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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY
Common Pleas

The Honorable Michael G. Nettles, Circuit Court Judge

Case No.: 2023-CP-10-03365

Jamel Raekwon Brown, #388867 Appellant

v.

State of South Carolina Respondent

NOTICE OF APPEAL

Jamel Raekwon Brown appeals the order of the Honorable Michael G. Nettles, filed March 3, 2025, and served on his counsel March 5, 2025, that dismisses the PCR action. The Defendant/Appellant requests that the order be reversed, and he be granted a new trial.

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March 7, 2025

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Jamel Raekwon Brown, #388867

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
)

CASE NO. 2023-CP-10-03365

ORDER OF DISMISSAL

FILED
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CLERK OF COURT

This matter is before the Court by way of an application for post-conviction relief filed by Jamel Raekwon Brown (Applicant) on July 13, 2023. Respondent made its return requesting an evidentiary hearing. On September 11, 2024, an evidentiary hearing convened before the Honorable Michael G. Nettles. Applicant was present and represented by Christopher L. Murphy, Esquire. Assistant Attorney General Danielle Dixon represented Respondent. At the hearing, Applicant testified on his behalf and called as witnesses his father Jamel Brown, Sr; and plea counsel Rad Deaton. Following a review of the records and the testimony and evidence presented at the hearing, this Court finds Applicant did not meet his burden of proof. Thus, this Court denies relief and dismisses this application with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving an eight-year sentence. In June 2021, the Charleston County Grand Jury indicted Applicant for armed robbery (2021-GS-10-01724) and possession of a weapon during a violent crime (2021-GS-10-01726). These charges arose from an armed robbery of Roy Aytes on December 30, 2020.

On September 2, 2022, Applicant appeared before the Honorable Deadra L. Jefferson and pled guilty pursuant to a negotiated sentence to the weapon charge and, on the armed robbery

charge, the lesser-included offense of attempted armed robbery. Rad S. Deaton and Peter McCoy, Esquires, represented Applicant. Assistant Solicitor Tyler Whitaker represented the State. Judge Jefferson accepted the negotiations and sentenced Applicant concurrently to eight years for attempted armed robbery and five years for the weapon charge. Applicant did not appeal.

CURRENT APPLICATION

On July 13, 2023, Applicant filed this application for post-conviction relief (PCR) alleging:

Ineffective assistance of counsel:

- a. Counsel failed to “properly prepare [Applicant] for the plea deal.” Counsel did not go over and discuss the case to prepare him for a plea deal.
- b. Applicant “released counsel of his duty [but] he remained on [the] case.”

At the hearing, Applicant proceeded on the foregoing allegations. Applicant also alleged his plea was involuntary because he believed he was getting five years and he was incompetent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the records before it, including the Charleston County Clerk of Court records of the underlying conviction; Applicant’s records from the South Carolina Department of Corrections; the plea transcript; and the records from this PCR action. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. After a careful review, this Court finds Applicant has failed to carry his burden of proof. Below are this Court’s findings of fact and conclusions of law as required by section 17 27-80 of the South Carolina Code (2017).

Ineffective Assistance of Counsel / Involuntary Plea

In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). To establish ineffective assistance of counsel,

Applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) Applicant was prejudiced by counsel's deficient performance. Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). Under the first prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. at 117, 386 S.E.2d at 625. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment," and the applicant must overcome this presumption to receive relief. Id. at 117-18, 386 S.E.2d at 625. Second, the applicant must show "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. When reviewing a guilty plea, the Strickland deficiency prong remains unchanged—Applicant must show that counsel's representation fell below an objective standard of reasonableness. Hill, 474 U.S. at 58–59. To show prejudice, Applicant must show a reasonable probability "that, but for counsel's [alleged] errors, he would not have pled guilty and would have insisted on going to trial." Id. at 59. To be knowing and voluntary, the defendant must be advised of the constitutional rights he is waiving, including the right to a jury trial, the right to confront one's accusers, and the privilege against self-incrimination. Boykin, 395 U.S. at 243.

Failed to prepare Applicant for plea

Applicant first contends counsel was ineffective for not properly preparing him for the plea deal. Specifically, he contends counsel failed to discuss and go over the case before the plea. This Court finds Applicant did not prove this ground. At the PCR hearing, Applicant testified he talked with plea counsel Rad Deaton frequently on the phone. He stated counsel sent him discovery, discussed evidence, and discussed potential defenses. When asked if there was any time Deaton was not available, Applicant responded "No." Applicant testified he understood that armed

robbery carried ten to thirty years and that this was a negotiated plea. When asked what affirmative defense he had, Applicant responded that counsel “should have had [his] back.”

Deaton likewise recalled having plenty of conversations with Applicant. He testified he was unable to meet with him as frequently at jail due to COVID restrictions, but he met with Applicant at the jail between three to five times. Deaton testified he reviewed the discovery, discussed it with Applicant, and explained to Applicant his options regarding a trial.

This Court finds counsel’s foregoing testimony credible. This Court further finds counsel met with Applicant a sufficient number of times and adequately explained the case to him. Critically, Applicant himself admitted Deaton spoke with him several times, reviewed discovery with him, and discussed defenses. This Court further find Applicant has failed to set forth what more counsel should have done or discussed with him that would have changed his decision to accept the negotiated plea. Applicant has thus failed to meet his burden of proving deficiency or prejudice, and this claim is denied.

Remained on Applicant’s case

Applicant next contends counsel was ineffective for remaining on Applicant’s case when Applicant wanted him removed. Applicant did not prove this ground. At the PCR hearing, Applicant testified that although he initially retained Deaton, he later retained Peter McCoy, Esquire, to proceed with a bond hearing and eventually a trial. He stated he wanted McCoy to become his lawyer, and he told Deaton he did *not* want Deaton to continue to represent him. He stated Deaton did not discuss substitution of counsel or how to be relieved. Applicant stated Deaton appeared at his plea hearing, and he spoke to Deaton and told him he was not sure he wanted to plea. He explained he wanted to make bond, get released, and begin preparing for trial. Applicant recalled speaking to both Deaton and McCoy at the time of the plea.

Deaton recalled Applicant wanted him to file a motion for a bond hearing, but Deaton did not believe it would be successful and told him he would not get bond. Deaton stated he negotiated a plea with the solicitor, and about one to two weeks before it was set to expire, McCoy filed a notice of appearance. He stated he and McCoy had a conversation with Applicant the week of the plea. According to Deaton, Applicant said he did not want a trial but he also did not want to plea “right now.” Deaton also recalled receiving a letter from Applicant about eight months before the plea indicating he wanted a new attorney and he wanted his money back; Deaton told Applicant he could retain new counsel but he would not get a refund.

This Court finds Applicant did not prove counsel was ineffective in this regard. Initially, this Court notes Applicant relayed to the plea court that he was satisfied with his attorneys and they had done everything he asked or expected in representing him. (Tr. 11). Further, counsel had an ethical duty to represent Applicant until he was relieved. Counsel negotiated a favorable deal that Applicant chose to accept. Applicant has not shown Deaton’s actions fell below prevailing professional norms, nor has he shown he would have *not* accepted the plea had Deaton not remained as counsel. This claim is thus denied.

Involuntary plea – sentence

Applicant next contends his plea was involuntary because he thought he was getting five years. This allegation patently lacks merit. This Court finds credible Deaton’s testimony that he explained the plea and did not tell Applicant it would be a five-year sentence. Further, the plea transcript itself supports that Applicant understood the sentence. At the plea hearing, the solicitor explained it was a negotiated sentence of eight years. (Tr. 3). Applicant told the Court he understood armed robbery carried up to twenty years, his attorneys had explained what a negotiated plea meant, and he understood the weapon charge carried “a mandatory five years, none

of which can be suspended.” (Tr. 6-8). Applicant likewise told the Court he understood he was waiving constitutional rights by pleading guilty. (Tr. 10-11). Based on the foregoing, this Court finds Applicant knowingly, voluntarily, and freely entered his plea with an understanding of the sentence he faced. This claim is thus denied.

Involuntary plea – competence

Finally, Applicant contends his plea was involuntary due to mental incompetence. Applicant did not prove this ground. “To prevail in a PCR action, the petitioner must prove by a preponderance of the evidence he was incompetent when he entered his guilty plea.” Lee v. State, 396 S.C. 314, 320, 721 S.E.2d 442, 446 (Ct. App. 2011). The test of competency to enter a plea is the same as required to stand trial.” Id. “The accused must have sufficient capability to consult with his lawyer with a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings against him.” Id. “[W]hen competency to enter a plea is at issue, a PCR applicant need only show there was a reasonable probability he was incompetent at the time of his plea.” Ramirez v. State, 419 S.C. 14, 23, 795 S.E.2d 841, 846 (2017)

At the PCR hearing, Applicant testified he had PTSD, depression, high anxiety, and bipolar disorder. Counsel testified Applicant told him about his depression and anxiety, but counsel had no concerns about Applicant’s mental competency. This Court finds counsel’s forgoing testimony credible. This Court further finds that based on the foregoing credible testimony, counsel was not deficient. See Lee, 396 S.C. at 322, 721 S.E.2d at 447 (“Plea counsel could not be deficient if she had no indication of Lee’s mental status.”); Jeter v. State, 308 S.C. 230, 233, 417 S.E.2d 594, 596 (1992) (“We find trial counsel reasonably relied on his own perceptions, particularly since counsel was familiar with the petitioner from previous representation. The family who testified at the PCR hearing never raised their concerns regarding the petitioner’s competency to the defense

attorney.”). Applicant has not presented any evidence of mental incompetency and thus failed to show a reasonable probability he was incompetent at the time of his plea. This claim is thus denied.

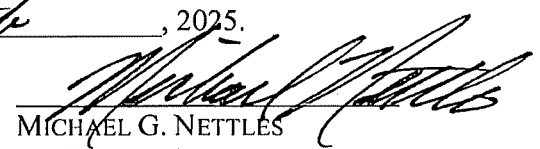
CONCLUSION

Based on the foregoing, this Court concludes Applicant has not established any constitutional violations that would require this Court to grant relief. Thus, this application is denied and dismissed with prejudice. Should Applicant wish to appeal, 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 appellate procedures.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED THIS 24 day of Feb, 2025.


MICHAEL G. NETTLES
Presiding Judge
Ninth Judicial Circuit

2-24-25, South Carolina
