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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM PICKENS COUNTY
COURT OF COMMON PLEAS
Patrick C. Fant, III, Circuit Court Judge

Circuit Court Case No. 2022-CP-39-00795

Joseph Campbell Williams, #373746, ... Petitioner,

v.

State of South Carolina,. . . . . Respondent.

NOTICE OF APPEAL

Joseph Campbell Williams appeals the attached Order of Dismissal signed by the Hon. Patrick C. Fant, III, which was entered of record on April 10, 2025.

s/J. Falkner Wilkes
J. Falkner Wilkes (SC Bar #12893)
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Oakland, MS 38948
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Counsel for Petitioner

April 16, 2025.

STATE OF SOUTH CAROLINA COUNTY OF PICKENS	)	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT
Joseph Campbell Williams, #373746 Applicant, v. State of South Carolina, Respondent.	)	Case No. 2022-CP-39-00795 **ORDER OF DISMISSAL**

Joseph Cambell Williams II (Applicant) filed his first application for post-conviction relief with the Court of Common Pleas in Pickens County on July 5, 2022. He sought to challenge his convictions for criminal sexual conduct with a minor (CSC), second degree, and CSC with a minor, first degree. He filed an amended application on September 10, 2024. The State filed its return on October 28, 2024, after having served it in Applicant's counsel on October 9, 2024.[1] An evidentiary hearing was held on October 9, 2024, at the Greenville County Courthouse[2] before the Honorable Patrick Cleburne Fant III. Applicant was present and represented by J. Falkner Wilkes, Esq. The State was represented by Assistant Attorney General R. Brandon Larrabee, Esq. Upon careful consideration of the transcript of Applicant's criminal trial along with the evidence produced at the PCR hearing, this Court finds that Applicant failed to meet the burden of proof for granting relief. As a result, this Court denies relief and dismisses the application with prejudice.

[1] This is when the return was recorded in the record. A paralegal for the State in this matter certified that the return was served by hand delivery on October 9, 2024, the date of the hearing in this matter.

[2] Applicant agreed to waive venue to allow the proceedings to go forward in Greenville. The State also consented.

PROCEDURAL HISTORY[3]

Applicant is presently confined in the South Carolina Department of Corrections, Perry Correctional Institution, pursuant to orders of commitment from the Pickens County Clerk of Court. A Pickens County grand jury indicted Applicant in July 2015 on the charge of CSC with a minor, first degree (2015-GS-39-1031). The indictment was amended in August 2017; Applicant was also indicted for CSC with a minor, second degree, in March 2017.

A jury trial was held on August 31 and September 1, 2017, with the Honorable Perry H. Gravely presiding. Scott Dover, Esq., represented Applicant and Assistant Solicitor Shannon Odom prosecuted the case. The jury found Applicant guilty on both counts, and Judge Gravely sentenced Applicant to thirty (30) years for CSC with a minor, first degree, and ten (10) years for CSC with a minor, second degree, to be served consecutively.

Applicant timely filed a notice of appeal.

Direct Appeal

J. Falkner Wilkes, Esq., represented Applicant on appeal. By final brief of appellant filed May 31, 2018, in the South Carolina Court of Appeals appellate counsel raised the following issues:

> I. Did the court commit reversible error in limiting evidence of prior false accusations by complainant against persons other than the defendant?
>
> II. Did the court commit reversible error in excluding evidence as to the Appellant's state of mind?

[3] Relevant to the procedural history, the State misstated some dates and locations; those have been corrected here. For example, Applicant has been confined to Perry Correctional Institution since at least December 2022. Further, the petition for rehearing in the South Carolina Court of Appeals was dated July 14, 2020. Counsel informed the Court of this error, and those details are corrected here.

The State filed its final brief on May 24, 2018. By unpublished opinion filed on July 1, 2020, the Court of Appeals affirmed Applicant's conviction. State v. Williams, Unpublished Op. No. 2020-UP-199, 2020 WL 3571979.

Appellate counsel filed a petition for rehearing on July 14, 2020, asking the Court of Appeals to reconsider its opinion and grant Applicant a rehearing based on the following:

> This Court's decision overlooked evidence showing that the other allegations of abuse were made specifically for the purposes of medical diagnosis or treatment and therefore were admissible under Rule 803(4).

The Court of Appeals denied the petition on August 24, 2020.

Appellate counsel then filed a petition for writ of certiorari along with the appendix in the Supreme Court of South Carolina on September 21, 2020, seeking further review. Applicant raised the following issues:

> 1. Did the court commit reversible error in limiting evidence of prior false accusations by complainant against persons other than the defendant?
>
> 2. Did the court commit reversible error in excluding evidence or prior false accusations so as to prove the Petitioner's state of mind and thereby explaining his actions?

The State filed its return on October 21, 2020. Our Supreme Court granted the petition on May 7, 2020, and ordered that the parties proceed with briefing. Applicant filed his brief on June 7, 2021, and the State filed its brief on July 28, 2021. Oral arguments were held on November 10, 2021. Mr. Wilkes argued on behalf of Applicant and Assistant Attorney General Joshua A. Edwards, Esq., of the South Carolina Attorney General's Office, represented the State. In a memorandum opinion filed January 12, 2022, our Supreme Court affirmed the Court of Appeals. State v. Williams, Unpublished Op. No. 2022-MO-001, 2022 WL 110793. The remittitur was issued on February 2, 2022. Applicant now seeks post-conviction relief.

Present Allegations

Applicant makes the following allegations in support of his claim of ineffective assistance of counsel:

> 1. Trial counsel failed to properly handle the issue of the victim's prior false allegations such that the evidence was excluded by the trial court. Trial counsel failed to offer or proffer witness testimony or other evidence to show the falsity of the allegations. Counsel further failed to offer evidence and argument sufficient to cause a Boiter type of review as to the admissibility of the prior false allegations. Counsel further failed to promptly preserve the issue in trial court to allow for direct appellate review.
>
> 2. Trial counsel failed to properly object to improper closing argument where the prosecution attached [*sic*] the defense for the absence. Trial counsel further failed to properly preserve the issue in the trial court to allow for direct appellate review.
>
> 3. Trial counsel failed to introduce evidence relating to prior false allegations as substantive evidence and for the purpose of impeachment of the victim's credibility.
> 4. Trial counsel failed to introduce evidence of threats made by the victim towards the Applicant and his family as substantive and impeachment evidence.
>
> 5. Trial counsel failed to properly introduce evidence and argue law during an attempt to proffer evidence.
>
> 6. Applicant also reserves the right to amend his application after additional investigation and research.

The Applicant requested that his conviction be reversed and for the granting of a new trial. Through counsel, Applicant amended his application in a filing received by the State on September 3, 2024, to clarify the allegations.

> PCR ISSUE 1. Trial counsel erred in failing to properly raise and preserve the issues at trial that Applicant raised on direct appeal. Applicant is entitled to a belated appeal on the issues raised in his direct appeal, and which the Supreme Court found were not properly raised or preserved.

APPEAL ISSUE I. THE COURT ERRED IN EXCLUDING EVIDENCE OF PRIOR FALSE ACCUSATIONS BY COMPLAINANT AGAINST PERSONS OTHER THAN THE DEFENDANT.

APPEAL ISSUE II. THE COURT ERRED IN REFUSING TO ALLOW WITNESSES OFFER TESTIMONY TO EXPLAIN THE APPELLANT'S STATE OF MIND.

PCR ISSUE 2: Trial counsel failed to render effective assistance of counsel failing to properly introduce a Facebook post made by the prosecutrix that was highly probative and essential to the defense of the case. Counsel further failed to object to the Court's improper response to the jury's request to have the Facebook post in their deliberations.

PCR ISSUE 3: [Trial] counsel failed to introduce additional evidence of threats made by the prosecutrix towards the Applicant and his family.

SUMMARY OF TRIAL

Applicant's trial was held August 31 and September 1, 2017. During the trial, Applicant's counsel argued that certain evidence regarding the victim's allegations of sexual assault against other individuals should be admitted. Trial counsel argued that, first, the other allegations were necessary to explain why the victim was in counseling for sexual abuse unrelated to his client; and, second, to point out that the victim had reported others for sexually abusing her but did not accuse Applicant until much later.

The solicitor argued that potential questions could violate the Rape Shield Statute. For example, the solicitor argued that under the Statute, Applicant could not ask the victim whether she falsely claimed that one of the other individuals raped her.

Applicant's counsel conceded that questions about whether other claims of sexual abuse were unfounded would not be appropriate. But he argued that bringing up the fact that the victim

had made allegations against other individuals, but not Applicant, after Applicant had allegedly abused her, would not be inappropriate.

The trial court ruled that he would allow Applicant to ask about the fact that the victim discussed other allegations in counseling, but that the specifics of those cases would not be allowed. The trial court also ruled that it would exclude evidence of a previous allegation the victim had made that led to arrest of another individual.

During the trial, the victim testified that the abuse began when she was seven or eight.[4] She said Applicant, who was her stepfather, laid down on a pallet on the floor with her and began discussing "problems" that he was having with the victim's mother. She testified that Applicant kissed her on the side of her head and rubbed on her legs near her genitals. During questioning, she elaborated that "[h]e basically rubbed me everywhere." She described how the abuse progressed to include oral sex. She described how Applicant would make her brush her teeth afterwards.

The victim said that shortly before she turned thirteen, Applicant took her to the home of her boyfriend, where she had intercourse with her boyfriend. She said that about a week after that, Applicant came to her and asked her for forgiveness.

The victim said she reported the abuse when she was 17 years old, in November 2013, because of concerns she had regarding the safety of her niece.

During cross-examination, trial counsel pointed to discrepancies in prior testimony by the victim about where the oral sex took place; whether she told the father of her child about the abuse; and certain details of certain incidents. The victim also testified that she did not remember telling

[4] The victim later indicated that in regard to some of the allegations, she had difficult remembering her age with precision.

her counselors about other alleged incidents of abuse. She acknowledged previous that she did not tell her counselors about any claims against Applicant and had in fact denied that anything had taken place.

Trial counsel also had the victim concede, on the stand, that ten hours before reporting the abuse she had posted on Facebook:

> I think its funny people wanna say they beat someones ass when in reality they the ones who got beat. Pussy ass n[----]s wanna run wont face a man but wanna talk shit when everybodys gone. world war 3 is about to begin and everybody gonna wish they never fucked with me ! that aint a threat , that's a promise!

Trial counsel also had the victim read a private Facebook message to her mother before the jury:

> You tell daddy I aint gonna control your house ? I aint trying to control your house that's what all them teenagers are there for you and your fucked up daughter [redacted] . you sit there and allow all those punks at your house and let them come back after they get [redacted] to fight me and are doin all those drugs at your house smoking weed in the building and letting [redacted 2] come right in there with em.
>
> [. . . .]
>
> [Redacted 2] is wondering around inside and outside not bein watched walkin around with knives outta the dishwasher cuz she aint bein watched last time I checked dss has done said if they get a wiff of this shit again that shit would be done . and its like no one down there cares and obviously you don't neither cuz you allow them down there anyway [redacted] is gonna end up dead or in jail because of them and you aint doin shit to stop it and I'm here to tell you that your being there doesn't make a damn bit of difference and your indenial if you think it does I get treated like shit for givin a fuck about my brothers and my niece because they dont deserve to be taken away from their family because of everyone elses bullshit but no I'm always the bitch startin shit and I'm put down and everyone else comes before me and you let them . you're my mom and I feel like you don't give a fuck about me so guess what i'm gonna quit givin a fuck about everyone and everything and worry about me because all yall are doing is districting me from what I need to be focused on . i'm tired of worryin bout my niece all the time n whether she's watched or not I shouldnt have to . that's my

> babygirl and I'm no longer gonna be there for her because its hurting me way too much and i can't take it anymore i'm coming to get my shit from your house and I'm not comin back bye.

Among the other witnesses the trial court heard from Angela Farmer, a counselor in at Behavioral Health Services in Pickens County who was qualified as an expert in child sexual abuse counseling and treatment. Ms. Farmer testified that over time, the victim had reported sexual assault against two other individuals and rape against a third.

After the State rested, trial counsel called Wendy Williams, who was separated from Applicant and was the mother of the victim. She testified that the Applicant was never left alone with the victim. During cross-examination, Ms. Williams also testified:

> But there had been previous accusation made by [the victim], and my other daughter, against other men. Because of that, I was already leery. [Applicant] wasn't their father and I just feel comfortable leaving the girls alone or having him take care of them anywhere alone when they were little.

Ms. Williams also testified that because of allegedly false accusations to DSS that the victim had made against her, she wanted to protect Applicant from accusations.

Ms. Williams and Rebecca Miller, the victim's maternal aunt, also testified about the victim's various living situations during this time. Ms. Miller testified that the victim "primarily" lived with her grandparents around the time relevant to her allegations against Applicant.

Applicant also testified at trial. He generally denied the victim's allegations and said that he was never alone with the victim at night. Applicant further testified that he was never alone with the victim "[b]ecause I was fearful that she may make up some kind of allegations toward me." He also indicated that Ms. Williams wanted to keep Applicant away from her children because "she said that she didn't really trust them."

On rebuttal, the state called Fred Kelley, the victim's maternal grandfather, who testified that he was aware of times when Applicant and the victim were alone, or at least when Ms. Williams was not there.

After about 40 minutes of deliberation, the jury asked to have "the FaceBook post" read to them. The trial court responded that the post was not in evidence. The jury then asked to hear the testimony of the victim's aunt and Wendy Williams. That was played for them. The jury then asked to hear the victim's testimony. The testimony was replayed, during which the jury heard the Facebook post from several hours before the victim reported the abuse and the Facebook message.

After several hours of deliberation, the judge gave the jury an *Allen* charge. The jury then deliberated another 20 minutes before finding Applicant guilty of first degree criminal sexual conduct with a minor and second degree criminal sexual conduct with a minor.

SUMMARY OF PCR HEARING

Because of the nature of some of the evidence in this hearing, the Court heard a great deal of testimony as a proffer. The Court will endeavor to identify throughout this section what testimony was presented under objection.

Applicant's Case

Applicant's first witness was Wendy Williams, the mother of the victim in this case and wife of Applicant.[5] Ms. Williams testified about a Facebook message that was read into the record at trial. She read from the trial transcript of the cross-examination of the victim's testimony:

> [Redacted 2] is wandering around inside and outside not bein watched walkin around with knives outta the dishwasher because she ain't bein watched. The last time I checked dss has done said if they get a wiff of this shit again this shit would be done . and its like no one down there cares and obviously you don't neither because you allow them down there anyway [redacted] is gonna end up dead

[5] Ms. Williams said she and Applicant are separated but have not yet gotten a formal divorce.

> or in jail because of them and you aint doin shit to stop it and I'm here to tell you that your being there doesn't make a damn bit of difference and your indenial if you think it does I get treated like shit for givin a fuck about my brothers and my niece because they don't deserve to be taken away from their family because of everyone elses bullshit but no I'm always the bitch startin shit and I'm put down and everyone else comes before me and you let them . you're my mom and I feel like you don't give a fuck about me so guess what i'm gonna quit givin a fuck about everyone and everything and worry about me because all yall are doing is distracting me from what I need to be focused on . i'm tired of worryin bout my niece all the time and whether she's being watched or not I shouldn't have to . that's my babygirl and I'm no longer gonna be there for her because its hurting me way too much and I can't take it anymore i'm coming to get my shit from your house and I'm not comin back bye.

Ms. Williams said her daughter sent the message to her the night before Ms. Williams made the allegations of sexual abuse against Applicant. Ms. Williams also said that the victim had told DSS untruthful information about Ms. Williams, made allegations against a neighbor, and made allegations of a sexual nature against her paternal grandmother's boyfriend.

Ms. Williams then began to testify about a previous accusation the victim had made against a man named Tyler Gilstrap. The State objected to this evidence on the grounds that it violated the state's Rape Shield Statute, would have confused the issue if introduced at trial, and could contain hearsay. This Court sustained the objection but ruled that it would allow the evidence to be proffered.

Before going into proffered testimony, Applicant elicited testimony from Ms. Williams that Applicant would not be left alone with the victim because of previous allegations she had made.

On proffer—and after the State had reiterated its objection to the testimony for violating the Rape Shield Statute and confusing the issue—Ms. Williams testified that the victim had accused Gilstrap of forcibly raping her. Ultimately, Ms. Williams testified, Gilstrap was convicted of statutory rape. She testified that Applicant was aware of the allegations.

On cross-examination, Ms. Williams confusingly testified about the message: "I don't remember that one being read. I remember the actual Facebook post being read, but I don't -- I don't remember." She also testified that she had related at trial some information about the victim's previous allegations.

Turning to the proffered testimony, Ms. Williams testified that she had taken her daughter to the police after she made allegations about Gilstrap, and that Ms. Williams had previously told Gilstrap that the victim was a minor.

The next witness, Angelina Barton, testified entirely under proffer after the Court sustained the State's objection that her testimony would violate the Rape Shield Statute and confuse the issue.

Barton identified her statement to law enforcement at the time of the incident with Gilstrap. She testified that she was at the house where the incident occurred that evening. Barton testified that she was not actually in the room during the alleged incident, "but I did hear them getting busy in the room." She further testified that her statement to law enforcement was accurate. She said she did not believe the victim had been forcibly raped. Barton testified that she believed the victim intended to have sexual intercourse with Gilstrap.

On cross-examination, Barton said the victim had bragged about the incident. Barton did not deny that she had told law enforcement in her statement that Gilstrap was like a brother to her. But at the PCR hearing, she downplayed the significance of that statement, saying Gilstrap "was like a brother to everybody" who hung out with them and the statement did not indicate she and Gilstrap were particularly close.

The Court likewise heard testimony under proffer from Corey Nathaniel Bruce about the incident. Bruce also identified his statement from the time. He testified that the incident took

place at his house. Asked whether Bruce believed that Gilstrap had forcibly raped the victim, he testified: "I believe that he took advantage of her."

On cross-examination, Bruce testified that he had heard the victim say "no" to Gilstrap at one point. On redirect, he said that he also heard her laugh.

Applicant also called Christoper Alan Williams, Applicant's brother, to testify. He said that Applicant never wanted to be left alone with the victim. As Christoper Williams was to begin testifying about another allegation that the victim had made, the State again objected under the Rape Shield Statute. This Court again sustained the objection but allowed the testimony to go forward under proffer. Christopher Williams then testified that Applicant was hesitant to be alone with the victim because of an accusation she had made against a neighbor.

After conclusion of the case, Applicant reiterated his proffer, and the State reiterated that it objected under the rape shield statute and *Boiter*.

The State's Case

The State called a single witness: Robert Scott Dover, trial counsel for Applicant. Dover, who was admitted to the practice of law in 1987, said that his strategy for Applicant's defense was to attempt to attack the victim's credibility. Counsel said he was aware of the other allegations that the victim had made, and that he attempted to make the jury aware that the victim was "a veteran of reporting sexual abuse." Counsel agreed, though, that some of the testimony raised at the PCR hearing would violate the Rape Shield Statute, and he did not want to offer it for that reason. Counsel in fact said that the defense "got into a lot that the judge said I couldn't get into."

Counsel also testified that he had not intended to offer the Facebook post into evidence because he wanted to try to preserve the last closing argument. He noted that after the judge denied

the jury's request to hear the message again, the jury successfully asked to have the testimony during which the message was read into the record repeated.

Counsel attributed the State's success to the victim's testimony and the solicitor trying "the best case I've ever seen her try." Counsel said his only potential regret in hindsight was not asking the judge to tell the jury that while the post itself was not in evidence, the testimony containing it was in evidence.

On cross-examination, counsel said he wanted to try to explore tensions between the victim and her sister, including possible jealousy between the two of them, and the victim and her mother. He testified that he considered the Facebook post an element of his defense, but that he did not consider it "an essential part of the defense." Counsel said that if he made a mistake, it was in putting up a defense at all. As to the failure to get Judge Gravely to instruct the jury about the post's role in evidence, Counsel thought it was "cured" when the jury instead asked to hear the testimony concerning the post. He conceded that the jury might have otherwise been confused.

On redirect, Counsel again said he regretted putting up a defense, but that he changed course because of the victim's testimony. He said he advised Applicant to testify because of the quality of victim's testimony.

On recross, Counsel testified that he did not offer the post into evidence once he put up a case because he believed that doing so might have required the victim to testify again in order to authenticate it, and he "already had my teeth kicked in one time." He conceded that he could have tried to get it admitted during the mother's testimony, but that he believed re-calling the victim might have been necessary.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

During the PCR hearing, this Court heard a mixture of unobjected to and proffered testimony from Wendy Williams, Angelina Barton, Corey Bruce, Chris Williams, and Scott Dover. This Court finds Ms. Barton has credibility issues, given that in her written statement she said that Gilstrap was "like my brother" before testifying almost 15 years later that she was referring to Gilstrap's "being a brother to everybody." The Court finds Mr. Bruce's testimony credible. The Court also finds that Ms. Williams' and Chris Williams' credibility is harmed by their relationships with Applicant. Finally, the Court finds the testimony of trial counsel to be highly credible.

PCR Issue 1: Ineffective Assistance of Counsel/Belated Appeal

This case comes to the Court under a slightly different theory than the run-of-the-mill belated appeal issue. Here, Applicant is not arguing that he was never informed of the right to appeal, or that his case was not appealed—it was, in fact, appealed all the way to our supreme court, which affirmed the conviction on procedural grounds in an unpublished opinion. *See generally Rolen v. State*, 384 S.C. 409, 415, 683 S.E.2d 471, 475 (2009) ("[T]here must be proof that extraordinary circumstances exist, such as where a defendant inquires about an appeal, in order for counsel to be required to advise a defendant of the right to appeal."); *Weathers v. State*, 319 S.C. 59, 61, 459 S.E.2d 838, 839 (1995) ("The bare assertion that a defendant was not advised of appellate rights is insufficient to grant relief. Instead, there must be proof that extraordinary circumstances exist such that the defendant should have been advised of the right to appeal.").

Instead, the Applicant is arguing that he should be granted a belated appeal for the very reason that our supreme court affirmed the case—that trial counsel did not "properly raise and preserve the issues at trial that Applicant raised on direct appeal." In other words, Applicant is not arguing that trial counsel's ineffective assistance led to the result at trial—his conviction—but that

it was ineffective assistance not to directly raise the claims raised here so that our appellate courts could consider them.

Any difference, though, is one of degrees. The only way counsel could be ineffective for raising an issue is if the trial court would have been reversed on appeal based on existing law at the time of Applicant's conviction. *See Patterson v. State*, 359 S.C. 115, 118, 597 S.E.2d 150, 151 (2004) ("An attorney is not required to anticipate potential changes in the law, which are not in existence at the time of the conviction."); *Chappell v. State*, 429 S.C. 68, 79, 837 S.E.2d 496, 501 (Ct. App. 2019) ("For an ineffective assistance claim, the PCR court must 'determine whether counsel was ineffective *at the time of the alleged error*.' Thus, the court must consider the law as it existed at the time of trial and 'not as it has evolved today . . . .' " (quoting *Pantovich v. State*, 427 S.C. 555, 562–63, 564, 832 S.E.2d 596, 600, 601 (2019))).

For trial counsel to be ineffective for failing to raise an issue, it had to be an issue on which the trial court would have either ruled differently or have been found by an appellate court to have ruled in error under the then-current state of the law. To be clear: the deficiency prong of the *Strickland*[6] test would be the failure to raise an issue that trial counsel should have raised; the prejudice prong would be that the trial court would have ruled differently or been in error. As explained below, Applicant has not shown that to be the case.

Claims About Victim's History of Abuse Reporting

[6] *See Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 2064, 80 L. Ed. 2d 674 (1984) ("First, the defendant must show that counsel's performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the "counsel" guaranteed the defendant by the Sixth Amendment. Second, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable.").

The State objected to the vast majority of the evidence that Applicant sought to admit, and this Court sustained those objections. Virtually all of the objections dealt with the state's "Rape Shield Statute," S.C. Code Ann. § 16-3-659.1, so this Court will first address whether this evidence was admissible. It is worth noting that if the evidence is not admissible here—or would not have been admissible at trial—then the Applicant cannot meet Strickland's prejudice prong. *See Strickland v. Washington*, 466 U.S. 668, 695, 104 S. Ct. 2052, 2068–69, 80 L. Ed. 2d 674 (1984) ("When a defendant challenges a conviction, the question is whether there is a reasonable probability that, absent the errors, the factfinder would have had a reasonable doubt respecting guilt."). If the evidence would not have been admissible at trial, then trial counsel's failure to seek its admission—ineffective or not—could not have any impact on the verdict and could not serve as a basis for a belated appeal. Here, the Court finds that the evidence would not have been admissible under our state's Rape Shield Statute and our supreme court's decision in *State v. Boiter*, 302 S.C. 381, 396 S.E.2d 364 (1990); as a result, the counsel's failure to introduce it could not possibly have prejudiced Applicant.

The Rape Shield Statute and Boiter

Like many states, South Carolina has codified protections for victims of criminal sexual conduct who testify against their assailant. *See* § 16-3-659.1. Subsection (1) of the statute is particularly relevant here, as it lays out the dimensions of the protection.

> Evidence of specific instances of the victim's sexual conduct, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct is not admissible in prosecutions under Sections 16-3-615 and 16-3-652 to 16-3-656; however, evidence of the victim's sexual conduct with the defendant or evidence of specific instances of sexual activity with persons other than the defendant introduced to show source or origin of semen, pregnancy, or disease about which evidence has been introduced previously at trial is admissible if the judge finds that such evidence is relevant to a material fact and issue in the case and

> that its inflammatory or prejudicial nature does not outweigh its probative value. Evidence of specific instances of sexual activity which would constitute adultery and would be admissible under rules of evidence to impeach the credibility of the witness may not be excluded.

S.C. Code Ann. § 16-3-659.1(1). None of the evidence that Applicant sought to introduce at the PCR hearing had anything to do with the origin of semen, pregnancy, disease, or adultery on the part of the victim. Under the plain terms of the statute, then, any evidence about other sexual encounters of the victim is inadmissible.

But our courts have encountered cases requiring that the statute be interpreted in light of a defendant's rights under the Confrontation Clause of the Sixth Amendment. In a landmark opinion interpreting the statute, our supreme court held that "[t]he statute does not prohibit all evidence of the victim's past sexual conduct." *State v. McCoy*, 274 S.C. 70, 73, 261 S.E.2d 159, 161 (1979). In *State v. Finley*, our supreme court said that because the victim's encounter with a third person "was offered for purposes other than to attack the complainant's character by revelation of her sexual activity with a third party, we conclude that such evidence does not come within the purview of the Rape Shield Statute." 300 S.C. 196, 200, 387 S.E.2d 88, 90 (1989). Our court of appeals "has concluded the *Finley* decision held 'the Rape Shield Statute did not bar evidence of a victim's sexual conduct if the evidence was offered for a purpose other than to attack the victim's morality.'" *State v. Grovenstein*, 340 S.C. 210, 216, 530 S.E.2d 406, 409 (Ct. App. 2000) (quoting *State v. Lang*, 304 S.C. 300, 301, 403 S.E.2d 677, 678 (Ct. App. 1991)).

These concerns are particularly significant when it comes to past allegations of sexual assault or sexual misconduct by a victim. After all, the Rape Shield Statute applies to evidence of the victim's sexual conduct, not necessarily evidence of the victim's allegations of sexual conduct. Filling in the gap is our supreme court's holding in *State v. Boiter*, 302 S.C. 381, 396 S.E.2d 364

(1990). That court did not explicitly address the Rape Shield Statute, but did discuss when allegedly false allegations by a victim of sex crimes can be used as (essentially) impeachment evidence.

> We hold that in deciding admissibility of evidence of a victim's prior accusation, the trial judge should first determine whether such accusation was false. If the prior allegation was false, the next consideration becomes remoteness in time. Finally, the trial court shall consider the factual similarity between prior and present allegations to determine relevancy.

Id. at 383–84, 396 S.E.2d at 365.

Boiter, then, is the starting place for this court's analysis, because it would have determined whether the trial counsel should have raised the issue and whether the trial court, had it ruled for the State, would have been reversed on appeal. But this court does not begin with a completely blank slate, because the *Boiter* issues in this case have not gone completely unaddressed.

It is true, as Applicant contends, that our supreme court did not take up the *Boiter* issues during his direct appeal. *See State v. Williams*, Op. No. 2022-MO-001, 2022 WL 110793, at *1 (S.C. S. Ct. Jan. 12, 2022) (memorandum). Rather, the court stressed that it was "constrained to agree with the court of appeals that this issue is not preserved for *direct* appellate review." *Id.*

The court of appeals, though, did analyze the *Boiter* issues in this case. *See State v. Williams*, Op. No. 2020-UP-199, 2020 WL 3571979, at *1 (S.C. Ct. App. July 1, 2020). And while this opinion is unpublished, it can still be instructive for this Court as it does its own *Boiter* analysis. In its opinion, the Court of Appeals found that Applicant "did not proffer witness testimony or other evidence to show the falsity of the allegations. In any event, we find the prior allegations were too remote to be admitted as evidence." *Id.*

At the PCR hearing, Applicant was allowed to proffer evidence that the prior accusations were false. Nonetheless, this Court finds that the Applicant failed to carry his burden to show that

the allegations were false. He did nothing to address the court of appeals' finding regarding the remoteness of the allegations. And he did not show that any of the cases were factually similar enough to Applicant's case that the allegation was relevant. So even if trial counsel had preserved the issue and an appellate court had addressed it, the evidence still would have been barred under *Boiter*.

The Gilstrap Allegations

Applicant contends that the allegations the victim made against Tyler Gilstrap when she was 13 years old should have been offered at trial. Regardless of whether the evidence would have violated the Rape Shield Statute, it would not have been admitted under the *Boiter* test—and so trial counsel was not ineffective for failing to elicit it, and there was no prejudice to Applicant even if he was.

Again, the *Boiter* test requires this court to (1) find that the allegation was false; (2) consider its remoteness in time; and (3) consider whether it was similar enough to the crime at issue to be relevant. Applicant does not get past the first requirement.

During the PCR hearing, Applicant put a great deal of emphasis on whether the victim's allegations against Gilstrap consisted of statutory rape or "forcible rape." It does not make any difference and certainly does not constitute a reason for finding the victim's entire account false.

As to Ms. Williams' testimony on Gilstrap, she said that her daughter accused Gilstrap of forcible rape, Gilstrap was convicted of statutory rape, and that Applicant was aware of the allegations. On cross-examination, she testified that she took her daughter to law enforcement after hearing the allegation and that she had told Gilstrap that the victim was underage.

Setting aside whether there is a meaningful legal difference between statutory rape and forcible rape, Applicant fell well short here of showing the kind of truth or falsity that *Boiter* is

concerned with. Under all the available evidence regarding the Gilstrap incident, a 20-year-old man had sexual intercourse with a 13-year-old girl. That is rape under the laws of this state. All that Applicant musters to disprove that are 15-year-old statements—one from a witness who testified at the PCR hearing that he now regards the incident differently than he did at the time—and the testimony of a witness with credibility issues. None of the testimony indisputably disproves allegations of force. And none of it changes the fact that Gilstrap was convicted of raping the victim in this case. It is important to remember that Applicant in this case does not—and cannot—raise a defense of consent to these charges. His contention is that no sexual abuse happened at all. To that extent, whether the victim had "consensual" sex with Gilstrap or was forcibly raped, no one has produced evidence that her claims of having sexual intercourse with Gilstrap were false. Likewise, it does not matter here whether Applicant used force to abuse the victim; what is at issue is her testimony that the sexual acts took place.

Turning to remoteness, Applicant argued at the PCR hearing that the alleged sexual abuse by Applicant, at least at its latest point, was close in time to the Gilstrap incident. The State did not vigorously contest this, pointing to the other factors. It is possible that the time elapsed between the allegations—and not the time elapsed between the alleged incidents of abuse—is the proper frame of reference. *See Vanover v. State*, 433 S.C. 31, 46, 856 S.E.2d 160, 168 (Ct. App. 2021) (Lockemy, J., dissenting) (arguing that evidence should have been allowed because "the accusations" against one witness "were not so remote in time compared to those against Petitioner because *the two accusations were between one and three years apart*" (emphasis added)). Here, the victim's accusations against Gilstrap were made in 2009, and those against Applicant were made five to six years later. Reading the time elapsed between the allegations, rather than the incident, is reinforced by a good faith reading of the court of appeals' analysis of this case.

Regardless, there is virtually no similarity between the two sets of allegations here. One is that a slightly older man whom the victim viewed as a boyfriend had sexual intercourse with her several times over the course of an evening. The other is that her stepfather repeatedly abused her, largely through oral sex and fondling, for a number of years. The Gilstrap allegations involved no familial ties and a completely different dynamic; as a result, the crimes are too dissimilar to be considered. Further, as the testimony took place when the victim was 21 years old, it cannot fairly be said to explain her knowledge of sexual relations. *See Grovenstein*, 340 S.C. at 219, 530 S.E.2d at 411 ("[E]vidence of a child victim's prior sexual experience is relevant to demonstrate that the defendant is not necessarily the source of the victim's ability to testify about alleged sexual conduct.").

As a result, this Court finds that the allegations against Gilstrap did not qualify for admission under *Boiter*. Even if the evidence is considered by this Court—despite its exclusion at the PCR hearing—it should not have been admitted by the trial court, and the trial court's decision not to allow it would not have been grounds for reversal on appeal. So trial counsel was not ineffective in failing to offer the evidence and trial, and—because it should have been excluded in any case—Applicant can show no prejudice from the failure to attempt to introduce it.

The Neighbor

Likewise, the cursory allegations about the victim's allegations against a neighbor should not be considered by this Court, nor would they have survived a *Boiter* analysis at trial. As a result, this court will also deny any relief related to them.

The Court is skeptical that Applicant provided any proof that the allegations of abuse by the neighbor were false. In fact, Ms. Williams appeared to testify that she did not know whether the accusations against the neighbor were true. There was certainly not enough for this Court to

conclude that the allegations were false. As a result, the evidence would fail to pass the first step of the *Boiter* test.

Additionally, the allegations that a neighbor with no familial ties to the victim abused her is different enough from allegations that her stepfather abused her that this factor is, at best, neutral and perhaps cuts against Applicant.

As a result, this Court finds that Applicant has not shown that the evidence should have been admitted at trial, or that a decision to exclude it would have constituted a basis for appeal. For those reasons, trial counsel was not ineffective in failing to offer the evidence, and the failure to offer the evidence could not prejudice Applicant because it would have been excluded in any case.

Applicant's State of Mind

Applicant also alleges that his attorney failed to preserve an issue of whether the trial court unduly restricted his ability to discuss why he might have been reluctant to be around the victim.

First, to the extent that any of the evidence is not relevant under *Boiter*, it would not have been relevant to explain Applicant's state of mind. To the extent that other evidence was aimed at proving this ground, Applicant cannot show prejudice.

In any case, much of this evidence came in during the trial, if sideways. For example, during the solicitor's cross-examination of Ms. Williams, she explained why she did not like leaving Applicant with her daughters.

> But there had been previous accusations made by [the victim], and my other daughter, against other men. Because of that, I was always leery. [Applicant] wasn't their father I just feel comfortable [sic] leaving the girls alone or having him take care of them anywhere alone when they were little.

Ms. Willaims also testified about her experiences with what she said were unjustified reports to DSS: "I was always worried because I had been put in that situation, I didn't want him to be put in that situation."

It is true that the trial court later said during Applicant's testimony that "he can say, 'I was fearful of being accused of anything' but I don't think that he can say because of her previous allegations." As the trial court also acknowledged, though: "I mean, that's already in the record anyway but I don't think he can say." As a result, Applicant did testify to the jury that he avoided being alone with the victim "[b]ecause I was fearful that she may make up some kind of allegations toward me." Applicant also testified on cross examination that he understood Ms. Williams not wanting him to be around her daughters "because she said that she didn't really trust them" and that he "was fearful to ever watch them or babysit them in any kind of way."

This brings us to the PCR hearing. First, the Court will note that while the objections on this ground had to do with Applicant's state of mind, Applicant did not testify at the PCR hearing. Ms. Williams testified about the victim's previous accusations to DSS against her, as well as allegations against the neighbor and the paternal grandmother's boyfriend. She also referenced the allegations against Tyler Gilstrap, at which point the State objected and the remainder of her testimony about the Gilstrap matter took place under proffer. Outside of proffer, she also testified that she believed the allegations against the grandmother's boyfriend were "out of anger."

Applicant's brother, Chris Williams, proffered testimony that his brother was worried about the allegation against the neighbor.

> [The victim] had made allegations against the neighbor that lived behind them previous to this. And my brother and I, we talked about. And I -- you know, we -- I came and just talked with him that he should never be alone with her due to those previous allegations.

Williams also said that the allegation was a serious cause of concern, because it indicated the victim might make a false report about Applicant.

The Court finds that even if trial counsel did not do a perfect job of preserving his attempts to get some of this testimony into the record, there is no showing of prejudice. The fact that Applicant was afraid to be alone with the victim was put before the jury. And that fact that the victim had made previous allegations was put before the jury. Therefore, the essence of the alleged state of mind evidence—that Applicant was afraid to be alone with the victim because of her previous allegations—was there for the jury to consider. Additionally, as the Court noted, Applicant did not testify at the PCR hearing. While the Court does not hold this against Applicant, it leaves a hole in the record about his state of mind.

For these reasons, the request for relief on this part of Ground One is **DENIED.**

PCR Issue 2: The Facebook Message

Applicant also alleges that trial counsel erred by not formally entering into evidence a Facebook message from the victim to Ms. Williams that was read before the jury at trial. The Court here finds that there was a strategic reason for trial counsel's initial decision not to introduce the evidence, that there was a strategic reason for not doing so later, and that in any event there was no prejudice because the jury was able to consider the information in the Facebook message.[7]

[7] There appears to have been some confusion during the PCR hearing about when, precisely, the Facebook message was read before the jury. For example, the State at one point said during the hearing that the Facebook message "did come in during a witness that was called by the defense." That is incorrect. Additionally, the trial counsel more equivocally suggested that Ms. Williams testified about it, though he admitted he did not remember. Based on the record from the trial, the Court finds these statements were incorrect. There was one Facebook post and one direct message read at trial; the post was read by counsel during cross-examination of the victim, and the message was read by the victim. Counsel for the State notified the court of his error while preparing a proposed order.

First, the trial counsel articulated a reasonable strategy for not entering the Facebook message into evidence during his cross-examination of the victim. Counsel testified that he wanted the opportunity to have the final closing argument before the jury—something that would have required presenting no evidence in Applicant's defense. Counsel was concerned that admitting the Facebook post into evidence would foreclose his ability to have the last word.[8]

Counsel changed his calculation after the victim testified. However, he testified that submitting the Facebook message into evidence at that point might have required re-calling the victim to the stand. Trial counsel testified he did not want to risk the possibility that additional testimony from the victim could further damage Applicant's case. These are reasonable calculations for trial counsel to make, and those decisions are afforded great deference.

Second, the Facebook message was read to the jury not once, but twice. Trial counsel did not have to get the evidence admitted in order for it to be considered by the jury. This might be a different case if counsel had not put the message before the jury in any way. But he did. And when the judge blocked the reading of the Facebook message itself to the jury, the jurors figured out an alternative route—they had the witness testimony containing the Facebook message read back to them. The jurors succeeded in hearing what they wanted to hear again; there was no prejudice.

Applicant's contention that the judge's comments that the Facebook message was not in evidence could have influenced the jury's view of it also fails. If the jury understood the judge's

[8] The Court is aware of *Weldon v. State*, 436 S.C. 69, 870 S.E.2d 183 (Ct. App. 2021). In that case, the court of appeals questioned whether counsel's testimony about wanting the final closing argument was unequivocal. In that case, the counsel had not called alibi witnesses and ventured speculation that it might have been about having the final word. That is dissimilar to this case, where the counsel found other ways to get the evidence before the jury even if it was not formally admitted. Further, the Facebook message itself was not as significant a defense as alibi witnesses.

comments to mean they could not consider the Facebook message at all, it seems unlikely that they would then ask the Court to re-read that testimony to them. And even if this Court ignores that, this speculation is far from enough to carry Applicant's burden. As a result, even if the Court were to find ineffective assistance, it would not find prejudice. Applicant's request for relief on this ground is **DENIED**.

PCR Issue 3: Additional Threats

This Court finds very little of the alleged "additional evidence of threats" was submitted at the PCR hearing. Ms. Williams testified briefly that the victim made unspecified threats. Applicant has not appeared to offer substantial evidence on this ground, and so it is **DENIED**.

CONCLUSION

Based on the above, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant relief. This Court finds Trial Counsel provided effective representation. Therefore, the application for post-conviction relief is **DENIED and DISMISSED WITH PREJUDICE**.

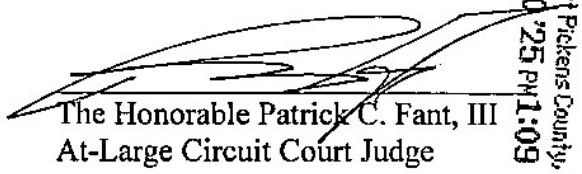
Should Applicant wish to appeal, he must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment. Applicant has a right to appellate counsel's assistance in seeking review of the denial of PCR. *See Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). Pursuant to Rule 71.1(g), SCRCP, if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. Post-conviction relief I denied and the application for post-conviction relief be dismissed with prejudice.

2. Applicant be remanded to the custody of the State.

AND IT IS SO ORDERED this 7th day of April, 2025.



The Honorable Patrick C. Fant, III
At-Large Circuit Court Judge

State of South Carolina
The Circuit Court of the Thirteenth Judicial Circuit

Patrick C. Fant, III
Judge

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April 7, 2025

Pickens County Clerk of Court
Attn: Ms. Michelle Broom
214 East Main Street
Pickens, SC 29671

RE: Joseph Campbell Williams, #373746 v. State of South Carolina
Case No.: 2022-CP-39-00795

Dear Ms. Broom:

Attached please find for filing the signed Order of Dismissal regarding the above-referenced matter.

Sincerely,

Brenna Jennings

Brenna Jennings
Administrative Assistant to The Honorable Patrick C. Fant, III