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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM BAMBERG COUNTY
Court of Common Pleas

The Honorable Edward W. Miller, Circuit Court Judge

Case No. 2022-CP-05-00071

Aaron L. Williams, #385644 ..... Petitioner,

v.

State of South Carolina, ... Respondent.

NOTICE OF APPEAL

Applicant, Aaron L. Williams, appeals the order of the Honorable Edward M. Miller, filed on or about February 26, 2024, and received by the undersigned on March 28, 2024.

April 4, 2024

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STATE OF SOUTH CAROLINA COUNTY OF BAMBERG	)	IN THE COURT OF COMMON PLEAS FOR THE SECOND JUDICIAL CIRCUIT
Aaron Lamar Williams, #385644, Applicant, v. State of South Carolina, Respondent.	)	Case No. 2022-CP-05-00071 **ORDER OF DISMISSAL**

INTRODUCTION

The matter before this Court arises from an application for post-conviction relief ("PCR") commenced by Aaron Lamar Williams ("Applicant") on February 14, 2022. On January 17, 2023, a hearing into the matter was convened before the Honorable Edward W. Miller at the Aiken County Courthouse. Applicant was present and represented by Ashley A. McMahan, Esquire. Assistant Attorney General Zachary W. Jones represented the State. After hearing the testimony at the PCR hearing and upon full review of the record, this Court finds all of Applicant's allegations are without merit. For the reasons discussed below, this Court denies and dismisses this application with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections. On March 21, 2021, Applicant and two co-defendants drove to a carwash in Denmark, South Carolina, while armed with deadly weapons, and proceeded to violently attack a victim, resulting in the firing of several shots which struck the victim and Applicant. The entire incident was captured on

surveillance video. Applicant was subsequently arrested by the Denmark Police Department for his involvement in the crime. Thereafter, during its May 2021 term, the Bamberg County Grand Jury indicted Applicant for attempted murder (2021-GS-05-0042). Applicant was represented by C. David Hayes ("Counsel") of the Second Circuit Public Defender's Office. Deputy Solicitor David W. Miller and Assistant Solicitor Carson M. Alexander, of the Second Circuit Solicitor's Office, prosecuted the case.

On July 31, 2021, Applicant, alongside counsel, appeared before the Honorable Clifton Newman, circuit court judge, for trial. Following jury selection, Applicant elected to forgo his constitutional right to a jury trial and enter a plea of guilty to the indicted offense of attempted murder based on a recommendation from the State for a sentence of no more than twenty years of imprisonment. After a thorough colloquy wherein Judge Newman ascertained Applicant was freely, knowingly, and intelligently entering his plea, Judge Newman accepted Applicant's plea and sentenced him to a ten-year term of imprisonment. Applicant did not pursue a direct appeal.

CURRENT APPLICATION

In his application for post-conviction relief, Applicant alleges he is entitled to relief based on the following:

10(a) "I was wrongful charge"

11(a) "I did not specific intent to commit murder"

10(b) "Evidence did not show everything happened"

11(b) "I never fired a weapon" and "the victim fired the first shots."

(errors in original). As requested relief, Applicant states he is seeking "my sentence to be overturn and be release from SCDC."

FINDINGS OF FACT & CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the PCR hearing, observed the witnesses, passed upon their credibility, and weighed their testimony accordingly. Before the Court are the application for post-conviction relief, the records of the Bamberg County Clerk of Court concerning the subject convictions, and the records of Applicant's plea proceedings. After hearing the testimony presented and considering the legal arguments and pleadings, this Court finds all of Applicant's allegations are without merit. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings of facts and conclusions of law based upon all of the probative evidence presented:

Wrongful Charge and Lack of Evidence

The allegations raised in Applicant's PCR application—that he was wrongfully charged with attempted murder because he lacked specific intent to kill, and that the evidence did not support the charge of attempted murder—do not constitute cognizable claims for relief in a PCR proceeding.

An applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy . . . . Provided, however, that *this section shall not*

be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.

S.C. Code Ann. § 17-27-20(A) (emphasis added). Further, section 17-27-20(B) expressly states PCR "is not a substitute for . . . direct review of the sentence or conviction." A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. *Drayton v. Evatt*, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993).

Therefore, Applicant's allegations that the evidence did not support his conviction are explicitly barred by S.C. Code Ann. § 17-27-20(A)(6). In addition, Applicant pled guilty to the charge of attempted murder. "A plea of guilty is an admission or a confession of guilt, and is as conclusive as the verdict of a jury; it admits all matter of fact averments of the accusation." *State v. Allen*, 261 S.C. 448, 451, 200 S.E.2d 684, 686 (1973).

Therefore, the Court finds the allegations raised in Applicant's PCR application meritless. However, the State, in its return to Applicant's PCR application, construed Applicant's application as raising a claim of ineffective assistance of counsel, and the testimony at the evidentiary hearing concerned Counsel's effectiveness. Therefore, the Court will address the allegations as if they had been originally framed as ineffective assistance claims. *See Fortune v. State*, 428 S.C. 545, 558, 837 S.E.2d 37, 44 (2019) ("As we have repeatedly explained, in most instances, a PCR claim is properly presented as a Sixth Amendment claim for ineffective assistance of counsel."); *Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) ("In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel.").

Ineffective Assistance of Counsel, Generally

In a PCR action, Applicant bears the burden of proving the allegations in his application by a preponderance of the evidence. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985); Rule 71.1(e), SCRCP. Where the application alleges ineffective assistance of counsel as a ground for

relief, Applicant must prove that "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 v. Washington*, 466 U.S. 668, 686 (1984); *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*. First, Applicant must prove that counsel's performance was deficient. *Strickland*, 466 U.S. at 687; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures 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). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. "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 Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109–10 (2011). "[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight." *Yarborough v. Gentry*, 540 U.S. 1, 6 (2003); *see also Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) ("[C]ounsel's performance need not be optimal to be reasonable.").

Second, counsel's deficient performance must have prejudiced 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 (quoting *Strickland*, 466 U.S. at 694). "This does not require a showing that counsel's actions 'more likely than not

altered the outcome,' but the difference between *Strickland*'s prejudice standard and a more-probable-than-not standard is slight and matters 'only in the rarest case.'" *Harrington*, 562 U.S. at 111-12 (quoting *Strickland*, 466 U.S. at 697). "The likelihood of a different result must be substantial, not just conceivable." *Id.* at 112.

In the context of a guilty plea, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). An applicant who enters a plea on the advice of counsel may "only attack voluntary, knowing and intelligent character of the plea by showing that plea counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the [applicant] would not have pled guilty, but would have insisted on going to trial." *Roscoe*, 345 S.C. at 20, 546 S.E.2d at 419.

Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. *See Blackledge v. Allison*, 431 U.S. 63, 73–74 (1977) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible."). "Indeed, where a thorough colloquy is conducted, courts must exercise caution in setting aside the guilty plea." *Garren v. State*, 423 S.C. 1, 12, 813 S.E.2d 704, 712 (2018); *see Jamison*, 410 S.C. at 469–71, 765 S.E.2d at 129–30 (observing that "guilty plea[s] must be treated as final in the vast majority of cases" and instructing that caution must be exercised so as not to "undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea"). Statements made during a guilty plea should be considered conclusive, unless an Applicant presents valid reasons why he should

be allowed to depart from the truth of his statements. *Dalton v. State*, 376 S.C. 130, 137–38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)). In evaluating an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing. *Wolfe*, 326 S.C. at 165, 458 S.E.2d at 370; *cf. Rayford v. State*, 314 S.C. 46, 443 S.E.2d 805 (1994) (finding that, where the transcript of the guilty plea proceeding refuted applicant's claim that he did not understand the terms of a plea bargain, granting PCR was inappropriate notwithstanding applicant's claim his lawyer misadvised him).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696–97.

Failure to Prepare Trial Strategy

At the evidentiary hearing, Applicant argued that he decided to plead guilty because Counsel had failed to come up with a viable trial strategy. The Court finds this allegation without merit.

Applicant testified that, prior to pleading guilty, he wanted to relieve Counsel because he felt that Counsel had not prepared a trial strategy. He claimed he wanted to go to trial, but he ended up pleading guilty because of the lack of a trial strategy. Applicant admitted he had gone with his brother to fight the victim in retaliation for an earlier fight between Applicant's brother

and the victim the day before. Applicant also admitted the shooting was caught on video. Applicant did not propose any defense strategy.

Counsel testified that the confrontation between Applicant and the victim was captured on video. He testified the video showed Applicant and his brother driving to the victim's place of work at a fast rate of speed, Applicant getting out of the car and beating up the victim, and Applicant's brother shooting the victim multiple times. Counsel testified he believed the video proved Applicant and his brother were the aggressors in the incident, there was no meritorious defense, and he thought it was likely that Applicant would be convicted at trial under the "hand of one, hand of all" doctrine. He testified he asked other lawyers for their opinions, and all the lawyers he consulted agreed with him. He testified he believed the plea offer—which was for a cap of 20 years—was the best offer Applicant was going to get, and he believed accepting the offer was in Applicant's best interest. He testified Applicant only got sentenced to 10 years, which Counsel viewed as a highly favorable outcome. Counsel explained that Applicant did not inform him of any witnesses or other potential avenues of investigation to pursue.

Based on Counsel's credible testimony, the Court finds Applicant has failed to prove Counsel's performance fell below an objective standard of reasonableness. Applicant claims Counsel was deficient for failing to come up with a viable trial strategy; however, Applicant did not articulate any trial strategy Counsel could have raised, much less one that would have been viable in light of the damning video evidence in his case. Counsel's conclusion that it was in Applicant's best interest to accept the State's plea offer was well within the range of professionally competent advice. Therefore, the Court finds Applicant has not met his burden of proving Counsel's performance was deficient, and this allegation of ineffective assistance must be denied and dismissed with prejudice.

CONCLUSION

Based on the foregoing, this Court finds Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Accordingly, this application must be denied and dismissed with prejudice.

Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review pursuant to Rule 203, SCACR. Applicant has a right to 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). Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 14 day of February, 2024.

THE HONORABLE EDWARD W. MILLER
Presiding Judge
Second Judicial Circuit

Greenville, South Carolina