

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT
APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
The Honorable Frank Addy, Jr., PCR Action Judge
2024-CP-07-01408

RECEIVED

May 30 2025

S.C. SUPREME COURT

DALE KING, #381842,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

NOTICE OF APPEAL

Dale E King appeals the denial of his post-conviction relief application. The post-conviction relief action was heard and denied by the Honorable Frank Addy, circuit court judge, on April 14, 2025, and was denied by written order issued filed on May 23, 2025. Applicant received notice of the judgement on May 27, 2025.

/s Chelsey F. Marto
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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT) FOURTEENTH JUDICIAL CIRCUIT

2025 MAY 23 PM 4:40

Dale E. King, #381842,) CASE NO. 2024-CP-07-01408

JENNI / JH R...
BEAUFORT COUNTY, S.C.
Applicant,) CLERK OF COURT

v.)

ORDER OF DISMISSAL

State of South Carolina,)

Respondent.)

THIS MATTER CAME BEFORE THE COURT by way of Applicant Dale E. King's application for post-conviction relief (PCR) filed on June 25, 2024. Respondent filed its Return requesting an evidentiary hearing.

On April 14 2025, an evidentiary hearing was held at the Beaufort County Courthouse. Applicant was present and represented by Chelsey Marto, Esquire. Assistant Attorney General Kylee Kanealey represented Respondent. Applicant proceeded forward on the claims in his amended application. In support of these claims Applicant testified on his own behalf and presented the testimony of Trasi Campbell (Trial Counsel).

Following a thorough review of the record, along with the testimony and evidence presented at the hearing, this Court finds Applicant has failed to establish any constitutional violations or deprivations entitling him to relief and, accordingly, denies and dismisses this action with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a thirty-five (35) year sentence. In October 2018, the Beaufort County Grand Jury indicted Applicant for murder (2017-GS-07-00810). On December 9-11 2019, Applicant proceeded to a jury trial

before the Honorable Edgar W. Dickson. Trasi Campbell, Esquire, represented Applicant. Assistant Solicitors Kimberly Smith and Hunter Swanson represented the State. Following his conviction, Judge Dickson sentenced Applicant to thirty-five years' imprisonment for murder.

On December 17, 2019, Applicant filed a timely notice of appeal. Applicant's appeal was perfected by Appellate Defender Adam Sinclair Ruffin in which the following issues were raised:

- I. Whether the trial judge erred in failing to grant a mistrial after instructing the jury in his opening remarks that a trial was a search for the truth, where such an instruction impermissibly shifted the burden of proof to the defendant?
- II. Whether the trial judge erred in failing to grant a mistrial after the decedent's sister testified that she advised the decedent to end her relationship with Appellant because Appellant physically assaulted her, where the trial judge ruled such testimony was inadmissible?
- III. Whether the trial judge erred in allowing testimony that Appellant physically assaulted the victim two months prior to her death, where the prior assault was not probative of intent or lack of mistake or accident, and any probative value was substantially outweighed by the danger of unfair prejudice?

The South Carolina Court of Appeals affirmed Applicant's conviction on the merits. State v. King, Op. No. 2023-UP-091 (S.C. Ct. App. Filed March 15, 2023). The Remittitur was sent on March 31, 2023, but recalled on April 28, 2023. Applicant filed a Petition for Rehearing, which was denied. Applicant then filed a Petition for Writ of Certiorari with the South Carolina Supreme Court. On May 21, 2024, the South Carolina Supreme Court denied Certiorari, and the Remittitur was filed May 22, 2024.

CURRENT ACTION

On June 25, 2024, Applicant filed this PCR action alleging he is being held in custody unlawfully based on the following allegations:

- 1) "Ineffective Assistance of Counsel"
 - a. "Failure to communicate with client"
 - b. "Failure to investigate requests for missing vital evidence in my case"

c. "Failure to talk/ interview witnesses"

As relief, Applicant requested a new trial, or dismissal of conviction of all charges.

On April 9, Applicant filed an amended Application alleging:

- 1) Ineffective assistance of counsel for:
 - a. Failure to communicate with Applicant.
 - b. Failure to meet enough.
 - c. Failure to discuss discovery with Applicant.
 - d. Failure to develop a valid trial defense and communicate it with Applicant.
 - i. Failure to argue that the victim was so intoxicated she passed out on her own.
 - ii. Failure to argue that if Applicant killed the victim, why would he have covered her with a blanket.
 - iii. Failure to argue that if Applicant killed her, she would have been laying in a different position.
 - e. Failure to properly cross-examine:
 - i. Applicant's supervisor.
 - ii. Investigators regarding how she was laying and that she had a blanket on her.
 - iii. Brother concerning how Applicant's story did not change.
 - f. Failure to investigate photos police showed him during investigation that were not in discovery.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the records before it, including the Beaufort County Clerk of Court records of the underlying conviction, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's appellate records, and the records from this PCR action. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. After a careful review based on the Strickland standard set forth below, this Court finds Applicant



has failed to carry his burden of proof. Below are the Court's findings of fact and conclusions of law as required by section 17-27-80 of the South Carolina Code (2017).

Ineffective Assistance of Counsel

In a PCR action, an applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). To prove ineffective assistance of counsel, the applicant must show counsel was deficient, and the deficiency prejudice applicant. Strickland v. Washington, 466 U.S. 668 (1984). When evaluating deficiency, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Butler, 286 S.C. at 442, 334 S.E.2d at 814 (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption to received relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. To prove prejudice, an applicant must prove counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. Id. at 117-18, 386 S.E.2d at 625.

Failure to Meet/Communicate with Client¹

Applicant alleged Trial Counsel was ineffective for failing to meet and communicate with Applicant. Applicant did not prove this ground.

Federal case law holds that there is no constitutional minimum number of meetings between attorneys and their clients to satisfy competency. Campbell v. Polk, 447 F.3d 270, 279 fn.2 (4th Cir. 2006). "Brevity of time spent in consultation, without more, does not establish that counsel was ineffective," Easter v. Estelle, 609 F.2d 756, 759 (5th Cir. 1980) (holding that it is not

¹ This addresses allegations 1(a) and 1(b).



enough to merely show that counsel only met with his client twice before trial as long as counsel devoted sufficient time to ensure an adequate defense and to become thoroughly familiar with the facts of the case and the law applicable to the case, and holding the record revealed that counsel was so prepared.).

At the PCR hearing, trial counsel Trasi Campbell credibly testified that she met in person with Applicant around ten (10) times to discuss his case, met with Applicant at bond hearings, and communicated through sending letters throughout her representation. Applicant's testimony that he met with counsel only three (3) times and that he was not informed of his defense until the day of trial is not credible. Trial Counsel credibly testified that she met with Applicant and discussed the trial strategy and that he understood the strategy. This Court finds that counsel adequately met with Applicant and communicated with him regarding his case. Applicant has failed to show deficiency.

Further, Applicant failed to prove prejudice. This Court has reviewed the records and finds trial counsel was fully prepared, and Applicant failed to show how additional meetings with Applicant would have resulted in a different outcome at trial. The record reflects that trial counsel prepared Applicant by reviewing Applicant's discovery and discussing trial strategy with him. Applicant has provided no evidence that any additional meetings would have affected the trial and thus failed to prove prejudice. Therefore, this claim is denied.

Failure to Discuss Discovery/ Investigate Photos²

Applicant alleged trial counsel failed to discuss discovery with Applicant and failed to investigate photos police showed him that were not subsequently produced in discovery. This Court finds Applicant has failed to prove this ground. At the PCR hearing, Applicant testified that

² This addresses allegations 1(c) and 1(f).



the discovery that trial counsel shared with him did not include “missing pictures” of the victim that police showed him in his interrogation. Applicant testified he told trial counsel that photos were missing when they reviewed discovery. This Court finds this testimony not credible. Applicant did not present these alleged missing photographs at the PCR hearing and has not made a threshold showing that the photos even existed. Further, trial counsel credibly testified Applicant did not discuss missing photos with her and no photos appeared to be missing from discovery. Critically, this testimony, that he reviewed discovery with trial counsel and told her that photos were missing, directly negates his allegation that trial counsel failed to discuss discovery with him. This Court finds discovery was fully provided and reviewed with Applicant.

Further, to the extent additional photographs showing the position of the decedent’s body existed, Applicant failed to prove prejudice. Initially, the testimony of the EMS witness did not support the “different position” theory to which Applicant testified to at the PCR hearing. Thus, the existence of these additional photos of the decedent’s body would not have affected the trial. See Cherry supra. Further, as noted, Applicant did not produce these photographs at the PCR hearing – leaving this court to speculate as to whether they even existed and what impact, if any, they may have had at trial. Therefore, Applicant has failed to prove deficiency or prejudice; therefore, this claim is denied.

Failure to Develop a Valid Trial Defense

Applicant alleged trial counsel failed to develop a valid trial defense. More specifically, Applicant contends counsel failed to argue that the victim was so intoxicated she passed out on her own; failed to argue that if Applicant would not have covered the victim with a blanket if her killed her; and failed to argue the victim would be lying in a different position. Applicant also alleged at the PCR hearing that trial counsel advised him not to testify and he “followed her lead.” Applicant



did not prove this ground. Trial counsel's strategy was the victim had a history of seizures which ultimately caused her accidental death. Trial counsel credibly testified that she discussed the strategy with Applicant, and he understood. Trial counsel credibly testified that her representation included discussing with Applicant whether he should testify, that she discussed the pros and cons of doing so, and that she spoke with Applicant again concerning testifying after the judge advised him of his 5th Amendment rights. Trial counsel credibly testified it was Applicant's decision not to testify. This Court finds trial counsel adequately explained the pros and cons of testifying, but ultimately it was Applicant's decision not to testify. Trial counsel's advice was reasonable under prevailing professional norms; thus, Applicant has not shown trial counsel was deficient. Additionally, the defenses Applicant alleges should have been presented were not supported by evidence at the trial. This Court finds trial counsel presented a vigorous defense at trial and was not deficient for failing to argue Applicant's newly conceived "defenses".

Applicant's version of events told to law enforcement, other witnesses, and at the PCR hearing were *consistently inconsistent*. Therefore, Applicant cannot show that, if he had taken the stand and testified, the outcome of trial would have been different. This Court finds it was Applicant – not trial counsel – who decided not to testify, and his decision was made freely, voluntarily, and intelligently, as evidenced by the colloquy with the trial court. Further, Applicant has not shown a reasonable probability the outcome would be different had trial counsel argued the alternative defenses he presented at the PCR hearing. See Cherry supra. The record reflects the cause of death was strangulation around the victim's neck. Applicant's "defenses," that she was so intoxicated she passed out, that he would not have put a blanket on her if he had killed her, and that the victim would have been laying in a different position, are not *in any way* supported by

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evidence or constitute viable defenses. This Court finds Applicant has failed to prove deficiency and prejudice; therefore, this claim is denied.

Failure to Properly Cross-Examine

Applicant alleged trial counsel was ineffective for failing to properly cross-examine witnesses. More specifically, he contends counsel did not properly cross-examine: (1) Applicant's supervisor; (2) investigators regarding how the victim was laying and that she had a blanket on her; and (3) the victim's brother concerning how Applicant's story did not change. This Court finds Applicant failed to prove this ground.

Trial Counsel testified the supervisor was not very helpful. Trial Counsel testified that the witness' testimony had appreciably benefited the State's case or damaged the defense, and she did not want to risk opening the door. Trial counsel testified there was no benefit to questioning him regarding whether he was in the hotel room. Trial counsel testified that the brother gave her what she needed for the defense, and she did not want to risk opening the door and having him say something that was not helpful. As far as cross-examining the investigators, trial counsel testified that there were pictures of the body in discovery. The record supports this testimony.

This Court finds cross-examination is a matter of trial strategy, and Applicant has failed to overcome the presumption that trial counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Butler, 286 S.C. at 442, 334 S.E.2d at 814 (citing Strickland, 466 U.S. at 690). Trial counsel articulated a very valid trial strategy in not asking additional questions from these witnesses. Applicant has failed to prove trial counsel was deficient.



Further, Applicant has failed to show how further cross-examination of these witnesses would have meaningfully affected the trial's outcome. See Cherry supra. Trial counsel testified that there was no benefit in further questioning these witnesses and that doing so would have potentially harmed the defense. Applicant did not show how further cross examining the motel supervisor would have made any difference in the outcome of trial. The record reflects that photos of the victim's body were entered into evidence, so cross-examining investigators as to the position of the body would not have made any difference in the trial's outcome. The record indicates that Applicant's version of events changed *numerous* times, so further cross-examining the brother about how "his story did not change" would not have made any difference in the outcome of trial. Applicant has failed to show prejudice. This Court finds Applicant has failed to prove deficiency and prejudice, and this claim is denied.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations requiring this Court to grant his application. Therefore, this application for post-conviction relief is **DENIED and DISMISSED WITH PREJUDICE**.

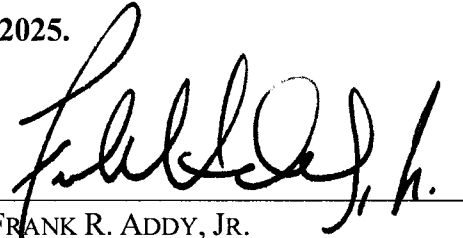
Should Applicant wish to secure appellate review, he must file and serve a notice of appeal within thirty (30) days of receipt by counsel of written notice of entry of judgment. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRPC, provides that PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf if the Applicant wishes to seek appellate review. Attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

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IT IS THEREFORE ORDERED:

1. Dale E. King's application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Mr. King shall be remanded to and remain in the custody of the South Carolina Department of Corrections.

IT IS SO ORDERED this 16th day of May, 2025.



FRANK R. ADDY, JR.
Presiding Circuit Judge
Fourteenth Judicial Circuit

Greenwood, South Carolina