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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Charleston County

Honorable Michael G. Nettles, Circuit Court Judge

DOUGLAS L. YOUNG,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001622

APPENDIX

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1 Your attorney also moved for a directed verdict once
2 the State rested, and that means he asked the judge to
3 throw out the charges against you for lack of evidence.
4 Do you remember that?
5 A. Explain that again; say that again.
6 Q. When the State rested, finished its case,
7 your attorney moved to dismiss the charges against
8 you. Do you remember him doing that?
9 A. Dismiss the charges? What charges?
10 Q. The -- what he alleged is that the State did not
11 prove the elements of the crimes that you were charged
12 with.
13 A. Yeah.
14 Q. And he did that?
15 A. Yeah.
16 Q. Okay. And so, ultimately, then the judge charged
17 the law, both the State and your attorney made closing
18 arguments, and then there was a jury verdict finding
19 you guilty of murder, correct?
20 A. Yes.
21 Q. And other than the five instances that you allege
22 that your attorney did wrong, what else -- is there
23 anything else that we missed, because I want to make
24 sure that the judge hears everything that you want
25 to say?

1 A. Yeah, those right now. And can I say the issue
2 about what the forensic lady had determined?
3 Q. What issue?
4 A. The one I asked about, what the forensic lady
5 had determined.
6 Q. You can, yes.
7 A. What the forensic lady had determined, I think
8 that's on Page 286, her name was Sarah Caldwell [ph.]
9 or something.
10 Q. All right.
11 A. My attorney asked her if she was the one that
12 determined whether murder, and she said, no, she
13 couldn't determine murder.
14 Q. All right. So your attorney cross-examined
15 the forensic witness?
16 A. Yes, ma'am -- yes, sir.
17 Q. Who said that she could not determine murder?
18 A. Yes.
19 Q. Okay. And what do you think was wrong with that?
20 A. I just ---
21 Q. Or you just think that that would have led
22 to an acquittal or a lesser-included charge?
23 A. Yes.
24 Q. Okay. And that would be a question of fact
25 for the jury to consider?

1 A. Yeah.
2 Q. Okay. Is there anything else? I think we've
3 covered everything.
4 A. I think, yeah, just about.
5 Q. All right. And the attorney general is going
6 to ask you some questions, and you can answer them,
7 okay, sir?
8 A. Okay.
9 Q. All right. Thank you.
10 THE COURT: Yes, ma'am.
11 MS. DIXON: May it please the Court.
12 CROSS-EXAMINATION
13 BY MS. DIXON:
14 Q. How are you today, Mr. Young?
15 A. Okay. How are you doing?
16 Q. I am good. Thank you. I just want to make sure
17 before we go forward that you do understand the type
18 of relief that the Court could give today, which is
19 basically you start from scratch, the charges come back,
20 the State can try you again. Do you understand that,
21 if you get relief today?
22 A. If I get relief today.
23 Q. And do you remember what your charges were,
24 initially?
25 A. Murder.

1 Q. Murder. And do you know the maximum sentence
2 for murder?
3 A. Life.
4 Q. Life, correct. So you do understand that if
5 you get relief today, and the State comes back and tries
6 you, and you are convicted, you could potentially face
7 up to life?
8 A. Yeah, I understand that.
9 Q. You do understand. And knowing that, you do want
10 to proceed?
11 A. Can I get time to think about it?
12 THE COURT: Yes, you can. You can have
13 a seat over there by your counsel, and y'all can have
14 a discussion about it.
15 THE WITNESS: Okay.
16 (Off the record.)
17 (Back on the record.)
18 THE COURT: Mr. Murphy, have you had an
19 opportunity to speak with Mr. Young about this issue?
20 MR. MURPHY: I have, Your Honor, and we're
21 going to proceed with the application.
22 THE COURT: Very good. Go ahead. I ask
23 that you resume on the witness stand. I remind you
24 that you're still under oath. Cross-examination.
25 MS. DIXON: Yes, Your Honor.

1 BY MS. DIXON:
2 Q. Mr. Young, I just want to make sure we're clear
3 on your grounds today. So, I've got your lawyer didn't
4 call witnesses, your two cousins, and the police
5 officer?
6 A. Yeah.
7 Q. Okay. And then your lawyer didn't investigate
8 the search warrant issue for a cell phone that was
9 seized from you?
10 A. Yes.
11 Q. Okay. And then -- let's see. What is your
12 allegation regarding the plea itself, or is there one?
13 A. I never had a plea.
14 Q. You never -- so you're alleging your lawyer
15 was ineffective for not getting a plea offer?
16 A. Well, yeah, I guess. I don't know.
17 Q. Okay. And then just generally, he wasn't
18 prepared for trial?
19 A. Yeah.
20 Q. Okay. And then you had an issue with the jury
21 charge on self-defense?
22 A. Yeah.
23 Q. All right. Is there anything else, or can
24 we -- or are those the claims that you're doing today?
25 A. Those claims are what I want to put today.

1 Q. Okay, okay. So nothing against your appellate
2 counsel?
3 A. No. Well, he's not prepared either.
4 Q. Okay.
5 A. I never got a chance to talk to him like that.
6 So these now that I'm coming up with, I'm just not --
7 I just don't really feel comfortable because we never
8 really speak, and I don't know everything.
9 Q. Do you feel like you need more time to talk
10 to him?
11 A. That's why I was asking for the continuance,
12 like, to get another attorney, give me some more time.
13 THE COURT: You want more time to speak
14 to who?
15 THE WITNESS: If I can't get in touch
16 with him in time like the way I want to, I would have
17 to get me -- find me a lawyer, pay for a state attorney
18 -- a paid lawyer.
19 THE COURT: We -- I'm going to deny
20 the motion for a continuance. We will proceed.
21 MS. DIXON: All right. I don't have
22 anything else. Thank you.
23 THE COURT: Any redirect?
24 MR. MURPHY: Very brief, Your Honor.
25 REDIRECT EXAMINATION

1 BY MR. MURPHY:
2 Q. Your appellate attorney filed what's called
3 an Anders brief, correct?
4 A. Yeah.
5 Q. And your understanding, and let me make sure
6 about the Anders brief, is that he did not find any
7 issues to raise on appeal, correct?
8 A. I guess not.
9 Q. Right. And then the court, the appellate court,
10 wrote you and said, Mr. Young, you can raise your own
11 issues, correct?
12 A. Yes.
13 Q. And you actually filed a brief on your --
14 an appeal on your own behalf, correct?
15 A. Yes.
16 MR. MURPHY: That's all I have. Thank you.
17 THE WITNESS: Excuse me? I thought he was
18 my appellate lawyer. I thought you was saying about
19 him. I never even knew my appellate lawyer; I never
20 talked to him at all.
21 THE COURT: Okay. I think that's clear.
22 Anything further?
23 THE WITNESS: No, sir, that's it.
24 THE COURT: All right. You may step down.
25 MR. MURPHY: Your Honor, we would rest

1 at that point.
2 THE COURT: Yes, ma'am.
3 MS. DIXON: Just one minute. I just want
4 to make sure I have the grounds clear with Mr. Murphy,
5 if that's all right with you.
6 (Pause.)
7 MS. DIXON: Your Honor, the State would
8 call Nick D'Angelo.
9 THE COURT: Yes, sir. Please come forward
10 and place your left hand on the Bible, raise your right
11 hand as the clerk administers the oath.
12 MR. NICHOLAS D'ANGELO was called as a
13 witness, being duly sworn, was examined and testified
14 as follows:
15 THE CLERK: You may be seated. Please state
16 your name for the record.
17 THE WITNESS: Nicholas D'Angelo.
18 MS. DIXON: May it please the Court.
19 DIRECT EXAMINATION
20 BY MS. DIXON:
21 Q. Mr. D'Angelo, how are you today?
22 A. Good. Thank you.
23 Q. Good. And can you tell us how you became
24 involved in Mr. Young's case?
25 A. So I was, and still currently, working at the

1 Charleston County Public Defender's Office. I was
2 appointed Doug's case. I actually had the privilege
3 of representing Doug when he was initially arrested
4 and represented him at bond court. And I enjoyed
5 speaking with him, and I requested that I be the
6 attorney to handle the case.
7 Q. So would you agree that you had his case pretty
8 much through his entire arrest period and ---
9 A. Correct. I was the only attorney that ever
10 worked on the case.
11 Q. Okay. And what was the State's evidence against
12 Mr. Young?
13 A. The biggest piece of evidence was a witness,
14 who's name was Cathy Brisbane [ph.]. She was in
15 a vehicle driving down, I believe, it was Line Street.
16 And as Doug, I would contend, was acting in
17 self-defense, Ms. Brisbane saw Doug with the gun, raised
18 the gun, fired the shots. She began honking her horn.
19 Doug -- she was a family friend, and Doug proceeded
20 to get into the vehicle with her, and asked Ms. Brisbane
21 to drop him off, and she did that. I mean, it's
22 an eyewitness who observed.
23 And then, there was a second witness who was
24 in the apartment across the street. And her testimony,
25 kind of laying out the sequence of shots, the delay,

1 and the sequence of shots. I would say those were
2 the two biggest pieces of evidence.
3 Q. And was there any DNA evidence placing him
4 at the scene?
5 A. There was. There was -- and I believe we
6 stipulated to it. There was DNA on cigarette butts,
7 I believe it was, and beer cans that were at the scene,
8 because again we weren't challenging that Doug was
9 there.
10 Q. Okay. And how about -- was he captured on any
11 surveillance cameras in the area?
12 A. I don't believe so. I know Ms. Brisbane, again,
13 the woman who he got into the car, her car was captured
14 on surveillance video. That's how the police were
15 ultimately able to get her car plate and speak with
16 her. I don't -- I don't believe that there was anything
17 though of Douglas.
18 Q. Gotcha. And did they find any fingerprint
19 or DNA evidence on her car?
20 A. I believe there was a fingerprint on the door,
21 front passenger door, of her car.
22 Q. Okay. And then did you discuss this evidence
23 with Mr. Young?
24 A. I did.
25 Q. And what was his kind of -- what was y'all's

1 strategy going into trial?
2 A. The strategy finally going into trial was that
3 it was self-defense. I agreed. I believed, you know,
4 and I still believe, that Doug acted in self-defense.
5 And I believed that fit the facts; I believed that
6 fit the witnesses that we had. And that's the strategy
7 that we went with.
8 Q. And did you discuss this with Mr. Young,
9 the strategy?
10 A. I did.
11 Q. And do you believe that he understood your
12 conversations?
13 A. Yes.
14 Q. Did you ever have any concerns with his
15 competency, or his ability to understand what you were
16 saying?
17 A. No.
18 Q. Okay. And then -- let's see. Going into
19 your pretrial investigation, were there any witnesses
20 that he asked you to investigate?
21 A. There were a number of witnesses we tried to
22 get in touch with. So again, the theory and the story
23 that Doug had been at this house hanging out, there
24 were a number of -- it was a family residence,
25 if I remember correctly. There had been a number of

1 people that were kind of there throughout the evening.
2 Ultimately, I was only able to get in touch
3 with Doug's uncle, who is the gentleman that came
4 and testified at trial. We just were never able
5 to get in contact with anyone else. Couldn't get phone
6 numbers; couldn't get addresses.
7 Q. And then in terms of the cell phone issue that
8 he's raised today, do you recall any evidence the State
9 had from his cell phone?
10 A. There was none that was used at trial.
11 Q. That was used at trial. Did they gather
12 any evidence from the cell phone?
13 A. If I remember correctly, based on the Cellebrite
14 dump, they had -- they were attempting to potentially
15 use cell phone tower location to determine that he was
16 in the area. Ultimately though, it was a moot point
17 at trial as, you know, we conceded and we're stipulating
18 that, yes, we were there. So none of that evidence
19 was needed or used at trial.
20 Q. So they didn't put any of that in. Now in terms
21 of the extraction of the data itself, did you see
22 any issues with the search warrant, or with the way
23 the State obtained that information?
24 A. No, ma'am.
25 Q. Okay. And then you proceeded on self-defense.

1 Do you recall whether the judge charged self-defense?
2 A. He did. And I remember he gave ---
3 Q. And do you remember any issues with the charge
4 that was given?
5 A. No, ma'am. I remember it was robust.
6 Q. And, specifically, he raised today that she
7 didn't charge that he had a right to act on appearances.
8 Do you recall whether that was part of her jury charge?
9 A. It was part of Judge Dickson's charge, because
10 again that was a crucial element of kind of the theory
11 that we were alleging.
12 MS. DIXON: And, Your Honor, just for
13 the record, that's on Page 426. The self-defense
14 charge starts at Page 425, but that specific portion
15 is at the bottom of 426.
16 BY MS. DIXON:
17 Q. And then in terms of a plea offer, did the State
18 ever make any type of offer?
19 A. No, there was never any offer given. And again,
20 in my opinion, it was ridiculous in this case.
21 Q. Did you try to get an offer?
22 A. Many times. And Judge Dickson even asked
23 the State to consider an offer. He gave us the option
24 to be able to go back out and talk. I, again, continued
25 to request to the solicitor an offer. This case, in my

1 opinion, deserved an offer, and Doug deserved to receive
2 an offer in this case.
3 Q. But the State never gave an offer?
4 A. No.
5 Q. It was all or nothing. Okay. And then the last
6 question, did you have adequate time to prepare for
7 trial?
8 A. Yes.
9 MS. DIXON: Okay. One moment, Your Honor.
10 (Pause.)
11 BY MS. DIXON:
12 Q. Going back to the witnesses real quick.
13 He raised an issue with an officer. Do you recall
14 that being something he brought up?
15 A. Yes, he did.
16 Q. And when did he bring that up?
17 A. It was about seven days before trial is when,
18 ultimately, Doug and I were able to kind of get on the
19 same page of this case is self-defense. Once we got
20 there, which again I agree was the appropriate way
21 we needed to handle this trial.
22 Once I got to that point, we were able to
23 then start talking about other names, other witnesses.
24 Unfortunately -- and I spoke with this gentleman
25 on the phone. I just didn't have time to be able

1 to get him lawfully under subpoena, and therefore,
2 he was not present at the trial.
3 Q. Gotcha. All right.
4 MS. DIXON: Nothing further, Your Honor.
5 MR. MURPHY: Thank you, Your Honor.
6 May it please the Court.
7 CROSS-EXAMINATION
8 BY MR. MURPHY:
9 Q. Mr. D'Angelo, the victim in this case was a bad
10 dude. Is that a fair assumption?
11 A. A very fair assumption.
12 Q. And did you try to get that into evidence?
13 A. I did.
14 Q. And were you successful, ultimately?
15 A. I was not.
16 Q. And why weren't you successful?
17 A. Because ultimately without having witnesses under
18 subpoena and having those witnesses there to testify
19 on direct-hand knowledge, everything that I was trying
20 to get into is hearsay, and proper hearsay objections
21 were raised every time I tried to get into it.
22 So without being able to subpoena and have those
23 witnesses there, I couldn't get into it.
24 Q. All right. In terms of being able to issue those
25 subpoenas, was it that you didn't have time to get them

1 issued, or that you didn't know if the witnesses
2 existed?
3 A. Didn't have time, and they wouldn't receive.
4 Q. Okay. All right. Now in terms of the offer,
5 Mr. Young testified that there was an offer of about
6 25 years right before trial. Is that your recollection
7 at all?
8 A. So -- no. There was no offer. I think what
9 Douglas is remembering is Judge Dickson -- Judge
10 Dickson, in my opinion, wanted this case to have
11 an offer and gave us time to go out and discuss.
12 I believe that this case should have had an offer.
13 Douglas and I had a conversation of -- you know,
14 the type that you have with your client. What would
15 you take?
16 Q. Right.
17 A. What can -- if I got you 25, would you take
18 25 on voluntary? And I remember we had come to that.
19 And, personally, I think Doug would have gone above 25
20 on something with voluntary. So that's the conversation
21 we had. I took that to the solicitor and said, let's
22 move this case, and he did not offer that.
23 Q. And so, ultimately, with no offer, your choice
24 was either plead straight up to the charges or go to
25 trial?

1 A. Correct.
2 Q. And the judge ultimately sentenced Mr. Young
3 to 30 years?
4 A. Thirty-five.
5 Q. Thirty-five. Were they run concurrent
6 or consecutive?
7 A. Concurrent. So, I think it was 35 on murder,
8 and then the accompanying five, but it was all running
9 concurrently.
10 Q. And so had he pled guilty, that would have been
11 the lowest sentence that the judge could have awarded
12 for a straight-up plea?
13 A. The lowest sentence he could have gotten would
14 have been 30.
15 Q. Okay.
16 A. Because the five -- the five could have run
17 concurrent with that.
18 Q. Exactly. But that was ultimately what he ended
19 up with?
20 A. Correct.
21 Q. Now, in terms of there was some -- do you recall
22 how many factual inconsistencies that the witnesses
23 testified about? And that would be -- my question is
24 just like in any trial, you always get inconsistencies.
25 I assume the jury was -- the witnesses were sequestered?

1 A. Correct.
2 Q. And so do you recall anything significant about
3 any inconsistencies?
4 A. I don't.
5 Q. Okay. Do you believe that had you got those
6 witnesses under subpoena there, that that would have
7 made a difference at trial?
8 A. I certainly think it could have made a difference
9 at trial.
10 Q. And, ultimately, what would they have testified
11 to?
12 A. If I would have been able to get into --
13 ultimately, what I was trying to get into is that the
14 victim was currently under an active FBI investigation
15 for gunrunning, and that the victim had an active
16 pointing and presenting. I believe it was either
17 pointing and presenting, or it was discharging a weapon
18 into a dwelling. He had fired a gun outside a bar in,
19 you know, a fight that he had been involved in.
20 Q. And, I guess, my understanding is that would
21 have given more credibility to a self-defense claim?
22 A. Correct. And if I remember correctly, the
23 allegation in the incident where he used a gun, the
24 description of the gun is the same as the description
25 of the gun that Douglas used in this case.

1 Q. Thank you, sir. That's all I have.

2 REDIRECT EXAMINATION

3 BY MS. DIXON:

4 Q. Just some quick followup questions. So, you
5 did talk about, I guess, initially getting him on board
6 with the self-defense strategy. What was his initial --
7 what was Mr. Young's initial story or strategy in terms
8 of this case?

9 A. So, Mr. Young -- and I certainly understand
10 his position. Douglas, because he was a convicted
11 felon, had an understandable, but an incorrect belief,
12 that because he was a convicted felon, the law
13 of self-defense would never apply to him, even
14 if he was in a lawful position to execute -- to carry
15 out self-defense.

16 Because he was a convicted felon, he was
17 at a loss for ever being able to be protected by that.
18 So he had always maintained to me that he was not there.
19 That he was there at the incident, but that he was not
20 the shooter. And we had constantly gone back and forth
21 on that because it just wasn't fitting in with the
22 evidence that we had.

23 Q. And, I guess, in the absence of proceeding
24 on a self-defense strategy, would there be any reason
25 to investigate, or go into the victim's history

1 or background?
2 A. No.
3 Q. And then you said this was a strategy that
4 y'all kind of agreed on closer to trial?
5 A. I believe it was about seven days out.
6 Q. Seven days out. And at that time, were you able
7 to lawfully subpoena these witnesses and force them
8 to come?
9 A. I was not.
10 Q. Okay.
11 MS. DIXON: Nothing further.
12 MR. MURPHY: Nothing further, Your Honor.
13 THE COURT: You may step down. Anything
14 further from the State?
15 MS. DIXON: One moment, Your Honor.
16 The State would call Adam Ruffin.
17 THE COURT: Mr. Ruffin, please come forward.
18 I'm going to ask you, if you could, to come forward,
19 place your left hand on the Bible, raise your right hand
20 as the clerk administers the oath.
21 MR. ADAM RUFFIN was called as a witness,
22 being duly sworn, was examined and testified as follows:
23 THE CLERK: You can be seated.
24 THE WITNESS: Thank you.
25 THE COURT: Pull up real close to that mic

1 and speak loudly, clearly, and slowly.
2 THE WITNESS: Yes, sir.
3 THE COURT: Your full name, Mr. Ruffin.
4 THE WITNESS: Adam Ruffin, A-D-A-M,
5 R-U-F-F-I-N.
6 DIRECT EXAMINATION
7 BY MS. DIXON:
8 Q. Mr. Ruffin, how are you today?
9 A. I'm good.
10 Q. And how did you become involved in Mr. Young's
11 case?
12 A. I was working at appellate defense, so we would
13 get -- I was appointed to handle his direct appeal after
14 his trial.
15 Q. And in preparation for that, did you review
16 the trial transcript?
17 A. Yes, I reviewed the trial transcript, along with
18 the exhibits that were introduced.
19 Q. And did you see any preserved issues that you
20 believed had merit?
21 A. Unfortunately, no. There were preserved issues.
22 But, you know, one of the problems on appeal is it's not
23 enough usually that the trial Court commits an error.
24 You also have to show prejudice. This was a case where
25 there was direct evidence -- there were, you know,

1 eyewitnesses who identified Mr. Young.
2 Also, he took the stand and admitted to the
3 killing, and it was just a question of did he act in
4 self-defense or not, which is sort of a quintessential
5 jury question that's just -- I didn't think it was going
6 to go anywhere on appeal, so that's why I filed
7 an Anders brief.
8 Q. And what is an Anders brief?
9 A. An Anders brief is after you've reviewed the
10 transcript, instead of just, like, sending a letter
11 to the appellate court saying, hey, there's nothing
12 to this case, I don't want to represent this person,
13 you know, because, obviously, lawyers, you know,
14 you're not supposed to present any frivolous claim
15 to the court.
16 So instead of doing that, we file a brief arguing
17 an issue, hopefully a preserved issue. But at the end
18 of the brief, we essentially attach a letter saying,
19 I don't think -- you know, as an attorney, I don't think
20 that this issue has any merit for appeal, but I've
21 briefed it and given the court a copy of the record.
22 That way the Court of Appeals will review my brief,
23 the brief that I wrote, they'll review the entire record
24 to look for any issues that they may see. They also
25 will send a letter to the Defendant saying, you know,

1 your lawyer has filed an Anders brief. Do you want
2 to file your own pro se brief, which Mr. Young did.
3 Sometimes, the way the Anders procedure can work
4 is either the appellate court will agree with me
5 and say we've now also reviewed the transcript and agree
6 that there are no meritorious issues. That's normally
7 what happens, and they'll dismiss the appeal and relieve
8 the appellate lawyer.
9 In the alternative, what occasionally will happen
10 is the Court of Appeals will review it and say, they
11 disagree with the appellate lawyer, and they will what
12 we call -- they'll send it back to us and say re-brief
13 it, and this is the issue that we spotted, and we want
14 you to re-brief it and argue this issue. So that did
15 not happen in this case.
16 Q. Gotcha.
17 MS. DIXON: Nothing further.
18 CROSS-EXAMINATION
19 BY MR. MURPHY:
20 Q. Did you ever talk to Mr. Young on the phone
21 or in person?
22 A. No, not that I recall. You know, normally --
23 the appellate defense office is in Columbia, so we take
24 cases from every county in the state. So normally our
25 correspondence with our clients is just through letters.

1 So, I would send Mr. Young a letter letting him know
2 that I've been appointed to represent him, and that
3 I would be reviewing the case, and, you know, filing
4 a brief on his behalf.
5 After I reviewed the transcript and filed
6 a brief, I would send him a copy of the brief that
7 I submitted, along with the record. And usually that's
8 kind of the extent of it. And then I would send
9 a letter as to any resolution in the case. Now, the
10 initial letter that I would send would say that he could
11 call me if he wanted to call me. I don't remember
12 receiving a call, and I don't remember calling him
13 or speaking to him.
14 Q. You said you did not remember receiving
15 any letters from him?
16 A. I don't remember specifically, but he may have
17 sent me a letter. And you normally -- that's typically
18 how I communicate with my clients. They send me
19 a letter; I would send them a letter back. I don't have
20 that in front of me, and I don't remember.
21 Q. Okay. Thank you, sir.
22 THE COURT: Any redirect?
23 REDIRECT EXAMINATION
24 BY MS. DIXON:
25 Q. If your client sent you a letter, would you read

1 it?
2 A. Yes, yes, I would read it.
3 Q. In your general practice, respond to it?
4 A. Yes, unless I was getting, you know, like --
5 unless I had a client that was sending me letters a lot
6 that didn't necessarily warrant a response. But, yeah,
7 my practice would be to always respond.
8 Q. Gotcha.
9 MS. DIXON: Nothing further.
10 THE COURT: Mr. Ruffin, Mr. Young has made
11 an allegation with regards to the charge of
12 self-defense, particularly, that the judge did not
13 charge the law with regard to the Defendant's right
14 to act on appearances right there on 426. Specifically,
15 word for word, the Defendant has the right to act
16 on appearances and elaborates that. You have had
17 an opportunity -- during your preparation in this case,
18 had an opportunity to look at the jury charge that
19 was given to the jury. Did you find any errors?
20 THE WITNESS: No, sir.
21 THE COURT: With any of the charges,
22 in particular, that of self-defense?
23 THE WITNESS: No, sir. I thought it was
24 a proper instruction on self-defense. And the charge
25 as a whole, I thought was a proper jury instruction.

1 THE COURT: Okay. All right. Thank you.
2 You may step down.
3 THE WITNESS: Thank you.
4 THE COURT: Mr. Ruffin, you're free
5 to leave.
6 THE WITNESS: Thank you, Your Honor.
7 THE COURT: You're welcome to stay,
8 but you're free to leave.
9 THE WITNESS: I'm probably going to leave.
10 Take care. Good to see you, Judge.
11 THE COURT: Anything further?
12 MS. DIXON: No further witnesses,
13 Your Honor.
14 MR. MURPHY: Nothing, Your Honor.
15 THE COURT: I'll be glad to hear summations
16 from both sides.
17 MS. DIXON: Your Honor, we would just submit
18 that they have not met their burden of proving counsel
19 was constitutionally ineffective. I believe the issues
20 that he raised, failed to call witnesses, they don't
21 have any of those witnesses today. But I do believe ---
22 THE COURT: The law requires that they
23 proffer ---
24 MS. DIXON: Correct.
25 THE COURT: If they indeed had something

1 to say, you have to hear what they would have offered
2 and then ---
3 MS. DIXON: Correct, Your Honor.
4 That is correct. And they hadn't been here today,
5 so we would submit that they can't prove prejudice.
6 But, in addition to that, counsel articulated a valid
7 reason -- his articulation of his investigation
8 was reasonable under prevailing professional warrants.
9 He did testify that some of the witnesses
10 he didn't have phone numbers for, some of them he tried
11 to talk to. He was only able to talk to the uncle,
12 which he did bring in. And then in terms of the
13 officer, of course, they switched their strategy kind
14 of late, very close to trial, so at that point it was
15 too late.
16 THE COURT: Particularly with regard
17 to the police officer, what is your understanding
18 of the law with regard to whether or not his being
19 under investigation would be admissible?
20 MS. DIXON: I'm not sure that it would,
21 Your Honor. I mean, he was a victim, and I'm not sure
22 how much of that would have come in.
23 THE COURT: The fact that he had pending
24 charges, is that admissible?
25 MS. DIXON: I don't think it would be,

1 probably not. I mean, I know that victims have rights.
2 THE COURT: Pardon?
3 MS. DIXON: I know that victims have so many
4 rights, and I would guess that we're probably not going
5 to be able to get too deep into that.
6 THE COURT: All right. What do you have
7 to say about the warrant?
8 MS. DIXON: In terms of the warrant,
9 Your Honor, counsel testified he didn't see any issues
10 with it. And, in addition to that, nothing from
11 the cell phone was admitted at trial, so there's
12 no prejudice. And, further, no deficiency if there were
13 no issues. They've never shown that there was actually
14 an issue with the warrant itself.
15 THE COURT: With regard to the plea,
16 you know, listening to the testimony here today,
17 I'm not really sure they have a real issue with regard
18 to the plea. He didn't offer anything and ---
19 MS. DIXON: Correct.
20 THE COURT: --- all of that was fully
21 relayed to the Defendant.
22 MS. DIXON: Correct, Your Honor. And then
23 moving on to the jury trial -- the jury charge itself,
24 I would submit, and I've reviewed it, that it does
25 include a full self-defense charge. And, of course,

1 we review jury charges as a whole. And viewed as
2 a whole, there was nothing deficient about this charge
3 that should have warranted an objection, or that would
4 have warranted an objection.
5 And then, finally, I think there was
6 a general allegation that he was not prepared for trial.
7 And I would submit you reviewed the trial transcript.
8 He was adequately prepared, made lots of good arguments
9 throughout the trial, and overall presented it,
10 you know, in a very effective way.
11 THE COURT: Mr. Murphy, you're recognized.
12 MR. MURPHY: Thank you, Your Honor.
13 For the record, I do think Mr. D'Angelo did a very good
14 job at trial. These cases are always very difficult,
15 and I know how they're constantly evolving, and so
16 it's almost impossible to keep up with the nuances,
17 especially when you have a Defendant that believes
18 that those prior convictions somehow eliminate any
19 self-defense issues he would have.
20 But in any event, Your Honor, I am familiar
21 with the law requiring witnesses to be here. However,
22 we do think that by not subpoenaing them -- and whether
23 their testimony would have been admissible or not,
24 that would be a judge's call. It's almost impossible
25 to determine whether or not, but we have raised that

1 as an error.
2 I don't believe that the offer -- there
3 was no offer made. The Defendant -- defense counsel
4 can't make the State give an offer; the judge can't make
5 the State give an offer, so that's not really an issue.
6 And so we're kind of limited to just not subpoenaing
7 those witnesses, not getting them there, is the issue
8 that we would raise.
9 I don't have anything specific about the
10 self-defense charge as being improper. But we would
11 just, for the record, preserve that for -- ask the
12 Court to look at that again to make sure that there
13 is no error. That would be it.
14 THE COURT: All right. I'm going to deny
15 the application for post-conviction relief with regards
16 to the witnesses. First and foremost, in order for me
17 to rule in favor of the Applicant, I would have to hear
18 from the witnesses themselves, and the testimony would
19 have to be proffered, and I'll have to make
20 a determination as to the admissibility of it. Whether
21 or not it will make a difference, what's taken place
22 here has fallen short in that regard.
23 There's absolutely no prejudice with
24 regard to the cell phone. The defense conceded that
25 he was there present. There's other forensic evidence,

1 DNA and fingerprints, that went -- that was consistent
2 with the State's case. And there was no evidence
3 presented with regard to the cell phone.
4 As far as the plea, there's no way
5 in the world that defense counsel did anything wrong
6 by the fact that the State refused to give an offer.
7 We might all disagree with his judgment in that regard,
8 but it's not an error on behalf of the defense for him
9 not to be able to effectuate an offer. That's beyond
10 his control.
11 In reviewing the transcript, hearing
12 the testimony of trial counsel here today, it's very
13 clear that he's a capable lawyer and adequately prepared
14 for the case. I reviewed the self-defense charge.
15 There's actually nothing wrong with the self-defense
16 charge. And the Applicant specifically raised an issue
17 about the judge not charging the Defendant had a right
18 to act on appearances.
19 There's -- everything that can be charged
20 with regard to self-defense was charged, and
21 specifically, the exact words, the Defendant has a right
22 to act on appearances on Page 426. Based on that,
23 I'll deny the application for post-conviction relief
24 and wish you the best of luck.
25 MR. MURPHY: Thank you, Your Honor.

1 THE COURT: Anything further?

2 MS. DIXON: Nothing further, Your Honor.

3 MR. MURPHY: Nothing further, Your Honor.

4 (End of Transcript of Record.)

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1 **CERTIFICATE OF REPORTER**

2

3

4 State of South Carolina)

5 County of Charleston)

6

7

8 I, the undersigned, Yvestre Torres, Circuit

9 Court Reporter for the Ninth Judicial Circuit of the

10 State of South Carolina, do hereby certify that the

11 foregoing is a true, accurate, and complete transcript

12 of record of all the proceedings had and evidence

13 introduced in the hearing of the captioned case,

14 relative to appeal, in the Circuit Court for Charleston

15 County, South Carolina, on the 22nd of August, 2023.

16 I do further certify that I am neither

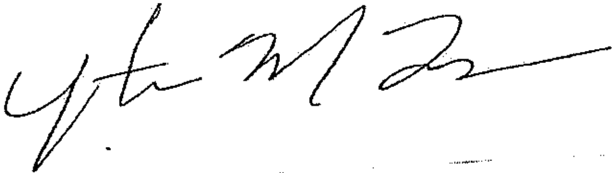
17 of kin, counsel, nor interest to any party hereto.

18

19 November 1, 2023

20

21



24 Yvestre Torres

25 Circuit Court Reporter

ATTY GS SOL AG

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Douglas Lavance Young, #2945527,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2023-CP-10-0090

ORDER OF DISMISSAL

2023 SEP 13 AM 11:52
FILED

This matter is before the Court by way of an application for post-conviction relief (PCR) filed by Douglas Lavance Young (Applicant) on January 6, 2023. Respondent filed a return requesting an evidentiary hearing. On August 22, 2023, an evidentiary hearing convened before the Honorable Michael G. Nettles. Applicant was present and represented by Christopher L. Murphy, Esquire. Assistant Attorney General Danielle Dixon represented Respondent. At the hearing, Applicant testified on his behalf. Respondent called as witnesses Assistant Public Defender Nicolas G. D'Angelo (trial counsel) and former Appellate Defender Adam S. Ruffin (appellate counsel). Following a thorough review of the records before this Court and the testimony and evidence presented at the 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-year sentence. In February 2018, the Charleston County Grand Jury indicted Applicant for murder (2018-GS-10-558) and possession of a weapon during the commission of a violent crime (2018-GS-10-559). On December 2-4, 2019, Applicant proceeded to a jury trial before the Honorable Edgar W. Dickson. Nicholas D'Angelo and Benjamin Lewis, Esquires, represented Applicant, and Assistant Solicitors David Osborne and Shanon Elliott represented

#K740579 - #2018-GS-10-00558 #K740580 - #2018-GS-10-00559

the State. The jury convicted Applicant as indicted, and Judge Dickson sentenced Applicant to concurrent terms of thirty-five years for murder and five years for the weapon charge.

Applicant filed a direct appeal, and Appellate Defender Adam Sinclair Ruffin submitted a brief pursuant to Anders v. California, 386 U.S. 738 (1967). The Court of Appeals dismissed Applicant's appeal pursuant to Anders. The remittitur was sent March 11, 2022.

SUMMARY OF TRIAL TESTIMONY

During Applicant's trial, Zoe Whittaker, who lived in the East Side area of Charleston, testified she heard a gunshot as she was getting ready for work. (Tr. 74-75). She looked out the window and saw a man holding a gun. (Tr. 75). Whittaker ran to her room to call 911; during that time, she heard more gunshots. (Tr. 75). She looked outside again and saw the same man holding a gun. (Tr. 76). Thereafter, the man got into a maroon vehicle. (Tr. 76). During Whittaker's testimony, the State entered her 911 call into evidence over objection.

Officer Jacob Bradshaw testified he responded to the 911 call of shots fired in the East Side area. (Tr. 60-61). When he arrived, he noticed a man lying on the sidewalk and requested EMS. (Tr. 61-62). Thereafter, Officer Bradshaw began looking for a maroon SUV; he noticed the vehicle and stopped it. (Tr. 65-66). Kathy Brisbane was driving the vehicle. (Tr. 67).

Brisbane testified she had previously lived in the East Side area of Charleston and was familiar with Applicant's family. (Tr. 158-59). She testified she had dated Applicant's uncle, Gerald Young. (Tr. 159-60). Brisbane testified she was driving to work on the morning of the shooting when she saw Applicant pointing a gun at another man standing on the corner. (Tr. 162-65). She stated she began blowing her horn to distract Applicant from shooting, but Applicant shot the man three times. (Tr. 162-66). Brisbane clarified the other man had his hands up and did not have a gun. (Tr. 164-65). After Applicant shot the man, Brisbane yelled at him and asked what he was doing. (Tr. 174). Brisbane testified Applicant recognized her and asked

her to drive him around the corner. (Tr. 174). Brisbane testified Applicant got in her car and directed her where to go; he later got out of the car. (Tr. 174-75). Brisbane stated Applicant told her, "You didn't see nothing." (Tr. 176). Brisbane testified she did not know Applicant's first name, but she knew he was a Young. (Tr. 183). She later identified him from a photo lineup. (Tr. 186).

Commander Duston Thompson testified he responded to the scene. (Tr. 90-91). He stated the maroon vehicle, which was identified as a GMC Envoy, was located a block or two away from where the shooting occurred; he had it towed for processing. (Tr. 93-94). Nova Grilli, an expert in latent print examination, testified a fingerprint recovered from the GMC's passenger exterior door matched Applicant's left palm. (Tr. 155). Sarah Zapata, an expert in DNA analysis, testified DNA swabbed from a beer can that was located at the scene of the shooting matched Applicant's DNA. (Tr. 105-06, 221-22).

Crime scene investigator Holly Saunders responded to the scene of the shooting and collected four fired .9 Luger shell casings. (Tr. 97, 101, 103). Michelle Eichenmiller, an expert in firearms identification, testified the four casings were .9 Luger cartridge cases fired by the same weapon. (Tr. 213-14). She stated a bullet fragment recovered from the autopsy was consistent with being fired by a .9 caliber bullet. (Tr. 213).

Kim Rivers, who was subpoenaed by the State against her wishes, testified she and Applicant grew up on the same street. (Tr. 141-43). She acknowledged Applicant approached her on the morning of the shooting but claimed she did not recall what he said to her. (Tr. 142-43). Rivers also claimed she could not recall what she told law enforcement about her conversation with Applicant. (Tr. 143-45). Rivers likewise claimed she did not recall telling Brisbane that Applicant approached her after the shooting and asked her to hold a weapon for him. (Tr. 146).

After the State rested, Applicant testified in his defense and claimed he shot the victim in self-defense. (Tr. 308-15). Applicant also called Gerald Young, who testified he had seen the victim earlier that evening with "what appeared to be a lump of a gun in his pants." (Tr. 297-99). The State called two rebuttal witnesses to authenticate Applicant's jail calls. (Tr. 360-68).

CURRENT APPLICATION

Applicant timely commenced this PCR action on January 6, 2023, asserting he is being held in custody unlawfully due to ineffective assistance of counsel. Specifically, he alleged:

> a. "Indictment is obviously defective": "Jury foreman did not give verdict on face of true bill indictment."
>
> b. Trial counsel was ineffective in failing to investigate and/or raise objections pursuant to Rule (3), SCRCrimP: Missed deadlines on processing warrants violated Applicant's due process rights.
>
> c. "Judge erred in allowing jury to possess evidence not admitted": "Jury requested bodycam video not admitted into evidence properly. Defense counsel's objection was preserved, and agreed to bring bodycam video by certain footage. By allowing entire CD, judge allowed jury to view evidence not admitted, successively behind footage objected to."
>
> d. Appellate counsel was ineffective in failing to investigate face of indictment and clarify its deficiency: "Appeal counsel raised no objections to clarify the deficient indictment, which would warrant some attention."
>
> e. "Counsel was ineffective in failing to file a motion for a new trial due to there being no evidence beyond a reasonable doubt of self-defense.": "Counsel was ineffective due to jury admitting reason of verdict, which did not lawfully meet the 'reasonable doubt' burden to deny self-defense claim."
>
> f. "Trial counsel failed to object to extraneous influence of solicitor calling defendant a murderer and addressing the jury to convict him as such.": "Solicitor stated defendant was a murderer to law abiding citizens, potentially influencing jury to construe evidence to satisfy murder conviction as instructed by solicitor."
>
> g. "Judge erred in allowing full CD of bodycam into jury deliberation, despite earlier counsel's objection.": "Second bodycam was admitted to jury and not placed on record, by

admitting on properly, despite counsel's objection."

h. "Appellate courts erred in granting Appeal Counsel's motion to be relieved with out a proper investigation of merits.": "Appeal counsel's Anders' brief was premature and defendant was not allowed to contest or raise objection. Counsel also failed to file motion to appoint new counsel, as appeal counsel is still defense counsel in appeal."

i. "Appeal counsel was ineffective by not raising trial counsel's objections in appeal.": "Appeal counsel raised no claims to any of trial counsel's objection. Precluding any question of law from any superior courts.

At the PCR hearing, Applicant proceeded only on the following allegations of ineffective assistance of counsel:

1. Failed to call witnesses;
2. Failed to challenge cell phone evidence;
3. Failed to object to self-defense charge as incomplete and/or request additional language for the charge;
4. Failed to obtain favorable offer;
5. Failed to adequately prepare for trial.

Applicant also generally alleged appellate counsel was ineffective. Applicant did not present any testimony, evidence, or argument on his remaining allegations, and this Court finds he has waived them.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the records before it, including the Charleston County Clerk of Court's records from the underlying conviction, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's appellate records, and the records from this PCR action. This Court further had the opportunity to observe witnesses at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. 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 fact 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 in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). When the application alleges ineffective assistance of counsel, the applicant must prove "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, 466 U.S. 668. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, an applicant must prove counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, a PCR applicant must prove that counsel's deficient performance prejudiced the applicant such 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, 386 S.E.2d at 625.

Failed to call witnesses

At the PCR hearing, Applicant testified he met with trial counsel "a lot" to discuss the case. He testified he had several witnesses he wanted counsel to call, but counsel only called his uncle Gerald Young at trial. Applicant relayed he asked counsel to speak to two of his cousins,

who would have said the victim had a gun. He stated one of his cousins was in the hospital with a newborn at the time of his trial and the other cousin was out of town. Applicant testified he also wanted counsel to call an officer from another county to testify the victim was aggressive. Applicant acknowledged that officer was not at the scene and did not witness the shooting.

Trial counsel testified he was appointed around the time of Applicant's bond hearing and remained his attorney through trial. He stated Applicant had several witnesses he wanted counsel to talk to, but counsel was only able to get in touch with Applicant's uncle—whom he called as a witness at trial. Trial counsel stated Applicant initially claimed he was not the shooter and did not agree with a self-defense strategy until about seven days before trial. Ultimately counsel was unable to legally subpoena the officer in time for trial, and he stated the officer was not willing to testify without being subpoenaed. He further testified the officer did not become a relevant witness until their strategy changed to self-defense.

This Court finds Applicant has failed to prove counsel was ineffective in this regard. Notably, Applicant did not call any witnesses other than himself at the PCR hearing and thus did not prove prejudice. See Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995) (providing an applicant cannot establish prejudice from counsels' failure to call witnesses when those witnesses don't testify at PCR hearing).

This Court further finds credible trial counsel's testimony that he attempted to contact the witnesses Applicant asked him to contact but was not able to reach them. Likewise, this Court finds credible counsel's testimony that Applicant did not agree with a self-defense strategy[1] until shortly before trial, which did not leave counsel sufficient time to subpoena the officer. As counsel explained, there was no basis to attempt to introduce character evidence of the victim if they were not pursuing self-defense—and thus no basis to call the officer as a witness. Based on

[1] According to counsel, Applicant did not believe he was entitled to claim self-defense due to prior convictions.

the foregoing, this Court finds counsel's investigation into these witnesses was reasonable under prevailing professional norms, and Applicant did not prove counsel was deficient. Thus, Applicant has failed to prove counsel was ineffective.

Failed to challenge cell phone evidence

Applicant contends counsel was ineffective for not challenging cell phone evidence. At the PCR hearing, he asserted the State did not have a proper warrant to obtain data from his cell phone. Counsel testified, however, that the State did not enter any evidence from Applicant's phone at trial. He explained the State obtained evidence showing which cell towers Applicant's phone used, but that became a moot issue once Applicant decided to proceed on self-defense.

This Court finds Applicant has not shown counsel was ineffective in this regard. Critically, the State did not enter any evidence from Applicant's cell phone at trial; thus, Applicant cannot show it is reasonably likely the outcome of his trial would have been different had counsel challenged the State's warrant to obtain this evidence. Likewise, Applicant has not shown counsel was deficient in this regard. Based on the fact the State did not seek to enter any evidence from Applicant's phone, there was no basis to challenge that evidence. Thus, Applicant has not shown counsel was ineffective.

Failed to object to self-defense charge

At the PCR hearing, Applicant alleged counsel was ineffective for not objecting to the Court's instruction on self-defense or requesting additional language. Specifically, he contended counsel should have requested language that he had the right to act on appearances. Applicant has not shown counsel was ineffective in this regard.

At the PCR hearing, counsel testified he did not see any issues with the self-defense charge the trial court gave. This Court has reviewed the Court's charge on self-defense and finds it to be complete and accurate. (Tr. 425-28). Notably, the Court *did* charge that a defendant

claiming self-defense "has the right to act on appearances, even though the defendant's beliefs may be mistaken." (Tr. 426). This Court agrees there was no basis to object and thus finds counsel was not deficient for not objecting. Further, because the self-defense charge was complete and proper, it is not reasonably likely the outcome would have been different had counsel objected. Thus, Applicant did not prove deficiency or prejudice, and this claim is denied.

Failed to obtain favorable offer

At the PCR hearing, Applicant testified counsel relayed a twenty-five-year plea offer to him that he turned down because he did not believe he committed murder. In contrast, trial counsel testified he attempted to negotiate an offer but the solicitor was unwilling to negotiate. Counsel stated he never obtained a twenty-five-year offer—or any offer—from the State.

This Court finds Applicant has not shown counsel was ineffective in this regard. Initially, this Court finds credible trial counsel's testimony that he attempted to negotiate but the solicitor was unwilling to negotiate, and counsel never obtained a favorable offer. This Court finds trial counsel could not compel the State to make a favorable offer, and counsel's performance in this regard was reasonable under prevailing professional norms. Thus, Applicant did not prove deficiency. Applicant likewise did not prove prejudice—i.e. that he would have accepted a favorable offer. Pertinently, Applicant believed the State had offered him twenty-five years, but he stated he turned it down because he did not believe it was murder. In light of that, this Court finds Applicant did not prove a reasonably likelihood that the outcome would have been different—i.e. he would have accepted an offer—had counsel been able to procure a favorable offer. Thus, Applicant did not prove prejudice, and this claim is denied.

Failed to adequately prepare for trial

In addition to the foregoing claims, Applicant generally alleged counsel was not prepared for trial. This Court finds Applicant did not meet his burden of proof in this regard. At the PCR hearing, counsel testified he had adequate time to prepare, and this Court finds counsel's testimony in this regard to be credible. Further, a review of the trial transcript shows counsel was prepared for trial and made necessary objections and arguments. Applicant has not set forth what more counsel could have done that would have reasonably changed the outcome of trial and thus has not shown deficiency or prejudice in this regard. Thus, this claim is denied.

Ineffective Assistance of Appellate Counsel

At the PCR hearing, Applicant generally alleged appellate counsel was ineffective for filing an Anders brief rather than raising any meritorious issues. This Court finds Applicant has not proven appellate counsel was ineffective in this regard.

A defendant is entitled to effective assistance of appellate counsel. Southerland v. State, 337 S.C. 610, 615, 524 S.E.2d 833, 836 (1999). Generally, in analyzing a claim of ineffective assistance of appellate counsel, the Court applies the Strickland test just as it would when analyzing a claim of ineffective assistance of trial counsel. Southerland v. State, 337 S.C. at 616, 524 S.E.2d at 836. Thus, an applicant must prove 1) appellate counsel's performance was deficient, and 2) the applicant was prejudiced by appellate counsel's deficient performance. Bennett v. State, 383 S.C. 303, 309, 680 S.E.2d 273, 276 (2009). To prove prejudice, the applicant must show that, but for counsel's errors, there is a reasonable probability he would have prevailed on appeal. Anderson v. State, 354 S.C. 431, 434, 581 S.E.2d 834, 835 (2003).

This Court finds Applicant has failed to prove appellate counsel was ineffective. At the PCR hearing, appellate counsel generally explained the Anders procedure. He testified he reviewed Applicant's trial transcript and did not find any meritorious, preserved issues. He

further testified the Court of Appeals provided Applicant an opportunity to submit his own pro se brief—which Applicant did, and after its review the Court of Appeals dismissed Applicant's appeal. This Court finds the foregoing testimony by appellate counsel to be credible. This Court further finds that based on counsel's review of the transcript and his conclusion that there were not any meritorious issues to raise, counsel was not deficient for filing an Anders brief. Finally, Applicant did not set forth any meritorious, preserved issue that could have been raised and thus did not prove prejudice. Thus, this claim is denied and dismissed with prejudice.

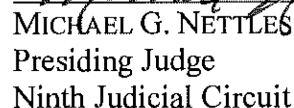
CONCLUSION

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 Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on his behalf. Rule 71.1(g), SCRCP. Attention is directed to Rule 243, SCACR, for procedures for appeal.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED THIS 28 day of August, 2023.



MICHAEL G. NETTLES
Presiding Judge
Ninth Judicial Circuit

Florence, South Carolina

BCS/0333436
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2017-14007

ARREST WARRANT NUMBER

K740579

DATE OF ARREST

08/12/2017

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury *Date:* FEB 05 2018

VERDICT

Foreperson of Petit Jury *Date:*

DOCKET NO. 2018-GS-10-00558

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2018

THE STATE

VS.

DOUGLAS LAVANCE YOUNG
[redacted] DOB: [redacted]

Indictment for

MURDER

SC Code: § 16-03-0010
CDR Code: 0116

FILED
2/12/2018 12:25:47 PM
JULIE J. ARMSTRONG
CLERK OF COURT

RECEIVED
DEC 09 2019
SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

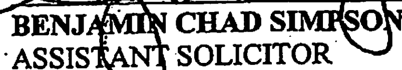
INDICTMENT

At a Court of General Sessions, convened February 2018, the Grand Jurors of Charleston County present upon their oath:

MURDER

That in Charleston County, South Carolina on or about August 12, 2017, the defendant, Douglas Lavance Young, feloniously, willfully and with malice aforethought, did, alone or in concert with others, kill and murder Christopher Mullen by means of gun shot wounds, and Christopher Mullen did die in Charleston County as a proximate result thereof on or about August 12th, 2017; in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



BENJAMIN CHAD SIMPSON
ASSISTANT SOLICITOR

BCS/0333436
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2017-14007

ARREST WARRANT NUMBER

K740580

DATE OF ARREST

08/12/2017

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury *Date:* FEB 05 2018

VERDICT

Foreperson of Petit Jury *Date:*

DOCKET NO. 2018-GS-10-00559

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2018

THE STATE

VS.

DOUGLAS LAVANCE YOUNG
[redacted] **DOB:** [redacted]

Indictment for

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

SC Code: § 16-23-0490
CDR Code: 0549

FILED
2/12/2018 12:25:47 PM
JULIE J. ARMSTRONG
CLERK OF COURT

RECEIVED
DEC 09 2019
SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened February 2018, the Grand Jurors of Charleston County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That in Charleston County, South Carolina, on or about August 12, 2017, the Defendant, Douglas Lavance Young, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit: Murder; in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

BENJAMIN CHAD SIMPSON
ASSISTANT SOLICITOR

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

The State, Respondent,

v.

Douglas Lavance Young, Appellant.

Appellate Case No. 2019-002034

Appeal From Charleston County
Edgar W. Dickson, Circuit Court Judge

Unpublished Opinion No. 2022-UP-041
Submitted January 1, 2022 – Filed February 9, 2022

APPEAL DISMISSED

Appellate Defender Adam Sinclair Ruffin, of Columbia, and Douglas L. Young, pro se, both for Appellant.

Attorney General Alan McCrory Wilson and Senior Assistant Deputy Attorney General Melody Jane Brown, both of Columbia, for Respondent.

PER CURIAM: Dismissed after consideration of Appellant's pro se brief and review pursuant to *Anders v. California*, 386 U.S. 738 (1967). Counsel's motion to be relieved is granted.

APPEAL DISMISSED.[1]

KONDUROS, HILL, and HEWITT, JJ., concur.

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