THE STATE OF SOUTH CAROLINA
In the Supreme Court

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S.C. SUPREME COURT

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

B. Alex Hyman, Circuit Court Judge

Case No. 2022-CP-23-01152

Frederick Jarvis ..... Petitioner

v.

State of South Carolina ..... Respondent

NOTICE OF APPEAL

Petitioner appeals the Honorable B. Alex Hyman's Judicial Order dismissing petitioner's application for post-conviction relief and the order denying petitioner's motion to alter judgment. On December 19, 2024, the court signed an order dismissing Petitioner's application for post-conviction relief. Appellant received a copy of the Judicial Order through counsel. A copy of the Judicial Order is attached. Petitioner through counsel then filed a timely Motion to Alter Judgment which was denied on August 21, 2025 by Judge Hyman. Counsel received a copy of the order denying the motion to alter judgment on August 29, 2025. Petitioner received a copy of the order denying the Motion to Alter Judgment from counsel.

Respectfully submitted,

Stephen Henry, Attorney and
Director of Law in Action
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September 4, 2025

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	)	IN THE COURT OF COMMON PLEAS FOR THE THIRTEENTH JUDICIAL CIRCUIT
Frederick Jarvis, Applicant, v. State of South Carolina, Respondent.	)	Case No.: 2022-CP-23-01152 **JUDICIAL ORDER**

THIS MATTER is before the Court by way of an application for post-conviction relief. A hearing was held on May 16, 2024 before Circuit Judge B. Alex Hyman. The Applicant was present and represented by Stephen Henry, Esq., and the State was represented by Assistant Attorney General Christopher Runyan.

The Applicant has alleged in his application that he was denied appointed counsel, was denied a jury trial, was not advised of the dangers of proceeding without a lawyer, was not informed by the court of his right to have a jury trial, was convicted with inadmissible hearsay evidence, was not offered a chance to cross-examine the sole witness for the city, a police officer, was not told that he could tell his version of events, and was not informed of his right to appeal.

FINDINGS OF FACT

The application challenges the Applicant's October 14, 2021 conviction for Driving Under the Influence First Offense. The Applicant was tried before the Honorable Mathew R. Hawley, Chief Judge of the Greenville Municipal Court without a jury by way of a bench trial in which the Applicant was present without counsel. Officer Aaron Bowles testified for the City of Greenville in support of the charge. The Applicant was convicted of the charge on that date and

taken to jail pending sentencing, which occurred on October 21, 2021. At the time of sentencing, an attorney hired by the Applicant's mother represented the Applicant. The Applicant was sentenced to time served and released from custody on October 21, 2021. The Applicant did not file a direct appeal from his conviction or sentence, and was not specifically notified of his right to appeal that conviction.

There is a transcript of the bench trial that was offered by the Applicant as an exhibit, but no record of the sentencing hearing was offered by either side. According to the Applicant and the record developed during the hearing, after his arrest on October 2, 2021, he was given a ticket that included a hearing date of October 14, 2021. The Applicant testified, and the record reflects, that the trial judge did not discuss the Applicant's right to a jury trial or his eligibility to have an appointed lawyer. The Applicant testified that he was unemployed at the time of his arrest and his court date. The Applicant appeared at the hearing prepared to ask for a continuance in order to find a lawyer to represent him. The plan to request a continuance was based upon information the Applicant received from a group called Legal Shield. According to the Applicant, Legal Shield did not represent him as his lawyer and would only potentially have done so if his case was postponed. No lawyer made an appearance for the Applicant through the city court or otherwise. The Applicant testified that he wanted time in order to "…have some type of defense." He further testified that he did not realize he was having a bench trial and thought that the officer was merely stating the details of his charges, rather than testifying in a trial. Furthermore, at the conclusion of the bench trial, the trial judge told the Applicant, "You just had a bench trial." After the Applicant was convicted, the city judge completed a Form IV but did not send the form to the Office of Indigent Defense for financial screening. It appears from this evidence that if the trial judge had raised the issue of a free lawyer for the Applicant,

the Applicant would have been screened and assigned a lawyer. The Applicant presented Zach Klebe, the Criminal Justice Coordinator with the Office of Indigent Defense in Greenville, who testified that the city court never sent a Form IV to his office for the Applicant and, therefore, the Applicant was never screened for a free lawyer.

The City was represented at the bench trial by Officer Bowles, the arresting officer, and not by a prosecuting attorney. During the officer's testimony, he repeatedly offered inadmissible hearsay evidence including a statement allegedly made by the Applicant's passenger, Christopher Pinto. Mr. Pinto was not present for the bench trial and the officer's representations to the city court judge about what Mr. Pinto allegedly told him was inadmissible hearsay. The Pinto "statement" was also extremely damaging in the Applicant's driving under the influence trial since, per the officer, Pinto said that he and the Applicant had been drinking all day. The officer further offered hearsay evidence from EMS personnel and jail staff concerning the Applicant's blood levels, diabetic ketoacidosis, and a conclusion that the Applicant's condition after his arrest was more consistent with the consumption of alcohol than with a diabetic reaction. Again, these statements were made in the absence of the EMS or jail personnel witnesses and absent any reports on the Applicant's condition or test results. Mr. John Mauldin, longtime Greenville County criminal defense lawyer and former Thirteenth Circuit Public Defender, testified on behalf of the Applicant. Mr. Mauldin reviewed the bench trial transcript and testified that the officer's statements from the passenger, EMS, and jail personnel were inadmissible hearsay. Further, the Court reached the same conclusions on the record as to the inadmissible hearsay testimony by Officer Bowles.

The bench trial record is clear that the trial judge did not address the Applicant's right to counsel or his right to a jury trial. There was no waiver of either of those rights on the record.

CONCLUSIONS OF LAW

After review and consideration of the testimony presented at the evidentiary hearing, and review of the record and arguments of counsel, this Court finds that Applicant is entitled to a belated direct appeal from his conviction to seek review of the issues arising from his bench trial pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974). Applicant was not represented by counsel at his bench trial, however, Applicant retained private counsel for his sentencing hearing.

Following a trial, counsel must make certain the defendant is made fully aware of the right to appeal. *Turner v. State*, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008) (citation omitted) (*Turner I*); *see also Turner v. State*, 384 S.C. 451, 456, 682 S.E.2d 792, 794 (2009) (finding counsel must inform criminal defendant found guilty of a crime after a trial about the possibility of an appeal) (*Turner II*). "In the absence of an intelligent waiver by the defendant, counsel must either initiate an appeal or comply with the procedure in *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967)." *Turner*, 380 S.C. at 224, 670 S.E.2d at 374 (citation omitted).

Applicant's sentencing counsel did not testify at the evidentiary hearing. As such the only evidence for this court to consider is Applicant's testimony, counsel's arguments, and the record before it. At the evidentiary hearing, several issues related to Applicant's bench trial were raised. Counsel argued that Officer Bowles' description of the evidence to the Court describing Applicant's arrest surmounted to multiple statements of hearsay.

Additionally, Applicant testified that he was unaware that his case was called for a bench trial at the time Officer Bowles presented the evidence. He testified that he believed Officer Bowles was only stating the facts of his arrest and that the trial court did not offer him the opportunity to question the officer's presentation of the facts. Applicant testified that he only

realized he had been through a bench trial when the Judge informed him of such at its conclusion. The trial court did not advise Applicant of his right to appeal his conviction or sentence on the record. Because there is no indication or record before this court that a notice of appeal was filed by Applicant or his retained counsel, and the record shows that there are arguably potential issues appropriate for direct appellate review - though ultimately likely to be found procedurally unavailable - this Court finds that in light of the lack of any contradictory evidence, a reasonable defendant would have requested counsel to appeal had he been notified he could do so. *See Alexander v. State*, 303 S.C. 539, 402 S.E.2d 484 (1991); *See also Jackson v. State*, 342 S.C. 95, 535 S.E.2d 926 (2000). Therefore, this Court finds that Applicant is entitled to belated review of direct appeal issues pursuant to *White v. State*, 263 S.C. 110, 108 S.E.2d 35 (1974).

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations during his bench trial entitling him to relief from this Court. This Court **DENIES** and **DISMISSES** this application with prejudice and **GRANTS** a belated direct appeal pursuant to *White v. State*[1] regarding Applicant's allegations as to trial court error.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules

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[1] "When the post-conviction relief judge has affirmatively found that the right to a direct appeal was not knowingly and intelligently waived, the Applicant may petition for a writ of certiorari pursuant to Supreme Court Rule 50, § 9. All post-conviction relief issues, including the waiver of a direct appeal, must be raised and argued in the Petition according to the guidelines set forth in Rule 50, § 9(b). The Petition shall include a list of exceptions regarding the direct appeal issues." *Davis v. State*, 288 S.C. 290, 291, 342 S.E.2d 60 (1986).

for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. Applicant's application for post-conviction relief is denied and dismissed with prejudice; and

2. Applicant is entitled to petition for a writ of certiorari pursuant to the Supreme Court Rule 50, § 9.

AND IT IS SO ORDERED this 19 day of Dec., 2024.

B. ALEX HYMAN, Presiding Judge

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	)	IN THE COURT OF COMMON PLEAS FOR THE THIRTEENTH JUDICIAL CIRCUIT
	)	
	)	Case No.: 2022-CP-23-01152
FREDERICK JARVIS,	)	
	)	
Applicant,	)	**ORDER DENYING APPLICANT'S MOTION TO ALTER OR AMEND JUDGMENT PURSUANT TO RULE 59(e), SCRCP**
	)	
v.	)	
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	

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JAY GRESHAM COC GVL SC

THIS MATTER is before the Court by way of a motion to alter a judicial order ("ORDER") issued by Judge B. Alex Hyman on December 19, 2024. The applicant is represented by Stephen Henry, Esq., and the State is represented by Assistant Attorney General Christopher Runyan.

Applicant challenged an October 14, 2021, conviction for Driving Under the Influence First Offense through an application for post-conviction relief ("PCR"). An evidentiary hearing was held on May 16, 2024. Following the evidentiary hearing, the Court received multiple post-hearing submissions with input from both parties. On December 19, 2024, the Court issued the ORDER denying and dismissing the Applicant's PCR application with prejudice and granted a belated appeal pursuant to *White v. State*. On December 27, 2024, the Applicant filed a motion to alter judgment pursuant to Rule 59, SCRCP.

This Court finds that Applicant's motion to alter or amend merely expresses disagreement with the ruling and points to no specific error in the findings of facts or conclusions of law. Applicant can raise any issues he believes were errors of law in the direct appeal, the success or failure of those issues is not a factor for this Court to consider. *See* Rule 243(i)(1), SCACR. *See also Davis v. State*, 288 S.C. 290, 291, 342 S.E.2d 60 (1986).

Further, this Court finds the matter was thoroughly presented at the hearing and in multiple post-hearing submissions with input from all parties. *See generally Fishburne v. State*, 427 S.C. 505, 516, 832 S.E.2d 584, 589 (2019) ("The preparation and finalization of a PCR order is often a collaborative effort."). The Court is satisfied that it was fully advised of all arguments and the positions of each party, and the ORDER reflects the ruling on the same.

After careful consideration and review, this Court respectfully denies the Applicant's Motion to Alter Judgment.

IT IS THEREFORE ORDERED that Applicant's Motion to Alter Judgment is **DENIED**.

IT IS SO ORDERED this 21 **day of** August, **2025.**

B. ALEX HYMAN, Presiding Judge

Conway, South Carolina

Copy mailed to
Attorney general / Stephen Henry
on 8 / 26 / 2025