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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT
APPEAL FROM ALLENDALE COUNTY
Court of Common Pleas
The Honorable Frank Addy, PCR Action Judge
2022-CP-03-00057

Jamel Williams, #348445,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

NOTICE OF APPEAL

Jamel Williams 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 22, 2025. Applicant received notice of the judgement on June 23, 2025.

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

Jamel Williams, #348445,) CASE NO. 2022-CP-03-00057

Applicant,

v. ORDER OF DISMISSAL

State of South Carolina,

Respondent.

THIS MATTER CAME BEFORE THE COURT by way of an application for post-conviction relief (PCR) filed by Jamel Williams (Applicant) on April 13, 2022. On April 14, 2025, an evidentiary hearing convened. Applicant was present and represented by Chelsey F. Marto, Esquire. Assistant Attorney General Danielle Dixon represented the State. At the hearing, the Court heard testimony from Applicant and Public Defender Stephen T Plexico (trial counsel) and Appellate Defender Sarah E. Shipe. Following a thorough review of the records before this Court and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant did not meet his burden of proof. Thus, this Court denies and dismisses this application with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a life sentence. In March 2019, the Allendale County Grand Jury indicted Applicant for murder (2018-GS-03-00045), attempted murder (-00044), and possession of a weapon during the commission of a violent crime (-00043). On January 6-9, 2020, Applicant proceeded to a jury trial before the Honorable Carmen Mullen. Public Defender Stephen Plexico represented Applicant, and Assistant Solicitor Reed Evans prosecuted the case. The jury convicted Applicant as indicted,

and Judge Mullen sentenced him to concurrent terms of life for murder, thirty years for attempted murder, and five years for the weapon charge.

Applicant timely filed a notice of appeal, which was perfected by Appellate Defender Sarah E. Shipe through the filing of a brief pursuant to Anders v. California, 386 U.S. 738 (1967). The South Carolina Court of Appeals dismissed the appeal pursuant to Anders, and the remittitur was sent February 22, 2022.

CURRENT APPLICATION

On April 13, 2022, Applicant timely filed this application alleging:

1. Ineffective assistance of counsel:

    a. Failed to challenge expert's credibility on cross-examination;

    b. Failed to object to vouching during the State's closing argument.

2. Due Process violation: Due Process was violated by the Judge's qualification of the expert;

3. Prosecutorial Misconduct: The solicitor offered the witness as an expert knowing the witness was not qualified.

On November 13, 2023, Applicant filed an amended application alleging:

a. Ineffective assistance of counsel:

    1. Failed to seek a stand your ground hearing;

    2. Failed to argue the police statement was involuntary;

    3. Failed to object to search-for-the-truth language;

    4. Failed to object to statements by Joe Loadholt that went to the ultimate issue;

    5. Failed to challenge the credibility of expert witness on cross-examination;

    6. Failed to object to the Solicitor's closing argument on the basis of burden-shifting;

7. Failed to procure a plea offer;

8. Failed to discuss trial strategy with Applicant;

9. Failed to adequately prepare for trial;

10. Failed to properly communicate with Applicant;

11. Failed to procure a plea offer;

12. Failed to object to police officer crying on stand;

13. Failed to inform the jury that if he was found guilty he'd be LWOPed;

14. Failed to request a mistrial upon realizing a juror had connections to the case;

15. Failed to request a mistrial when a non-juror entered the jury room due to a bomb threat. Applicant submits the person who went in the room told the jury he was guilty;

16. Failed to investigate alleged tampering of witness Loadholt. Specifically, Applicant submits there was not sufficient evidence to find Applicant's brother was tampering with evidence;

17. Failed to get Applicant in front of another judge. Specifically, Applicant claims his judge was also his bond judge and she denied him bond and said scathing things to him at the bond hearing. He also submits that the judge thought he was guilty of the crimes before trial and the judge did not have sufficient knowledge of the case before trial;

18. Failed to request voluntary manslaughter charge;

19. Failed to adequately question deceased's character;

20. Failed to question witness on pending attempted murder charges;

21. Failed to investigate unidentifiable blood for DNA evidence;

22. Failed to mitigate the sentence by stating he was the primary caregiver for his children;

23. Failed to ask for full findings of facts and conclusions of law on

all motions, including mistrial motions;

24. Failed to adequately impeach Loadholt;

25. Failed to move to prohibit Loadholt from testifying due to tampering allegations;

b. Prosecutorial misconduct/vindictiveness: A sloppy investigation was conducted in this case. Guilty of tampering.

On July 8, 2024, Applicant filed a second Amended Application alleging:

a. Ineffective assistance of trial counsel:

1. Counsel failed to request a pretrial immunity hearing;

2. Counsel failed to object to improper bolster and burden shifting when the State addressed Captain Ford's emotional reaction and vouched for his credibility during closing argument;

3. Counsel failed to object to Captain Ford crying on the stand;

4. Counsel failed to request a voluntary manslaughter instruction;

b. Ineffective assistance of appellate counsel: Counsel failed to challenge the self-defense instruction.

At the hearing, Applicant proceeded only on the allegations of his July 2024 amended application. This Court finds Applicant has waived the remaining allegations.

Findings of Fact and Conclusions of Law

This Court has reviewed the records before it, including the Allendale County Clerk of Court records of the underlying convictions, 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 this 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 prejudiced 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 receive 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.

Failed to request pretrial immunity hearing

Applicant contends counsel was ineffective for failing to request a pretrial immunity hearing. Applicant did not prove this ground.

At the PCR hearing, Applicant testified his defense was self-defense, defense of habitation, and defense of others, and he averred counsel's failure to request a pretrial immunity hearing pursuant to the Protection of Persons and Property Act violated his 14th Amendment right to Due Process. Trial counsel credibly testified he advised Applicant about a pretrial immunity hearing, but counsel's normal practice was to forego such a hearing because it gives the solicitor "two bites

of the apple." Specifically, it provides the State two opportunities to cross-examine a defendant, essentially giving the State a trial run. Trial counsel further credibly testified Applicant ultimately decided not to proceed with an immunity hearing. Although appellate counsel averred a trial lawyer should request an immunity hearing when "the facts are there," and most self-defense cases now have pretrial immunity hearings, this Court finds trial counsel articulated a valid strategic reason for not requesting a pretrial immunity hearing. Specifically, in addition to providing the State sworn testimony that can be used for impeachment, a pretrial hearing also provides the State a preview of the defense. In a case where immunity is not likely to be granted—such as this one[1]—an attorney's decision to forego a pretrial immunity hearing can be a valid strategic move, and this Court finds counsel's decision was certainly reasonable and within prevailing professional norms at the time of trial. Further, based on trial counsel's credible testimony, Applicant was apprised that a pretrial immunity hearing was an option, but Applicant decided not to proceed with one. Applicant thus waived the hearing upon counsel's valid, reasonable advice, and Applicant has not shown deficiency.

Finally, Applicant did not demonstrate prejudice because he was able to present the exact same defense at trial. Having been convicted of murder, an appellate court is extremely unlikely to find Applicant should have been granted immunity—especially under these facts—and thereby wholly disregard the findings of a jury that concluded the State disproved self-defense beyond a reasonable doubt. Applicant thus did not prove deficiency or prejudice, and this claim is denied.

[1] Specifically, eyewitness Loadholt—who was antagonistic to the State (Tr. 54, 63-64, 259) — testified victim begged for his life before he was shot. (Tr. 275). Applicant's cousin Latoya Patterson stated she was not afraid and didn't see any guns prior to the shooting. (Tr. 375, 379-81). Finally—and critically—in his initial statement to police, Applicant did not admit to being the shooter or claim he shot in self-defense; rather, he claimed he "heard shots and he ran." (Tr. 352-54, 491-95).

Captain Ford crying on stand[2]

Applicant next contends trial counsel was ineffective for not objecting when Captain Ford began crying on the stand.[3] He further avers counsel was ineffective for not objecting to improper bolstering and burden shifting when the State addressed Captain Ford's emotional reaction and vouched for his credibility during closing argument. Applicant did not prove this ground.

At the PCR hearing, trial counsel testified it is not uncommon for witnesses to get emotional on the stand, and he did not object to Captain Ford's testimony or the State's use of the testimony because he felt it was neither harmful nor helpful to the defense. After reviewing the trial transcript and considering the testimony, this Court finds Captain Ford's emotional response was not something to which counsel should have objected. Witnesses get emotional, and interposing an objection would have made counsel look like the quintessential heartless attorney in the eyes of the jury. Applicant thus did not prove deficiency. Further, Applicant did not set forth a valid, legal objection that would have reasonably excluded this emotional response and thus did not prove prejudice.

As to the State's closing argument, this Court finds the State's comments about Captain Ford's testimony were proper and did not constitute improper bolstering or burden shifting. (Tr. 522-23, 532-33, 550). See State v. Busse, 439 S.C. 104, 109, 886 S.E.2d 208, 211 (2023) ("A prosecutor arguing forcefully during closing argument that the jury should believe a particular witness is well within her proper role as a zealous advocate, so long as the argument is based on evidence admitted during trial."); id. at 111, 886 S.E.2d at 212 ("[A] prosecutor is expected to

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[2] This section combines allegations two and three of the amended application, as set forth above.

[3] Captain Ford was a responding officer from Allendale Police Department. When he testified about the condition of the victim upon his arrival—who was not yet deceased—trial counsel asked if he needed a minute. (Tr. 108). From context, it appears he was emotional on the stand.

comment on the credibility of the witnesses when making a closing argument. Far from improper, as previously explained, doing so is one of the fundamental responsibilities of a lawyer.").

Finally, although any objection would have been futile, even if the foregoing was improper, it did not so infect the trial with unfairness as to violate due process. See Fortune v. State, 428 S.C. 545, 550, 837 S.E.2d 37, 40 (2019) ("Improper comments do not automatically require reversal if they are not prejudicial to the defendant. On appeal, the appellate court will view the alleged impropriety of the solicitor's argument in the context of the entire record . . . .The appellant has the burden of proving he did not receive a fair trial because of the alleged improper argument. *The relevant question is whether the solicitor's comments so infected the trial with unfairness as to make the resulting conviction a denial of due process.*" (emphasis added)); Darden v. Wainwright, 477 U.S 168 (1986) (concluding that although the solicitor's references to the capital defendant as "an animal" whose head he wished had been blown off with a shotgun were improper, they did not so infect the trial with unfairness as to violate due process). Applicant thus failed to prove deficiency or prejudice, and this claim is denied.

Failed to request voluntary manslaughter charge

Applicant contends counsel was ineffective for not requesting a voluntary manslaughter charge. At the PCR hearing, trial counsel testified he generally did not discuss a voluntary manslaughter charge with Applicant. However, counsel explained this case was an all or nothing type of situation. The objective here was a not guilty verdict, and counsel stated that in his experience, a jury considering these specific facts would have likely compromised on a voluntary manslaughter verdict had such an instruction been given. To expect the jury to "step down two" and reject both murder and voluntary manslaughter would have been too much to ask the jury. This Court, in its experience, concurs with counsel's assessment, and this Court finds counsel

articulated a very valid trial strategy in not requesting a voluntary manslaughter charge. Applicant thus did not prove deficiency, and this claim is denied.

Ineffective assistance of appellate counsel

A defendant is entitled to effective assistance of appellate counsel. Southerland v. State, 337 S.C. 610, 615, 524 S.E.2d 833, 836 (1999). When analyzing a claim of ineffective assistance of appellate counsel, the Court applies the Strickland test. See Southerland v. State, 337 S.C. 610, 616, 524 S.E.2d 833, 836 (1999). Thus, the Court must consider whether appellate counsel's performance was deficient, and whether Applicant was prejudiced by appellate counsel's deficiency. Bennett v. State, 383 S.C. 303, 309, 680 S.E.2d 273, 276 (2009). To prove prejudice, the applicant must show that, but for counsel's errors, there is a reasonable probability he would have prevailed on appeal. Anderson v. State, 354 S.C. 431, 434, 581 S.E.2d 834, 835 (2003).

Applicant contends appellate counsel was ineffective for not challenging the self-defense instruction. At the PCR hearing, appellate counsel testified trial counsel did not challenge the self-defense charge, and thus there was not a preserved issue related to it. The record supports this testimony, and this Court thus finds appellate counsel was not ineffective for failing to raise this issue. (Tr. 600). To the extent this can be construed as an allegation that trial counsel was ineffective for not objecting to the charge, this Court finds the charge was proper under the law that existed at the time of trial, and Applicant cannot demonstrate prejudice from counsel's failure to object. (Tr. 588-93). This claim is thus denied.

CONCLUSION

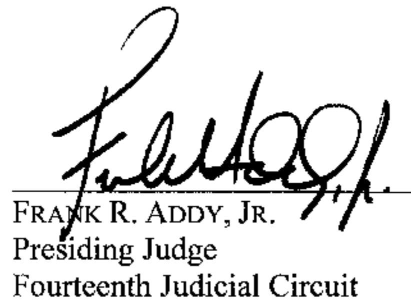
Based on the foregoing, this Court concludes Applicant has not established any constitutional violations that would require this Court to grant relief. Thus, this application is denied and dismissed with prejudice.

Should Applicant wish to secure appellate review, he must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. See Rule 203, SCACR. Applicant has the right to an 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). If Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on applicant's behalf. Rule 71.1(g), SCRCP. Attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. This application for PCR is denied and dismissed with prejudice; and
2. Applicant shall be remanded to and remain in the custody of the State.

IT IS SO ORDERED THIS 15th day of May, 2025.



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

Greenwood, South Carolina