NOTICE OF APPEAL FROM A PCR DENIAL BY THE COURT OF COMMON PLEAS

THE STATE OF SOUTH CAROLINA
In Supreme Court of SC

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

Grace Gilchrist Knie, Circuit Court Judge

Case #2021-CP-43-01662

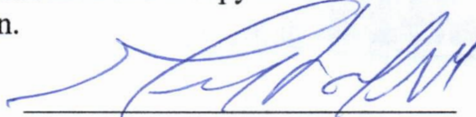
The State, Respondent,

v.

Charles Spencer Anderson Appellant.

NOTICE OF APPEAL

Charles Spencer Anderson, appeals the decision of the Court, in the order dated May 8, 2025, received by counsel on May 19, 2025, where Mr. Anderson was denied his request for Post-Conviction Relief. Mr. Anderson was represented at the hearing by Timothy L. Griffith, Attorney at Law who files this notice on behalf of the Appellant. The order herein attached and a copy of which is also forwarded to the SCCID Appellate Division.



Dated 5/20/25

Timothy L. Griffith, Esquire
2338 Mount Vernon Dr.
Sumter, SC 29154
Telephone: (803) 499-2012
Attorney for Appellant (relieved)
Will not be representing on appeal

Other Counsel of Record:
T. Cruise Mitchell, Esquire
Assistant Attorney General
South Carolina Attorney General's Office
P.O. Box 11549, Columbia, S.C. 29211

RECEIVED
MAY 23 2025
S.C. SUPREME COURT

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

Grace Gilchrist Knie
Judge

180 Magnolia Street
Spartanburg, SC 29306
Phone: (864) 596-2285
Fax: (864) 562-4234
gkniej@sccourts.org

RECORDED
MAY 14 PM 1:06
CLERK OF COURT
SUMTER COUNTY, S.C.

May 8, 2025
Via USPS

Sumter County Clerk of Court
Attn: Common Pleas Division
215 N. Harvin St.
Sumter, SC 29150

Dear Clerk:

Please see the attached Order for Dismissal on Charles Spencer Anderson v. State 2021-CP-43-1662. Once you receive this Order and have clocked it please email or mail me a copy for our records at gkniesc@sccourts.org.

Sincerely,

Ashley B. Searcy
Administrative Assistant to
The Honorable Grace G. Knie
S.C. Circuit Court Judge
7th Judicial Circuit

RECEIVED
MAY 23 2025
S.C. SUPREME COURT

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER) FOR THE THIRD JUDICIAL CIRCUIT

Charles Spencer Anderson, SCDC #384121,) Case No. 2021-CP-43-01662

Applicant,

v. ORDER OF DISMISSAL

State of South Carolina,

Respondent.

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SUMTER COUNTY, S.C.

I. INTRODUCTION

The matter before this Court is an action for post-conviction relief (PCR) commenced by Charles Spencer Anderson ("Applicant") on September 23, 2021. On July 22, 2024, a hearing into the matter was convened before the Honorable Grace Gilchrist Knie at the Sumter County Courthouse. Applicant was present and represented by Timothy Lee Griffith, Esquire. Assistant Attorney General T. Cruise Mitchell represented the State. At the evidentiary hearing, testimony was taken from Applicant, Timothy W. Murphy ("Counsel Murphy"), Jason E. Bridges ("Counsel Bridges"), and Justin M. Kata ("Counsel Kata"). At the conclusion of the hearing, this Court allowed the parties to leave the record open for the testimony of Deputy Solicitor Bronwyn K. McElveen. The parties reconvened on April 2, 2025, at the Spartanburg County Courthouse for the additional testimony. Applicant was present along with his counsel, Timothy Griffith. Assistant Attorney General T. Cruise Mitchell again represented the State of South Carolina. Deputy Solicitor Bronwyn K. McElveen was present via Webex. At the hearing, testimony was taken from Deputy Solicitor McElveen and Applicant. Applicant placed into evidence three Exhibits.

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 and prosecutorial misconduct are without merit. For the reasons discussed below, this Court denies relief and dismisses this action with prejudice.

II. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections as a result of guilty pleas to several indictments arising from multiple incidents in Sumter, South Carolina. On April 20, 2018, Applicant committed an armed robbery of Frederick's Citgo gas station in Sumter. The store clerk identified Applicant from a photographic lineup and noted that Applicant was a frequent customer of the store. As a result of this, the Sumter County Grand Jury indicted Applicant during its September 2018 term for armed robbery (2018-GS-43-0890 Ct. 1) and possession of a weapon during the commission of a violent crime (2018-GS-43-0890 Ct. 2). Applicant was arrested and subsequently released on bond.

Thereafter, on May 3, 2019, while he was out on bond, Applicant committed another armed robbery of an Auto Zone store in Sumter where he used to be employed. According to the victims, Applicant entered the store without anything concealing his identity and they were immediately able to identify Applicant as the robber. During the commission of this armed robbery, Applicant forced an employee to zip-tie another employee to restrain her, and then Applicant held a revolver to the head of an employee and pulled the trigger of the firearm. As a result of this, the Sumter County Grand Jury indicted Applicant during its August 2019 term for armed robbery (2019-GS-43-0810 Ct. 1), attempted murder (2019-GS-43-0810 Ct. 2), and possession of a weapon during the commission of a violent crime (2018-GS-43-0890 Ct. 3).

Applicant was originally represented by Timothy Murphy and Jason Bridges of the Third Circuit Public Defender's Office, as well as Justin Kata, Esquire, of the private bar. However, Applicant moved to relieve all counsels and following a colloquy with the court, Applicant made a knowing, voluntary, and intelligent decision to forgo his right to counsel and proceed *pro se*. Applicant also evaluated by the Department of Mental Health for competency and criminal responsibility and found both competent to stand trial and capable of conforming his behavior to the requirements of the law.

On September 28, 2020, Applicant appeared before the Honorable R. Ferrell Cothran, Jr., circuit court judge, for a pre-trial motions hearing. The State was represented by Assistant Solicitor Bronwyn K. McElveen of the Third Circuit Solicitor's Office. At the start of the hearing, Applicant moved to continue his case, citing an inability to review discovery. Assistant Solicitor McElveen informed Judge Cothran that Applicant's prior attorneys had all been provided with full discovery numerous times and she affirmed that she had delivered discovery to Applicant personally at the detention center once he elected to proceed *pro se*. Applicant also referenced his desire to pursue motions to suppress all evidence, to dismiss the case, to quash the indictments, and to disqualify the Assistant Solicitor based on a purported conflict of interest stemming from a civil rights complaint Applicant filed against her. Judge Cothran either denied the motion or explained to Applicant that it was not the proper time to make such a motion and provided him with guidance on the appropriate time to make said motion.

After a break to allow Applicant to confer with another private attorney he was considering hiring, Applicant elected to forgo his right to a jury trial and accepted a plea offer from the State for a recommended aggregate sentence not to exceed twenty years of imprisonment for all

charges.[1] Following a thorough plea colloquy, Applicant admitted his guilt to the offenses and Judge Cothran accepted his guilty pleas. In accordance with the plea agreement, Judge Cothran imposed an twenty years of imprisonment (twenty years of imprisonment for each armed robbery, twenty years of imprisonment for attempted murder, and five years of imprisonment for each possession of a weapon during the commission of a crime of violence). Applicant did not pursue a direct appeal.

III. CURRENT APPLICATION

Applicant commenced this PCR application on September 23, 2021 . In his application Applicant alleged he was entitled to relief based on the following grounds:

1. Ineffective assistance of counsel for
    a. Trial counsel "fail[ed] to submit motions that would of cleared defendant of all charges State claim they're no evidences"
    b. They failed to do their due (Timothy Murphy, Jason Bridges, Justin kata) diligence which they sworn to uphold their oath of office(s), which they sworn to fight for all client to the best of their abilities, which was never done. (Timothy Murphy gave my case load to Mr. Jason Bridges, which he tried to get me to plea to a 10 with 85% that was never in written, where its not evidence showing that I ever committed any alleged crime; Same with Justin Kata, but we was talking about 0-25 Cap with out the State of South Carolina presenting any form of evidence on his client. I asked numerous times from both counsel for them to submit a motion to challenge the indictment and suppression of evidences; I even wrote South Carolina Supreme Court (Office of Disciplinary Counsel)); on both counsel (Jason Bridges) + (Justin Kata); I also filed a civil complaint against my last counsel Justin Kata, which he was taken off my case 2 weeks before my trial date, then I was denied the right to have counsel assistance (Brady violation) also a violation of my constitutional rights (6th Amendment) which is secured to me; so not only did Judge Cothran violated my due process clause, but also my equal protection act as well, as well as the above individuals also."
2. Involuntary Guilty Plea
    a. Evidence on video from 2018 robbery clearly shows its not defendant."
    b. Applicant asserts the State and Judge Cothran forced him to plead without sufficient evidence against him when the charges should have been dismissed (See attached sheets to the application)
3. "Violation of 6th Amendment/No Miranda Rights/*Brady* Violation (Miranda Violation)"
    a. "Counsel filed a 60s motion force to represent his self (pro se)"

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[1] As part of the plea agreement, the State also dismissed a kidnapping charge related to the 2019 armed robbery.

b. "Conflict of interest against Solicitor and Lawyer (civil suit)"
c. Judge Cothran denied his constitutional rights by denying him his right to counsel to hire a private attorney
d. Brady Violation/Court error – at a September 28, 2020 pre-trial hearing, the Solicitor told Judge Cothran there was no evidence Applicant committed a crime but his suppression motion was still denied

IV. Ineffective Assistance of Counsel, Generally

Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

The reviewing court applies the two-part test outlined in *Strickland v. Washington* to determine whether counsel's conduct "was so ineffective as to require reversal" of the applicant's conviction. 466 U.S. 668, 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Id.* at 687–88; *accord. Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. *Strickland*, 466 U.S. at 700; *see also Bell v. Cone*, 535 U.S. 685, 695 (2002) (explaining that "[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable" (citation and internal quotation marks omitted)).

The applicant has the burden of establishing both deficiency and prejudice in order to be entitled to relief. *Hughes v. State*, 346 S.C. 554, 558, 552 S.E.2d 315, 317 (2001); Rule 71.1(e), SCRCP. To prove deficient performance, the applicant must establish that, in light of all the

circumstances, the acts or omissions complained of "were outside the wide range of competence" demanded of attorneys in criminal cases. *Strickland*, 466 U.S. at 688. To prove prejudice, the applicant must establish "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 694. A reasonable probability is a probability "sufficient to undermine confidence in the outcome." *Id.* Significantly, "the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged." *Id.* at 696.

V. 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 finds Applicant's claims 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.

Allegations Regarding Ineffective Assistance of Counsel and Brady Violation

Applicant alleges his three prior attorneys—Counsel Murphy, Counsel Bridges, and Counsel Kata—never provided him with or reviewed discovery with him. Applicant further alleges a *Brady*[2] violation and prosecutorial misconduct for failing to turn over discovery materials.

At the evidentiary hearing, Applicant testified none of his three attorneys provided or reviewed discovery with him. Applicant avers that had he been provided with the discovery materials he has since reviewed, he would have proceeded to trial. Applicant claims there is no

[2] *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963).

evidence he committed the crime. Applicant submitted three exhibits from the discovery he claims to have never reviewed which allegedly shows he did not commit the 2018 Citgo robbery.

Counsel Murphy testified that he began representing Applicant in 2018 after he was arrested on his first set of charges. Counsel Murphy represented Applicant at his preliminary hearing on those charges and was able to successfully get him a bond on that charge. Counsel Murphy explained that while out bond, Applicant was rearrested in 2019 after committing the armed robbery at the AutoZone. Counsel Murphy explained Applicant was adamant he wanted to work out a plea deal regarding the 2019 charges; however, they had not yet received discovery on those charges. Counsel Murphy testified he would have shared any discovery he received up to that point with Applicant. Counsel Murphy stated that Applicant informed him he was under the influence of narcotics during the armed robbery and he had been diagnosed with schizophrenia. Counsel Murphy was concerned about Applicant's mental health competency and he filed a motion for competency evaluation. It was at this time that Counsel Murphy left the public defenders office and the case was reassigned to Counsel Bridges.

Counsel Bridges explained that after the cases were transferred to him, he met with Applicant three to four times in person. Counsel Bridges explained he received the full discovery for the 2018 charges but was not certain he received the full discovery on the 2019 charges. Counsel Bridges recalled showing videos pertaining to his 2018 charges to Applicant. Counsel Bridges explained that he reviewed all of the discovery he had received with Applicant. Counsel Bridges explained there were videos of the 2018 robbery in which the perpetrator is wearing a mask and cannot be identified. Regarding the 2019 robbery, the State's case was much stronger. There were several witness statements directly implicating Applicant in the robbery of the AutoZone as well as am incriminating statement Applicant made to law enforcement. Counsel

Bridges noted he did not believe Applicant was mirandized when he made that statement and believed that could potentially be a trial issue. Counsel Bridges testified he shared all this information with Applicant. Counsel Bridges reiterated that he shared everything he received from the State with Applicant. Counsel Bridges testified his relationship with Applicant ended after Applicant threatened to hit him in the face during one of their meetings. Counsel Bridges moved to be relieved following this incident.

Counsel Kata testified he recalled meeting with Applicant several times prior in which he reviewed discovery with him. Counsel Kata explained he had the full discovery on both sets of charges and reviewed it in full with Applicant. Counsel Kata explained Applicant took umbrage with the evidence in the 2018 case; however, the 2019 case was much stronger in that it consisted of several eye witnesses, who were personally familiar with Applicant, stating he committed the attempted murder and armed robbery. Counsel Kata explained Applicant desired a plea deal for the 2019 charges, but was upset about the offer from the State. Counsel Kata explained their relationship came to an end when he presented a plea offer to Applicant which he did not like. Applicant told him he no longer wanted Counsel Kata representing him and Counsel Kata was relieved following a hearing in front of Judge Cothran.

Deputy Solicitor Bronwyn McElveen testified she was the prosecutor on the case for both sets of charges. Solicitor McElveen testified she shared the discovery with all three of Applicant's previous attorneys. Solicitor McElveen explained that, after Applicant decided to proceed *pro* se, the trial for he 2019 charges was about to begin when Applicant decided to plead guilty upon receiving a plea offer of twenty years, to be served concurrently for both sets of charges. Solicitor McElveen testified she did not withhold any evidence from Applicant.

This Court finds the testimony of Counsels and Solicitor McElveen regarding the discovery process to be credible, and finds Applicant's testimony on this matter to be not credible. This Court finds the testimony of Counsels and Deputy Solicitor McElveen, together with the record of Applicant's guilty plea, demonstrates that the State provided Applicant with full discovery and that Counsels adequately reviewed the discovery materials with him. Therefore, Applicant has failed establish that Counsels were deficient or that a *Brady* violation occurred.

Furthermore, Applicant has failed to prove he was prejudiced by any alleged deficiency in Counsel's failure to review discovery with him. Applicant cites to materials in his discovery that allegedly exonerate him. Notably, the materials he references pertain solely to the 2018 Citgo robbery. Those charges account for only one of his armed robbery convictions, for which the sentences for those convictions runs concurrently with the sentences imposed for the 2019 AutoZone robbery to which he also pled guilty. As Deputy Solicitor McElveen explained at the guilty plea hearing, the State had ample evidence on which to convict Applicant had he gone to trial. Regarding the 2018 Citgo robbery, Applicant entered the store wearing red pants, a black T-shirt, white shoes, and a black bandanna covering his pants. Applicant pointed what appeared to be a firearm wrapped in a shirt at the man working the register demanding money. The store clerk handed over money from the register and Applicant fled. The Store clerk identified Applicant from a photographic lineup and noted that Applicant was a frequent customer of the store. (GP Tr. 69–70).

Regarding the 2019 convictions, Applicant committed another armed robbery of an AutoZone where he used to be employed. According to the victims, Applicant entered the store without anything concealing his identity and they were immediately able to identify Applicant as the robber. During the commission of the armed robbery, he forced an employee to zip-tie another

employee to restrain her, and then Applicant held a revolver to the head of an employee and twice pulled the trigger of the firearm. The firearm did not go off. (GP Tr. 69–72).

This Court finds Applicant's allegation that the State had no evidence against him to be without merit. Importantly, after Deputy Solicitor McElveen recited the facts at Applicant's guilty plea, Applicant affirmed, under oath, these facts were true. (GP. Tr. 73). (Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual . . ., a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed." *Dalton v. State*, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Blackledge v. Allison*, 431 U.S. 63, 74 (1977); see also *Jamison v. State*, 410 S.C. 456, 469–71, 765 S.E.2d 123, 129–30 (2014)). Admissions made during a guilty plea should be considered conclusive unless an applicant presents valid reasons why he should be allowed to depart from the truth of his statements. *Id.* at 137–38, 654 S.E.2d at 874; see also *Blackledge*, 431 U.S. at 73–74 (pointing out that representations made by a defendant, his lawyer, and the prosecutor at a guilty plea hearing, as well as any findings made by the judge accepting the plea, constitute a "formidable barrier in any subsequent collateral proceedings").

Additionally, Applicant's allegation that he did not receive discovery was addressed at the time of his guilty plea. At the outset of the plea hearing, Applicant moved for a continuance claiming he had been unable to review discovery. (GP Tr. 3–4). In response, Solicitor McElveen informed the plea court that full discovery had been provided to each of Applicant's previous attorneys and confirmed that she had personally delivered the discovery materials to Applicant at the detention center after he elected to proceed pro se. (GP Tr. 7–8).

The plea judge offered Applicant an opportunity to review the videos he claimed were missing from his discovery while at the courthouse. (GP Tr. 32). The record of this exchange

during the guilty plea hearing further corroborates the testimony of Counsels and Deputy Solicitor McElveen that Applicant was, in fact, provided with full discovery prior to entering his guilty plea. Thus, this Court finds Applicant has failed to prove deficiency and prejudice as to this allegation.

This Court further finds since Applicant voluntarily elected to proceed *pro se* and enter a guilty plea without counsel, any claims regarding the performance of counsel that he elected to relief are insufficient to sustain an application for post-conviction relief and should be dismissed as a matter of law. *See United States v. Lawrence*, 161 F.3d 250 (4th Cir. 1998) ("[t]he Sixth Amendment does not require a court to grant advisory counsel to a criminal defendant who chooses to exercise his right to self-representation by proceeding *pro se*"), *United States v. Mikolajczyk*, 137 F.3d 237 (5th Cir. 1998) (holding that, as the defendant "had no right to standby counsel, it seems unlikely that standby counsel's failure to assist could be a violation of his Sixth Amendment rights"), and *United States v. Bova*, 350 F.3d 224 (1st Cir. 2003) (nothing that the defendant did not have the right both to "represent himself and to enjoy the benefit of standby appointed counsel"), Applicant's decision to move to relieve his counsel and proceed as a *pro se* defendant precludes Applicant from maintaining an application for post-conviction relief based upon a claim of the ineffective assistance of counsel.

Accordingly, this Court finds this allegation is DENIED.

Involuntary Guilty Plea

Applicant contends his guilty plea was coerced because the State had no evidence and Judge Cothran forced him to plead guilty. This Court finds this allegation is without merit. This Court finds Applicant knew the nature of the charges against him, the terms of the plea agreement, and the consequences of pleading guilty pursuant to the requirements of *Boykin* and *Pittman*. The plea transcript reflects Applicant understood the proceedings, interacted intelligently with the plea

court, and entered his guilty plea knowingly and voluntarily. Moreover, any possible deficiency or error by counsel was cured by the information conveyed at the plea hearing.

At the guilty plea hearing, the plea judge conducted a thorough plea colloquy with Applicant. The judge advised Applicant of the maximum possible sentences for each charge and clearly explained the terms of the plea agreement. (GP Tr. 63–65). Additionally, Applicant affirmed under oath that he was knowingly and voluntarily waiving his right to a jury trial, and that no one had threatened him or made any promises beyond the terms of the plea agreement. (GP Tr. 65; 67–68). Applicant then freely and voluntarily pleaded guilty to the charges. (GP Tr. 73).

Because a guilty plea is a "solemn, judicial admission of the truth of the charges against an individual . . . , a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed." *Dalton v. State*, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Blackledge v. Allison*, 431 U.S. 63, 74 (1977); *see also Jamison v. State*, 410 S.C. 456, 469–71, 765 S.E.2d 123, 129–30 (2014) (observing that "guilty plea[s] must be treated as final in the vast majority of cases" and instructing that caution must be exercised so as not to "undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea"). This Court finds Applicant failed to "present[] [any] valid reasons why he should be allowed to depart from the truth of [the] statements" made during the plea proceeding. *Dalton*, 376 S.C. at 137–38, 654 S.E.at 874; *see Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975) (finding that the accuracy and truth of an accused's statements at a guilty plea proceeding are "conclusively" established unless he makes some reasonable allegation why this should not be so), *overruled on other grounds by United States v. Whitley*, 759 F.2d 327 (4th Cir. 1985).

Surmounting *Strickland*'s high bar is never an easy task, and the strong societal interest in finality has "special force with respect to convictions based on guilty pleas." *Lee*, 582 U.S. ___,

137 S. Ct. at 1967; *cf. Hill*, 474 U.S. at 58 ("[R]equiring a 'prejudice' showing from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel 'will serve the fundamental interest in the finality of guilty pleas.' ") Based on the evidence presented at the PCR hearing and the record of the plea proceeding, this Court finds Applicant's plea was freely, knowingly, and voluntarily entered into. Accordingly, Applicant's request for relief by way of this allegation is DENIED.

Allegations of Trial Court Error

Applicant additionally makes various allegations of trial court error, including a claim that the plea judge denied him the right to retain private counsel. This Court finds these allegations are without merit.

At the guilty plea hearing, Applicant state he intended to hire private counsel, Mr. Deas. (GP Tr. 36–38). In response, Solicitor McElveen informed the court that she had spoken with Mr. Deas, who had indicated he would not be taking the case. (GP Tr. 39). The plea judge then ordered a recess to allow Applicant to speak with Mr. Deas regarding his representation. (GP Tr. 59–60). The record clearly refutes Applicant's allegation the plea judge prevented him from retaining private counsel; to the contrary, the judge afforded him the opportunity to pursue that representation during the hearing.

Additionally, this Court finds Applicant's assertions of trial court error, including his assertions that the trial court erred for denying his motion to suppress and allowing his to proceed forward *pro se*, are not proper post-conviction relief claims. Applicant's claims of trial court error shall be summarily dismissed for failure to state a cognizable claim under the Uniform Post-Conviction Procedure Act[3] (the Act). An applicant may commence a post-conviction relief action

[3] S.C. Code Ann. §§ 17-27-10 to -160.

on the following grounds:

> 1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
> 2. That the court was without jurisdiction to impose sentence;
> 3. That the sentence exceeds the maximum authorized by law;
> 4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
> 5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
> 6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy....

S.C. Code Ann. § 17-27-20(A).

However, because an application for post-conviction relief is not a substitute for a direct appeal of trial court error, and because of the modern simplification of criminal jurisdiction jurisprudence in South Carolina, the *overwhelming* majority of cognizable claims fall under the broad umbrella of "ineffective assistance of counsel," a contention under the Sixth Amendment of the United States Constitution. Direct appeal issues which could have been reviewed on appeal and were not objected to at trial or during guilty plea proceeding may only be presented to support a claim of ineffective assistance of counsel, not as a separate ground for relief. *Hyman v. State*, 278 S.C. 501, 502, 299 S.E.2d 330, 331 (1983).

Here, Applicant's claims of trial court error neither support a cognizable claim for post-conviction relief under any of the statutory grounds nor constitute an appropriate basis for a finding of ineffective assistance of counsel where Applicant voluntarily proceeded *pro se* at his guilty plea

proceeding. *Wolfe v. State*, 326 S.C. 158, 162 n.2, 485 S.E.2d 367, 369 n.2 (1997); *see Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (noting that allegations of trial court error are not cognizable on PCR); *Simmons v. State*, 264 S.C. 417, 215 S.E.2d 883 (1975) (finding that alleged trial errors and sufficiency of evidence are direct appeal issues that are not cognizable PCR claims); *Stepney v. State*, 278 S.C. 47, 292 S.E.2d 41 (1982) (explaining that issues that could have been raised on direct appeal cannot be considered on PCR application absent claims of ineffective assistance of appellate counsel). These claims therefore are not properly before this Court. *See, e.g., Drayton v. Evatt*, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993) ("[PCR] is not a substitute for appeal or a place for asserting errors for the first time which could have been reviewed on direct appeal."); S.C. Code Ann. § 17-27-20(B).

Accordingly, this allegation is DENIED.

VI. 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. This Court finds Applicant freely, knowingly, and voluntarily pleaded guilty.Therefore, this Court denies relief on all allegations and dismisses this PCR action with prejudice.

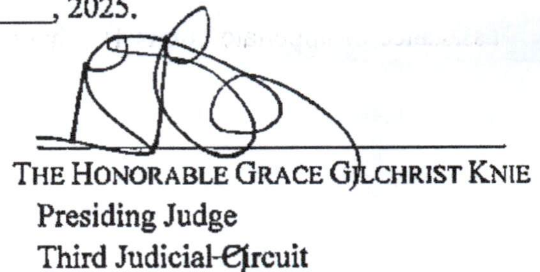
Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review pursuant to Rule 203, SCACR. Applicant has a right to appellate counsel's assistance in seeking review of the denial of PCR. *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.

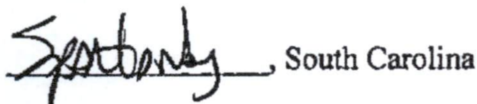
IT IS THEREFORE ORDERED:

1. The application for post-conviction relief be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of the State.

AND IT IS SO ORDERED this 8 day of May, 2025.



THE HONORABLE GRACE GILCHRIST KNIE
Presiding Judge
Third Judicial Circuit

, South Carolina