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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT
APPEAL FROM HORRY COUNTY
Court of Common Pleas
The Honorable Frank Addy, PCR Action Judge
2023-CP-26-02381

LA'QUANDIAN BROMELL, #387717,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

NOTICE OF APPEAL

La'Quandian Bromell appeals from the Court's order regarding his post-conviction relief application. The post-conviction relief action was heard and denied by the Honorable Frank Addy, circuit court judge, on August 25, 2025. Applicant was granted a belated appeal and all other clams raised were denied via written order issued filed on August 25, 2025. Applicant received notice of the judgement on August 26, 2025.

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STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS FOR THE FIFTEENTH JUDICIAL CIRCUIT
La'Quandian J. Bromell, SCDC #387717, Applicant, v. State of South Carolina, Respondent.	)	Case No. 2023-CP-26-02381 **ORDER GRANTING A BELATED APPEAL AND DENYING ALL OTHER PCR CLAIMS**

THIS MATTER COMES BEFORE THE COURT pursuant to an application for post-conviction relief ("PCR") filed by La'Quandian J. Bromell ("Applicant") on April 14, 2023. On July 16, 2025, an evidentiary hearing convened. Applicant was present and represented by Chelsey F. Marto, Esquire. Assistant Attorney General Bryan T. Hall represented Respondent. At the hearing, Applicant testified on his own behalf and called as a witness Thurmond Brooker, Esquire. Following a thorough review of the trial transcript and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant is entitled to a belated appeal pursuant to *White v. State*[1] but is not entitled to relief on any of his remaining PCR claims since Applicant did not meet his burden of proof. Thus, this Court grants Applicant a belated appeal and denies relief and dismisses the remainder of the application with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections ("SCDC") serving a thirty-five (35) sentence. In October 2021, the Horry County Grand Jury indicted Applicant for murder (2021-GS-26-04475) and possession of a weapon during the commission of a violent crime (2021-GS-26-04476). These charges arose from an incident during which

[1] 263 S.C. 110, 208 S.E.2d 35 (1974).

Applicant was seen on video surveillance with the victim shortly before the victim was shot and killed on a road near a night club. The video depicted Victim walking and the shooter was driving a red car on a road leading from the club around the time of the shooting. Witnesses identified Applicant in the video surveillance by his street name "Juice" and identified Applicant as being the driver of the red car on the night of the shooting. In an interview, after being advised of his *Miranda*[2] rights, Applicant admitted to law enforcement that he was present at the scene, saw the victim that night, was driving the red car, and was known by his street name "Juice."

On April 11-14, 2022, Applicant proceeded to a jury trial before the Honorable Kristi Curtis. Thurmond Brooker, Esquire, ("Counsel") represented Applicant. Deputy Solicitor Nancy Livesay prosecuted the case. The jury convicted Applicant, and Judge Curtis sentenced Applicant thirty (30) years for murder and a consecutive five (5) years for the weapon charge.

On April 22, 2022, a notice of appeal was filed on Applicant's behalf. On November 7, 2022, the Court of Appeals dismissed the Applicant's appeal for failure to order the transcript as required by Rule 207, SCACR. *State v. Bromell*, S.C. Ct. App. Order filed Nov. 7, 2022. The remittitur was sent on January 10, 2023.

CURRENT APPLICATION

In his current PCR application, Applicant alleges he is entitled to relief for the following reasons:

> **Ineffective Assistance of Counsel**
> Failure to order the transcript for direct appeal. Applicant did not knowingly and intelligently waive his right to a direct appeal.

On June 23, 2025, Respondent filed its Return. On or around July 16, 2025, Applicant amended his PCR application to raise the following allegations:

[2] *Miranda v. Arizona*, 384 U.S. 436 (1966).

Ineffective Assistance of Counsel

a. Failure to request a voluntary manslaughter instruction.
b. Failure to convey to Applicant the importance of testifying and for erroneously advising Applicant not to testify.
c. Failure to review motion for discovery with Applicant.
d. Failure to sufficiently communicate with and meet with Applicant enough.
e. Failure to effectively challenge the search warrant for Applicant's mom's house and for the cell phone itself, not the cell phone records.
f. Failure to effectively cross-examine Detective Kenneth Marcus regarding how he was the first officer to initially contact Applicant when he testified otherwise.
g. Failure to effective move to suppress Applicant's police statement at his *Jackson v. Denno* hearing.
h. Failure to bring to the Court's attention that he (Counsel) knew a juror and to subsequently strike that juror.
i. Failure to perfect direct appeal.
j. Failure to timely request transcript [for direct appeal].
k. Failure to move to suppress photographs of the victim's body more effectively.
l. Failure to move to suppress the photographs of Applicant wearing the jacket the shooter was wearing on the night of the incident.
m. Failure to question lay witnesses regarding whether they saw him commit the murder.
n. Failure to more thoroughly challenge surveillance footage that was recaptured on bodycam.
o. Failure to investigate and test the cup found on the scene.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Before this Court are the Horry County Clerk of Court records of the subject conviction, Applicant's records from SCDC, the appellate records, the trial transcript, and the records of the current PCR action. This Court has reviewed the trial transcript in its entirety and has heard the testimony at the PCR hearing. This Court has further had the opportunity to observe the witnesses at the hearing, closely pass upon their credibility, and weigh their testimony. 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 facts 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. Rule 71.1(e), SCRCP; *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). An applicant alleging ineffective assistance of counsel must prove "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668 (1984); *Butler*, 286 S.C. at 441, 334 S.E.2d at 813. "The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases." *Watson v. State*, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Butler*, 286 S.C. at 441, 334 S.E.2d at 813. An applicant must overcome this presumption to receive relief. *Cherry v. State*, 300 S.C. 115, 386 S.E.2d 624 (1989).

To establish ineffective assistance of counsel, 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. *Strickland*, 466 U.S. at 687–88; *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625. Applicant must prove prejudice by showing "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.

Failure to Request Transcript for Applicant's Direct Appeal
Request for a Belated Appeal

Applicant alleges that he did not knowingly and voluntarily waive his right to a direct appeal and is entitled to a belated appeal. Respondent concedes that Applicant entitled to a belated

appeal because Counsel did not request and provide a copy of the trial transcript to the appellate courts. This Court finds credible Counsel's testimony that he did not order the transcript for Applicant's direct appeal. Thus, this Court finds Applicant did not knowingly and voluntarily waive his right to a direct appeal and is entitled to a belated appeal pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974) (holding whether the PCR judge determines that an applicant did not knowingly and voluntarily waive his right to a direct appeal, the applicant may be granted a belated appeal). Accordingly, this Court grants Applicant relief on this ground.

Failure to sufficiently communicate with and meet with Applicant enough.
Failure to review motion for discovery with Applicant.

This Court finds Applicant failed to prove Counsel was ineffective for failing to communicate with and meet with him enough. "[B]revity of time spent in consultation with a defendant alone is not indicative of inadequate trial preparation." *Smith v. State*, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (2012). The applicant must prove how additional preparation or communication would have resulted in a different outcome. *Id.*

This Court finds credible Counsel's testimony that he met with Applicant five (5) to ten (10) times in preparation for trial and discussed discovery with Applicant to ensure Applicant was aware of the evidence against him. This Court also finds credible Counsel's testimony that it is his usual practice to review discovery with his client. This Court finds Counsel's communication with Applicant and preparation for trial were reasonable under prevailing professional norms and were not deficient. Further, this Court finds Applicant failed to prove prejudice by failing to demonstrate how additional communication and consultation would have resulted in a different outcome. Thus, Applicant failed to meet his burden.

Failure to convey to Applicant the importance of testifying and for erroneously advising Applicant not to testify.

This Court finds Applicant failed to prove Counsel was ineffective for failing to advise him of his 5th Amendment right to testify and the advantages and disadvantages of testifying. This Court finds credible Counsel's testimony that he discussed with Applicant his right to testify or not testify. This Court finds credible Counsel's testimony that he informed Applicant that if he testified, he would be subject to cross-examination and must be able to stand up to questions asked on cross. This Court finds credible Counsel's testimony that he never makes the decision for a client but offers his opinion and lets the client make the decision. Additionally, the record reflects that Applicant indicated to the trial court that Counsel discussed with him whether he would like to testify or not testify. (Tr. 474:16-20). This Court finds that Counsel advised Applicant of his rights, and the Court concludes that Counsel's advice was adequate, reasonable, and not deficient in any respect.

Further, this Court finds Applicant failed to prove prejudice since the trial court also informed him of his 5th Amendment rights and informed him that if he wished to testify, he would be subject to cross-examination. (Tr. 474-75). Applicant indicated, clearly and unequivocally, that he understood his rights and did not wish to testify. (Tr. 475). *Brown v. State*, 340 S.C. 590, 594, 533 S.E.2d 308, 310 (2000) (stating a waiver of the Fifth Amendment right to testify or not must be made with knowledge of the consequences of either choice) (citation omitted). Thus, Applicant failed to meet his burden.

Failure to effectively challenge the search warrant for Applicant's mom's house and for the cell phone itself, not the cell phone records.

This Court finds Applicant failed to prove Counsel was ineffective for failing to challenge the search warrant for Applicant's mom's house and the cellphone. Pursuant to a search warrant,

police searched a room containing Applicant's belongings at his mother's house and discovered a cellphone. (Tr. 379-90). This Court finds credible Counsel's testimony that officers went to Applicant's mother's home with an arrest warrant and entered the home to search for Applicant, who was living with his mother at the time.[3] This Court also finds credible Counsel testimony that he did not believe there was anything to challenge regarding the search because the arrest warrant gave officers legal authorization to enter the home. This Court finds Counsel's decision not to challenge the search was reasonable under the circumstances because Counsel concluded that there was no legal basis to challenge it. Further, this Court finds Applicant failed to prove prejudice by failing to prove a reasonable probability that the result of trial would have been different if Counsel had made such a challenge. Thus, Applicant failed to prove prejudice.

Regarding the cell phone records, this Court finds the record reflects that Counsel challenged the cell phone extraction, arguing the search warrant issued was insufficient because it was beyond the scope of the magistrate's jurisdiction. (Tr. 393-06; 396). On April 13, 2022, during Applicant's trial, the Supreme Court issued a ruling in *State v. Warner*, 436 S.C. 395, 872 S.E.2d 638 (2022) (holding that a warrant is required for cellphone location data, a magistrate may issue a warrant to obtain cellphone records that are stored out of state, and an affidavit to support such warrant requires probable cause). To the trial court's commendable credit, the court brought *Warner* to the attention of the litigants, correctly applied the *Warner* precedent, and denied the motion to suppress. (Tr. 400-01; 406). This Court finds Applicant failed to prove he was prejudiced by Counsel's performance in challenging the cellphone records since the trial court properly applied precedent in denying the motion to suppress. Thus, Applicant failed to meet his burden.

[3] Payton v. New York, 445 U.S. 573 (1980).

Failure to effectively cross-examine Detective Kenneth Marcus regarding how he was the first officer to initially contact Applicant when he testified otherwise.

This Court finds Applicant failed to prove Counsel was ineffective for failing to cross-examine Detective Marcus about whether he was the first officer to initially contact Applicant. Under *Strickland*, this Court is required to defer to Counsel's reasonable decisions and strategic choices in how to cross-examine witnesses. *See Strickland*, 466 U.S. at 681 ("Because advocacy is an art and not a science, and because the adversary system requires deference to counsel's informed decisions, strategic choices must be respected in these circumstances if they are based on professional judgment."). This Court finds credible Counsel's testimony that he does not recall Det. Marcus being the first officer to arrest Applicant, but there were a number of officers who were present at the arrest. This Court has reviewed Counsel's cross-examination of Detective Marcus and finds Counsel's performance was reasonable under prevailing professional norms and not deficient. (Tr. 360-71).

Further, this Court finds Applicant failed to prove prejudice by failing to prove a reasonable probability the result of trial would have been different but for Counsel not questioning Det. Marcus regarding the suggested fact. This Court finds that cross-examination of Det. Marcus on being the first officer to initially contact Applicant was so minor that it could not have possibly changed the result of Applicant's trial. Thus, Applicant failed to meet his burden.

Failure to effectively move to suppress Applicant's police statement at his Jackson v. Denno hearing.

This Court finds Applicant failed to prove Counsel was ineffective for failing to "effectively" move to suppress Applicant's police statement. Under *Strickland*, this Court is required to give deference to Counsel's reasonable strategic decisions in representing Applicant at trial. *Strickland*, 466 U.S. at 689 ("Judicial scrutiny of counsel's performance must be highly

deferential...."). The record reflects that Counsel moved to suppress statements Applicant made to law enforcement pursuant to *Jackson v. Denno*, 378 U.S. 368 (1964). (Tr. 59-83). During the *Jackson v. Denno* hearing, Counsel cross-examined witnesses on facts relevant to ascertaining whether Applicant's statement was given voluntarily. Counsel also made reasonable arguments at the hearing. This Court finds credible Counsel's testimony that he did not know of anything that would have changed the outcome of *Jackson v. Denno* hearing because the officer clearly advised Applicant of his *Miranda* rights.

This Court finds Counsel's representation of Applicant in the *Jackson v. Denno* hearing was reasonable under prevailing professional norms and was not deficient. Further, this Court finds Applicant failed to prove prejudice by failing to present an argument that Counsel could have made which would have resulted in the trial court suppressing the statements. Thus, Applicant failed to meet his burden.

Failure to move to suppress photographs of the victim's body more effectively.

This Court finds Applicant failed to prove Counsel was ineffective for failing to move to suppress photographs of the victim's body "more effectively." This Court finds credible Counsel's testimony that he objected to the photos, and the solicitor agreed with Counsel on some of the photos. This Court finds the record reflects that Counsel made objections to the photographs. (Tr. 280). This Court finds Counsel's performance in challenging the photos was reasonable under prevailing professional norms and was not deficient. Further, this Court finds Applicant failed to prove prejudice by failing to present an argument that Counsel could have made which would have resulted in the suppression of the photos. Thus, Applicant failed to meet his burden.

Failure to bring to the Court's attention that he (Counsel) knew a juror and to subsequently strike that juror.

This Court finds Applicant failed to prove Counsel was ineffective for failing to strike a juror who Applicant alleges Counsel knew. This Court does not find Applicant's testimony credible that Counsel stated that he knew a juror and that the juror "hated his guts." Instead, this Court finds credible Counsel's testimony that he does not have any recollection of a juror who hated him, and he never would have put such a juror on the jury. This Court cannot conceive of any situation in which a defense attorney would allow a juror *who is biased against the attorney* to be seated on a jury and finds that Counsel's testimony comports with this Court's view. Thus, based on Counsel's credible testimony, this Court finds Applicant failed to meet his burden.

Failure to Request a Voluntary Manslaughter Charge

This Court finds Applicant failed to prove Counsel was ineffective for failing to request a voluntary manslaughter jury charge. This Court finds credible Counsel's testimony that Applicant's defense was that he had nothing to do with the murder.[4] This Court also finds credible Counsel's testimony that there would have to be evidence to support the voluntary manslaughter charge, and no evidence existed that there was an altercation between Applicant and the victim which would warrant requesting a voluntary manslaughter charge. This Court finds credible Counsel's testimony that, because the defense was that the State had not proven the identity of the shooter beyond a reasonable doubt, Counsel wanted to send the case to the jury on murder alone in the hopes of an outright acquittal. This Court finds Counsel articulated a reasonable and valid strategy and was not deficient. Further, this Court finds Applicant failed to prove prejudice because, based on a review of the trial record and evidence presented a trial, this Court finds there

[4] Interestingly, Applicant testified at the hearing that he was innocent, and therefore, he did not want that instruction to be given. Based upon his testimony, the Court concludes, as an additional sustaining ground, that Applicant abandoned this ground.

was no evidence that the killing was done in sudden heat of passion which would support a jury charge on voluntary manslaughter. *See State v. Cole*, 338 S.C. 97, 101, 525 S.E.2d 511, 512 (2000) ("The law to be charged must be determined from the evidence presented at trial.") (citation omitted). Thus, Applicant failed to meet his burden.

Failure to move to suppress the photographs of Applicant wearing the same jacket the shooter was wearing on the night of the incident.

This Court finds Applicant failed to prove Counsel was ineffective for failing to move to suppress photographs of Applicant wearing the same jacket as the shooter. In a case in which the identity of the shooter was the main issue, this Court finds that the photographs were relevant, and their probative value was not substantially outweighed by prejudice. *See* Rule 403, SCRE. This Court finds Applicant failed to prove prejudice by failing to show what Counsel could have argued which would have resulted in the trial court excluding the photographs. Thus, Applicant failed to meet his burden.

Failure to argue that the bodycam footage which recorded the surveillance video was spliced and not shown in full.
Failure to more thoroughly challenge surveillance footage that was recaptured on bodycam.

This Court finds Applicant failed to prove Counsel was ineffective for failing to challenge the video evidence from the body cam footage and video surveillance. (St.'s Ex. 19-20). This Court finds credible Counsel's testimony that he had no reason to suspect that the video was altered or redacted and that he was unsure about any legal ground to challenge the body camera footage. This Court finds Applicant failed to prove Counsel was deficient. Further, this Court finds Applicant failed to prove prejudice by failing to present the full video at the PCR hearing to prove a reasonable probability that the result of trial would have been different. *Jackson v. State*, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998) (stating the applicant must show the results of an investigation that would have resulted in a different outcome at trial, "[m]ere speculation and

conjecture…is insufficient" (citing *Glover v. State*, 318 S.C. 496, 458 S.E.2d 538 (1995))). Thus, Applicant failed to meet his burden.

Failure to question lay witnesses regarding whether they saw Applicant commit the murder

This Court finds Applicant failed to prove Counsel was ineffective for failing to question lay witnesses regarding whether they saw Applicant commit the murder. This Court finds the record reflects that Counsel cross-examined the witnesses and elicited facts to demonstrate that the witnesses did not see Applicant commit the murder. Counsel cross-examined Cortisha Hemingway, who admitted that she did not see the shooter get out of the vehicle or get back in the vehicle but saw "a person" standing near victim shooting him. (Tr. 267). Counsel also cross-examined, Latreka Green, who testified that she did not see anyone get out of the car but saw the car drive off. (Tr. 230). Counsel also cross-examined Green regarding her previous statement to police that she did not see anything. (Tr. 230-31).

This Court finds Counsel's cross-examination of the lay witnesses was reasonable under prevailing professional norms, especially since the lay witnesses never identified Applicant as the shooter. Thus, this Court finds Counsel's performance was not deficient, and Applicant failed to meet his burden.

Failure to investigate and test the cups found on the scene

This Court finds Applicant failed to prove Counsel was ineffective for failing to investigate and test cups found on the scene. A criminal defense attorney's duty to investigate is limited to reasonable investigations or a reasonable decision that makes particular investigations unnecessary. *Ard v. Catoe*, 372 S.C. 318, 331–32, 642 S.E.2d 590, 597 (2007). The courts will evaluate counsel's decision not to undertake a particular investigation for reasonableness under all

the circumstances with "heavy deference" to counsel's judgment. *Bagwell v. State*, 410 S.C. 259, 265, 763 S.E.2d 630, 633 (Ct. App. 2014).

This Court finds credible Counsel's testimony that testing the cups would have been immaterial and fruitless in that nothing connected the cups to the shooter. Based on its review of the record and evidence presented, this Court finds no reason for Counsel to test the cups found on the scene because nothing in the record indicates that the cups had any relevant connection to the shooting itself or anyone involved in the shooting. This Court also finds the record reflects that Counsel argued to the jury that the State did not test the cups for DNA to support his argument that there was reasonable doubt regarding Applicant's guilt. (Tr. 532-34).

Accordingly, this Court finds Counsel's decision not to investigate the cups was reasonable and not deficient. Further, this Court finds Applicant failed to prove prejudice by failing to present evidence showing the cups contained material DNA evidence which would have resulted in a different outcome at trial. *Jackson*, 329 S.C. at 353-54, 495 S.E.2d at 772 (holding the applicant must substantiate his allegation by presenting probative evidence to show the results of an investigation would have resulted in a different outcome) (citation omitted). Thus, Applicant failed to meet his burden.

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 relief. Therefore, Mr. Bromell's application is denied and dismissed with prejudice.

Should Mr. Bromell 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. 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 an 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 an appeal.

THEREFORE, IT IS ORDERED:

1. Applicant is granted a belated appeal;
2. The remainder of this application for PCR is denied and dismissed with prejudice; and
2. Applicant must be remanded to and remain in the custody of the State.

IT IS SO ORDERED THIS 22nd day of August, 2025.

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

Greenwood, South Carolina