed being in a small town like Allendale, with juries more favorable for defendants, could possibly help Applicant.

Regarding sequestration of witnesses, Counsel testified the trial court granted Applicant's motion to sequester witnesses but allowed State witnesses Donnie Hutto and Richard Johnson to remain in the courtroom. According to Counsel, the court allowed Hutto to stay to assist with the video equipment, and Johnson was the State's lead investigator. Counsel testified he does not know whether having multiple witnesses kept in the same room would have changed the outcome of Applicant's case. Counsel testified that the trial court limited his cross-examination of Rahem Devoe, Applicant's cousin, to questions relating to Devoe's pending armed robbery charge and conviction for failure to stop for blue lights. Counsel testified that, pursuant to the court's ruling, he cross-examined Rahem Devoe on the armed robbery charge and failure to stop conviction. Regarding a voluntary manslaughter charge, Counsel testified Applicant rejected an offer by the State to plead guilty to voluntary manslaughter. Counsel further testified that although there is no discussion of a voluntary manslaughter charge in the transcript, the evidence presented at trial did not support the charge.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the trial transcript in its entirety and has heard the testimony at the PCR hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony. After a careful review based on the *Strickland* standard set forth below, this Court finds Applicant has failed to carry his burden of proof. Below are this Court's findings of facts and conclusions of law as required by section 17-27-80 of the South Carolina Code (2017).

Ineffective Assistance of Counsel



In a PCR action, an applicant bears the burden of proving the allegations. Rule 71.1(e), SCRPC; *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). An applicant alleging ineffective assistance of counsel must prove “counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668 (1984); *Butler*, 286 S.C. at 441, 334 S.E.2d at 813. “The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases.” *Watson v. State*, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Butler*, 286 S.C. at 441, 334 S.E.2d at 813. An applicant must overcome this presumption to receive relief. *Cherry v. State*, 300 S.C. 115, 386 S.E.2d 624 (1989). To establish ineffective assistance of counsel, a PCR applicant must prove (1) counsel’s performance fell below an objective standard of reasonableness and (2) the applicant sustained prejudice as a result of counsel’s deficient performance. *Strickland*, 466 U.S. at 687–88; *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625.

Failure to Request a Voluntary Manslaughter Jury Charge

This Court finds Applicant failed to prove Counsel was ineffective for failing to request a voluntary manslaughter jury charge. The law to be charged must be determined from the evidence presented at trial. *State v. Cole*, 338 S.C. 97, 525 S.E.2d 511 (2000). At the PCR hearing, Counsel testified that Applicant rejected a voluntary manslaughter plea offer from the State. Counsel further testified that there was no evidence presented at trial to support the jury charge of voluntary manslaughter. This Court finds **credible** counsel’s testimony and finds the evidence presented at trial did not support a jury charge for voluntary manslaughter. Thus, Applicant did not meet his burden of proving Counsel’s performance was deficient. Accordingly, relief is DENIED.



Failure to Ensure Witnesses Complied with Sequestration Motion

This Court finds Applicant failed to prove Counsel was ineffective for failing to ensure witnesses complied with the trial court's ruling on witness sequestration. At trial, Counsel moved to sequester witnesses without objection from the State. (Tr. 98). The trial court ruled the sequester will be applied equally. (Tr. 98). Without objection from Counsel, the court allowed state witness Donnie Hutto to remain because he assisted with the video equipment. (Tr. 98-99). Without objection from Counsel, the court also allowed Agent Richard Johnson, the lead investigator, to remain. (Tr. 99). Both the solicitor and Counsel certified that other witnesses were not present in the courtroom, and the court reiterated that the sequestration would apply equally to both sides. (Tr. 99-100). The court further instructed both parties that they would be responsible for their witnesses and must not allow witnesses to remain in courtroom after testimony because of the potential to recall witnesses in reply. (Tr. 101-02).

At the PCR hearing, Counsel testified he was unaware of any violations of the sequester and did not think having multiple witnesses in the same room would have changed the outcome of the case. This Court finds **credible** Counsel's testimony that he was unaware of any violations of the sequester. Further, Applicant has failed to prove a violation of sequester or resulting prejudice thereof. Thus, Applicant did not meet his burden of proving Counsel's performance was deficient. Accordingly, relief is DENIED.

Failure to Investigate DNA evidence and Shell Casings

This Court finds Applicant failed to prove Counsel was ineffective for failing to investigate DNA evidence and shell casings. Counsel has a duty to investigate only when it is reasonable to do so. *Edwards v. State*, 392 S.C. 449, 457, 710 S.E.2d 60, 65 (2011). Applicant must prove prejudice by showing a reasonable probability that the outcome would have been different, but for



counsel's failure to investigate. *Council v. State*, 380 S.C. 159, 670 S.E.2d 356 (2008). At trial, Dawn Claycomb, SLED crime scene agent, testified on cross-examination that no shell casings were found at the scene of the shooting. (Tr. 277). Claycomb testified that investigators did not dust for fingerprints or other DNA swabs at the scene because such swabs are usually done in an indoor crime scene; the shooting occurred outside. (Tr. 273). Claycomb indicated swabs of blood were taken at the scene. (Tr. 273). Richard Johnson, SLED and lead investigator, testified he did not recall shell casings being located at the scene. (Tr. 253). Johnson further testified he does not recall any items of evidentiary value being taken from the scene. (Tr. 252). According to Johnson, SLED did not conduct DNA testing in this case because they did not really need to. (Tr. 253).

At the PCR hearing, Counsel testified on cross-examination that he does not dispute the transcript reflects SLED did not conduct a DNA investigation or collect evidentiary items because SLED deemed it unnecessary. This Court finds it would not have been reasonable for Counsel to investigate DNA evidence where two (2) eyewitnesses (DeQuincy Best and Rahem Devoe) witnessed Applicant shoot the victim. This Court also finds the trial transcript refutes Applicant's assertion that shell casings were collected from the scene. Further, this Court finds Applicant has failed to prove that but for Counsel's failure to investigate these items, there is a reasonable probability the outcome of the trial would have been different. Thus, Applicant did not meet his burden of proving Counsel's performance was deficient and resulted in prejudice. Accordingly, relief is DENIED.

Failure to Request a Copy of the DNA Report Conducted on a T-Shirt

This Court finds Applicant failed to prove Counsel was ineffective for failing to request a copy of the DNA report conducted on the victim's cousin's bloody t-shirt. At trial, Dequincy Best,



the victim's cousin, testified that Applicant arrived at the scene with Rahem Devoe and got out of a blue car with a gun inside of his pants. (Tr. 148-49). Best testified that Applicant shot the victim and stood over his body preparing to shoot him again before Devoe stopped Applicant from doing so. (Tr. 151-52). Best testified that after Applicant left, Best put the victim in his car and drove him to the hospital. (Tr. 154-55). Detective Qutique Manor, Allendale PD, testified he arrived at the hospital to help with the investigation and observed Best wearing a white t-shirt with blood on it. (Tr. 215). Manor testified he does not recall whether the t-shirt was collected for evidence by SLED. (Tr. 216). Richard Johnson, SLED lead investigator, testified that he did not recall any items of evidentiary value being taken from the scene, and SLED did not conduct DNA analysis in this case because they did not really need to. (Tr. 252-53).

At the PCR hearing, Counsel testified that he received all of the discovery from the State and reviewed it with Applicant. Counsel testified he was unaware of any missing discovery. Counsel also testified that when reviewing discovery and deciding what to investigate, he wanted to be careful about digging up more evidence of the crime. Counsel testified his strategy was to "first, do no harm." This Court finds **credible** Counsel's testimony and finds Counsel exercised reasonable professional judgment and articulated a sound trial strategy for refusing to investigate the t-shirt, which could have resulted in more incriminating evidence against Applicant. This Court further finds Applicant failed to prove Counsel's failure to request a copy of the t-shirt report resulted in prejudice to Applicant because Applicant did not produce any evidence at the PCR hearing of what further investigation into a DNA report of the t-shirt would have uncovered. *Cf. Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). Thus, Applicant did not meet his burden of proving Counsel's performance was deficient and resulted in prejudice. Accordingly, relief is DENIED.



Failed to Adequately Prepare for Trial

This Court finds Applicant failed to prove Counsel was ineffective for failing to adequately prepare for trial. Applicant testified that he believed Counsel represented him “pretty good” and was prepared for trial. Counsel testified that he was prepared for trial. This Court finds **credible** both Counsel’s and Applicant’s testimonies that Counsel adequately prepared for trial. Thus, Applicant did not meet his burden of proving Counsel’s performance was deficient. Accordingly, relief is DENIED.

Failure to Effectively Cross-Examine Rahem Devoe About his Criminal History

This Court finds Applicant failed to prove Counsel was ineffective for failing to effectively cross-examine Rahem Devoe about his criminal history. At trial, the trial court limited Counsel’s use of Rahem Devoe’s prior criminal history, allowing Counsel to ask about Devoe’s pending armed robbery charge and conviction for failure to stop for blue lights. (Tr. 174). Rahem Devoe, the victim’s cousin, testified he rode with Applicant and showed up to the victim’s apartment. (Tr. 181). Devoe testified that when he and Applicant got out of the car, Devoe was walking up the stairs to talk to his cousin, Debentris Breelend (a.k.a. Boobie). (Tr. 181). Devoe testified he heard a gunshot, walked down the stairs and saw Applicant holding a gun and standing over the victim. (Tr. 184-86).

Adhering to the trial court’s ruling, Counsel cross-examined Devoe regarding his pending armed robbery charge, conviction for failure to stop for blue lights, and prior sale of drugs to an undercover officer. (Tr. 189-90). Counsel further cross-examined Devoe about the pending charges being prosecuted by the same solicitor’s office that was trying Applicant. (Tr. 190). This Court finds the trial transcript directly refutes Applicant’s allegation that Counsel did not effectively cross-examine Rahem Devoe about his criminal history. Thus, Applicant did not meet his burden



of proving Counsel's performance was deficient. Accordingly, relief is DENIED.

CONCLUSION

Based on the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant relief. Thus, this application is denied and dismissed with prejudice.

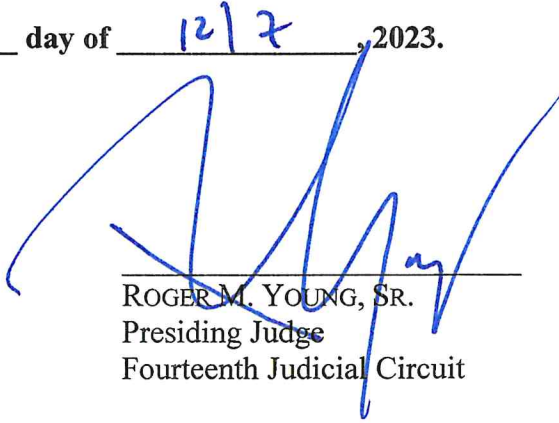
Should Applicant wish to secure appellate review, he must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. *See* Rule 203, SCACR. Applicant has the right to an appellate counsel's assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). If an applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on applicant's behalf. Rule 71.1(g), SCRCP. Attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

THEREFORE, IT IS ORDERED:

1. This application for PCR is denied and dismissed with prejudice; and
2. Applicant must be remanded to and remain in the custody of the State.

AND IT IS SO ORDERED ON THIS ___ day of 12/7, 2023.

CTB, South Carolina



ROGER M. YOUNG, SR.
Presiding Judge
Fourteenth Judicial Circuit



ALAN WILSON
ATTORNEY GENERAL

December 14, 2023

FILED FOR RECORD
2023 DEC 19. P 12:00
ELAINE SABB
CLERK OF COURT
ALLENDALE COUNTY, S.C.

The Honorable Elaine Sabb
Allendale County Clerk of Court
Post Office Box 126
Allendale, South Carolina 29461-0219

Re: Jaycoby Williams, #294469 v. State of South Carolina
Case No.: 2021-CP-03-00092

Dear Ms. Sabb:

Enclosed please find the original Order of Dismissal signed by the Honorable Roger M. Young, Sr., in the above-captioned case, for filing in your office. Please forward a time-stamped copy back to our office for our file.

Sincerely,

Bryan T. Hall
Assistant Attorney General

BTH/vh

cc: Chelsey F. Marto, Esquire