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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Patrick C. Fant, Circuit Court Judge

2021-CP-23-04035

Adam Thomas Byrum, ... Appellant,
v.
The State, ... Respondent.

NOTICE OF APPEAL

Adam Thomas Byrum appeals the Honorable Patrick C. Fant's Order of Dismissal filed May 2, 2025.

This 5th day of May, 2025

s/ Susannah Ross
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STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	)	IN THE COURT OF COMMON PLEAS FOR THE THIRTEENTH JUDICIAL CIRCUIT
Adam Thomas Byrum, SCDC# 384584, Applicant, v. State of South Carolina, Respondent.	)	Case No.: 2021-CP-23-04035 **ORDER OF DISMISSAL** (*with prejudice*) ENTERED COMPUTER

This matter comes before the Court by way of an application for post-conviction relief filed on August 20, 2021, by Applicant Adam Thomas Byrum. Respondent made its return requesting an evidentiary hearing and moved for partial summary dismissal of Applicant's Great Seal allegation on or about March 31, 2022. Susannah Ross, Esq. was appointed to represent Applicant on November 3, 2021. On May 14, 2024, Applicant, through counsel, amended his application.

An evidentiary hearing was held on October 8, 2024, at the Greenville County Courthouse with the Honorable Patrick C. Fant, III, presiding. Applicant and his counsel, Ms. Ross, were present. Assistant Attorney General Tommy Evans Jr. of the South Carolina Attorney General's Office represented the State. At the beginning of the hearing, Respondent moved to dismiss Applicant's Great Seal allegation, which this Court granted. Applicant and his plea counsel, John Shipman, Esq., testified at the hearing.

After reviewing and considering the record, arguments presented by counsel, and the controlling case law, this Court finds that Applicant has failed to carry his burden of proof. Consequently, this Court **DENIES** relief for the specific reasons set out in this order.

PROCEDURAL HISTORY

Applicant is currently incarcerated in the South Carolina Department of Corrections, Turbeville Correctional Institution, pursuant to commitment orders from the Greenville County Clerk of Court for murder and two counts of attempted murder, serving a 50-year aggregate sentence.

During the July 2020 term, the Greenville County Grand Jury indicted Applicant for possession of methamphetamine with intent to distribute (2020-GS-23-003491), resisting arrest (2020-GS-23-003480), two counts of conspiracy (2020-GS-23-003489; -003490), murder (2020-GS-23-003494), two counts of attempted murder (2020-GS-23-003484; -003485), and three counts of possession of a weapon during the commission of a violent crime (2020-GS-23-003494; -003484; -003485).

On December 10, 2020, Applicant appeared before the Honorable Letitia H. Verdin and pled guilty to murder (2020-GS-23-03494) and two counts of attempted murder (2020-GS-23-03484; -03485). (Plea Tr., at 1). John Christopher Shipman ("plea counsel") represented and Marcus Lynn Smith ("the solicitor") of the Thirteenth Circuit Solicitor's Office prosecuted the case. (Plea Tr., at 1). The solicitor presented the following recitation of facts:

> [O]n March 13, 2019, here in Greenville County, Jacori Ashley, age 21, and Kalo McCullough, age 27, drove up to the Dollar General off Locust Hill Road here in Traveler's Rest. Jacori was driving and Kalo was the passenger. Jacori had been contacted by the defendant, Adam Byrum, and requested a ride. Jacori worked with Byrum and his codefendants, Corino Castro's mother at a place called RimTyme. Jacori had given rides to Byrum in the past. This night Jacori asked his friend Kalo to ride with him.
>
> They arrived at the Dollar General and waited for Byrum and Castro to arrive. They noticed two individuals wearing hoodies walking up to the car. They knew it was Byrum and Castro as they were on the phone talking with them.

When they got next to the car, the defendant, Mr. Byrum, stated something to Jacori and immediately pulled a gun and started shooting into the vehicle. Jacori was hit with one round and it went through his mouth and nasal area, as well as his shoulders.

Kalo was hit with a round and went through his lung and shattered a vertebra leaving him permanently paralyzed from the chest area down. Jacori was able to speed off from the site. And amazingly, Your Honor, having been shot in the face, drive to St. Francis hospital in downtown Greenville. At the time, Judge, he was trying to make a phone call, but he couldn't handle the phone because his hand was so full of blood that it was just slipping out of his hand.

The guns used to shoot the victims were 380 calibers. Four shell casings found were identified by ballistics tests as having been fired from one of the 380 handguns, which was found later belonging to the defendants.

Both victims have given statements that both defendant and co-defendant, Byrum and Castro, were the individuals there that night and that Byrum was the person that shot him.

Then, Your Honor, four days later on March 17, 2019 in Greenville County deputies arrived at 66 - excuse me -- 6077 Locust Hill Road, a short distance from where the first case happened, in Traveler's Rest and found a Ford F-150 partially in the roadway and partially in the entrance to a business. Inside the vehicle, a deceased white male sitting in the driver's seat was found slumped over the center console with blood on the left and right sides of his head. It was determined that he been shot in the head. Bullet holes were found on the car and two, 380 caliber shell casings were also found.

The male was later identified as Jamie Dale Smith, age 32. A handwritten note on a paper towel found in Smith's home was later given to investigators that stated (864)721-7109, Smokey G, Locust Hill Road. T.R., 29690, call 30 min, minutes, be I arrive.

Smokey G was later identified as this defendant, Adam Byrum, and the phone number was run and found to belong to Adam Byrum as well.

An attempt to arrest the defendant was carried out a day later, March 18, 2019. Investigators who connected the two, found that they were related incidents. And so a short distance later -- a short distance from where these two incidents occurred, that's where

they were going to arrest the defendant and his co-defendant. Officers had to use a K-9 due to the defendant running to avoid and apprehension. When arrested, the defendant was found in possession of 1.41 grams of methamphetamines and admitted that he had just shot meth.

Both the defendant and his co-defendant girlfriend are members of the Gangster of Insane gang, which is part of the larger Folk Nation gang. And, Judge, I know I handed up to you previously, and I've shared that with Mr. Shipman, memes and things from where they had posted on Facebook, and I can talk about some of those, but some from Miss Castro and everything will show that they have the gangster symbols and signs and pictures and things of that nature.

Two females at the site of the arrest stated that the defendant was acting crazy last night, meaning the night before Jamie Smith was shot and killed, and that co-defendant Castro had been vomiting when they returned back to the house.

This defendant's sister stated that when Adam got home, I took the guns from him because he was acting crazy. Judge, several motives have been mentioned as to why these particular individuals were chosen such as robbing the targets of drugs, killing them -- and killing them to believing that Jamie Smith was a snitch, to Jacori Ashley flirting with co-defendant, Corino Castro, who was this defendant's girlfriend at the time.

That's where some of those come in. I mean, you've seen like -- the memes where it says some people won't respect you until you get disrespectful. Snitch prevention with a gun and a skeleton -- or skull's head.

It's -- Judge, I prefer to take Miss Castro's statement given to the police at face value where it said that she and Adam had planned to rob Jacori and Kalo -- excuse me. That she had planned to rob Jacori and that Kalo was an unintentional victim because they did not that he was going to be there.

She stated that they each had 380 caliber handguns, walked up to the car, and that this defendant, Adam Byrum, fired multiple rounds into the vehicle. She also stated that they knew Smith as well. As in the case before, they went to meet Smith, both armed with the 380 handguns with the plan to kill and rob him. She stated that it had been her decision to handle Smith, meaning to kill him.

(Plea Tr., at 5-10). Applicant pled guilty without contesting or qualifying any of the factual summary presented. (Plea Tr., at 11).[1] Judge Verdin sentenced Applicant to imprisonment for fifty (50) years for murder and thirty (30) years for each conviction for attempted murder, with all sentences running concurrently, and with credit for time served. In accordance with the plea agreement, the solicitor dismissed the remaining charges, as identified above.

Applicant did not appeal his convictions or sentences.

CURRENT ALLEGATIONS

In his amended application for post-conviction relief, Applicant argues he is entitled to relief based upon the following:

1. The Applicant did not knowingly and voluntarily waive his right to appeal;

2. The plea court not having subject matter and personal jurisdiction because the enabling legislation of the crimes he pled guilty to violating were not marked with the Great Seal of South Carolina;

3. Plea counsel was constitutionally ineffective for allowing a plea offer to lapse before informing the Applicant of the expiration date;

4. Plea counsel failed to fully review discovery with Applicant or provide him a copy;

5. Plea counsel failed to appeal the plea and sentence;

6. Plea counsel advised Applicant that the plea offer was thirty years; and

7. Plea counsel failed to move for reconsideration of the sentence.

(Amended PCR App.).

[1] Applicant's co-defendant, Corina Castro, was indicted and pled to the same. She received an aggregate sentence of 43 years.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After carefully considering the record and the arguments presented by counsel, this Court now presents the relevant findings of fact and conclusions of law as required by S.C. Code Ann. §17-27-80 (2003). This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

INEFFECTIVE ASSISTANCE CLAIMS

To show a violation of the Sixth Amendment, an Applicant must show that counsel's representation fell below an objective standard of reasonableness, and but for counsel's error, there is a reasonable probability that the outcome of the trial would have been different. *Strickland v. Washington,* 466 U.S. 668, 694 (1984); *Simpson v. Moore,* 367 S.C. 587, 595–96, 627 S.E.2d 701, 706 (2006). "A reasonable probability is a probability sufficient to undermine confidence in the outcome" of the trial. *Strickland,* 466 U.S. at 694. It is presumed that counsel made all decisions in exercise of reasonable judgment. *Id.* at 689. It is the applicant's burden to prove, by a preponderance of the evidence, that he is entitled to relief. Rule 71.1 (e), SCRCP. *See also Speaks v. State*, 377 S.C. 396, 399, 660 S.E.2d 512, 514 (2008) ("The burden of proof is on the applicant to prove the allegations in his application.").

In *Hill v. Lockhart*, The United States Supreme Court held that the aforementioned two-part *Strickland* test additionally applies to allegations of ineffective assistance of plea counsel. 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985). The first half of the test remains as intended in *Strickland*; however, the prejudice requirement focuses on whether counsel's constitutionally

ineffective performance affected the outcome of the plea process. *Hill*, 474 U.S. at 57-59. "In other words, in order to satisfy the "prejudice" requirement, the defendant must show that there is a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial." *Id.*

As such, A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of a plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985). When determining issues relating to guilty pleas, the Court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the PCR hearing. *Anderson v. State*, 342 S.C. 54, 57, 535 S.E.2d 649, 650 (2000). Notably, statements made during a guilty plea should be considered true: "... accuracy and truth of an accused's statements at ... his guilty plea ... are 'conclusively' established by that proceeding unless and until he makes some reasonable allegation why this should not be so." *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975), *overruled on other grounds by United States v. Whitley*, 759 F.2d 327 (4th Cir. 1985); *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (same).

The record here supports that the plea was a voluntary choice among alternatives as guided by counsel against which Applicant had no complaints at the time of the plea. (GP Tr., at 2). This Court finds that Applicant entered his guilty plea freely, knowingly, intelligently, and voluntarily in accordance with *Boykin v. Alabama*, 395 U.S. 238, 89 S. Ct. 1709 (1969). Furthermore, this Court finds plea counsel's testimony to be credible, and that he rendered reasonably effective assistance under prevailing professional norms and demonstrated a normal

degree of skill, knowledge and professional judgment that are expected of an attorney who practices criminal law. *Strickland, supra.*

ALLEGATIONS ON THE MERITS

Applicant alleges that he did not voluntarily and knowingly waive his right to appeal, and that plea counsel failed to appeal the plea and sentence. The record shows that Judge Verdin informed Applicant that he had 10 days to appeal his plea and that it must be done in writing. (Plea Tr., at 5). Applicant testified that he wanted to appeal his plea and sentence, however plea counsel testified that he discussed a motion to reconsider Applicant's sentence with him but that they did not discuss an appeal. Applicant testified that he wanted plea counsel to move for resentencing because his co-defendant received a lesser sentence and that he wanted plea counsel to file an appeal. He testified that he was in lock up and could not appeal, and that his lawyer did not visit him.

There is no dispute that Applicant was informed of his right to appeal his plea and the timeframe and manner which he had to do so. Further the testimony presented at the PCR hearing shows that Applicant and plea counsel discussed a motion to reconsider, but that Applicant did not ask plea counsel to appeal his conviction or sentence at that time. *See Turner v. State*, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008) (referencing *Roe v. Flores-Ortega*, 528 U.S. 470, 120 S.Ct. 1029 (2008)), holding that there is no constitutional requirement that counsel must inform a defendant of the right to appeal from a guilty plea absent extraordinary circumstances, *i.e*, when the defendant inquires, or when there is reason to think that a rational defendant would want to appeal). Applicant has not alleged that he had viable issues for appeal, other than dissatisfaction with his sentence, which he discussed with plea counsel, and ultimately decided not to pursue. Even to that extent, expectation or hope of a lesser sentence does not show

any deficiency in plea counsel's representation nor the possibility of an involuntary plea. *Wolfe v. State*, 326 S.C. 158, 485 S.E.2d 367 (1997) (fact that defendant "hoped" and "expected" to get reduced sentence does not render plea invalid); *Harres v. Leeke*, 282 S.C. 131, 318 S.E.2d 360 (1984) (fact that defendant "thought" judge would give lighter sentence not a basis for relief).

Applicant alleges that plea counsel did not review the discovery with him or provide him a copy, advise him of the timeframe of expiration for the plea offer, or move for reconsideration of his sentence. Applicant testified that plea counsel met with him 2 times and that he did not go over his case with him or give him a copy of the discovery. He testified that he thought the plea offer was for 30 years, and that if he knew he was pleading to 30 years to life then he would have proceeded to trial.

Plea counsel testified that it is his practice to visit with clients every 90 days at least, and that he estimates he met with Applicant 6-8 times. He testified that he reviewed the available discovery with Applicant and that he advised him to not keep a copy of the discovery with him in jail in case someone may try to go through it. As to the plea offer, plea counsel testified that he advised Applicant of the State's original offer, and that Applicant was indecisive about accepting the offer. Ultimately, Applicant decided to reject the offer. When the State informed them that Applicant's co-defendant was going to testify against him at trial, plea counsel advised that he could not get the original offer back, and that Applicant could plead straight up and ask for mercy in an attempt to receive less than 35 years. As to the motion to reconsider, plea counsel testified that he discussed the matter with Applicant and told him that it was unlikely that Judge Verdin would grant the motion. He testified that he believed he explained why the motion to reconsider would not prevail in detail to Applicant and that Applicant did not tell him that he didn't understand, nor did he appear to not understand.

Based on the testimony presented and the record before this Court, Applicant has not shown that plea counsel's advice was outside the range of reasonably effective assistance under prevailing professional norms in criminal matters. *Strickland, supra.* This Court credits plea counsel's testimony that he reviewed Applicant's case with him, including the discovery, and reasonably advised Applicant of the potential concerns of providing Applicant with a copy for him to keep while he is incarcerated. This Court credits plea counsel's testimony that Applicant made an informed choice to enter a guilty plea in consideration of the evidence the State intended to present at trial, and with the knowledge that his co-defendant would testify against him. As to the allegation that plea counsel did not file a motion to reconsider Applicant's sentence, this Court gives credence to plea counsel's testimony that he explained why the motion would not be successful. Applicant has presented no evidence that would support the motion's success, other than that his co-defendant received a lesser sentence.

Applicant has failed to show *Strickland* prejudice, i.e., that there is a reasonable probability, without the distorting effects of hindsight and wishful thinking, that absent plea counsel's alleged errors he would have proceeded to trial. *See Strickland, supra*; *see also Hill, supra.* Applicant's bare assertion that he would have proceeded to trial if he knew he was pleading to 30 years to life is not convincing to this Court, nor is it a rational risk, considering the evidence against him and the likelihood that he would receive a greater sentence than the sentence he is currently serving. As such, this Court finds that Applicant has failed to establish that plea counsel's representation and advice was deficient, and that but for the alleged deficiencies, Applicant would have elected to proceed to trial, or received a lower sentence.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations during his plea hearing or that of his appellate rights. Therefore, this PCR application must be **DENIED** and **DISMISSED** with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. Applicant's application for post-conviction relief is denied and dismissed with prejudice; and

2. Applicant is remanded to the custody of Respondent for completion of his sentence.

AND IT IS SO ORDERED this 2nd **day of** May **, 2025.**

PATRICK C. FANT, III
Thirteenth Judicial Circuit, Presiding Judge

Greenville, South Carolina

Copy mailed to
Attorney General KK/Susannah Ross
on 5 / 2 / 2025.