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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT
APPEAL FROM HAMPTON COUNTY
Court of Common Pleas
The Honorable J. Derham Cole, PCR Action Judge
2022-CP-25-00238

JOHNNIE MCKNIGHT, #268238,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

NOTICE OF APPEAL

Johnnie McKnight appeals the denial of his post-conviction relief application. The post-conviction relief action was heard and denied by the Honorable J. Derham Cole, circuit court judge, on May 7, 2024, and was denied by written order issued filed on January 6, 2025.

Applicant received notice of the judgement on January 13, 2025.

/s Chelsey F. Marto
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STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF HAMPTON)

Johnnie Lee McKnight, #268238,)

ORDER

FILED)
Applicant AM/PM)

v.)

JAN - 6 2024)

**VACATING FIVE-YEAR SENTENCE
AND DISMISSING ALL REMAINING CLAIMS**

State of South Carolina,)

MYLINDA D NETTLES)
CLERK OF COURT)
HAMPTON COUNTY, SC)
Respondent.)

Civil Action No. **2022-CP-25-00238**

This matter is before the Court by way of an application for post-conviction relief (PCR) filed by Johnnie Lee McKnight (Applicant) on August 24, 2022. On May 7, 2024, an evidentiary hearing was held with Applicant present and represented by Chelsey F. Marto, Esquire. Assistant Attorney General Danielle Dixon represented the respondent. Applicant testified and called as witnesses trial counsel Trasi Campbell and Assistant Circuit Solicitor Heather Swanson. Following a thorough review of the records before this Court and the testimony and evidence presented at the hearing, this Court finds the five-year sentence for Possession of a Weapon During the Commission of a Violent Crime should be vacated pursuant to S. C. Code Ann. Section 16-23-490(A) due to the imposition of a life sentence for the accompanying violent crime of Murder. As to the remaining allegations, this Court finds them to be without merit. Relief as to those allegations should be and are therefore denied and the application dismissed with respect to those claims.

FACTS & PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a life sentence. In September 2018, the Hampton Grand Jury indicted Applicant for two counts of Murder (2017-GS-25-00455 and 00462), three counts of Attempted Murder (2017-GS-25-00456, 00457, 00458), Discharging a Firearm Into a Dwelling (2017-GS-25-00459), and Possession of a Weapon During the Commission of a

Violent Crime (2017-GS-25-00460) arising from the fatal shooting of Alydia Ling (Victim) and her unborn baby on August 31, 2017.¹

On February 4-6, 2019, Applicant proceeded to trial before Circuit Judge Carmen T. Mullen and a jury before whom he raised the defense of "Self-defense". Assistant Public Defender Trasi Campbell represented Applicant. Assistant Circuit Solicitor Hunter Swanson prosecuted the case. The jury convicted Applicant as indicted, and Judge Mullen sentenced him concurrently to life in prison for each Murder conviction, thirty years for each Attempted Murder conviction, ten years for Discharging a Firearm Into a Dwelling, and five years for the weapon charge.

Applicant filed a direct appeal. Chief Appellate Defender Robert Dudek filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), raising the following issue:

Did the trial court err by admitting remote, more than two-month-old text messages between Applicant and the victim when they were going to confuse the jury, since some of them threatened the decedent while others showed a warm relationship, and which invited undue prejudicial speculation?

The Court of Appeals dismissed pursuant to Anders. Applicant filed a pro se Petition for Rehearing, which was denied. Applicant also filed a pro se Petition for Writ of Certiorari, which was dismissed. The remittitur was sent September 24, 2021.

SUMMARY OF TRIAL TESTIMONY

At trial, Officer Marcus Miller testified he responded to a shooting on August 31, 2017. He recalled hearing a series of shots in "rapid succession." When he arrived, Shamond Ling, the victim's brother, was outside yelling, "He shot my sister. He shot my sister. . . . It was Johnnie Mack." (Tr. 134-35). Officer Zatch Pouchprom also responded to the scene and spoke with Ling, who stated Applicant was driving a blue Honda and had "opened fire" in front of the Ling home. (Tr. 151-56). Police recovered several shell casings from the scene. (Tr. 162). Michelle Bryan, a paramedic, testified she responded and found a young pregnant woman lying on her back in the door of the home; she did not have a pulse. (Tr. 164).

¹ DNA testing indicated Applicant was the father of Ling's unborn baby.

Ling testified he lived with his mother and sixteen-year-old Victim. (Tr. 170-71). He recalled standing outside that evening when Applicant pulled up in a blue Honda and told Victim to get in the car. Ling stated he told Victim to go outside. He testified Applicant pulled away but then returned "yelling and raging" and began shooting. (Tr. 171).

Victim's mother, Deborah Ling, testified Victim had been in a relationship with Applicant, who was much older than Victim. (Tr. 197-99). She testified Applicant passed their home that evening in a Blue Honda; thereafter, he returned and began cursing outside. Deborah testified she was standing near Victim "not far from the door" when she was shot. (Tr. 202-03).

Officer Alex Williams testified law enforcement located Applicant's Honda, which had a bullet hole in the right driver's side door. (Tr. 282-83). Jennifer Nates, an expert in trace analysis and gunshot residue analysis, identified particles of gunshot residue taken from the Honda's gear shift, driver's door, and steering wheel. (Tr. 340-41).

Gladys Roberts, a close family friend, testified about a prior altercation between Victim and Applicant. According to Roberts, she and Victim were sitting outside when Applicant pulled up and ran through the house arguing with Victim. Roberts stated Applicant grabbed Victim's hair and swung about three times before Roberts intervened. She testified Applicant retrieved a black gun from his car, pointed it at Roberts, and threatened to kill her. (Tr. 243-244).

Dr. Cynthia Schandl, a forensic pathologist, testified Victim died of a single gunshot wound that entered her left cheek and exited the side of her neck, severing her spinal cord. (Tr. 349). Dr. Schandl could not determine the position of Victim's body at the time of the shooting. She opined that based on the absence of skin abrasions or soot, the gun was three feet or more from Victim or the bullet passed through an intermediate object before hitting Victim. (Tr. 349-51).

Agent Viann Brantley recovered text messages from Applicant's phone. The texts included messages such as, "We done, yo. That crack head can have you."; "Die, birth; die, bit**."; "I hate you, bit**."; and "Bit**, you done." (R. 323-26). On cross-examination, Brantley identified other messages that read, "Somewhere loving you," "Good morning, my beautiful lady," and "Bae, I love you" (R. 328-30).

CURRENT PCR APPLICATION

On August 24, 2022, Applicant filed this PCR application raising sixteen allegations of trial court error; eighteen allegations of prosecutorial misconduct; sixty-one allegations of ineffective assistance of trial counsel; and five allegations of ineffective assistance of appellate counsel. As relief, Applicant requested his conviction and sentence be vacated, and/or a new trial. Thereafter, Applicant filed an amended application alleging:

I. Ineffective assistance of Trial Counsel for:

- a. Failing to mitigate the sentence.
- b. Failing to review discovery with Applicant, including failing to provide Applicant a copy of the Gladys Roberts police report.
- c. Failure to investigate:
 - i. Witnesses from the area, including the 911 callers;
 - ii. Shamond Ling's prior robbery of Applicant at a night club and Ling's prior UCP arrest;
 - iii. Alydia Ling's medical records;
 - iv. Information concerning Wayner Ritter;
 - v. Dr. Cynthia Shandl and review prior cases she testified in.
- d. Failing to object to:
 - i. The States' opening and closing statements addressing their involving things not in evidence, things that misinterpreted the evidence and testimony, burden shifting of the self-defense defense, the victim's and defendant's ages, their prior relationship, the paternity of the fetus, and for referring to the fetus as "Baby Boy Ling";
 - ii. The State entering four .224 shell casings and the fired projectile found near the Chevy into evidence;
 - iii. The testimony of Gladys Roberts;
 - iv. The evidence gathered off the blue Honda for lack of chain of custody;
 - v. The text messages;
 - vi. Photographs and videos of Ms. Ling used to inflame the passion of the jury;
 - vii. Captain Williams' testimony after he observed everyone else testify;
 - viii. The fired projectile;
 - ix. The Court' improper charge pressuring the jury to reach a decision by saying thy can leave once the verdict is unanimous and its mention of "Baby Boy Ling";
 - x. Testimony by Michal Bryan about grazes or bullet holes in the screen door and door frame;

- xi. The imposition of a five-year sentence for the weapons possession charge when Applicant was already sentenced to life;
 - xii. The Court charging the jury on implied malice;
- e. Failure to cross-examine:
- i. Ms. Roberts effectively;
 - ii. SLED Agent Smith about the jacketed rounds and about comparing Exhibit 44 to the photographs of the fired projectiles to the same;
 - iii. Officer Manor about if he was wearing a body camera;
 - iv. Stuart Atkinson about the location of a cell phone;
 - v. Shamond Ling with photographs that would show he liked about his ability to see the blue Honda Accord clearly;
 - iv. Debra Ling about her testimony regarding an accident;
 - vii. Captain Williams about jacketed rounds;
 - viii. Dr. Cynthia Schandle regarding fragments of jacketed rounds and the discrepancy with Ms. Ling being more than nine months pregnant;
- f. Failing to request an adverse inference charge because of the lost or destroyed evidence;
- g. Failing to request a voluntary or involuntary manslaughter charge;
- h. Failure to move for a mistrial or new trial based on the cumulative error doctrine;
- i. Bolstering the State's case during closing argument by admitting to some of the State's contentions and theory and failing to support the defense with a self-defense argument;
- j. Failure to re-analyze body camera footage regarding whether Shamond Ling was truthful about where he placed his gun and holster;
- k. Failing to renew the motion to sequester;
- l. Bolstering the State's case by asking if Ms. Ling was shot while in the house but failing to show that it was impossible for Alydia to have been shot through the left side from the angle described;
- m. Making improper opening and closing statements indicating she was forced to represent Applicant;
- n. Failing to move to quash the indictment;
- o. Selecting a juror who is partial to law enforcement;
- p. Failing to renew Applicant's motion to proceed forward pro se;
- q. Discouraging Applicant from testifying;
- r. Stipulating to the chain of custody;

- s. Failing to properly impeach and cross-examine the State's witnesses;
- t. Failing to add the fact that the State did not meet their burden of proof in proving what weapon was the murder weapon in her directed verdict motion and motion for new trial;
- u. Failing to renew the motion to dismiss for spoliation and failing to move to dismiss the evidence both on the basis of bad faith and because the evidence was exculpatory;
- v. Failing to request an immunity hearing;
- w. Saying in opening argument that she was essentially forced to represent Applicant;
- x. Failing to pursue a pre-trial motion in limine to exclude mention of the victim being underage and mention of the infant as "Baby Boy Ling";
- y. Failing to hire appropriate personnel to secure fired projectiles from the Ling residence and the Honda Accord, and to conduct an extraction of Ms. Ling's phone;
- z. Failing to conduct a thorough pre-trial conference with Applicant;
- aa. Failing to obtain records from Applicant's and Ms. Ling's cell phone;
- bb. failing to contest the admissibility of evidence obtained from Samsung Galaxy S6 and the HP laptop for lack of warrants;
- cc. Failing to obtain body camera footage of Officer Miller and Corporal Pouchprom from interviews of parents of juveniles at the Estill Police Department;
- dd. Failing to interview and obtain statements from witnesses and subsequently having subpoenas issued for those witnesses.

2. Prosecutorial Misconduct:

- a. Violating Brady by failing to provide Applicant with evidence, including:
 - i. The body camera video of Officer Marcus Miller and names and statements of witnesses on the video;
 - ii. The video of Corporal Zatch Pouchprom;
 - iii. The records from Defendant's phone;
 - iv. The records from Alydia Ling's phone;
 - v. The fired projectiles from the Ling's residence;
- b. Making improper references throughout the trial, including opening, closing, and from State's witnesses regarding Ling's relationship with Applicant, Applicant's and Ling's respective ages, the paternity of the fetus, and by referring to the fetus as "Baby Boy Ling";

- c. The unnecessary delay from Applicant's charge to when he was indicted;
 - d. For eliciting detailed testimony concerning a prior difficulty from Gladys Roberts;
 - e. Making improper statements and references in closing argument that constituted burden shifting, involved statements related to things not in evidence, involved incorrect statements or information, or statements that implicated counsel's alleged intention to mislead the jury;
 - f. Losing or destroying evidence;
 - g. Entering photographs and video of Ms. Ling that inflamed the passions of the jury.
3. Ineffective Assistance of Appellate Counsel :
- a. Failing to raise the issue that Applicant was erroneously deprived of his right to proceed forward pro se;
 - b. Failing to brief on appeal the inadmissibility of all evidence obtained from the blue Honda Accord due to the lack of chain of custody.

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the records before it, including the Hampton County Clerk of Court records of the subject convictions; Applicant's records from the South Carolina Department of Corrections; and Applicant's appellate records, including the trial transcript. This Court has further had the opportunity to observe the witnesses presented at the evidentiary 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.

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 (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, 466 U.S. at 687-88. 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." Butler, 286 S.C. at 442, 334 S.E.2d at 814 (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 mitigate the sentence (1)(a)

Applicant contends counsel was ineffective for failing to mitigate the sentence. At the PCR hearing, counsel testified she spoke with Applicant's mother who was prepared to speak on his behalf; however, Applicant's mother left before sentencing, and counsel attempted to call her but could not get a response. Based on counsel's credible testimony, this Court finds counsel's conduct was reasonable under prevailing professional norms and not deficient. Further, based upon this Court's review, counsel's mitigation was reasonable under prevailing professional norms and not deficient. (Tr. 454-56). Applicant failed to offer any additional mitigation or additional witness at the PCR hearing that likely would have changed the sentence imposed. Applicant did not prove deficiency or prejudice. This claim is without merit and relief denied.

Failed to review discovery (1)(b)

Applicant next contends trial counsel as ineffective for failing to review discovery with him. Specifically, he contends counsel failed to provide Applicant a copy of the Gladys Roberts police report. This Court finds Applicant did not prove this ground.

At the PCR hearing, counsel testified she met with Applicant eight times prior to trial and reviewed discovery with him. (PCR Tx. 5-6). When questioned specifically about Roberts' police report, counsel testified she did not specifically recall that report, but her practice was to provide clients all the discovery. (PCR Tx. 6-7). Applicant agreed that counsel's testimony that they met about eight times "might be right" but asserted they discussed personal things more than his case. He recalled, however, reviewing discovery, including clips from three DVDs, witnesses that would testify against him, and physical evidence, including GSR and projectiles recovered from the scene.

This Court finds credible counsel's testimony that she met with Applicant eight times and provided him discovery, and it was her practice to provide all discovery to clients. This Court finds counsel's meetings with Applicant and discussion of discovery was reasonable under prevailing professional norms and not deficient. Further, Applicant's argument as to how the police report could have been used (set forth more fully in section (1)(d)(iii) below) is tenuous at best, and Applicant has not overcome the presumption that counsel's decision-making here was reasonable under prevailing professional norms. Finally, Applicant did not produce Roberts' police report at the PCR hearing—leaving this Court to speculate about whether it exists and what impact it would have on the trial. Applicant did not set forth any other specific discovery counsel should have further reviewed that would have reasonably changed the outcome of trial. Applicant thus did not prove deficiency or prejudice. This claim is without and relief denied.

Failed to investigate²

Applicant next contends counsel was ineffective for failing to investigate. Specifically, he contends counsel failed to investigate witnesses from the area, including the 911 callers; Shamond Ling's prior robbery of Applicant at a night club and Ling's prior arrest; Alydia Ling's medical records; information concerning Wayner Ritter; and Dr. Cynthia Shandl, including reviewing prior cases she testified in. Applicant also contends counsel was ineffective for failing to obtain records from Applicant's and Victim's cell phone; obtain

² This section combines allegations (1)(c)(i-v), (1)(aa), (1)(cc), and (1)(dd), as set forth above.

body camera footage of Officer Miller and Corporal Pouchprom from interviews of parents of juveniles at the Estill Police Department; and obtain statements from witnesses and issue subpoenas for those witnesses.

At the PCR hearing, Applicant testified counsel failed to obtain a copy of Roberts' police report; talk to witnesses; investigate an incident where Shamond robbed him at a club or obtain that incident report; investigate Victim's medical records; or investigate information that Wayne Ritter was arrested for molesting Victim and was not supposed to be at the home. He further averred Shamond frequently carried an assault rifle and had been arrested for it, and he alleged counsel should have investigated whether Shamond owned an assault rifle to impeach his testimony that he never owned or possessed one. Regarding Dr. Schandl, Applicant alleged the State could not prove which bullet struck and killed Victim, and he believed counsel should have sought an expert forensic pathologist to determine the type of gun used based on the bullet wound. Finally, Applicant alleged Victim's cell phone records would have shown he was on the phone with Victim prior to the shooting.

Initially, Applicant did not present any witnesses at the PCR hearing that counsel would have uncovered by further investigation. Applicant did not introduce (1) Robert's police report, (2) credible evidence that Shamond had previously robbed Applicant or been arrested; (3) Victim's medical records; (4) credible evidence or information about Ritter; (5) any prior cases or evidence regarding Dr. Schandl; (6) body camera footage; (7) witness statements; or (8) cell phone records.³ Without such evidence, this Court is left to speculate about what impact (if any) any such evidence would have had on the trial or whether such evidence even exists. Applicant thus did not prove prejudice.

Applicant likewise did not prove deficiency. Initially, based on counsel's credible testimony about her investigation, this Court finds counsel's investigation was reasonable under prevailing professional norms and not deficient. Counsel credibly testified she visited the home and took photos and measurements; investigated the individuals that were identified as eyewitnesses; listened to the 911 calls but determined they were not helpful to the defense; and investigated Ritter but determined he did not see the shooting. (PCR Tx. 7-9).

³ In another allegation, Applicant complains that counsel did not object to the admissibility of his cell phone records.

Counsel further credibly testified she reviewed Dr. Schandl's CV, found her credible, and had no reason to believe she was not a forensic pathologist. (PCR Tx. 9). Regarding Victim's medical records, counsel credibly testified she obtained EMS records, the coroner's report, and DSS records; and Applicant "happily admitted paternity of the child." This Court thus finds obtaining Victim's OBGYN or any other medical records would not have been beneficial in any way. Based on the foregoing, this Court finds counsel's investigation of these matters was not deficient.

Regarding the incident with Shamond, counsel credibly testified she knew Shamond and Applicant had a disgruntled history, but she was unaware of a prior robbery. Counsel likewise credibly testified she investigated Shamond's alleged prior unlawful carrying arrest but did not have any information to support that conviction. Based on the foregoing, counsel's investigation of Shamond was reasonable under prevailing norms and not deficient.

Regarding Victim's cell phone records, this Court finds evidence that Applicant and Victim were on the phone prior to the shooting would not have aided his self-defense theory—especially here where Shamond testified that Applicant had initially pulled up to the home and told Victim to get in the car. (Tr. 171-72). In other words, no one disputed that Victim and Applicant spoke before the shooting.⁴ Applicant's remaining allegations about counsel's alleged deficiencies in the investigation are tenuous as to how such evidence could have change the outcome. Applicant has failed to prove deficiency or prejudice related to counsel's investigation. This claim is without merit and relief denied.

Failed to object – State's opening and closing (1)(d)(i)

Applicant asserts counsel was ineffective for not objecting to the State's opening and closing statements addressing their involving things not in evidence, things that misinterpreted the evidence and testimony, burden shifting of the self-defense defense, the victim's and defendant's ages, their prior relationship, the paternity of the fetus, and for referring to the fetus as "Baby Boy Ling." This Court finds

⁴ This Court notes the cell phone data expert testified he was unable to extract information from the pink cell phone belonging to Victim—making counsel's failure to obtain this information reasonable under prevailing professional norms.

Applicant did not prove counsel was ineffective in this regard. This Court finds Applicant has failed to set forth specific, objectionable portions of the State's opening and closing argument. More specifically, this Court finds referencing the ages of the parties, their relationship, the paternity of the fetus, and calling the fetus Baby Boy Ling was not objectionable here. Applicant has not met his burden of proving deficiency or prejudice. This claim is without merit and relief denied.

Failed to object – admission of shell casings and fired projectile⁵

Applicant asserts counsel was ineffective for not objecting when the State entered four .224 shell casings and a fired projectile found near the Chevy. At the PCR hearing, Applicant elaborated on why he believed counsel should have objected to the casings:

Because they were found under a vehicle. I'm not familiar whether it was a cop car or a pedestrian—I mean a civilian, but in any event, there were a lot of undocumented civilians walking around at the crime scene, poking their fingers in bullet holes and touching stuff, kicking things around, and who knows, they could have dug in their pocket and dripped those on the ground. We don't know where they came from. And also if you said there was 30 rounds shot, why are there only four shell casings?

(PCR Tx. 70). He further asserted counsel should have objected to the fired projectile recovered from the house because "it doesn't look like a .223 bullet to me. And they showed us a baggy with the bullet in it, a evidence bag, with the supposed projectile that they found from the house. And if you compare that to the picture that he take—took at the scene, they do not look alike. They're not the same bullets, so I don't know where they got that from." (PCR Tx. 70-71). Counsel testified she did not object "[b]ecause every piece of evidence worked for us, just like it worked for the State. So whatever was coming in evidence, we had a mechanism with which we intended to use that evidence to support his self defense.

Initially, this Court finds that based on counsel's foregoing testimony, which this Court finds credible, counsel articulated a valid strategic reason for not objecting in that she was able to use that evidence to support her self-defense theory. This Court further finds not credible any insinuation by Applicant that the State manufactured evidence or otherwise entered into evidence a projectile that was not recovered from the crime

⁵ This section combines allegations (1)(d)(ii) and (1)(d)(viii) as set forth above.

scene. Finally, this Court finds Applicant failed to set forth a valid, legal objection counsel could have made to the admissibility of the shell casings and fired projectile recovered from the scene. To the extent Applicant is concerned about crime scene contamination, this Court finds counsel raised that issue vigorously throughout trial. Further, any argument regarding spoliation or contamination is not, in and of itself, a basis to exclude evidence; rather, it is something counsel can bring out in cross-examination. Applicant has failed to articulate a valid, legal objection counsel should have made to this evidence and thus did not prove deficiency or prejudice.

Failed to object - testimony of Gladys Roberts (1)(d)(iii)

Applicant next contends counsel was ineffective for not objecting to the testimony of Gladys Roberts. Applicant likewise contends counsel should have obtained Roberts' police report. Applicant has not met his burden. At the PCR hearing, Applicant testified Roberts' credibility was questionable. He asserted Roberts had previously told police that Applicant pulled a gun on her, and based on that statement, he (Applicant) could have been charged with pointing and presenting a firearm, possession of a firearm by a convicted felon, and possession of a firearm during the commission of a violent crime. Applicant stated he was never charged with those crimes, which meant police did not believe Roberts. He thus asserted counsel should have objected when the State called Roberts as a witness because police didn't "even respect her credibility to begin with to even charge me with a crime."

In essence, Applicant seems to believe his tenuous allegation regarding Roberts' lack of credibility was a basis to object to her being called as a witness. This is simply not true. The fact police may or may not have believed her allegations against Applicant on a different, unrelated occasion has no bearing on whether she was being truthful about the underlying murder. To the extent Roberts lacked credibility as a witness, the proper remedy was impeachment—not objecting to her being called as a witness in the first place. This Court finds Applicant has not set forth any viable basis to object to her being called as a witness and thus has not proven deficiency or prejudice. Further, this Court finds Applicant's argument as to how the police report could have been used is tenuous at best, and Applicant has not overcome the presumption that counsel's decision-making here was reasonable under prevailing professional norms. Finally, Applicant did not produce Roberts'

police report at the PCR hearing—leaving this Court to speculate as to whether it exists and what impact it would have on the trial. Applicant thus did not prove deficiency or prejudice. This his claim is without merit and relief denied.

Failed to object – Evidence from Blue Honda (1)(d)(iv)

Applicant contends counsel was ineffective for not objecting to the evidence gathered off the blue Honda for lack of chain of custody. He acknowledged counsel made a pretrial objection to evidence from the Honda. When asked if counsel contemporaneously objected, Applied replied, “I believe she did later, I’m not for sure, but in any event . . . they did not elaborate on why the objection was made, so I’m assuming that’s why [appellate counsel] didn’t appeal that. Nevertheless, I don’t even think the judge ruled on it at pretrial. . . . That’s why I wanted her to reiterate and renew the objection. (PCR Tx. 72). Regarding a photo of a weapon that was extracted from a camera in the Honda, Applicant asserted

There was no return on the warrants, which we don’t know if it was processed properly, and that’s . . . where they got all those text messages, and I believe that’s also where they got that picture of an assault rifle that even the SLED agent said might be a toy, which also they never authenticated that either, that photo.

(PCR Tx. 89). Counsel credibly testified

[T]he blue Honda is an interesting situation, because we always had a position and a theory that Shamond Ling had to have been firing in a different location from where he told law enforcement he was firing from. And I did cross-examine him about that, because the tire—the two front tires on the blue Honda had been completely shredded; and so our position was that they had been shot out, so we did not object to anything to do with the blue Honda. We felt that it worked for Mr. McKnight.

(Tr. 16). Based on counsel’s foregoing testimony, which this Court finds credible, counsel articulated a valid reason for not objecting to evidence from the blue Honda in that much of it was helpful to the defense theory; thus, Applicant did not prove deficiency. Further, the only item from the Honda that Applicant complained about was the picture of the weapon from a camera that was found in the Honda. However, counsel *did* object to the picture, but that objection was overruled.⁶ (Tr. 108-12, 286). Additionally, based on the trial transcript,

⁶ Counsel objected when the photograph was entered, thus preserving that objection for appeal. (Tr. 286).

the warrant to search the camera where the photo was recovered *did* contain a return (Tr. 286), and this Court finds Applicant's testimony that the warrant did not contain a return to be NOT credible. Applicant did not articulate any other viable legal objection that would have reasonably led to the exclusion of the photo (or any other evidence in the car) and thus did not meet his burden of proving deficiency or prejudice in this regard.

Failed to object – Text messages⁷

Applicant next contends counsel was ineffective for not objecting to the text messages extracted from a Samsung Galaxy S6 that was recovered from Applicant at the detention center. Specifically, he avers counsel should have objected based on lack of authenticity and lack of warrants.⁸ At the PCR hearing, he elaborated,

There was no return on the warrants, which we don't know if it was processed properly, and that's . . . where they got all those text messages, and I believe that's also where they got that picture of an assault rifle that even the SLED agent said might be a toy, which also they never authenticated that either, that photo.

(PCR Tx. 89). This Court finds counsel articulated a valid strategic reason for not objecting to the text messages in that she used the messages as part of her closing argument, and “whatever angst that the State intended to draw out from a couple of text messages, the balance of them were not negative, and worked to—to support our position that he had zero reason to want to shoot and kill Alydia.” (Tx.. 416; PCR Tx. 14-15). This Court further finds there is no likelihood the text messages would have been excluded based on lack of authenticity here where the messages were extracted from a phone recovered from Applicant at the detention center. (Tr. 137, 322-23). Finally, Applicant did not present credible evidence of any deficiency in the search warrant for the phone, nor did he articulate any other viable legal objection that would have reasonably led to the exclusion of the text messages. Applicant thus did not meet his burden of proving deficiency or prejudice. This claim is without merit and relief denied.

Failed to object – photographs of Victim (1)(d)(vi)

⁷ This section combines allegations (1)(d)(v) and (1)(bb), as set forth above.

⁸ Applicant also contends counsel was ineffective for not objecting to the admissibility of evidence from an HP laptop; however, no evidence from that laptop was introduced at trial.

Applicant contends counsel was ineffective for failing to object to photographs and videos of Victim used to inflame the passion of the jury. Specifically, at the PCR hearing, Applicant testified the pictures and video showed Victim “laying in a pool of blood with her shirt off with her stomach exposed.” He stated counsel specifically stated, “No objection.” However, counsel *did* object to the photo of Victim at trial. (Tr. 165-66). Further, Applicant did not introduce that picture—or any other picture—at the PCR hearing, leaving this Court to speculate as to the prejudicial impact of the picture. Ultimately Applicant failed to prove deficiency or prejudice. This claim is without merit and relief denied.

Failed to object - Captain Williams testimony⁹

Applicant contends counsel was ineffective for not objecting to Captain Alex Williams’ testimony on the basis that he observed everyone else testify. Likewise, he avers counsel was ineffective for not renewing the motion to sequester. At the PCR hearing, Applicant clarified his allegation related to counsel’s failure to renew the motion to sequester was directly related to the fact Captain Williams was able to testify after being in the courtroom during trial. This allegation lacks merit. At trial, counsel moved to sequester all witnesses—including law enforcement. In response, the solicitor requested the lead investigator be permitted to remain at the table with her, and the court ruled it would allow the lead investigator to remain. (Tr. 12-13). Captain Williams was the lead investigator, and it was within the trial court’s discretion to permit Captain Williams to remain. See State v. Tisdale, 338 S.C. 607, 616, 527 S.E.2d 389, 394 (Ct. App. 2000) (“A party is not entitled to have witnesses sequestered as a matter of right. The decision to sequester witnesses is left to the sound discretion of the trial judge.”). Counsel did, in fact, raise this issue, and once the court ruled, there was no basis for counsel to renew the motion to sequester at the start of Captain Williams’ testimony. Applicant has not shown counsel’s actions here fell below prevailing professional norms and thus has not proven deficiency. Likewise, there is no reasonable probability the trial court would have excluded Captain Williams from testifying had counsel renewed her motion to sequester at the start of his testimony. This claim is without merit and relief denied.

⁹ This section combines allegations (1)(d)(vii) and (1)(k).

Failed to object – Court's comments to jury (1)(d)(ix)

Applicant contends counsel was ineffective for not objecting to the Court's improper charge pressuring the jury to reach a decision by saying they can leave once the verdict is unanimous and its mention of "Baby Boy Ling." Initially, this Court finds calling the fetus "Baby Boy Ling" was not objectionable. Additionally, Applicant failed to specify the portion of the charge he believed was objectionable due to the court "saying the can leave once the verdict is unanimous." This Court has reviewed the jury charge (Tr. 421-40) and did not find any objectional language instructing the jury it could leave when it reached a unanimous verdict. Applicant has not shown deficiency or prejudice. This claim is without merit and relief denied.

Failed to object – Testimony by Michelle Bryan (1)(d)(x)

Applicant contends counsel was ineffective for not objecting to testimony by State witness Michelle Bryan about grazes or bullet holes in the screen door and door frame. Specifically, Applicant averred Bryan was a paramedic and was not qualified as an expert to testify about "grazes and bullet dents" or "grazes and grooves" in the doorframe. This allegation lacks merit.

At trial, the following exchange occurred during paramedic Bryan's direct examination:

Q. Did you notice anything about that screen door?

A. Maybe not specifically the screen door, but I noticed that there were nicks around the door facing, where we walked in.

Q. Okay. Nicks. Do you mean grazes or holes?

A. That's what it looked like to me.

(Tr. 166). Counsel testified she cross-examined witnesses about the grazes, and much of her cross-examination was about trajectory. She elaborated, "[I]t was a part of the theory of our case, the grazes and the bullet holes in the screen door and the door frame, and the blood, where the blood was located by the front door." (PCR Tx. 17).

Critically, the foregoing was proper testimony because it was rationally based on Bryan's perception, helpful to a clear understanding of the determination of a fact, and did not require special knowledge, skill, experience, or training. See Rule 701, SCRE ("If the witness is not testifying as an expert, the witness'

testimony in the form of opinions or inferences is limited to those opinions or inferences which (a) are rationally based on the perception of the witness, (b) are helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and (c) do not require special knowledge, skill, experience or training.”). Thus, counsel’s failure to object on this basis was reasonable under prevailing professional norms and not deficient. Likewise, counsel articulated a valid basis for not objecting in that she used evidence of grazes and bullet holes to further her theory about the trajectory of the bullets. Further, because this was not improper testimony, it is not reasonably probable the testimony would have been excluded had counsel objected. Finally, testimony that the doorframe had nicks or holes was cumulative to other evidence from trial—including pictures of the doorframe—and it is patently undisputed that there were multiple bullet holes in the side of the home.¹⁰ Thus, there is no reasonable probability the outcome would have been different had counsel objected to (and successfully excluded) the foregoing testimony. This claim is without merit and relief denied.

Failed to object – Sentence (1)(d)(xi)

Applicant contends counsel was ineffective for failing to object to the imposition of a five-year sentence for the weapons possession charge when Applicant was already sentenced to life. Applicant is correct, and the State has conceded this issue. See S.C. Code Ann. § 16-23-490(A). Thus, Applicant’s *sentence* for the weapon charge is hereby vacated.¹¹

Failed to object – Implied malice charge (1)(d)(xii)

Applicant contends counsel was ineffective for not objecting when the court charged the jury on implied malice. At the PCR hearing, he averred South Carolina law prohibits an implied malice charge when a defendant proceeds on self-defense. Under the law that existed at the time of trial, a trial court could not charge the jury that malice could be inferred *from the use of a deadly weapon* if evidence was presented to

¹⁰ In fact, several of Applicant’s current allegations center on his contention that law enforcement or counsel should have extracted additional bullets that remained lodged in the home.

¹¹ Since this is a challenge to the sentence alone and not the conviction itself, the possession of a weapon conviction shall remain.

reduce, mitigate, excuse, or justify the homicide. See State v. Belcher, 385 S.C. 597, 685 S.E.2d 802 (2009), *overruled by* State v. Burdette, 427 S.C. 490, 832 S.E.2d 575 (2019). However, the trial court's inferred malice charge here did not include language related to a deadly weapon.¹² The charge was a correct under the law that existed at the time of trial,¹³ and Applicant has not shown deficiency or prejudice from counsel's failure to object. This claim is without merit and relief denied.

Failed to cross-examine Roberts (1)(e)(i)

Applicant contends counsel was ineffective for not effectively cross-examining Roberts. At the PCR hearing, he averred counsel should have cross-examined Roberts on the following:

Ms. Roberts stated something about, Yeah, he came over here in that little, blue Honda.' Okay, I wanted her to establish what blue Honda? Because if it's the Honda that's in question in this case, that Honda purported, as the record shows, was not in my possession until the month prior to this incident, so how can I have that same Honda a year prior? And I believe the State knew that and elicited this testimony.

(PCR Tr. 79). Counsel testified she did not cross-examine Roberts because she had cross-examined her during the proffer and "knew she was going to be dynamite." She further averred Roberts' "testimony was not too terribly damaging," and she was concerned that if she "asked her a single or series of questions, there's not telling what would have come out of her mouth." Counsel explained Roberts "was clearly not a fan of Mr. McKnight," and counsel was concerned Roberts would damage their case. (PCR Tx. 20-21). Counsel further explained the Honda itself was registered in somebody else's name, but they never disputed that Applicant was driving the Honda that night. Based on counsel's foregoing credible testimony, this Court finds counsel articulated a valid strategic reason for not cross-examining Roberts. Further, Applicant's suggested line of questioning about the Honda is not material to whether he was acting in self-defense, and Applicant has not set forth a valid line of cross-examination that counsel should have employed. Applicant thus did not prove deficiency. Finally, it is speculative as to what Roberts would have said had she been cross-examined about

¹² The trial court charged, "Malice may be inferred from conduct that is so reckless and wanton as to indicate a depravity of mind and general disregard for human life." (Tr. 430).

¹³ Burdette was decided *after* Applicant's trial. Nonetheless, the charge here is also proper under Burdette.

whether Applicant had the Honda a year before the murder. Applicant has not shown deficiency or prejudice.

This claim is without merit and relief denied.

Failed to cross-examine Agent Smith (1)(e)(ii)

Applicant contends counsel was ineffective for not cross-examining SLED Agent Smith about the jacketed rounds and about comparing Exhibit 44 to the photographs of the fired projectiles. He testified,

I wanted him to look at the photo of the item 5, that they claim is the actual bullet that was in that evidence bag and tell me do we believe those are the same bullets because we had a discussion about that, and it's not in the transcript, so there was no record. We also discussed a lost phone, that's not in the transcript. They had a picture of a phone, and even the prosecution stated in the transcript that there was another phone we wasn't able to get into. I don't know what phone that was, but she did state that.

(PCR Tx. 84). Counsel testified she “went around and around with [Agent] Smith about the firearms evidence” and averred she cross-examined him extensively. (PCR Tr. 23). This Court agrees with counsel’s assessment that she cross-examined Agent Smith extensively and finds her cross-examination was reasonable under prevailing professional norms and not deficient. (Tr. 231-41). Applicant has not set forth a viable line of cross-examination that counsel should have employed in addition to her cross-examination and thus has failed to prove deficiency or prejudice. Likewise, without more, this Court can only speculate about what Agent Smith would have said upon further cross-examination. Applicant thus did not prove this ground.

Failed to cross-examine Officer Miller¹⁴ (1)(e)(iii)

Applicant contends counsel was ineffective for not cross-examining Officer Miller about whether he was wearing a body camera. At the PCR hearing, he testified he never received a video from Officer Miller’s body camera. However, they received a video from a police cruiser, and Applicant asserted you could see Officer Miller in that video “running and jump over a banister, and when he lands, his body camera falls off his chest and hits the ground. He picks it up and he’s running—he runs in the police station and he comes back out, gets in the car and he takes off.” (PCR Tr. 83). Applicant averred Officer Pouchprong’s body camera was

¹⁴ Although the application states Officer Manor, based on context it appears Applicant is referencing Officer Miller. Officer Manor did not respond to the scene the night of the murder but rather went to the home the next day to collect a bullet. (Tr. 221-22).

running, “[a]nd, likewise, Marcus Miller’s body camera was also active during that time.” He further asserted the camera would have picked up the shooting, and it would have supported his self-defense theory “to have some type of evidence to put forth that he did indeed shoot first, and questioning those witnesses and obtaining that body camera would have prove[n] that.” (PCR Tr. 83). This allegation lacks merit. Initially, counsel *did* question Officer Miller about a body cam video, but Officer Miller indicated that video was from Officer Pouchprom’s body cam. (Tr. 138-49).¹⁵ Applicant has not presented credible evidence that counsel was in possession of a video from Officer Miller’s body cam that she neglected to use. Applicant likewise did not enter any video at the PCR hearing—leaving this Court to speculate as to whether one existed and what value it would have on cross-examination. Applicant thus did not prove deficiency or prejudice. This claim is without merit and relief denied.

Failed to cross-examine Stuart Atkinson (1)(e)(iv)

Applicant contends counsel was ineffective for not cross-examining Stuart Atkinson about the location of a cell phone. However, Applicant did not set forth specifically at the PCR hearing what counsel should have cross-examined Atkinson about.¹⁶ Further, counsel credibly testified that based on her review of her notes, she did not see any line of cross-examination that would have benefited the defense. Ultimately, Applicant has not proved deficiency or prejudice. This claim is without merit and relief denied.

Failed to cross-examine Shamond Ling (1)(e)(v)

Applicant contends counsel was ineffective for not cross-examining Shamond Ling with photographs that would show he lied about his ability to see the blue Honda Accord clearly. Specifically, he testified Shamond testified at trial that he armed himself because he knew Applicant was returning, but Shamond lied when trial counsel asked him if he “saw this from the porch?” and he responded, “Yes.” Applicant explained

¹⁵ This video was played for the jury during Officer Pouchprom’s testimony. (Tr. 154-55).

¹⁶ Atkinson testified (1) Applicant’s father worked for Atkinson, (2) Atkinson had seen Applicant driving a blue Honda, (3) Atkinson saw the blue Honda on the side of the road the morning he learned about the murder, (4) someone had stolen a F-150 from his property that day, which police later recovered; and (5) his employee had left a .22-caliber rifle in truck, which Atkinson recovered from law enforcement. (Tr. 246-59). Atkinson did not reference a cell phone, and it is not clear from the transcript or Applicant’s PCR testimony what he believed counsel should have cross-examined Atkinson about.

there was a big tree and bushes beside the porch, making it impossible for Shamond to see down the road from the porch. He asserted trial counsel had visited the home before trial and taken pictures, and she should have used the pictures to cross-examine Shamond about whether he could actually see the car from the porch. This contention lacks merit. (PCR Tx. 81-82). Counsel testified she believed she cross-examined Shamond on everything possible. This Court finds counsel's cross-examination of Shamond was reasonable under prevailing professional norms and not deficient. (Tr. 183-05). This Court further finds there is no reasonable probability the outcome would be different had counsel used pictures to further cross-examine Shamond as Applicant described. Critically, the car was moving—meaning any shrubbery that may have obscured Shamond's view would not have obscured it during the time Applicant was in front of the home. Finally, this Court can only speculate as to what Shamond would have said had he been cross-examined about whether shrubbery obscured his view.¹⁷ Ultimately Applicant did not prove deficiency or prejudice. This claim is without merit and relief denied.

Failed to cross-examine Debra Ling (1)(e)(vi)

Applicant contends counsel was ineffective for failing to cross-examine Debra Ling about her testimony regarding an accident. At the PCR hearing, he clarified,

Debra Ling, saying it was an accident, and if you claim that the Defendant killed your child, you wouldn't call it an accident, you would say, "He murdered my baby," but if your son did it, you'd say, "Oh, it was an accident, he didn't mean to do it," so that was the purpose, because she said it was an accident, which is the same as saying my son did it, but it was an accident."

(PCR Tr. 81). Applicant did not meet his burden. Initially, counsel credibly testified that when Debra referred to the shooting as an accident on cross-examination, counsel "knew I was going to use that in my closing, and I was not going to allow her an opportunity to explain what she meant." (PCR Tr. 25). She further explained Debra was Victims' mother and was "not at all helpful to the defense." Counsel articulated a valid strategic reason for not cross-examining Debra on this point and thus was not deficient. Further, although Debra recalled seeing Applicant drive by shortly before the shooting, she testified she heard (and did not see) the shooting.

¹⁷ Applicant did not introduce any pictures at the PCR hearing, leaving this Court to speculate as to whether the shrubbery in fact would have obscured Shamond's view.

Thus, if pressed about this, it is unlikely she would have said Shamond (rather than Applicant) shot Victim.¹⁸ Finally, this Court finds counsel's cross-examination of Debra was reasonable under prevailing professional norms and not deficient. (Tr. 206-15). Applicant has not set forth any additional reasonable basis that counsel should have used to cross-examine Debra and has failed to prove deficiency or prejudice. This claim is without merit and relief denied.

Failed to cross-examine Captain Williams (1)(e)(vii)

Applicant contends counsel was ineffective for not cross-examining Captain Williams about jacketed rounds. At the PCR hearing, he testified Captain Williams was seen in video footage "poking his finger inside bullet holes, talking about he's looking for the jacket off of the rounds." He elaborated, "[I]f there are jackets on the round, then there would be fragments off the jackets in the wound, which further exonerates me, because if there are no jackets, then she wasn't shot by an assault rifle that you proposed—you say I have, you claim I had—that I allegedly had." (PCR Tr. 80). Applicant did not prove this claim.

This Court finds counsel's cross-examination of Captain Williams was reasonable under prevailing professional norms and not deficient. (Tr. 291-311, 313-14). This Court further finds questioning Captain Williams about whether there were fragments of jacket rounds in Victim's wounds would not exonerate Applicant. Applicant has not set forth any additional reasonable basis that counsel should have used to cross-examine Captain Williams. Further, this Court can only speculate as to what Captain Williams would have said had he been cross-examined about jacket rounds. Applicant has thus failed to prove deficiency or prejudice. This claim is without merit and relief denied.

Failed to cross-examine Dr. Schandl (1)(e)(viii)

Applicant contends counsel was ineffective for not cross-examining forensic pathologist Cynthia Schandl regarding fragments of jacketed rounds and the discrepancy with Victim being more than nine months pregnant. At the PCR hearing, he clarified he wanted counsel to discredit Dr. Schandl by cross-examining her as follows: "She has down that she's between—how many months? Basically, what I was getting at is by her

¹⁸ This Court can only speculate as to what Debra would have said had she been pressed about this issue.

calculation she would be over nine months pregnant, at 39 weeks. I think they said 39 weeks.” (PCR Tx. 80). This allegation patently lacks merit. This Court finds there is no material distinction between indicating a pregnant woman is 39 weeks pregnant and nine weeks pregnant. Applicant has failed to set forth any reasonable basis that counsel should have used for cross-examining Dr. Schandle and has thus failed to meet his burden of proving deficiency or prejudice. Relief is denied.

Failed to request adverse inference charge (1)(f)

Applicant contends counsel was ineffective for failing to request an adverse inference charge because of the lost or destroyed evidence. When questioned about this at the PCR hearing, counsel testified she did not believe such a charge would have been provided. This Court agrees with counsel’s assessment and finds counsel was not deficient. This Court further finds Applicant did not set forth any legal basis to support such a charge and failed to prove deficiency or prejudice. This claim is without merit and relief denied.

Failed to request voluntary or involuntary manslaughter charge (1)(g)

Applicant contends counsel was ineffective for failing to request a voluntary or involuntary manslaughter charge. At the PCR hearing, when questioned about this issue, he merely testified, “[T]hey didn’t prove murder to begin with, so the charge of murder wasn’t warranted. So I would assume that involuntary or voluntary would be warranted.” However, counsel testified she did not request the charges because she did not believe the evidence supported them. After reviewing the evidence in this case, this Court agrees the evidence does not support voluntary or involuntary manslaughter. Applicant did not prove deficiency or prejudice. This claim is without merit and relief denied.

Failed to move for mistrial or new trial (1)(h)

Applicant contends counsel was ineffective for failing to move for a mistrial or new trial based on the cumulative error doctrine. When questioned about this issue at the PCR hearing, Applicant elaborated,

[B]ased on the motion to dismiss, the inconsistencies and the testimony between Debra Ling, Shamond Ling. The fact that he lied about not shooting that night. Had to step over his dying sister, so I’m assuming she wasn’t dead at the time, because this was right at—they said it took her about five minutes to die, if I’m not mistaken. So at the time when you step over her to go take your gun and put it in the room, she was probably gasping for air, and you felt the need to go past her, step over her, put your gun in the room—your gun

and your shoulder holster in the room, and then come back, step back over her, and be outside yelling bloody—bloody murder, ‘Oh, and by the way I wasn’t shooting.’

(PCR Tr. 74-75). This Court finds the foregoing, which is effectively Applicant’s perceived inconsistencies in Shamond trial testimony, does not set forth a valid, legal basis for a mistrial or a motion to dismiss. Applicant has not met his burden of proving deficiency or prejudice. and This claim is without merit and relief denied.

Bolstering State’s case during closing argument (1)(i)

Applicant contends counsel was ineffective for bolstering the State’s case during closing argument by admitting to some of the State’s contentions and theory and failing to support the defense with a self-defense argument. At the PCR hearing when questioned about this issue, Applicant testified counsel

created some story that I didn’t tell her about. She got up here and she—she stated the same thing, ‘Oh, he drove up, said something, went down the road. Heard a gunshot, turned around, came back.’ I never told her none of that. I—I didn’t tell her anything, so I’m trying to understand where she got this whole story from

(PCR Tr. 84-85). Counsel testified she had reviewed her closing argument and did not believe she made any concessions that were detrimental to Applicant’s case. She explained her strategy was to challenge the State’s theory regarding the placement of people at the scene and the direction of the bullets. This Court finds Applicant has not met his burden of proving deficiency or prejudice. This Court finds counsel’s closing argument was reasonable under prevailing professional norms and not deficient. Further, Applicant has not pointed to any specific portion of counsel’s closing argument that was deficient or prejudicial. This claim is without merit and relief denied.

Body camera footage (1)(j)

Applicant contends counsel was ineffective for failing to re-analyze body camera footage regarding whether Shamond Ling was truthful about where he placed his gun and holster. At the PCR hearing, he testified,

[S]he even stated during trial that, ‘So you’re telling me if I go back and review these videos, I will see that gun on that dresser where you say it is?’ He said, ‘Yeah.’ So I’m assuming she would have done that, she did not. Because she . . . basically accused him of hiding the firearm. He said, ‘I didn’t hide it, it was sitting on my dresser.’

(PCR Tr. 85). Applicant did not prove this ground.

Critically, Applicant did not enter the body camera footage at the PCR hearing—leaving this Court to speculate about whether it would have impeached Shamond’s testimony. This Court further finds counsel was questioning Shamond about a collateral matter—whether the video would show his *shoulder holster* on the bed, which is where he testified he placed it *after* the shooting. (Tr. 185-86). Thus, introducing this video for the purpose of impeaching Shamond on this point would have been improper. See *State v. Passio*, 440 S.C. 1, 3, 889 S.E.2d 584, 585 (2023) (“[A] witness may not be impeached by extrinsic evidence of a collateral matter.”). Additionally, even though the video would have been improper for impeachment of a collateral matter, this Court notes Officer Pouchprom’s body cam video *was* introduced at trial—thus, the jury had it to consider during its deliberation.¹⁹ (Tr. 154-55). Finally, counsel’s cross-examination of Shamond was reasonable under prevailing professional norms and not deficient. (Tr. 183-94). Applicant did not meet his burden of proving deficiency or prejudice. This claim is without merit and relief denied.

Bolstering State’s case during cross-examination (1)(l)

Applicant contends counsel was ineffective for bolstering the State’s case by asking whether Victim was shot while in the house but failing to show that it was impossible for Victim to have been shot through the left side from the angle described. At the PCR hearing, he testified,

There was a demonstration done in Court and Ms. Campbell and Ms. Ling, she was like, ‘Can she step down from the bench?’ And they were—she was showing her how she was holding Alydia when they were in the house, which put her right side to the direction of the supposed where the bullets was coming from, it was impossible for her to get hit on her left cheek from the right side.

(PCR Tx. 86). When asked why he believed counsel did not elicit that information, he replied,

All she did was establish that there were—they never—they were never facing the door, never facing in towards the inner portion of the hose inward, which put their—like I said, puts their right sides to the direction of the projectiles, which makes it impossible for her to get hit in her left cheek from the right side.

¹⁹ Although Applicant speculated Officer Miller also had a body cam video, he did not prove the existence of any such video at the PCR hearing.

(PCR Tx. 86). Applicant did not prove this ground. Counsel's strategy throughout trial focused on discrediting the State's theory about where individuals were located at the time of the shooting and the direction of the bullets. Counsel was attempting to discredit the State's theory to support Applicant's self-defense theory. This was valid strategy, and counsel's attempts throughout trial to discredit the State's theory were reasonable under prevailing professional norms and not deficient. Applicant has likewise not set forth what counsel should have done differently that would have reasonably changed the outcome. Applicant did not prove deficiency or prejudice. This claim is without merit and relief denied.

*Opening statements*²⁰

Applicant contends counsel was ineffective for making improper opening and closing statements indicating she was forced to represent Applicant. At the PCR hearing, he elaborated on what he believed was objectionable:

[I]t was John Adams and the British soldiers and some civilians, and they don't know who fired the first shots, and they were—said John Adams states that he was forced to represent these individuals, and she said, 'Likewise, I was called upon to represent Mr. McKnight the same way John Adams was.' I took that to mean she's saying the exact same thing John Adams said, 'I was forced to represent these soldiers,' I was forced to represent Mr. McKnight.

(PCR Tx. 78). This contention lacks merit. This Court finds counsel's opening argument, including the reference to Adams (Tx. 126-27), was reasonable under prevailing professional norms and not deficient. Specifically, this case involved the fatal shooting of a pregnant minor, and Applicant proceeded self-defense. Counsel here was attempting to appeal to the jurors' logic, rather than their emotion, in asking them to weigh the evidence critically and return a verdict of self-defense—even if their emotion led them to want a different outcome. This was not deficient conduct. Further, due to the evidence presented at trial, it is not reasonably likely this story about Adams is what prompted the jury to convict Applicant of Murder. This claim is without merit and relief denied.

Indictments (1)(n)

²⁰ This section combines allegations (1)(m) and (1)(w), as set forth above.

Applicant contends counsel was ineffective for not moving to quash the indictments. Counsel, however, averred she did not believe a motion to quash the indictments would have been successful. This Court agrees with counsel's assessment. This Court finds the indictment were sufficient to put Applicant on notice of the charges against him. See State v. Gentry, 363 S.C. 93, 102, 610 S.E.2d 494, 500 (2005) ("The indictment is a notice document."); *id.* at 102-03, 610 S.E.2d at 500 ("If the objection is timely made, the circuit court should judge the sufficiency of the indictment by determining whether (1) the offense is stated with sufficient certainty and particularity to enable the court to know what judgment to pronounce, and the defendant to know what he is called upon to answer and whether he may plead an acquittal or conviction thereon; and (2) whether it apprises the defendant of the elements of the offense that is intended to be charged."). Thus, there was no basis to move to quash the indictment, and Applicant did not prove deficiency or prejudice in this regard.

At the PCR hearing, Applicant asserted counsel should have moved to quash the indictment based on pre-indictment delay. Specifically, he averred it took the State thirteen months to indict him. Solicitor Hunter Swanson testified she did not recall anything unusual about the indictments in this case, and her general practice is to wait until she has sufficient information to indict someone. This Court finds Swanson's testimony credible. This Court further finds Applicant did not establish any pre-indictment delay that violated any right to a speedy trial, nor did Applicant prove any resulting prejudice from any pre-indictment delay. Applicant thus did not prove deficiency by counsel or resulting prejudice. This claim is without merit and relief denied.

Juror (1)(c)

Applicant contends counsel was ineffective for selecting a juror who was partial to law enforcement. Specifically, he testified counsel should have objected to either juror 30 or juror 31, who "states that their husband was the chief of police, and the other one was my uncle as the Chief of Police, and they are related, I'm assuming, because they're both saying they're from Cottageville, South Carolina."²¹ (PCR 77-78). This allegation patently lacks merit because counsel exercised preemptory strikes as to both juror 30 and juror 31, and as a result neither juror was seated. (Tr. 77-78). This claim is without merit and relief denied.

²¹ Juror 30 told the court his uncle was Chief of Police in Cottageville, and Juror 31 told the court her husband was Chief of Police in Cottageville.

Failed to renew motion to proceed pro se (1)(p)

Applicant contends counsel was ineffective for failing to renew his motion to proceed pro se. Applicant did not prove this claim.

At the PCR hearing, Applicant testified he and counsel had a disagreement about whether the court appointed her, and he informed her that he was representing himself. He recalled going before Judge Buckner at his arraignment and Judge Buckner conducting a partial *Faretta* hearing. However, he stated Judge Buckner denied his request to represent himself. Applicant stated when he was in the holding cell, he expressed his desire to proceed pro se, and thereafter the Estill Police Department sent him discovery directly. When asked whether he was alleging counsel did not protect his right to proceed pro se, he replied, "Well, she argued against it, so I would assume she would have put on the record that I had a desire to represent myself." In contrast, counsel testified she did not have any recollection of Applicant being denied his right to proceed pro se in court. She clarified she had reviewed her file, and the only notes she had about a hearing occurred September 3rd, 2017. Counsel specifically testified he notes did not indicate Applicant had a court date on October 19, 2017.

This Court finds Applicant's testimony in this regard not credible. This Court further finds counsel's testimony here credible. Applicant did not prove he had a hearing on this issue, nor did he prove counsel had any indication he wanted to proceed pro se. This claim is without merit and relief denied.

Discouraging Applicant from testifying (1)(q)

Applicant contends counsel was ineffective for discouraging him to testify. Applicant did not prove this ground. At the PCR hearing, Applicant testified counsel advised him not to testify. He stated she explained that he would be impeached with his prior criminal record if he testified, which would look bad to the jury. Applicant testified he explained to counsel that the jury would want to hear his side of the story. However, he stated he took her advice to heart and decided not to testify.

In contrast, counsel testified she would have discussed with Applicant whether he wanted to testify and explained that doing so would open him up to cross-examination. She stated she believed they had

sufficient evidence for a self-defense charge,²² and ultimately Applicant weighed the risks and benefits and made his decision. This Court finds credible counsel's foregoing testimony that she discussed with Applicant the pros and cons of testifying, and Applicant chose not to testify. Based on this credible testimony, this Court finds counsel's performance was reasonable under prevailing professional norms and not deficient. This Court further notes the trial court advised Applicant of his right to testify and gave him an opportunity to discuss that with counsel prior to making his decision. Ultimately it was Applicant's decision not to testify, and he waived his right to testify on the record. (Tr. 376-81). Finally, this Court finds Applicant did not offer credible testimony at the PCR hearing that would have likely changed the outcome of trial had he testified and thus did not meet his burden of proving prejudice. This claim is without merit and relief denied.

Chain of Custody (1)(r)

Applicant asserts counsel was ineffective for stipulating to the chain of custody, presumably for the four shell casings (Exhibit 43) and two spent projectiles (Exhibits 40 and 44). Applicant did not prove this ground.

At trial, the State offered to call Lieutenant Williams prior to firearms expert Chad Smith's testimony solely to establish the chain of custody for shell casings and projectiles Smith tested; then call Smith; then recall Lieutenant Smith to offer additional testimony as the lead investigator. Trial counsel indicated she would stipulate to the chain rather than requiring the State to call Lieutenant Williams twice. (Tr. 219). At the PCR hearing, counsel testified she did not see any issues with the chain of custody. (PCR Tr. 30). Based on counsel's foregoing testimony, which this Court finds credible, this Court finds counsel's decision to stipulate to the chain of custody rather than require the State to take a witness out of order was reasonable under prevailing professional norms and not deficient. Applicant likewise did not prove prejudice, as he did not set forth *what* he believed was deficient with the chain of custody other than a general allegation that counsel should have challenged it.²³ Further, because the State had Lieutenant Williams available at that time to establish the chain,

²² The Court charged the jury on self-defense. (Tr. 434-37).

²³ In fact, Lieutenant Williams *did* testify to retrieving the casings and projectiles.

it is not reasonably likely an objection would have changed the outcome. Applicant did not prove deficiency or prejudice. This claim is without merit and relief denied.

Failing to properly impeach and cross-examine the State's witnesses (1)(s)

Applicant generally alleges counsel was ineffective for failing to properly impeach and cross-examine the State's witnesses. This Court has already addressed Applicant's specific allegations regarding counsel's cross-examination of various witnesses and finds Applicant did not prove counsel was ineffective in any of these regards. Applicant has not set forth any specific witness counsel failed to properly impeach or cross-examine and thus did not meet his burden of proof. This claim is without merit and relief denied.

Directed verdict motion (1)(t)

Applicant asserts counsel was ineffective in her directed verdict motion and motion for new trial for failing to argue the State did not meet their burden of proof in proving what weapon was the murder weapon. Specifically, he testified the State never proved what bullet struck Victim. He further averred that the bullet that hit Victim would have biological matter on it, and

if it was in the direction of the house or in the house, then there would be blood splatter in the house. There was no blood splatter in the house, which destroys the contention that she was shot in the house. Likewise, on the porch there was no blood splatter on the porch, which alleviates the contention that she was shot on the porch. There's only one other place she could have been shot, which means she was in the yard.

(PCR Tx. 87). This allegation lacks merit. The State presented direct evidence Applicant drove by Victim's home shooting toward the home. (Tr. 171-175-76). The State further presented evidence that four recovered cartridges were .223 Remington caliber; the two recovered bullets were consistent with .223 Remington or .556 Nato caliber; and Shamond Ling did not own or fire an AR-15 or use .223 shell casings. (Tr. 171, 175-76, 228). The State presented more than sufficient evidence for the jury to find Applicant fired the fatal shots. Thus, Applicant did not prove deficiency or prejudice in this regard. This claim is without merit and relief denied.

Failing to renew motion to dismiss (1)(u)

Applicant contends counsel was ineffective for failing to renew the motion to dismiss for spoliation and failing to move to dismiss the evidence both on the basis of bad faith and because the evidence was

exculpatory. Specifically, he contends law enforcement and/or the solicitor acted in bad faith by not removing all of the cartridge casings that were embedded inside of the victims' home after this shooting. He avers such evidence would be exculpatory because "in the process of elimination, okay, this bullet didn't kill her, this bullet didn't kill her, this bullet didn't kill her, that creates the exculpability [sic]." (PCR Tx. 76). This Court finds counsel argued vigorously for dismissal based on an alleged contaminated crime scene and renewed her motion post-trial. (Tr. 453). Thus, counsel was not deficient. This Court further finds the State did not act in bad faith in neglecting to remove cartridge casings from Victim's home, nor did Applicant prove such evidence would be exculpatory. Applicant has not set forth a valid, legal objection to the admissibility of this evidence and thus did not prove deficiency or prejudice. This claim is without merit and relief denied.

Failing to request immunity hearing (1)(v)

Applicant contends counsel was ineffective for failing to request an immunity hearing. At the PCR hearing, Applicant averred an immunity hearing would have been helpful because "it would allow me the opportunity to tell my story without affecting the jury, without prejudicing myself in front of the jury." In contrast, counsel testified she did not request an immunity hearing because if she had, every "surprise that we might have had the State would have been revealed, and then they would have been prepared at trial." This Court finds counsel articulated a valid reason for not requesting an immunity hearing in that she did not want to provide the State a preview of her case, and Applicant thus did not prove deficiency. Further, based on the trial transcript and the evidence presented by the State, this Court finds there is no reasonable probability the court would have granted immunity had counsel requested an immunity hearing. Finally, although Applicant testified at the PCR hearing, he did not specify what he would have testified to at trial or in an immunity hearing. Ultimately Applicant did not prove deficiency or prejudice. This claim is without merit and relief denied.

Motion in Limine (1)(x)

Applicant contends counsel was ineffective for not pursuing a pre-trial motion in limine to exclude mention of Victim being underage and mention of the infant as "Baby Boy Ling." This allegation lacks merit. At the PCR hearing, Applicant complained that references to Victim being underage and being pregnant with

Applicant's baby, as well as calling the baby "Baby Boy Ling," "made the trial more about our relationship than the actual murder charge" and prejudiced him before the jury. Counsel acknowledged "the unborn child was referred to as Baby Boy Ling" and agreed "that the facts of her age and his age were part of the record of her case," although she did not believe there was extraordinary focus on that. Counsel did not believe a motion in limine on this issue would have been successful.

This Court agrees with counsel's assessment that a motion in limine on to exclude these facts would not have been successful. This Court finds calling the unborn, deceased infant "Baby Boy Ling" was not objectionable; rather, it was a descriptive term for the unborn, deceased infant. This Court likewise finds Applicant did not set forth a valid, viable objection counsel should have raised to the fact Victim was a minor or to the parties calling the unborn, deceased infant "Baby Boy Ling." Ultimately these were facts that were central to the case since Applicant was being tried for the murder of Baby Boy Ling. Because Applicant has not set forth a viable, valid objection to the mention of these facts, he has failed to prove deficiency in this regard. Applicant likewise has not set forth a viable, valid objection to these facts (other than the fact he did not like them) and thus did not meet his burden of proving prejudice. This claim is without merit and relief denied.

Failing to hire investigators/expert (1)(y)

Applicant contends counsel was ineffective for failing to hire appropriate personnel to secure fired projectiles from the Ling residence and the Honda Accord, and to conduct an extraction of Ms. Ling's phone. At the PCR hearing, he averred that if counsel had hired personal to secure the fired projectiles from the walls of Victim's home, then "through the process of elimination, once you prove that none of those bullets struck Alydia Ling, then it exonerates me, if that's the State's contention that she was shot in the house, so where's the projectile, where's the blood splatter?" (PCR Tx. 89). This contention patently lacks merit. This Court finds extracting the additional casings from the walls of Victim's home would not exonerate Applicant. This Court further finds counsel's investigation of this case was reasonable under prevailing professional norms and not deficient. Finally, Applicant did not produce an expert at the PCR hearing or any evidence that counsel would

have uncovered upon a further investigation that would have reasonably change the outcome and thus did not prove prejudice. This claim is without merit and relief denied.

Failing to communicate (1)(z)

Applicant contends counsel was ineffective for failing to conduct a thorough pre-trial conference with Applicant. At the PCR hearing, Applicant agreed counsel's testimony that they met about eight times "might be right" but asserted they discussed personal things more than his case. He recalled, however, reviewing discovery with counsel, including clips from three DVDs, witnesses that would testify against him, and physical evidence, including GSR and projectiles recovered from the scene. When asked what he would have wanted to discuss at a pretrial conference, he testified,

[W]e spoke about different things, and I also explained this same contention with her. And we also talked about they claimed that there was some bullet grazes on the doorframe, and that they believe she was standing at the door and a ricochet hit her. And the direction it would have been traveling in, there's a big window on the door, because the door swung inward in this direction, which means it puts her left side to the direction of the bullets, which would put her at the right direction, but not the right angle, because the bullet was traveling downward. However, if it would have struck her in the house, it would have hit that window, and there would have been a bullet hole in that window, there was none. So there . . . was a few other things we spoke about, but, mainly it was about the trajectory of—it's impossible for someone to be standing on a porch, and someone to be in a car, and hit somebody in the cheek and the bullet is going downward. It's impossible.

(PCR Tx. 87-88). Applicant did not prove this ground. This Court finds credible counsel's testimony that she met with Applicant eight times and reviewed discovery with him. Based on this testimony, counsel's discussions with Applicant were reasonable under prevailing norms and not deficient. This Court further finds Applicant did not set forth what they could have discussed at an additional meeting that they did not already discuss and that was not brought out at trial. Applicant thus did not prove deficiency or prejudice. This claim is without merit and relief denied.

PROSECUTORIAL MISCONDUCT

Brady violation

Applicant contends the State violated Brady by failing to provide Applicant with evidence, including the body camera video of Officer Marcus Miller and names and statements of witnesses on the video, the video

of Corporal Zatch Pouchprom; the records from Applicant's phone and Victim's phone; and the fired projectiles from the Ling residence. Applicant has not shown a Brady violation.

At the PCR hearing, Applicant testified the SLED report indicated "they were able to get into [Victim's] phone and chose not to do an extraction on it, but they did an extraction the other phones. And I believe there's exculpatory evidence on the phone, and the State is withholding that information." (PCR Tx. 91). This was consistent with trial testimony, and this Court finds Applicant did not establish a Brady violation based on this issue. Specifically, Applicant did not present credible evidence that the State withheld body cam footage or witness statements; and the video of Corporal Pouchprom and the records from Applicant's phone *were* introduced at trial, and there is no evidence the State withheld this evidence until the last minute. As to the projectiles, this Court finds the State did not act in bad faith in not extracting all of the cartridges from Victim's home when doing so would destroy the home, and the cartridges themselves had little probative value (because they were cumulative to other recovered casings, and no one disputed that Applicant fired a weapon in this self-defense case). Finally, this Court finds credible trial counsel's testimony that she did not have any issues obtaining evidence from the State. This Court further finds Applicant did not prove a Brady violation in *any* regard, nor did he prove any of this evidence was exculpatory. This claim is without merit and relief denied.

Improper comments

Applicant contends the prosecutor made improper references throughout the trial, including opening, closing, and from State's witnesses regarding Victim's relationship with Applicant, Applicant's and Victim's respective ages, the paternity of the fetus, and by referring to the fetus as "Baby Boy Ling." He further contends the solicitor made improper statements and references in closing argument that constituted burden shifting, involved statements related to things not in evidence, involved incorrect statements or information, or statements that implicated counsel's alleged intention to mislead the jury. This lacks merit. As set forth above, the references to the parties' ages, relationship, paternity of fetus, and calling the fetus Baby Boy Ling were not improper. Further, Applicant did not set forth what portion of the States' closing argument he believed were improper statements and references that constituted burden shifting, involved statements related to things

not in evidence, involved incorrect statements or information, or implicated counsel's alleged intention to mislead the jury. Applicant did not prove any misconduct here. This claim is without merit and relief denied.

Pre-indictment delay

Applicant contends the State violated his right to a speedy trial due to the unnecessary delay from Applicant's charge to when he was indicted. At the PCR hearing, he testified it took the State thirteen months to indict him. Solicitor Hunter Swanson testified she did not recall anything unusual about these indictments, and her general practice is to wait until she has sufficient information to indict someone. This Court finds Swanson's testimony credible. This Court further finds Applicant did not establish any pre-indictment delay that violated any right to a speedy trial, nor did Applicant prove any resulting prejudice from any pre-indictment delay. Applicant thus did not prove any constitutional violation. This claim is without merit and relief denied.

Eliciting 404(b) evidence

Applicant contends the solicitor improperly elicited detailed testimony concerning a prior difficulty from Gladys Roberts. This contention lacks merit. The remedy for this alleged improper evidence was an objection based on Rule 404(b), which counsel made at trial. Once the court ruled the evidence was admissible, it was not improper for the solicitor to elicit it. This claim is without merit and relief denied.

Losing or destroying evidence

Applicant contends the State lost or destroyed evidence. Specifically, he pointed to testimony that law enforcement did not remove all the cartridge casings from the side of the victim's home and averred the State acted in bad faith by not removing this evidence. Applicant asserted this evidence would be exculpatory because "in the process of elimination, okay, this bullet didn't kill her, this bullet didn't kill her, this bullet didn't kill her, that creates the exculpability [sic]." (PCR Tx. 76). As set forth above, Applicant did not meet his burden of proving the State lost or destroyed evidence. Applicant likewise did not show how such evidence would be exculpatory. This claim is without merit and relief denied.

Entering photos of Victim (1)(g)

Applicant alleges the prosecutor engaged in misconduct by entering photographs and video of Victim that inflamed the passions of the jury. This allegation patently lacks merit. Here, counsel *did* object to photographs of Victim, but her objection was overruled. It was not prosecutorial misconduct for the solicitors to then enter the photographs at trial. Applicant has not shown prosecutorial misconduct in this regard. This claim is without merit and relief denied.

INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL

Right to proceed pro se

Applicant contends appellate counsel was ineffective for failing to raise the issue that Applicant was erroneously deprived of his right to proceed forward *pro se*. This lacks merit. At the PCR hearing, Chief Appellate Defender Bob Dudek testified he reviewed the records in this case and did not have any indication a *Faretta* hearing ever occurred or Applicant had ever requested to the Court to move *pro se*. This Court finds the foregoing testimony credible. Based on the foregoing, appellate counsel articulated a valid reason for not raising this issue in that he had no indication it had ever even been raised. This claim is without merit and relief denied.

Evidence obtained from Honda Accord

Applicant contends counsel was ineffective for failing to brief on appeal the inadmissibility of all evidence obtained from the blue Honda Accord due to the lack of chain of custody. Specifically, he contends trial counsel “made that pretrial motion, but like I said, I don’t think the Judge actually ruled on it. And I think she renewed that objection, but they did not elaborate on it specifically as to why she was objecting to those pictures being entered into evidence of the firearm that was taken off as the Micro SD card.” (PCR Tx. 89-90). He elaborated,

Also on that chain of custody, that there was a GSR, which is—I think it’s called fungible evidence, and—or non-fungible, I can’t remember which one, but I think that’s where they got some of the clothing. And all of that would fall under that same objection as far as chain of custody for the blue Honda, because they claim they towed a green Honda Accord, and I don’t see how you can mistake a blue Honda Accord for a green one and that was the premises [sic] of her objection. Maybe they towed the wrong car. Captain Williams said he wasn’t present, and he was the lead investigator, he should

have been there supervising. And I don't think they obtained a warrant to tow that vehicle.

(PCR Tx. 90-91).

Initially, to the extent Applicant avers this was an unpreserved issue, counsel cannot be ineffective for not raising it. Further, this Court finds that even if preserved, it is not reasonably likely the appellate courts would have reversed this conviction based on this issue. Ultimately, the issue in this case was whether Applicant was acting in self-defense; thus, the GSR evidence in and of itself would not have created a reversible issue—even if an objection to it was properly preserved. As to the picture of the weapon itself (which this Court finds *was* properly preserved), this Court finds that under the facts of this case, there is no reasonable probability the appellate courts would have reversed based solely on the admission of this picture. This claim is without merit and relief denied.

Spoliation

At the PCR hearing, Applicant asserted for the first time that appellate counsel was ineffective for not raising the issue of the motion for spoliation. Appellate counsel asserted he did not believe it was meritorious, and he did not seriously entertain raising it. This Court agrees with counsel's assessment and finds counsel was not deficient. Further, this Court finds that although this issue was argued at trial, there is no reasonable probability the appellate courts would have reversed the trial court's denial of a motion to dismiss based on counsel's argument that the crime scene investigation was sloppy. Applicant thus did not prove deficiency or prejudice. This claim is without merit and relief denied.

CONCLUSION

Based on the foregoing, this Court concludes Applicant has not established any constitutional violations (other than the vacation of the five-year sentence on the weapon charge) that would require this Court to grant relief. Thus, this application is denied and dismissed with prejudice.

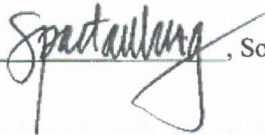
Should Applicant wish to secure appellate review, he must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. See Rule 203, SCACR. Applicant has the right to an appellate counsel's assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C.

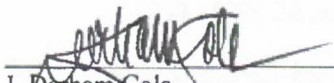
453, 409 S.E.2d 395 (1991). If Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on applicant's behalf. Rule 71.1(g), SCRCP. Attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. Applicant's five-year sentence for the weapon charge shall be vacated²⁴;
2. The remaining allegations are without merit and relief denied and application dismissed with prejudice; and
3. Applicant shall be remanded to and remain in the custody of the State.

AND IT IS SO ORDERED THIS 23rd day of December, 2024.


Spartaullong, South Carolina


J. Derham Cole
Presiding Judge
Fourteenth Judicial Circuit

²⁴ The conviction itself, however, shall remain intact.



**STATE OF SOUTH CAROLINA
THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT**

J. DERHAM COLE
JUDGE

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December 23, 2024

The Hon. Mylinda D. Nettles
Hampton County Clerk of Court
PO Box 7
Hampton, SC 29924-0007

Re: 2023-CP-25-00238
Johnnie Lee McKnight, SCDC #268238 v. The State of South Carolina

Dear Clerk;

Enclosed please find for filing an order(s) with reference to the above-captioned case(s). Upon entry of the order(s), please serve notice upon the affected parties in accordance with *Rule 77(d) of the South Carolina Rules of Civil Procedure*. Thank you in advance for your usual and capable assistance in this matter.

With kindest personal regards, I remain,

Sincerely yours,

J. Derham Cole
Resident Judge
The Seventh Judicial Circuit