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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM BAMBERG COUNTY
Court of Common Pleas
Brian M. Gibbons, Circuit Court Judge

Case No. 2018-CP-05-00258

Leon Amos Jason James, #291860,

Appellant,

v.

State of South Carolina,

Respondent.

NOTICE OF APPEAL

Comes now, Nancy C. Fennell, counsel for Appellant, Leon Amos Jason James, who appeals the Order of the Honorable Brian M. Gibbons, filed with the Bamberg County Clerk of Court on March 28, 2025. Counsel for Appellant received written notice of entry of this Order on April 21, 2025.

May 20, 2025

s/ Nancy C. Fennell

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STATE OF SOUTH CAROLINA)
COUNTY OF BAMBERG)
))
))
Leon Amos Jason James, SCDC #291860,)
))
Applicant,)
))
v.)
))
State of South Carolina,)
))
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE SECOND JUDICIAL CIRCUIT

Case No. 2018-CP-05-00258

ORDER OF DISMISSAL

FILED
BAMBERG COUNTY
2025 MAR 28 PM 3:35
JANNIE C. JOHNSON

INTRODUCTION

The matter before this Court is an action for post-conviction relief (PCR) commenced by Leon Amos Jason James (“Applicant”) on December 28, 2018. On Tuesday, July 16, 2024 a hearing into the matter was convened before the Honorable Brian M. Gibbons at the Aiken County Courthouse. Applicant was present and represented by Nancy C. Fennell, Esquire. Assistant Attorney General T. Cruise Mitchell represented the State. At the evidentiary hearing, testimony was taken from Applicant, Applicant’s mother, and Janek C. Kazmierski, Esquire.

After hearing the testimony at the PCR hearing and upon full review of the record, this Court finds Applicant’s allegations regarding ineffective assistance of counsel are without merit. For the reasons discussed below, this Court denies relief and dismisses this action with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections following convictions in Bamberg County. During its October 2014 term, the Bamberg County Grand Jury indicted Applicant for armed robbery (2014-GS-05-0202) and entering a bank with intent to steal (2014-GS-05-0204). Applicant was presented by Janek Kazmierski, Esquire. The case was

prosecuted by Deputy Solicitor David Miller, Assistant Solicitor Jack Hammack, and Assistant Solicitor Wilder Harte.

On October 27, 2015, Applicant, alongside co-defendants Homer Arthur James and Lewis Garvin, appeared for pre-trial hearings before the Honorable Roger M. Young, Sr., circuit court judge. Thereafter, on November 30, 2015, Applicant proceeded to trial before Judge Young. On December 3, 2015, the jury convicted Applicant as indicted. Judge Young sentenced Applicant to confinement for life without the possibility of parole pursuant to S.C. Code Ann. § 17-25-45.

On February 11, 2016, all parties reconvened before Judge Young for a hearing on Applicant's post-trial motion challenging his conviction based on the sufficiency of the evidence. Judge Young denied the motion.

Thereafter, Applicant filed a notice of an appeal and an appeal as perfected on his behalf by Appellate Defender Susan B. Hackett of the South Carolina Commission on Indigent Defense-Division of Appellate Defense. (Appellate Case No. 2016-001155). Appellate Defender Hackett filed a brief of appellant pursuant to *Anders v. California*, 386 S.S. 738 (1967) and moved to be relieved as counsel for Applicant. Applicant then filed his *pro se* brief. On June 27, 2018, the South Carolina Court of Appeals dismissed Applicant's appeal. *State v. James*, Unpub. Op. No. 2018-UP-284 (Ct. App. filed June 27, 2018). The Remittitur was issued on July 13, 2018.

CURRENT APPLICATION

Applicant timely commenced this PCR application on December 28, 2018. In his application Applicant alleged he was entitled to relief based on the following grounds:

1. Lack of subject matter jurisdiction
 - a. "Indictments"
2. Ineffective Assistance of Counsel
3. Violation of Due Process of the Law

On May 3, 2021, Applicant, through PCR counsel, amended his application to include the following allegations:

1. Ineffective Assistance of Counsel for:
 - a. "failing to timely object to state presented evidence of flight."
 - b. "failing to raise the issue that Applicant's first offense was when he was fifteen years old and should not have counted toward seeking life without parole."
 - c. "failing to question Rebecca Templeton, whose name appears on the indictment, regarding Applicant's involvement in the robbery."
 - d. "failing to object to the burden shifting that occurred on p. 364 -- lines 4-6 and 16-19."
 - e. "failing to prepare for trial with Applicant and failing to discuss with Applicant a trial strategy."
 - f. "failing to investigate the defense regarding the identity of the fourth person."
 - g. "failing to raise issues regarding the validity of the indictment, including the fact that indictments were not filed stamped pursuant to Rule 3 of the South Carolina Rules of Criminal Procedure."
 - h. "failing to raise the issue of the presence of a third party in deliberation room after the jury started deliberating. A deputy entered the deliberation room."
 - i. "failing to put forth a defense on Applicant's behalf, including evidence of Applicant's involuntary presence on the day in question."

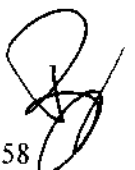
On January 25, 2022, Applicant filed a second amended application to include the following additional allegations:

1. Ineffective Assistance of Counsel for:
 - a. "failing to raise the issue of the presence of a third party in the deliberation room after the jury started deliberating. Sheriff Ed Darnell entered the deliberation room."

Before this Court are the records of the Bamberg County Clerk of Court regarding the underlying convictions, the trial transcript, Applicant's records from the South Carolina Department of Corrections, the records from Applicant's direct appeal, and the records of this post-conviction relief action.

INEFFECTIVE ASSISTANCE OF COUNSEL, GENERALLY

In a PCR action, Applicant bears the burden of proving the allegations in his application by a preponderance of the evidence. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985); Rule



71.1(e), SCRCF. Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel’s performance was deficient. *Strickland*, 466 U.S. at 687; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Id.* (citing *Strickland*, 466 U.S. at 690). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109–10 (2011). “[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” *Yarborough*, 540 U.S. at 6; *see also Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”).

Second, counsel’s deficient performance must have prejudiced Applicant such that “there



is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 694). "This does not require a showing that counsel's actions 'more likely than not altered the outcome,' but the difference between *Strickland*'s prejudice standard and a more-probable-than-not standard is slight and matters 'only in the rarest case.'" *Harrington*, 562 U.S. at 111-12 (quoting *Strickland*, 466 U.S. at 697). "The likelihood of a different result must be substantial, not just conceivable." *Id.* at 112.

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

FINDINGS OF FACT & CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the PCR hearing, observed the witnesses, passed upon their credibility, and weighed their testimony accordingly. After hearing the testimony presented and considering the legal arguments by counsel, as well as the record in this action incorporated by way of the State's return, this Court proceeds to the claims raised in the application and finds each to be without merit. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings of facts and conclusions of law based upon all of the probative evidence presented.

Failure to Raise Issue that Applicant was 15 during Enhancement Conviction

Applicant contends Counsel was ineffective for failing to raise the issue that Applicant's first offense was when he was fifteen years old and should not have counted toward seeking life without parole. This Court finds this allegation is without merit. Under the recidivist statute, a defendant convicted of a most serious offense must be sentenced to life without parole if that defendant was previously convicted of another most serious offense, upon proper notice to defendant from Solicitor's office. *See* S.C. Code Ann. § 17-25-45.

Here, it was entirely appropriate that his prior armed robbery conviction was used to enhance his sentence to life without parole, even though he was a juvenile at the time of the offense, because he was tried as an adult in general sessions court. *See State v. Hall*, 437 S.C. 107, 876 S.E.2d 328 (Ct. App. 2022) ("When a juvenile is tried and adjudicated as an adult in general sessions court, the guilty plea is a conviction for purposes of the recidivist statute."). Additionally, the record reflects Applicant was given proper notice of the State's intent to seek life without parole. Applicant testified at the evidentiary hearing that Counsel informed him, prior to trial, that the life without parole notice had been served.

Because Applicant was previously convicted of a most serious offense in the general sessions court, and Applicant was given proper notice of the State's intent to seek life without parole, his life without parole sentence was proper pursuant to S.C. Code Ann. § 17-25-45. Therefore, this Court finds this allegation is DENIED.

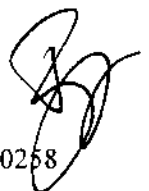
Failure to Cross-Examine Rebecca Templeton

Applicant contends Counsel was ineffective for failing to question Rebecca Templeton, whose name appears on the indictment, regarding Applicant's involvement in the robbery. This Court finds this allegation is without merit. Rebecca Templeton testified at Applicant's trial. Ms.

Templeton testified that she was working as a bank teller the day of the incident when a man twice entered the bank requesting to open a bank account. (R. p. 249). Around half an hour later, a man entered the bank, told everyone to get down, and then asked her to give him all the money. (R. p. 250). The man then jumped on the counter repeating his demand to give him all the money. (R. p. 251). Ms. Templeton testified she gave him the money from her three different drawers in the bank and from the drawer in the drive thru area. (R. pp. 351–352). Ms. Templeton then pulled the money that activated the bank’s alarm system. (R. p. 253). Ms. Templeton did not identify either the man who requested to open the bank nor the man who demanded the money. Counsel did not cross-examine Ms. Templeton.

At the evidentiary hearing, Applicant averred that Counsel should have questioned Ms. Templeton since her name was on the indictment. Counsel explained Ms. Templeton’s testimony was not harmful to the defense because she never identified Applicant as the man who robbed the bank which corroborated their defense theory. This Court finds this a valid reason for not cross-examining her. “[W]hen Counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel.” *Smith v. State*, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010).

Furthermore, Applicant has failed to present what questions Counsel should have asked Ms. Templeton and failed to present her as a witness at the PCR hearing; thus, it is pure speculation how she would have responded to any additional cross-examination. Our courts have “repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness’ failure to testify at trial.” *Bannister v. State*, 333 S.C. 298,



303, 509 S.E.2d 807, 809 (1998). Therefore, this Court finds Applicant has failed to prove prejudice as to this allegation.

Accordingly, this allegation is DENIED.

Failure to Investigate the Defense Regarding the Identity of the Fourth Person¹

Applicant contends Counsel was ineffective for failing to prepare for trial with Applicant and for failing to discuss a trial strategy. Specifically, Applicant alleges Counsel failed to investigate the defense regarding the identity of the fourth person. This Court finds this allegation is without merit. At the evidentiary hearing, Applicant testified Counsel met with him three times and only briefly discussed defenses with him. Applicant testified the fourth person involved in the robbery was never identified. Applicant explained that Darryl Lassiter testified for the State, but he was not the alleged fourth person involved, law enforcement just found his driver's license in the car used in the robbery. Applicant contends that Counsel was never able to identify the alleged fourth person involved. Counsel testified he met with Applicant who told him he was forced at gun point to participate in the robbery by an alleged fourth person. Counsel explained Applicant provided no information regarding the alleged fourth person; however, law enforcement did find a driver's license of a Darryl Lassiter. Counsel followed up on this information and learned that Mr. Lassiter had a video-confirmed alibi. No other information regarding the alleged fourth person was provided to him.

This Court finds Counsel adequately met with Applicant and discussed defenses with him. Specifically, this Court finds Counsel adequately investigated the identity of the alleged fourth person based on the information he had. Counsel credibly testified Applicant provided

¹ Allegations 1(e) and (f) will be addressed in this section.

him no information regarding the alleged fourth person. At trial, Counsel argued Applicant was coerced by a fourth individual. Thus, Counsel was not deficient for failing to investigate this alleged co-conspirator's identity when he took every investigative action possible based on the information he had.

Furthermore, Applicant has failed to meet his burden establishing prejudice. Applicant has wholly failed to show how additional investigation would have led to the identity of the alleged fourth person. This Court further finds Applicant has failed to demonstrate this alleged fourth person even existed. The only evidence presented, both at trial and the evidentiary hearing, regarding the existence of a fourth co-conspirator was the self-serving testimony of Applicant and his co-defendant. Applicant has further failed to demonstrate how additional consultations with Counsel would have led to a different outcome at trial.

Accordingly, this allegation is DENIED.

Failure to Object to Burden Shifting

Applicant alleges Counsel was ineffective for failing to object to burden shifting.

Applicant cites to the following portions of the record in support of his argument:

The Court: There's no evidence that there was anybody participating in this other than those three guys, two of whom went in to the bank.

(R. p. 364, ll. 4-6).

Your Honor, whether that fourth person is actually Darrell Lassiter, or anyone else for that matter, I don't know that we have to prove that to be able deal with this issue.

(R. p. 364, ll. 16-19).

This conversation occurred during arguments before the trial court on whether the SLED case agent would be allowed to testify as to a statement Applicant made to him following the robbery.

These arguments were made outside the presence of the jury to determine the admissibility of

testimony. Since these comments were merely evidentiary arguments made outside the presence of jury, they were not burden shifting and Counsel was not ineffective for failing to object to them.

Accordingly, this Court finds this allegation is DENIED.

Failure to Object to Evidence of Flight

Applicant alleges Counsel was ineffective for failing to timely object to State presented evidence of flight. This Court finds this allegation is without merit. "Flight from prosecution is admissible as guilt." *State v. Pagan*, 369 S.C. 201, 631 S.E.2d 262 (2006). Evidence of flight is relevant when there is a nexus between the flight and the offense charged. *Pagan* 369 S.C. 201. This evidence is admissible if circumstances justify an inference that the defendant's actions were motivated as a result of his belief that police officers were aware of his wrongdoing and were seeking him for that purpose. *Id.*

First, Counsel did object to evidence of flight being admitted. R. pp. 31–33. The Trial Court ruled the evidence of Applicant fleeing was part of the *res gestae* of the case and therefore admissible. Thus, this Court finds Counsel was not deficient for failing to object to State presented evidence of flight.

Irregardless, the evidence the State presented clearly justified an inference that Applicant was fleeing from law enforcement following the bank robbery. The State presented evidence that Applicant was driving the getaway vehicle used in the armed robbery when he crashed into a tree while fleeing from law enforcement. Applicant then exited the vehicle and continued fleeing on foot. Law enforcement set up a perimeter surrounding the cornfield and Applicant was eventually arrested after exiting the cornfield. This Court finds this was admissible testimony which demonstrated a nexus between the Applicant's flight and the bank robbery. Therefore, this Court



finds Applicant has failed to prove he was prejudiced by any alleged deficiency in the timeliness of Counsel's objection.

Accordingly, this Court finds this allegation is DENIED.

Failure to Present a Defense Including Applicant's Involuntary Precense at the Scene

Applicant alleges Counsel was ineffective for failing to adequately present a defense that Applicant was at the scene involuntarily. This Court finds this allegation is without merit. Coercion by an alleged fourth party was the exact defense Counsel argued at trial. Counsel presented testimony from Applicant's co-defendant who testified they were both coerced into committing the robbery by an unknown alleged fourth person. As noted in previous section, Counsel testified at the evidentiary hearing that he investigated the identity of the alleged fourth party, but Applicant gave little to no details in which Counsel could identify this person. Any difficulty in identifying this alleged fourth person or inability to adequately make this argument at trial was not the fault of Counsel, but was due to the spurious nature of Applicant's claim he was coerced by a fourth party. Counsel made this arguement at trial and the jury rejected it. Therefore, Counsel was not deficient for failing to present this defense at trial.

Furthermore, Applicant has not, to date, presentend any evidence whatsoever of this alleged fourth party's identity. Applciant's mere allegation Counsel should have more adequately presented this defense is wholly inadequate to demonstrate Counsel was constitutionally ineffective. Therefore, Applicant has further failed to prove he was prejudiced as to this allegation.

Accordingly, this Court finds this allegation is DENIED.

Failure to Raise Issue of Sherriff Entering the Deliberation Room

Applicant alleges Counsel was ineffective for failing to raise the issue a third party (Sherriff Ed Darnell) entered the deliberation room after the jury began deliberating. This Court finds this allegation is without merit.

Applicant presented no evidence regarding this allegation besides his own self-serving testimony and testimony from his mother. This Court finds the testimony from Applicant and his mother not credible in this regard. Counsel testified he did not recall any issue with an unauthorized individual entering the jury deliberation room, Sherriff or otherwise.. Therefore, Applicant has failed to meet his burden establishing the sherriff actually entered the deliberation room. Additionally, since Counsel was unaware of the sherriff allegedly entering the deliberation room, he was not deficient for failing to raise this issue.

Applicant argues the presence of the sherriff in the delibertion room is per se prejudicial. This is an incorrect interpretation of the law. Applicant has the burden to prove he was denied a right to a fair trial based on the unauthorized presence of a party in the deliberation room. *State v. Grovenstein*, 335 S.C. 347, 517 S.E.2d 216 (1999). This Court finds Applicant has failed to present evidence that any juror was unduly influenced by the alleged presence of the sherriff in the deliberation room. Thus, Applicant has failed to prove he was prejudiced by the alleged presence of the sherriff in the deliberation room.

Accordingly, this Court finds this allegation is DENIED.

Failure to Raise Issue of Indictments

Applicant's allegations regarding jurisdiction are without merit. "Circuit courts obviously have subject matter jurisdiction to try criminal matters." *State v. Gentry*, 363 S.C. 93, 101, 610 S.E.2d 494, 499 (2005). Applicant alleges the indictments were not filed stamped;

thus, the Circuit court lacked subject matter jurisdiction to try his case. This is without merit. The record reflects all indictments were true billed and filed stamped with the Bamberg County Clerk of Court. Therefore, Applicant's allegations regarding jurisdiction, and every part of the application based thereupon, shall be dismissed.

Applicant's allegation that the trial court lacked subject matter jurisdiction because his indictments were not filed stamped is without merit. "[S]ubject matter jurisdiction of the circuit court and the sufficiency of the indictment are two distinct concepts and the blending of these concepts serves only to confuse the issue." *State v. Gentry*, 363 S.C. 93, 101, 610 S.E.2d 494, 499 (2005). With respect to Applicant's claims concerning the sufficiency of the indictment, Applicant was required to raise such a challenge prior to the swearing of the jury. S.C. Code Ann. §17-19-90 (2003). Regardless, "[a]n indictment is merely a notice document." *State v. Baker*, 390 S.C. 56, 62, 700 S.E.2d 440, 442 (Ct. App. 2010) (citing *Gentry*, 363 S.C. at 102-103, 610 S.E.2d at 500). Whether or not the indictment could be made more definite and certain is irrelevant. *Baker*, 390 S.C. at 62, 700 S.E.2d at 442. The court in *Baker* noted the following:

[T]he court must look at "the indictment with a practical eye in view of all the surrounding circumstances. The sufficiency of the indictment is determined by whether: (1) the offense charged is stated with sufficient certainty and particularity to enable a court to know what judgment to pronounce, and the defendant to know what he or she is called upon to answer and whether he or she may plead an acquittal or conviction thereon, and (2) whether it appraises the defendant of the elements of the offense that are intended to be charged.

Id. (citing *Gentry*, 363 S.C. at 102-103, 610 S.E.2d at 500).

Moreover, "an indictment passes legal muster when it charges the crime substantially in the language of the statute prohibiting the crime or so plainly that the nature of the offense charged may be easily understood." *Id.* 390 S.C. at 63, 700 S.E.2d at 443 (citing *State v. Tumbleston*, 376 S.C. 90, 98, 654 S.E.2d 849, 853 (Ct. App. 2007)); S.C. Code Ann. § 17-19-20.

When the indictment references the statute the elements of the charge are thereby incorporated into the indictment. *See State v. Owens*, 346 S.C. 637, 649, 552 S.E.2d 745, 751 (2001) (murder statute) *overruled on other grounds by Gentry*, 363 S.C. 93, 610 S.E.2d 494; *see also State v. Beam*, 336 S.C. 45, 50-51, 518 S.E.2d 297, 300 (Ct. App. 1999) (video piracy statute); *State v. Crenshaw*, 274 S.C. 475, 477, 266 S.E.2d 61, 62 (1980) (bribery statute).

Applicant's indictment allegation is not proper for PCR. Applicant's failure to raise this challenge before the jury was sworn prevents him from raising this allegation in this action. Additionally, the indictments charged Applicant substantially in the language of the statute prohibiting the crime, and thus pass legal muster. Furthermore, the indictments were properly filed stamped with the Bamberg County Clerk of Court. As such, Applicant's allegation as it pertains to the indictments shall be dismissed.

Furthermore, Applicant has presented no facts whatsoever to support his claim that the trial court lacked subject matter jurisdiction. An Applicant may challenge the subject matter jurisdiction of the trial court and such a claim is one that may be raised at any time. *Brown v. State*, 343 S.C. 342, 346, 540 S.E.2d 846, 848-49 (2001), *overruled in part by Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005). However, "[c]ircuit courts obviously have subject matter jurisdiction to try criminal matters." *Gentry*, 363 S.C. at 101, 610 S.E.2d at 499. *See also* S.C. Const. Art. V, § 11. Thus, the Applicant must present evidence that his case is of some class over which the circuit court does not have the authority to preside. The Applicant's conviction involved a criminal charge in the Court of General Sessions. Accordingly, the circuit court had subject matter jurisdiction. Applicant has failed to present any facts or evidence that the convictions he challenges in this application are in a class over which the circuit court does not have the

authority to provide. Therefore, Applicant's allegation as it pertains to subject-matter jurisdiction is DENIED.

CONCLUSION

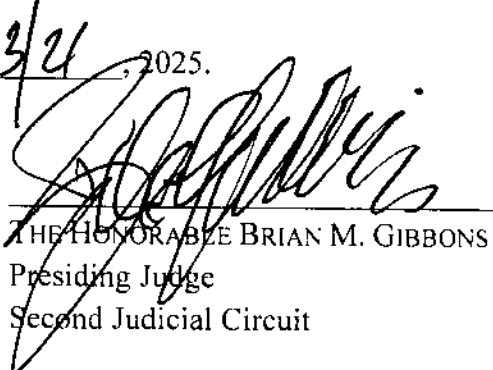
Based on the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. This Court finds Counsel was not deficient in any manner, nor was Applicant prejudiced by Counsel's representation. Therefore, this Court denies relief on all allegations and dismisses this PCR action with prejudice.

Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review pursuant to Rule 203, SCACR. Applicant has a right to 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). Rule 71.1(g), SCRCP, provides that 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. The application for post-conviction relief be denied and dismissed with prejudice; and
2. Applicant must remain in the custody of the State.

AND IT IS SO ORDERED this ____ day of 3/24, 2025.



THE HONORABLE BRIAN M. GIBBONS
Presiding Judge
Second Judicial Circuit


_____, South Carolina