THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Feb 13 2025
S.C. SUPREME COURT

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

Perry H Gravely , Circuit Court Judge

Case № 2016-CP-04-00534

Angela M. Vaughn, #313443,..... Petitioner,

vs.

The State of South Carolina ..... Respondent.

NOTICE OF INTENT TO APPEAL

Angela M. Vaughn appeals the Order of the Honorable Perry H Gravely filed January 14, 2025 and Order of Dismissal filed January 30, 2024.

February 13th, 2025

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STATE OF SOUTH CAROLINA COUNTY OF ANDERSON	)	IN THE COURT OF COMMON PLEAS TENTH JUDICIAL CIRCUIT
Angela M. Vaughn, #313443 Applicant	)	CASE NO. 2016–CP–04–00534
v.	)	**ORDER DENYING APPLICANT'S MOTION TO RECONSIDER PURSUANT TO RULE 59(e), SCRCP, AND AMENDING THE ORDER OF DISMISSAL**
State of South Carolina, Respondent.	)	

This matter comes before the Court by way of Angela M. Vaughn's (Applicant) Motion to Reconsider, filed on February 12, 2024, asking this Court to reconsider its Order of Dismissal denying Applicant's application for post-conviction relief.

PROCEDURAL HISTORY

The records before this Court establish Applicant is presently confined in the South Carolina Department of Corrections (SCDC) pursuant to orders of commitment of the Anderson County Clerk of Court. In March 2004, the Anderson County Grand Jury indicted Applicant for Murder (2004-GS-04-0748) and Possession of a Firearm During the Commission of a Violent Crime (2004-GS-04-0749).

On January 17-19, 2006, Applicant proceeded to a jury trial before the Honorable Alexander S. Macaulay. Robert Gamble, Esquire[1] (Trial Counsel), represented Applicant. Solicitor Catherine Townsend Huey of the Tenth Circuit Solicitor's Office prosecuted the case. On January 19, 2006, Applicant was found guilty as indicted. Judge Macaulay sentenced

[1] Respondent presented an affidavit to this Court, signed by Robert Gamble, stating Gamble does not recall Applicant's case and is not able to testify due to health reasons. (PCR Tr. pp. 71-72; St. Ex. 1).

Applicant to five (5) years' imprisonment for Possession of a Firearm During a Violent Crime and thirty years (30) years' imprisonment for Murder, the sentences to run concurrently.

DIRECT APPEAL

On March 12, 2008, Applicant filed a timely Notice of Appeal. Michael Barcroft, Esquire, perfected Applicant's Anders[2] appeal and perfected the following issues:

> I. Whether the trial judge erred in allowing testimony of an alleged threat to the victim made by the defendant made nearly two months before his death.
>
> II. Whether the trial judge erred in allowing hearsay testimony from the victim's coworkers.
>
> III. Whether the trial judge erred in failing to grant a directed verdict of acquittal where there was insufficient evidence of guilt.

The South Carolina Court of Appeals affirmed Applicant's convictions and sentences. State v. Vaughn, Unpub. Op. No. 2008-UP-167, 2008 WL 9840408 (S.C. Ct. App. Mar. Filed 12, 2008). The Remittitur was returned to the circuit court on March 31, 2008.

FIRST PCR ACTION AND SUBSEQUENT APPEAL: 2008-CP-04-02319

Applicant filed her *first pro se* application for post-conviction relief on July 18, 2008, alleging she was being held in custody unlawfully based on: ineffective assistance of counsel, prosecutorial misconduct, and denial of due process.[3] Applicant sought relief in the form of a "complete vacation of all charges." An evidentiary hearing convened on June 15, 2010, before the Honorable R. Lawton McIntosh. Assistant Attorney Gregory P. Jones, Jr., represented

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[2] Anders v. California, 386 U.S. 738 (1967).

[3] Court acknowledges Applicant attached a memorandum concisely stating her grounds for allegations alleged in Item 10 of PCR application.

Respondent. Applicant was present and represented by PCR Counsel. On December 14, 2011, by written Order, Judge McIntosh denied and dismissed Applicant's application with prejudice.

On January 17, 2012, Applicant timely filed a Notice of Appeal. Appellate Defender Susan B. Hackett of the Office of Appellate Defense filed Applicant's Petition for Writ of Certiorari. On April 30, 2014, the Court of Appeals denied Applicant's Petition for Writ of Certiorari. The Remittur was returned on May 27, 2014.

SECOND PCR ACTION: 2012-CP-04-0375

During the pendency of Applicant's initial PCR appeal, Applicant filed her *second* PCR application *pro se* on February 6, 2012, alleging she was being held in custody unlawfully based on "she is not guilty of the crimes convicted of, and counsel was constitutionally ineffective, and that no grounds for relief were voluntarily or intelligently waived, but were inadequately raised by ineffective counsel, at trial or in post-conviction proceedings." Respondent made its Return on July 26, 2013. Applicant sought relief in the form of "the judgment of conviction and sentence must be arrested, and the defendant granted such other and further relief as is just and proper." On September 11, 2013, Judge McIntosh summarily dismissed the application as successive, for failure to file within the time mandated, and for failure to allege a cognizable claim.

PETITION FOR WRIT OF HABEAS CORPUS: 5:14-4758-DCN-KDW

On December 22, 2014, Clarence Rauch Wise, Esquire, filed a Petition for Writ of Habeas Corpus. Applicant alleged ineffective assistance of trial counsel, PCR Counsel, and appellate counsel. On May 20, 2015, the Honorable Kaymani D. West, United States Magistrate Judge, issued the Report and Recommendation, recommending that the Respondent's Motion for Summary Judgment be granted and the Applicant's Petition be denied. On June 25, 2015, the Honorable David C. Norton, United States District Judge, issued the written order affirming the

Report and Recommendation of the Magistrate Judge.

CURRENT ACTION BEFORE THIS COURT

Applicant filed her *third pro se* PCR alleging she is being held in custody unlawfully for the following reasons:[4]

1. Trial Counsel failed to readily present evidence of a battered spouse defense and should have been presented to the jury at trial.
2. Trial Counsel failed to adequately investigate when he never requested Applicant undergo independent evaluation in support of a battered spouse defense.
3. Trial Counsel failed to understand that a battered spouse syndrome defense was in fact compatible with self-defense and specifically declined to raise the battered spouse defense.
4. PCR Counsel failed to readily present evidence of a battered spouse defense, nor testimony to support Applicant's early parole eligibility.

Respondent, the State of South Carolina, made its Return and Motion to Dismiss on September 18, 2017, seeking to summarily dismiss the action as untimely, successive, failed to state a cognizable claim, and barred by the doctrine of *laches*. On September 18, 2017, the Honorable Judge J. Cordell Maddox, Jr. issued the Conditional Order of Dismissal intending to dismiss this PCR application unless Applicant provided factual or legal reasons why the application should not be dismissed in its entirety. On October 5, 2017, Applicant filed a Return to the Conditional Order of Dismissal, stating legal and factual reasons why her application should not be dismissed. On January 6, 2021, the Honorable Eugene C. Griffith, Jr., denied Respondent's Motion to Dismiss the application and ordered an evidentiary hearing to determine Applicant's eligibility for parole under S.C. Code Ann. § 16-25-90.

[4] Applicant's allegations have been summarized for brevity.

An evidentiary hearing convened on February 28, 2023, at the Anderson County Courthouse before the Honorable Perry H. Gravely. On January 30, 2024, Judge Gravely denied and dismissed with prejudice Applicant's PCR application in an Order of Dismissal. On February 12, 2024, Applicant filed its Rule 59 Motion to Alter or Amend Judgment. On February 21, 2024,[5] Respondent made its Return to Applicant's Motion Pursuant to Rule 59(e), SCRCP, wherein Respondent requested the Court amend the Order of Dismissal to include additional findings. (Respondent's Return p. 7).

APPLICANT'S MOTION TO RECONSIDER

In Applicant's motion, he asks the Court to reconsider its ruling pursuant to Rule 59(e), SCRCP. After careful consideration of the arguments of Applicant and review of the record, this Court is unable to discover any material fact or principle of law that has either been overlooked or disregarded and further finds no error of law or fact not appropriately considered. However, this Court amends the Order of Dismissal to include additional findings as requested by Respondent's in their Return. This Court finds Trial Counsel was not constitutionally ineffective and Applicant failed to present credible evidence of long-term abuse, thereby rendering her ineligible for early parole pursuant to S.C. Code Ann. § 16-25-90. A hearing is not necessary to resolve this matter.

Accordingly, Applicant's motion for reconsideration is **DENIED** and this Court amends the Order of Dismissal to include additional findings as set forth in Respondent's Return.

CONCLUSION AND SIGNATURE ON FOLLOWING PAGE

[5] Respondent's Return was filed February 27, 2024.

IT IS THEREFORE ORDERED that Applicant's motion is hereby **DENIED AND DISMISSED.**

AND IT IS SO ORDERED this 7th day of Jan 2025 ~~2024.~~

PERRY H. GRAVELY
Presiding Judge
Tenth Judicial Circuit

Pickens, South Carolina.

A TRUE COPY
JAN 14 2025
C. Reena Thomason
CLERK OF COURT

STATE OF SOUTH CAROLINA COUNTY OF ANDERSON	)	IN THE COURT OF COMMON PLEAS FOR THE TENTH CIRCUIT
Angela M. Vaughn, #313443, Applicant, v. State of South Carolina, Respondent.	)	CASE NO. 2016–CP–04–00534 **ORDER OF DISMISSAL**

This matter comes before the Court by way of Angela M. Vaughn's (Applicant) *third* application for post-conviction relief (PCR) filed on March 2, 2016. Respondent, the State of South Carolina, made its Return and Motion to Dismiss on September 18, 2017, seeking to summarily dismiss the action as untimely, successive, failed to state a cognizable claim, and barred by the doctrine of *laches*. On September 18, 2017, the Honorable Judge J. Cordell Maddox, Jr. issued the Conditional Order of Dismissal intending to dismiss this PCR application unless Applicant provided factual or legal reasons why the application should not be dismissed in its entirety. On October 5, 2017, Applicant filed a Return to the Conditional Order of Dismissal, stating legal and factual reasons why her application should not be dismissed. On January 6, 2021, the Honorable Eugene C. Griffith, Jr., denied Respondent's Motion to Dismiss the application and ordered an evidentiary hearing to determine Applicant's eligibility for parole under S.C. Code Ann. § 16-25-90.

An evidentiary hearing convened on February 28, 2023, at the Anderson County Courthouse before the Honorable Perry H. Gravely. Assistant Attorney General Taylor Smith represented Respondent. Applicant was present and represented by Clarence Rauch Wise, Esquire. At the hearing, Applicant proceeded forward on the sole claim permitted by the Order regarding

her parole eligibility. Applicant testified on her behalf, and presented testimony from Cindy Speight (Speight), Mandy Reed (Reed), Marilyn Gilbert (Gilbert), Alicia Moser (Moser), and Caleb Hammonds (Hammonds). Respondent presented testimony from Mary C. McCormac, Esquire (PCR Counsel).

On March 31, 2023, this Court advised counsel that after consideration of the evidence and argument of counsel and applying the standard set forth in State v. Grooms, 343 S.C. 248, Judge Gravely does not believe that Ms. Vaughan has established "credible evidence" of a history of criminal domestic violence. This is based on her testimony at the PCR hearing which does not quite fit with her testimony at the trial. Following a thorough review of the record in its entirety, along with the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant has failed to establish any constitutional violations or deprivations entitling her to relief and, accordingly, denies and dismisses this action with prejudice. This Order follows.

PROCEDURAL HISTORY

The records before this Court establish Applicant is presently confined in the South Carolina Department of Corrections (SCDC) pursuant to orders of commitment of the Anderson County Clerk of Court. In March 2004, the Anderson County Grand Jury indicted Applicant for Murder (2004-GS-04-0748) and Possession of a Firearm During the Commission of a Violent Crime (2004-GS-04-0749). On January 17-19, 2006, Applicant proceeded to a jury trial before the Honorable Alexander S. Macaulay. Robert Gamble, Esquire[1] (Trial Counsel), represented Applicant. Solicitor Catherine Townsend Huey of the Tenth Circuit Solicitor's Office prosecuted the case. On January 19, 2006, Applicant was found guilty as indicted. Judge Macaulay sentenced

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C. Norton, United States District Judge, issued the written order affirming the Report and Recommendation of the Magistrate Judge.

SUMMARY OF STATE'S VERSION OF FACTS ADDUCED AT TRIAL

On October 24, 2003, Applicant shot and killed Ronald Lee Grant [4](Ronnie), her live-in boyfriend because Ronnie had planned to leave her. (Trial Tr. pp. 60-61). Deputy Karen E. Elrod and Deputy Raines Burns responded to a 911 call made by Applicant from Highland Drive in Anderson County at 3:40 PM. (Trial Tr. pp. 63-64; St. Ex. 2). Deputy Elrod testified that when she stepped into the residence, she observed Ronnie's body on the floor and a silver revolver near his body. (Trial Tr. p. 65). Deputy Elrod testified she restrained Applicant, and Applicant stated, "[Ronnie was grabbing for the gun, but I got it. I got to it faster. I'm not as drunk as he is, and I was faster. I ain't never done anything like this before." (Trial Tr. pp. 65-66). On cross-examination, the Applicant indicated to Deputy Karen Elrod that she didn't mean to and that it was self-defense. (Trial Tr. p. 68).

Crime Scene Investigator Mark Coyle (Investigator Coyle) also responded to the scene, and he observed Ronnie on the living room floor, face-down in a pool of his blood, and a trail of blood leading from the couch to Ronnie's body. (Trial Tr. pp. 72-73). He did not see any injuries on the Applicant. (Trial Tr. p. 80). Coyle testified that, based on his investigation of the scene, Ronnie had been sitting on the couch in the living room when he had been shot based on the trail of blood on Ronnie's pants and the trail of blood from the couch to Ronnie's body. (Trial Tr. pp. 81-83). Coyle testified he was present at Ronnie's autopsy, and used trajectory rods on Ronnie's gunshot wounds to determine the directionality. (Trial Tr. pp. 94-95). Coyle testified it was

[4] Court takes note Ronnie Grant is referred simultaneously as "Ronnie" and "Mr. Grant" in both the PCR transcript and trial transcript and understood to be the same person.

determined Ronnie was shot from a downward angle, the bullet moving from his right side to his left side. (Trial Tr. p. 97).

Forensic pathologist Dr. Brett Woodard (Dr. Woodard) testified he performed Ronnie's autopsy on October 25, 2003. (Trial Tr. p. 105). Dr. Woodard testified that, in his expert opinion and based on his findings, Ronnie was in a seated position when he was shot, and Ronnie was shot in a downard angle from behind. (Trial Tr. pp. 108-09). Dr. Woodard testified that based on the directionality of the bullet and the blood pattern, Ronnie had likely been sitting on the couch when he was shot, abruptly stood after being shot, and then fell to the ground unsupported. (Trial Tr. pp. 112-14). Dr. Woodard testified that Ronnie's blood would have projected in front of him if he had been shot while lunging for the gun and would have had very little blood on his person. (Trial Tr. p. 115).

Investigator Jeff Miles responded to the scene on Highland Drive on October 24, 2003. He testified he spoke with Applicant about taking her statement and advised Applicant of her Miranda[5] rights at 4:36 PM and 7:06 PM. (Trial Tr. pp. 124-25; St. Ex. 23). He did not see any injuries on the Applicant. Investigator Miles testified Applicant appeared level-headed and seemed to understand what was happening, although it also appeared she had been drinking. (Trial Tr. pp. 125 -128). In her initial statement, Applicant stated she picked Ronnie up from work around 7:00 AM the day of the shooting and took him to the liquor store around 1:00 PM. (Trial Tr. p. 130; Ct. Ex. 2; St. Ex. 23-24). Applicant stated they returned home, and she and Ronnie went into the bedroom separately, and Ronnie stayed in the bedroom longer than what made sense to her. (Trial Tr. p. 130). Applicant stated she went into the bedroom and Ronnie started arguing with her. Ronnie reached for her gun, but she got the gun first. (Trial Tr. pp. 130-31). Applicant stated she

[5] Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L.Ed. 2d 694 (1966).

faced Ronnie in the living room, she saw Ronnie raise his arm, and she shot him out of reflex. (Trial Tr. p. 131). Investigator Miles testified Applicant stated she believed Ronnie was going to lunge at her, and she shot Ronnie out of fear. (Trial Tr. p. 132).

On October 30, 2003, Applicant gave a second statement to Investigator Miles. Investigator Miles testified he advised Applicant of her rights again before she gave her statement. (Trial Tr. pp. 132-34; Ct. Ex. 3; St. Ex. 25). In her second statement, Applicant stated she met Ronnie at Walmart in August of 2001, and they had been living together for 23 months. (Trial Tr. p. 134). Applicant stated she picked up Ronnie and they drove her son to daycare, bought some things including liquor, and then went home, and Ronnie poured them a drink. (Trial Tr. pp. 135-36). Applicant stated Ronnie commented that anything can be killed and when she asked Ronnie what he meant by that, he did not respond. (Trial Tr. p. 136). Applicant stated she was getting ready to leave for work but did not because Ronnie accused her of lying and cheating on him, and she did not want to go to work after that. (Trial Tr. p. 137).

Applicant stated after she called out of work, it appeared Ronnie had calmed down, but then he went into the bathroom, and when he came out, his pupils were dilated and he started arguing again. Applicant stated she then went into the bedroom and started folding clothes, and Ronnie came into the bedroom, and they were both standing in front of the closet where Applicant kept her gun. (Trial Tr. p. 137). Applicant stated while they were arguing, Ronnie kept looking at the gun, she saw his right arm go up, and she grabbed the gun from the closet. Applicant stated Ronnie had never threatened her with a gun before, and after she grabbed the gun she went into the living room with the gun down by her side. She stated Ronnie's arm then went out, and she believed Ronnie was going to twist her wrists and take the gun from her, and she just shot.

PNG

Applicant stated she was sure Ronnie was not sitting on the couch when she shot him. (Trial Tr. p. 138).

SHARON DAVENPORT TRIAL TESTIMONY

On direct examination at trial, Sharon Davenport (Devenport) testified Ronnie was her foreman and worked with her at Experimental Fabrics. (Trial Tr. p. 156). Davenport testified she knew Applicant through Ronnie. (Trial Tr. p. 156). Davenport testified that Applicant would bring Ronnie to work and Ronnie usually got off work at 3:00 PM. (Trial Tr. p. 156). In September 2003, when Applicant picked up Ronnie, a few minutes after 3:00 PM, Ronnie was loading boxes and "[Applicant] was just hollering, Ronnie" and Ronnie motioned Applicant to the front. (Trial Tr. p. 157). As Ronnie approached the door to leave, Davenport stated she stopped because she heard Applicant screaming. (Trial Tr. p. 158). Davenport testified Applicant told Ronnie, "You'd better be proud you got your ass out here when you did because you don't want me to come in that place with my damn gun." (Trial Tr. p. 158). However, Davenport stated she did not see her with a gun that day, nor was Applicant waiving a gun in the air. (Trial Tr. p. 158).

On redirect examination, Davenport explained that she and Ronnie worked together from October 2002 until September 2003. (Trial Tr. p. 160). Davenport testified that when Applicant made the threat, Applicant was with her son, Caleb. (Trial Tr. p. 161).

SHANNON SMITH TRIAL TESTIMONY

On direct examination at trial, Shannon Smith (Smith) testified she worked with Applicant at Walmart until Applicant was terminated. (Trial Tr. p. 163). Smith testified that she recalled that on October 16, 2003, she and her husband were at the jail in Anderson County related to her husband's criminal domestic violence charge. (Trial Tr. p. 164). Smith explained that at some point, she ran into Applicant and Ronnie. (Trial Tr. p. 164). Smith testified after their husbands

were called back, she and Applicant spent the rest of the day talking. (Trial Tr. p. 165). Smith testified, "We were all talking about…just joking around and talking about like killing our husbands." (Trial Tr. p. 166).

Smith stated Applicant told her, "[Ronnie] had never beat her, but that he would restrain her, and one time pushed her into a dresser." (Trial Tr. p. 166). She further testified Applicant "said that next time she would kill [Ronnie] and that she would – she might try the rat poison." (Trial Tr. p. 166). Smith testified Applicant told her that she and Ronnie had an argument, and she accused Ronnie of leaving to be with another woman. (Trial Tr. p. 166). Applicant told Smith she believed Ronnie was cheating on her. Smith further testified Applicant told her about "finding a blonde hair in [Applicant's] car and that [Applicant] thought [Ronnie] was sneaking out at nighttime." (Trial Tr. p. 167).

TESTIMONY AT TRIAL OF RONNIE'S CO-WORKERS

At trial, David Sanders, Paul M. Sullivan, Bria D. Collins, and Christi R. Wilson all testified they had a conversation with Ronnie in the break room where Ronnie stated he planned on leaving Applicant. (Trial Tr. pp. 173-185; 86-187; 188; 190).

THE DEFENSE CASE AT TRIAL

The defense called the Applicant's neighbor, Tammy Patterson. She claimed she saw an incident in early October. He stated that he saw the victim had the Applicant by either the throat or shirt and almost hit her, appearing to have his arm drawn back. (Trial Tr. p. 247). She thought when Grant saw her, he shoved the Applicant against the garbage. She also testified that she would hear a lot of yelling from the house. (Trial Tr. p. 248). She did not see what happened before she saw the man threaten to hit the Applicant. Trial Tr. p. 249).

THE APPLICANT'S TRIAL TESTIMONY

The Applicant testified during the trial. She stated she had been living with the victim for almost two years. Trial Tr.p. 257. She stated that the victim began drinking about one fifth of hard liquor each day, until she talked him into drinking beer. (Trial Tr. p. 258). She claimed the victim was on methamphetamine and got violent when he was on the drug. She claimed she could tell because his eyes had extreme dilation. Trial Tr.p. 258. She stated that she took him to the detention center on October 16 due to a CDV warrant that she had taken out on him to be served. (Trial Tr.p. 259). While she was waiting for him, she spoke with Shannon Smith. She stated after the October 16 bond hearing, the victim's demeanor changed. She stated that he acted like he was in deep thought and very angry and would state that he knew he would serve time for it. (Trial Tr. p. 260). Because he did not have a license she would have to drive him to work as he would switch jobs. She said that Grant had worked the third shift and that she had picked him up at seven in the morning. (Trial Tr. p. 261). She said after she returned home and had her son get dressed for day care, they left and dropped him off. She said they drove around and eventually bought 6 large beers and then went together to a liquor store and bought 100 proof Wild Turkey. (Trial Tr. pp. 263-264).

She claimed they returned home at around 9:30 in the morning. She described the victim as being in a good mood. (Trial Tr. p. 264). He had already drunk six large beers and he began drinking Wild Turkey. He then began acting strange. That afternoon (October 24th) we entered the bedroom as he was screaming and cussing at me. He would stop screaming and cussing briefly, but he would then start up again. He kept looking at my gun on the shelf. She saw him start to reach for the gun, but then she reached and got it to keep him from getting it. (Trial Tr. p. 267). She recalled that they went into the living room, and she held the gun by her side preventing the victim from taking it. The victim continued to yell and then stopped, only to start up screaming

again after a brief break. (Trial Tr. p. 267-268). She stated that he was arguing about the hours she had worked that day as a waitress at O'Charley's. While he was on the sofa, it appeared to her that he was coming towards her, "and that's when I raised it and shot because he had a patten of twisting my arm." She said when she fired the shot that she was thinking of calling 911. She claimed that she was in fear of her life "because he was violent and I knew if he made it to twist my wrist, it would be me." (Trial Tr. p. 269).

She said it was possible that he was in a sitting position, but she claimed he was coming off the sofa when she shot him. (Trial Tr. p. 269). She said she did not remember seeing him fall or dropping the gun. (Trial Tr. pp. 269-270). She recalled calling 911. She claimed she did one shot of Wild Turkey and one 16-ounce beer.

On cross-examination, she acknowledged that her blood alcohol was around 10, but she only claimed to have drunk one beer and 2-ounces of Wild Turkey, in her October 30, 2003 statement. She claimed at trial that the victim had used meth, but claimed she thought she had told the police that he had used meth although it was not in her statement. The state questioned the Applicant that the meth story at trial and suggested it came out of the fact that the victim's samples had not been tested for meth, which she denied. (Trial Tr. p. 273).

She confirmed that in her first statement to law enforcement on October 24, 2003, she claimed that the victim entered the bedroom first, but now claimed she entered the bedroom to put up laundry and also see what was taking him so long. (Trial Tr. p. 275). However, she stated that she entered first in the October 30, 2003 statement. She confirmed, although he was looking up at her gun, that the victim had never pointed the gun at her. (Trial Tr. p. 276). She testified that they entered the living room and she was wondering where to hide the gun.

She denied that the CDV warrant for his arrest from October 5th was because he threatened to leave her or go to stay with his grandfather to get away from her. (Trial Tr. p. 277).

She claimed she did not call 911 while she thought he was reaching for the gun because there was no available phone in that room. She claimed he had torn up phones previously to keep her from calling the police, although she admitted she had called the law before. (Trial Tr. p. 278).

She denied the October 5th CDV charge was bogus, although she heard Shannon Smith's testimony saying that he had never beaten her Id. She denied ever stating she would kill him the next time he tried to leave or mentioned rat poison, claiming it was another lady who mentioned it. (Trial Tr. p. 279).

She claimed on October 24th that she had thought the argument was over until he started coming off the couch but did not call 911 because there was no phone between them. She claimed he had threatened to kill her that morning. However, she admitted that she had the gun in her hand while the victim was unarmed. She guessed that after the victim sat on the sofa she still had the gun by her side for around five minutes. (Trial Tr. p. 281). She feared he would attack her, grab her wrist, and get the gun and put it on her. (Trial Tr. p. 281).

She claimed she felt threatened that morning after they started drinking and she did not go into work. She claimed she heard for the first time in court that he intended to leave her that day. (Trial Tr. p. 273). She claimed he had a pattern of twisting her wrists and lunging toward her. She did not recall if he actually got off the sofa. She denied that she had threatened the victim with a gun before as Sharon Davenport reported. (Trial Tr. p. 285). She also did not recall how he fell. She also denied the discussion with Shannon Smith about the victim leaving her. (Trial Tr. pp. 287-288).

CURRENT APPLICATION

Applicant filed her *third pro se* PCR alleging she is being held in custody unlawfully for the following reasons:[6]

1. Trial Counsel failed to readily present evidence of a battered spouse defense and should have been presented to the jury at trial.
2. Trial Counsel failed to adequately investigate when he never requested Applicant undergo independent evaluation in support of a battered spouse defense.
3. Trial Counsel failed to understand that a battered spouse syndrome defense was in fact compatible with self-defense and specifically declined to raise the battered spouse defense.
4. PCR Counsel failed to readily present evidence of a battered spouse defense, nor testimony to support Applicant's early parole eligibility.

Applicant requested "a new trial or a hearing to determine my [parole] eligibility under S.C. Code section 16-25-90." As stated *supra*, Applicant proceeded forward on the sole allegation of ineffective assistance of counsel for failure to request a hearing to determine Applicant's eligibility for parole under S.C. Code Ann. § 16-25-90.

Before this Court, and incorporated by reference, are the Anderson County Clerk of Court records regarding Applicant's conviction and sentence, Applicant's records from the South Carolina Department of Corrections, Applicant's PCR transcript, Applicant's Appellate records, Applicant's Petition for Writ of Certiorari, Applicant's Trial transcripts, and the records of Applicant's current and previous PCR applications.

SUMMARY OF THE RELEVANT TESTIMONY FROM THE EVIDENTIARY HEARING

PCR COUNSEL'S TESTIMONY

[6] Applicant's allegations have been summarized for brevity.

On direct examination, PCR counsel testified she represented Applicant at her first PCR hearing in June of 2010. (PCR Tr. p. 13). PCR counsel testified she was appointed after Applicant filed her PCR application and only addressed the issues in her application. (PCR Tr. p. 14). However, she explained she had not handled any cases that involved parole eligibility, but it was "included in the criminal domestic violence statute and [she] was aware of that" (PCR Tr. p. 14). PCR Counsel testified she "reviewed the trial transcript to look at the sentencing – think the statute requires credible history of domestic violence for people that plead guilty or convicted." (PCR Tr. p. 14). PCR Counsel emphasized Applicant "addressed the issue of criminal domestic violence in her colloquy with the Court." (PCR Tr. p. 14). PCR Counsel elaborated that "the better part of our case addressed battered woman syndrome with Ronnie". (PCR Tr. p. 14). PCR Counsel testified she did not address the issue of parole at the time. (PCR Tr. p. 14).

On cross-examination, PCR Counsel testified the issue of parole eligibility was not expressly addressed at sentencing or Applicant's original trial. (PCR Tr. p. 17). At the PCR hearing, PCR Counsel testified Moser, Applicant's daughter, Applicant, and Robert Gamble testified. (PCR Tr. p. 18). PCR Counsel explained she had other witnesses in the courtroom, but the Court did not allow them to testify. (PCR Tr. p. 18). PCR Counsel stated the other witnesses "would've testified about the treatment she received from Ronnie."

CINDY SPEIGHT'S TESTIMONY

On direct examination, Speight testified that she met Applicant when Applicant was looking to purchase a home. (PCR Tr. pp. 7-8). Speight explained she did the "normal realtor-type thing" and showed Applicant homes. (PCR Tr. p. 8). Applicant ultimately purchased a house from her, the house where the shooting occurred. (PCR Tr. p. 10). Speight explained that both she and Applicant "bonded over Christian issues" that "helped [her] see what a good person [Applicant] was", and they "became friends." (PCR Tr. 8). Speight testified she met Ronnie when

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Applicant couldn't make it and Applicant asked if she "would show the homes to [Ronnie]." (PCR Tr. p. 9). Speight testified, "...[Applicant] just seemed different when [Applicant] was with [Ronnie]". (PCR Tr. p. 9). Speight testified Applicant "did not freely engage in conversation like [Applicant] had when it was [Applicant] and [her] alone...like [Applicant] was trying to make sure to be a buffer." (PCR Tr. p. 10).

On cross-examination, Speight testified she met Applicant in 2003, "somewhere like July or somewhere close to that." (PCR Tr. p. 11). However, Speight stated "[she] would really be guessing it's been so long, [she] spent majority of time with Applicant. Speight clarified that out of the seven times she met with Applicant, "maybe two" of those times Ronnie joined them.

APPLICANT'S TESTIMONY

On direct examination, Applicant testified she never had a hearing on whether she could be considered an abused spouse for purposes of parole eligibility. (PCR Tr. p. 21). Applicant testified she was sexually abused by her older brother when she was a young girl. (PCR Tr. p. 22). Applicant testified the farthest she went in school was eighth grade, because she became pregnant and dropped out. (PCR Tr. p. 26). Applicant explained she married the child's father, "Mr. Barnes", and he was "abusive physically, mentally, verbally, and eventually divorced him on physical cruelty grounds." (PCR Tr. p. 26-27).

Applicant testified she remarried to Wayne Anthony Vaughn, had one child together, and eventually divorced. (PCR Tr. p. 27). After the second divorce, Applicant explained she never officially married Jason Hammons, but they were considered married under common law. (PCR Tr. p. 28). However, she was with him for seven years and stated the relationship was verbally and mentally abusive. (PCR Tr. p. 28). Applicant testified she never married Ronnie and they met when they both worked at Walmart. (PCR Tr. p. 29).

Applicant testified they purchased a home in July 2003. (PCR Tr. p. 30). Applicant explained they had been living together for almost two years at the time of the incident. (PCR Tr. p. 31). Applicant described Ronnie "started off just verbally, later became physical in March 2002, and [she] started calling 911 on him." (PCR Tr. p. 32). Applicant testified she was the owner of a handgun for almost twenty years and kept it "way up on a high shelf in bedroom." (PCR Tr. p. 46).

Applicant testified that she was folding and putting away laundry, and Ronnie came in and kept eyeballing the shelf. (PCR Tr. p. 46). Applicant testified she kept it on the high shelf in that bedroom so her son couldn't reach it. (PCR Tr. p. 46). Applicant testified he went to reach for the gun, but she was faster. (PCR Tr. p. 46). Applicant stated at that point, the argument had stopped, and "[she] knew it was me or him, [she] couldn't get to a telephone from it or the backdoor from it or the backdoor without passing him, so [she] felt cornered." (PCR Tr. p. 47).

Applicant stated, "He went to reach out and [she] just shot, [she] don't remember seeing his body fall. [She] don't remember dropping the gun." (PCR Tr. p. 47). Applicant stated that the gun "had four live rounds in it. So, if it had not been a fatal shot, he could've picked it up and killed me." (PCR Tr. p. 47). Applicant testified [she] called 911. (PCR Tr. p. 47). Applicant testified she was arrested a week later. (PCR Tr. p. 48). Applicant explained she underwent an evaluation at Anderson-Oconee Pickens Mental Health Center. (PCR Tr. p. 48).

On cross-examination, Applicant testified she did not testify about everything, and her Public Defender Robert Gamble told her daughter not to testify to the bruises she saw on her. (PCR Tr. p. 50).

MANDY REED'S TESTIMONY

On direct examination, Reed testified Applicant is her aunt, and she's known her for her whole life. (PCR Tr. p. 52). Reed testified she is married and stated Applicant lived across from

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her grandmother and would go "over there on weekends." (PCR Tr. p. 52). Reed stated she first met Ronnie "at a family Sunday dinner, he seemed really nice...once they moved and she was away from her family, it was like he did not want anybody else around. It was kind of like he was ready for us to leave. He was not friendly." (PCR Tr. p. 53). She testified that she did not see marks on the Applicant. (PCR TR. P. 55).

MARILYN GILBERT'S TESTIMONY

On direct examination, Gilbert testified she was married to Applicant's brother, and has known Applicant since she was thirteen. (PCR Tr. p. 56). Gilbert testified she had not witnessed any acts of violence between Applicant and Grant, instead stating, "No. I didn't see it...she was on the phone with me every day scared. And I tried to talk to her, but – and I suggested, you know the cops, but then there were so many days waiting time and all." (PCR Tr. p. 57). She stated she never saw any marks on Applicant. Gilbert further elaborated "It wasn't cuddly or what you would expect a married couple would do – or a couple." (PCR Tr. p. 58, 59). She claimed that Applicant indicated that her wrists hurt because he had jerked her. Gilbert also testified that during some of their conversations, Applicant expressed "that she feared for her life." (PCR Tr. p. 60).

ALICIA MOSER'S TESTIMONY

On direct examination, Moser testified that Applicant had joint custody and Moser was living with her father at the time. (PCR Tr. p. 61). Moser explained in the beginning Ronnie was "nice and very gentlemanly...and the longer [he] got to know him over time, it did tend to progress towards a violent nature." (PCR Tr. p. 62). Moser described when Ronnie would get violent, "there was a lot of yelling, a lot of screaming, a lot of threatening. He would even do that to my baby brother." (PCR Tr. p. 62). Moser also testified Ronnie would excessively drink and end up falling asleep on the couch, or Ronnie would stumble around and mumble things. (PCR Tr. p. 64). In a proffer, Moser recalled when Applicant told her, "[Applicant] and [Ronnie] got into an

argument, and he grabbed her by the wrist. He pulled her arm behind her back and pushed her head forward and it hit the corner of the bed frame." (PCR Tr. p. 66). Moser testified she saw a cut and gash on Applicant's forehead one time after Applicant picked her up. (PCR Tr. p. 66). However, she did not witness the incident.

CALEB HAMMONDS' TESTIMONY

On direct examination, Hammonds testified he is Applicant's son. (PCR Tr. p. 68). Hammonds further stated he lived with Applicant and Ronnie and remembered a lot of "arguing and abuse." (PCR Tr. p. 68). Applicant testified that Ronnie would "drink a lot and every time he drunk, he'd get very violent physically and verbally." (PCR Tr. p. 69). Hammonds testified he remembered an altercation between Applicant and Ronnie where "...he pulled her hair. He would twist her arms behind her back. And usually, if [he] was too close, he would end up with me, but we're not going to talk about that." (PCR Tr. p. 71).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Applicant has alleged and elected to pursue ineffective assistance of counsel through the post-conviction relief action presently before this Court. In analyzing Applicant's claim, this Court has considered the legal arguments by counsel and thoroughly reviewed the record in its entirety. This Court additionally heard the testimony presented at the evidentiary hearing and was able to observe the witnesses, which allowed the Court to evaluate and scrutinize their credibility.

Upon conducting and completing its analysis, this Court finds that Applicant has failed to establish any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. See Rule 71.1(e), SCRCP (stating that in a post-conviction relief action, "[t]he applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."); Lucero v. State, 414 S.C. 238, 244, 777 S.E.2d 409, 412 (Ct. App. 2015) ("In a PCR proceeding, the applicant bears the burden of establishing that he or she is

entitled to relief."); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) ("The burden of proof is on the Applicant in post-conviction proceedings to prove the allegations in his application.").

Accordingly, set forth below are the relevant findings of facts and conclusions of law as required by § 17-27-80 of the South Carolina Code:

INEFFECTIVE ASSISTANCE OF COUNSEL, GENERALLY

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. Strickland v. Washington, 466 U.S. 668 (1984); Taylor v. State, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right and raises a question of fact that can only be determined by an evidentiary hearing. Rogers v. State, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant relief. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland v. Washington to determine whether counsel's conduct "was so [ineffective] as to require reversal" of the applicant's conviction. 466 U.S. 668, 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. Id. at 687–88; accord. Cherry v. State, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either

deficient performance or sufficient prejudice defeats the ineffectiveness claim. Strickland, 466 U.S. at 700; see also Bell v. Cone, 535 U.S. 685, 695 (2002) (explaining that "[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable." (citation and internal quotation marks omitted).

Regarding the deficiency prong of the Strickland analysis, the proper measure of performance is whether counsel provided representation within the reasonable range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. When analyzing counsel's performance, the reviewing court will strongly presume counsel provided adequate assistance, and the applicant is responsible for rebutting that presumption "by proving that his attorney's representation was unreasonable under prevailing professional norms and that the challenged action was not sound strategy." Kimmelman v. Morrison, 477 U.S. 365, 384 (1986); cf. Cullen v. Pinholster, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation).

Furthermore, the reviewing court will scrutinize counsel's performance in a highly deferential manner, make every effort "to eliminate the distorting effects of hindsight," and "evaluate the conduct from counsel's perspective at the time" in light of then-existing circumstances. Strickland, 466 U.S. at 689. In order to establish counsel's performance was deficient, the applicant must demonstrate "counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." Id. at 687. Accordingly, counsel's performance will be considered deficient only when it was objectively incompetent under prevailing professional norms and *not* when it simply "deviated from best

practices or most common custom." Harrington v. Richter, 562 U.S. 86, 105 (2011).

Beyond satisfying the burden required by the deficiency prong, an applicant also bears the burden of establishing prejudice in order to be entitled to relief as "[a]n error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment." Strickland, 466 U.S. at 691. To meet this burden, counsel's deficient performance must have prejudiced the applicant to such an extent, there is a reasonable probability the result of the proceeding would have been different but for counsel's unprofessional errors. Cherry, 300 S.C. at 117–18, 386 S.E.2d at 625; see Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) ("To establish a claim of ineffective assistance of trial counsel, a PCR applicant has the burden of proving counsel's representation fell below an objective standard of reasonableness and, but for counsel's errors, there is a reasonable probability the result at trial would have been different."). Importantly, "[t]he likelihood of a different result must be *substantial*, not just conceivable." Richter, 562 U.S.at 112. In this setting the result would be whether there is a reasonable probability the trial court would have found that the Applicant presented credible evidence of a history of domestic violence suffered at the hands of the victim, Ronnie Grant. The Applicant has failed to present such credible evidence pursuant to S.C. Code Ann. § 16-25-90.

SOLE ISSUE OF INEFFECTIVE ASSISTANCE OF COUNSEL, PAROLE ELIGIBILITY

Applicant alleged Trial Counsel was ineffective for failing to raise the issue of a hearing to determine whether Applicant was eligible for early parole under S.C. Code Ann. § 16-25-90. The Order signed by Judge Griffith permitted a *second* evidentiary hearing on Applicant's behalf to address this sole issue. Applicant's other allegations concerning ineffective assistance of counsel have been previously ruled on in Applicant's first PCR action and, based on Judge Griffith's Order,

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are outside the scope of this hearing. This Court will solely consider evidence and testimony concerning Applicant's parole eligibility.

Section 16-25-90 of the South Carolina Code states:

> ...an inmate who was convicted of, or pled guilty or nolo contendere to, an offense against a household member is eligible for parole after serving one-fourth of his prison term when the inmate at the time he pled guilty to, nolo contendere to, or was convicted of an offense against the household member, or in post- conviction proceedings pertaining to the plea or conviction, presented credible evidence of a history of criminal domestic violence, as provided in Section 16-25-20, suffered at the hands of the household member.

S.C. Code Ann. § 16-25-90. The legislative history of Section 16-25-90 indicates the statute was intended for victims of long-term and repeated abuse at the hands of a household member. State v. Hawes, 411 S.C. 188, 767 S.E.2d 707 (2015); See Act No. 7, 1995 S.C. Acts 58–59 (indicating that Section 16-25-90 was first enacted alongside the defense of battered spouse syndrome)).

This Court finds that trial counsel Robert Gamble in his February 21, 2023 affidavit indicated that he has no recollection at the time of about Ms. Vaughn's case after reviewing the file at the Public ~~Fender~~ Defender's Office. However, he indicated that he was not aware that there was a statute in effect at the time of the trial in January 2006 that would have given Ms. Vaugn a chance for early parole eligibility. This Court further finds that prior PCR counsel Mary McCormac testified that when she handled the PCR hearing in 2010-2011 before Judge McIntosh. She testified that in this proceeding that she did not specifically address the issue of parole eligibility in that proceeding, but did put in her history of the relationship between the Applicant and Grant. [7]

[7] During the June 15, 2010 PCR hearing before Judge McIntosh, the Applicant testified about the relationship that she had with the victim similar to her testimony before this Court, but with more detail:

Q. And after he started the verbal speech toward you, what would he do next?
A. He usually got physical.
Q. And what would he do physically to you.
A. He would twist my arms. He pushed me into walls. He's pushed me into the floor. Once he got me by the hair of the head and he knocked my head into the floor causing my chin busted my

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This long term and repeated abuse history at the hands of the victim must be proven by a preponderance of the evidence, and mere production evidence will not automatically result in early parole eligibility, but the defendant must persuade the judge to find the existence of the contested fact is more probable than its nonexistence. State v. Grooms, 343 S.C. 248, 253-4 254, 540 S.E.2d 99, 101-02 (2000) (citing 2 McCormick on Evidence § 339 (5th ed.1999)). It is not enough that the defendant's evidence be plausible, but as the inclusion of the phrase "credible evidence" indicates, the evidence must be trustworthy. State v. Blackwell-Selim, 392 S.C. 1, 707 S.E.2d 426 (2011).

This Court finds as a fact that Vaughn has failed in her burden of proof to show long term and repeated abuse at the hands of Ronnie Grant and failed to show 6th Amendment prejudice under Strickland v. Washington, 466 U.S. 668 (1984) that there is a reasonable probability that had counsel presented this evidence in the sentencing proceeding at trial that there is a reasonable probability that the trial judge would have found the Applicant eligible for parole consideration pursuant to under S.C. Code Ann. § 16-25-90. After consideration of the evidence and argument of counsel and applying the standard set forth in State v. Grooms, 343 S.C. 248, the Court does

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chin open. Getting on top of me. Sitting on me. Holding my arms down with his knees. Not letting me up. Twisting my arm until it felt that he was going to break it. You know, just anything. He never, never hit me square in the face. He would hit me other places, up on my arms. I would have bruises up and down my arms, my rib area.

PCR Appendix p. 428 (22), ll. 11- p. 429 (23), l. 5. In the 2010 proceeding she claimed the deceased controlled he clothing choices, her hairstyle and hair color, her associates, and her contact with family and friends. App. 429, 1. 14 - App. 432, 1. 16. Additionally, the deceased was sexually abusive and controlled the manner that they has sex. App. 432, 1. 17 - App. 433, 1. 15. In that earlier proceeding, she also claimed she called 911 several times concerning the deceased's abusive behavior beginning in March 2002. App. 435, 11. 2-11. She claimed that although the police responded and wrote reports, officers refused to remove the deceased from her home. App. 435, 11. 14-19. However, she noted there were possibly three occasions that they made him leave overnight. App. 435. During the course of their relationship she testified that she also contacted the deceased's probation officer in an attempt to have the deceased removed from her home. Despite her repeated reports of the deceased violating the terms of his probation, the officer never served him with a citation for probation violation. App. 440, 1. 19 - App. 442, 1. 12.

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not believe that Ms. Vaughan has established "credible evidence" of a history of criminal domestic violence. This is based on her testimony at the PCR hearing which does not quite fit with her testimony at the trial.

Applicant testified she has not had a hearing to consider whether she could be considered an abused spouse for purposes of parole eligibility. (PCR Tr. p. 21). Applicant testified to her past relationships, and how she suffered verbal and physical abuse in those relationships. (PCR Tr. pp. 22-28). Regarding Ronnie, Applicant testified she and Ronnie lived together almost two years before the shooting, starting in 2001. (PCR Tr. p. 31). Applicant testified Ronnie became physically violent in March of 2002, and around this time she began calling 911 in Ronnie. (PCR Tr. p. 32).

Applicant testified she filed a CDV complaint against Ronnie on October 4, 2003. (PCR Tr. pp. 32-33; App. Ex. 2 and 4). In Applicant's voluntary statement to law enforcement on October 5, 2003, Applicant stated she and Ronnie had been drinking, had an argument and Ronnie decided to leave the house. Applicant stated as Ronnie was leaving, she attempted to reach into his pocket to see if he had her keys, and Ronnie grabbed her wrists, twisted them, and held her on the ground. Applicant stated Ronnie had stated earlier that night, before the incident, that he ought to kill her. (App. Ex. 2).

At the evidentiary hearing, Applicant testified after the complaint, she continued to live with Applicant and went with Ronnie to his bond hearing, which occurred ten days after the complaint. (PCR Tr. pp. 35-36). Applicant stated when she told Ronnie he had a bond hearing, Ronnie "looked at [Applicant] like he was going to kill [her]." (PCR Tr. p. 37). Applicant testified Ronnie's demeanor changed after his bond hearing, and he became quiet, but Applicant continued to live with Ronnie after the bond hearing. (PCR Tr. pp. 39-40). This was the only specific

instance of violence Applicant testified to. The only other instance Applicant testified to was Ronnie stating, "I'm just going to kill you," the day of the shooting. (PCR Tr. p. 45).

Applicant called several witnesses to testify to the alleged abuse she received at the hands of Ronnie. Mandy Reed testified there was one instance where Applicant seemed very anxious and she asked Applicant if anything was wrong, but Applicant did not say anything about her abuse. (PCR Tr. p. 54). Reed testified that at a certain point in the two-years Applicant lived with Ronnie, she was there every weekend, but she never observed any bruises or marks on Applicant. (PCR Tr. pp. 52, 55). Reed testified she stopped going to see Applicant because she got "bad vibes" from Ronnie. (PCR Tr. p. 55).

Marilyn Gilbert testified she visited Applicant a few times when Applicant lived with Ronnie, and Ronnie had once come over to her house. (PCR Tr. p. 56). Gilbert testified she mostly spoke with Applicant over the phone close in time to the shooting. (PCR Tr. p. 56). Gilbert testified she never witnessed any acts of violence, and Applicant merely told her how scared she was over the phone. (PCR Tr. p. 57). Gilbert testified she never saw any bruises or marks on Applicant when she visited, even after Applicant's complaint. (PCR Tr. p. 58). Gilbert testified near the time of the shooting, Applicant called her and told her she feared for her life. (PCR Tr. p. 60).

Alicia Moser, Applicant's daughter, testified she would visit Applicant every weekend, and she spent several nights at Applicant's while Ronnie was there. (PCR Tr. p. 62). Moser testified Ronnie would yell, scream, and threaten, and Ronnie would yell at and physically abuse her baby brother. (PCR Tr. p. 62). Moser testified Ronnie would belittle Applicant, throw things at her, and call her names. (PCR Tr. p. 63). Moser testified Ronnie drank excessively, to the point he would fall asleep on the couch and not move, or he would be belligerent and stumble around.

(PCR Tr. pp. 63-64). Moster testified she noticed a gash on Applicant's head one time, and Moser testified Applicant told her she got the gash when Ronnie attacked her one day during the summer. (PCR Tr. p. 66).

Caleb Hammonds, Applicant's son who was four at the time of the shooting, testified he remembered a lot of abuse between Ronnie and Applicant. (PCR tr. p. 68). Hammonds testified he has vivid memories that Ronnie abused him and Applicant, but did not testify to any specific instances, but stated Ronnie would drink and get violent. (PCR Tr. pp. 68-70). Hammonds testified he recalled Ronnie pulling Applicant's hair and twisting her arms behind her back. (PCR Tr. p. 71).

Cindy Speight testified Applicant did not initially tell her about the abuse, but Speight noticed Applicant acted differently around Ronnie. (PCR Tr. pp. 8-9). Speight testified Ronnie was standoffish, and Applicant was very uptight and did not freely engage when she was with Ronnie. (PCR Tr. p. 9). Speight testified she met with Applicant six or seven times, and maybe two times with Applicant and Ronnie together. (PCR Tr. p. 12).

Applicant presented documentary evidence, in the form of Applicant's divorce decree from her first husband (App. Ex. 1); The handwritten incident report from October 4, 2003 (App. Ex. 2); The Statement of Alicia Nichole Vaughn, now Moser, from November 5, 2003 (App. Ex. 3); The typed incident report from October 4, 2003 (App. Ex. 4); Letter from the Anderson County Sheriff's Office (App. Ex. 5); and DVD of the recording of Applicant's 911 call. (App. Ex. 6).

At trial, several witnesses testified to Ronnie and Applicant's relationship. Sharon Davenport, who worked with Ronnie, testified Applicant would bring Ronnie to work. (Trial Tr. p. 156). On one occasion in September 2003, Ronnie was loading boxes onto a truck when Applicant came to pick him. (Trial Tr. pp. 157-59). As Davenport was clocking out, she heard

Applicant scream at Ronnie, "You'd better be proud you got your ass out here when you did because you don't want me to come in that place with my damn gun." (Trial Tr. p. 160, ll. 16-19).

Shannon Smith, Applicant's co-worker from Walmart, testified that on October 16, 2003, she ran into Applicant at the Anderson County Jailhouse. (Trial Tr. p. 166). Smith testified Applicant told her the following at the detention center:

> ...they had had an argument, and she — he said he was going to go to his grandfather's, and she said that he wasn't because he was going to go lay up with another woman. And she said that he had her keys in his pocket. That's where he usually kept them. So she reached for them. And when she did, he grabbed her arm and restrained her. And she kicked him. And then he left. He wasn't there when the police came.

(Trial Tr. p. 166, ll. 1-8). Smith testified she asked Applicant if Ronnie ever beat her, and Applicant responded he had never beat her, but that Ronnie would restrain her. (Trial Tr. p. 166). Additionally, Smith testified Applicant told her she would kill Ronnie next time, and Applicant stated she might try rat poison. (Id.). Smith testified Applicant confided in her that she believed Ronnie was cheating on her. (Trial Tr. p. 167). Notably, Ronnie's co-workers at Walmart stated Ronnie had informed them he was planning to leave Applicant. (Trial Tr. pp. 173-98).

In contrast to the Applicant's, Investigator Coyle testified he responded to the shooting that took place at Applicant's residence, and based on his investigation he believed Ronnie was sitting on the couch in the living when he was shot. (Trial Tr. pp. 81-88). Dr. Woodard testified that based on the findings from the autopsy, Ronnie was shot from above while sitting on the couch and that Ronnie was not orientated toward the gun when he was shot—inconsistent with Applicant's version of events. (Trial Tr. pp. 108-17). Applicant's version of the story, which she maintained even at the PCR hearing, was that Ronnie had been yelling at her, eyeballed her gun in the closet on the top shelf, and reached for the gun, Applicant managed to retrieve the gun first,

and then Ronnie allegedly began to rise from the couch toward Applicant, and she shot. (Trial Tr. pp. 265-69). Applicant's version of events clearly does not match up the forensic evidence.

This Court finds Applicant failed to present credible, trustworthy, evidence of long-term domestic violence perpetrated on her by Ronnie Grant entitling her to parole eligibility under S.C. Code Ann. § 16-25-90. As an initial matter, beside Applicant's children, none of Applicant's witnesses testified to any specific instances of abuse or observed marks or bruises on Applicant; rather, there was mere testimony to one instance of possible abuse that Applicant had informed each of the witnesses about close in time to the shooting. Moser testified to one specific instance of abuse, but otherwise testified generally about Ronnie's demeanor and generally to abuse Applicant received. Caleb Hammonds, the Applicant's son, was the only witness who was able to testify to a firsthand knowledge of domestic violence between Applicant and Ronnie, as he lived with them during this period. However, considering Hammonds four year old age at the time and his general testimony concerning the abuse, Hammonds testimony does not give insight to a history of abuse nor who was the primary aggressor. Moreover, there was testimony from two witnesses at Applicant's trial that Applicant made threatening statements, but recanted and confessed Ronnie never abused her, and made statements she intended to kill Ronnie. The jury determined this testimony to be credible, and Applicant presented no evidence, testimony or otherwise, to challenge the testimony of Davenport and Smith evidencing Applicant was the primary aggressor and fabricated the abuse.

Second, the documentary evidence Applicant provided—her mental evaluation, the incident report relating to the October 4, 2003 CDV report, and her statements—do not confirm the existence of long-term abuse or even credibly prove she was not the primary aggressor. Additionally, this Court cannot consider the alleged abuse Applicant received in previous

relationships, as they are not relevant to the determination based on the plain language of the statute.

Finally, the forensic evidence presented at trial clearly contradicts Applicant's version of events, yet Applicant continues to assert the implausible story she acted in self-defense, evidencing Applicant is not a credible or trustworthy witness. Expert testimony provides the blood patterns and directionality of the bullet evidence Ronnie did not lunge at Applicant, but that Ronnie was not standing and facing Applicant as she reported in her initial statement (Trial Tr. p. 131-132, 142) but was seated in the couch when he was shot as reflected by the trail of blood from the couch to wear he collapsed and the blood running down the side of his pants, instead of running straight down. (Trial Tr. p. 81-87, 110-114). In addition, the bullet entered the victim at a slight downward angle right to left. Dr. Woodard opined that he was sitting on the couch when he was shot and not lunging. Trial Tr. pp. 114-116.

Therefore, since Applicant did not present credible evidence of a history of long term criminal domestic violence perpetrated by Ronnie, trial counsel cannot be ineffective for failing to request a hearing to determine if Applicant was entitled to relief under S.C. Code Ann. § 16-25-90. More importantly, the Applicant has failed to show 6th Amendment prejudice. She has failed to show that, assuming trial counsel was deficient, that that there was a reasonable probability that the result would have been different related to the decision concerning whether there was credible and reliable evidence of a long term and repeated history of abuse.

More specifically, the Court finds the following:

1. The Applicant failed to show by a preponderance of the evidence that Angela Vaughn suffered a long term history of domestic violence at the hands of Ronnie Grant.

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2. The Applicant failed to show by credible and reliable evidence that the alleged incident on October 4, 2003 was part of a long term history of domestic violence based upon because of the post-charge conflicting evidence presented by Shannon Smith at trial, that it was caused by her reaction to his statement that he was going to live with his grandfather and her initial attempt was to try to grab keys from his pocket and her belief that he was going to some other woman instead and resulted in her kicking him.
3. There was evidence presented at trial that the Applicant made statements that she was a primary aggressor in relations with the victim, who was trying or threatening to leave her.
4. The incident reported at trial by Tammy Patterson in early October 2003 (Trial Tr. p. 247-249) was not credible or reliable long term history of abuse at the hands of domestic abuse at the hands of Ronnie Grant because it did not reveal who the primary aggressor was and revealed he did not strike the Applicant. Trial Tr.p. 247.
5. The testimony of Alicia Moser, the Applicant's daughter revealed one alleged incident when she saw a scratch or gash on her mother's forehead. (Trial Tr. p. 64). However, Ms. Moser did not witness the cause of the scratch or gash she testified about so it does not present credible and reliable evidence.
6. The testimony of Caleb Hammonds who was four years old at the time of the death recalled that he recalled seeing Grant pull her hair and twist her arm behind her back. In 2010, the Applicant testified that she had her hair pulled one time. App. 428. However, this Court fails to find this evidence credible and reliable as a long term history of domestic violence.

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7. There was no evidence of bruises or specific injury revealed by the other witnesses, except for the scratch or gash reportedly seen by Alicia Moser. The Applicant's 2010 PCR testimony about bruises up and down her arms is not supported by trustworthy, reliable or credible evidence.
8. The Applicant denied that she had been beaten by Ronnie Grant to others after she had made the October 4, 2003 CDV complaint, Trial Tr. p. 166.
9. The Applicant's PCR testimony that he started getting physical with her in March 2002 and she started calling 911 is not credible or reliable when the evidence before this Court is the first reported call was the October 4, 2003 matter addressed above and does not support the existence of a long-term history.
10. This Court find that the Applicant is not entitled to parole eligibility pursuant to S.C. Code § 16-3-90.

Accordingly, Applicant's application is **DENIED** and **DISMISSED WITH PREJUDICE.**

CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be **DENIED and DISMISSED WITH PREJUDICE.**

This Court notifies the Applicant that ~~he~~ she must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking a review of the denial of PCR. Rule 71.1(g), SCRCP, provides that PCR counsel must serve and

file a Notice of Appeal on the Applicant's behalf if the Applicant wishes to seek appellate review. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and

2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 24 **day of** Jan, **2024.**

THE HONORABLE Perry H. Gravely
Presiding Judge
Tenth Judicial Circuit

Pickens, South Carolina

A TRUE COPY
JAN 30 2024
C. Reena Thomason
CLERK OF COURT