STATE OF SOUTH CAROLINA COUNTY OF ABBEVILLE	)	IN THE COURT OF COMMON PLEAS EIGHTH JUDICIAL CIRCUIT
	)	CASE NO. 2024-CP-01-00375
STEVEN BIXBY, Applicant	)	
v.	)	
STATE OF SOUTH CAROLINA, Respondent	)	

NOTICE OF APPEAL

The Supreme Court previously granted Applicant Steven Bixby's motion for the Supreme Court Clerk to refrain from issuing an execution notice, and assigned a circuit judge to hear Mr. Bixby's application for post-conviction relief (PCR) alleging his incompetency to be executed. On August 21 and 22, 2025, the Honorable R. Scott Sprouse presided over an evidentiary hearing on Mr. Bixby's competency to be executed. On September 11, 2025, Judge Sprouse issued an order finding Mr. Bixby competent. Pursuant to Rule 243, SCACR, Petitioner gives notice of his intent to appeal Judge Sprouse's order denying his PCR application and finding him competent to be executed. *See also Singleton v. State*, 313 S.C. 75, 87, 437 S.E.2d 53, 60 (1993) ("mandatory review" follows the PCR court's competency determination).

Submitted on October 9, 2025.

/s Joshua Snow Kendrick
Joshua Snow Kendrick (No. 70453)
KENDRICK & LEONARD, P.C.
7 Mills Avenue (29605)
P.O. Box 6938
Greenville, SC 29606
(864) 760-4000

David Weiss
Gretchen Swift
Office of the Federal Public Defender
Western District of North Carolina
Capital Habeas Unit for the Fourth Circuit
129 W. Trade Street
Charlotte, NC 28202
(704) 688-6950
Admitted pro hac vice

COUNSEL FOR STEVEN BIXBY

STATE OF SOUTH CAROLINA COUNTY OF ABBEVILLE	)	IN THE COURT OF COMMON PLEAS FOR THE EIGHTH JUDICIAL CIRCUIT
STEVEN V. BIXBY, Applicant v. STATE OF SOUTH CAROLINA, Respondent.	)	C/A 2024-CP-01-00375 *CAPITAL PCR* **ORDER FINDING APPLICANT COMPETENT TO BE EXECUTED**

This matter is before the Court by Order of the South Carolina Supreme Court for consideration of Applicant's post-conviction relief (PCR) action filed with the Abbeville Clerk of Court on November 26, 2024. Applicant's only claim is that he is not competent to be executed under the standard set forth in *Singleton v. State*, 313 S.C. 75, 437 S.E.2d 53 (1993).

This Court received a copy of the report dated August 10, 2025, prepared by the court's appointed expert, Dr. Donna S. Maddox, M.D. On August 15, 2025, this Court received pre-trial briefing from both parties. An evidentiary hearing was then held August 21–22, 2025, in the Greenville County Courthouse. Applicant appeared with his counsel of record: Joshua Kendrick, Esq., from Greenville, and David Weiss, Esq., and Gretchen Swift, Esq., of the Federal Fourth Circuit's Capital Habeas Unit, both appearing *pro hac vice*. Also present was John E. Duncan, Esq., Applicant's *guardian ad litem* appointed for purposes of this litigation. Senior Assistant Deputy Attorney General Melody J. Brown and Assistant Attorney General Joe Maye appeared on behalf of the State. At the conclusion of the hearing, this Court invited proposed orders from each party.

Having received and reviewed those proposed orders, and having considered the record in this case, including the expert testimony and other evidence presented at the evidentiary hearing,

and considering the positions of both parties, this Court finds that Applicant has failed to meet his burden of proof in showing that he is incompetent to be executed. The Court's specific findings of fact and conclusions of law as required pursuant to S.C. Code Ann. § 17-27-80 are set forth below.

PROCEDURAL HISTORY

Applicant was sentenced to death for the murders of Deputy Danny Wilson and Magistrate's Constable Donnie Outz. The murders occurred in December of 2003; the capital trial was held in February 2007. *State v. Bixby*, 388 S.C. 528, 540, 698 S.E.2d 572, 578 (2010). The facts of the crime have been repeatedly summarized and reviewed during multiple stages of litigation. A brief summary may be found in the 2024 Fourth Circuit opinion, which in turns cites to our Supreme Court's expanded recitation of facts in the direct appeal opinion:

> Amidst a dispute involving the state of South Carolina's claim to a right of way across the Bixby family property, Bixby and his father shot and killed two law enforcement officers. *State v. Bixby*, 388 S.C. 528, 698 S.E.2d 572, 585–89 (2010).
>
> After Bixby and his parents learned of the state's plan to expand a road across their property, they resisted construction efforts and responded with threats of violence. *Id.* at 586. So state officials scheduled a meeting with the Bixbys to discuss the construction plans, which they asked law enforcement to mediate. *Id.* at 586–87. The day before the meeting, Bixby told others that he and his family had been planning an armed altercation for some time, that "[t]omorrow" they intended to shoot "anybody [who] comes in the yard," and that "if the shooting starts I won't come out alive." *Id.* at 577.
>
> The next day, when law enforcement approached the Bixby home, Bixby and his father shot and killed two officers. In the hours that followed, Bixby and his father engaged in an armed stand-off with additional law enforcement officers, but surrendered late in the evening after law enforcement "returned fire and shot tear gas into the home." *Id.* at 578.

Bixby v. Stirling, 90 F.4th 140, 143 (4th Cir.), *cert. denied*, 145 S. Ct. 224 (2024).

Since his sentence was imposed, Applicant has been in near constant litigation pursuing various remedies. Applicant exhausted his ordinary state and federal remedies in May of 2023. However, Applicant moved to stay the issuance of an execution notice citing in part a pending

civil action regarding the amended methods of execution statute, *Owens v. Stirling*. By order dated June 8, 2023, our Supreme Court stayed the issuance of a notice of execution until it resolved the cited litigation.

Our Court issued its opinion upholding the amended statute on July 31, 2024, *Owens v. Stirling*, 443 S.C. 246, 904 S.E.2d 580 (2024). With the completion of the *Owens* litigation, the Court issued a schedule to be followed for a number of executions that had been stayed during the course of the litigation, including Applicant's. (*See* August 30, 2024 Amended Order, Appellate Case No. 2024-001373). As a result of the order for the notices, Applicant's notice of execution was anticipated to be issued in the Spring of 2025.

On November 26, 2024, Applicant sought a stay of execution to litigate this action. On March 13, 2025, the South Carolina Supreme Court granted a stay to prohibit issuance of a notice pending expedited litigation of Applicant's competency claim and assigned the matter to this Court by the same order. Part of that order directed this Court to hold a hearing on the matter no later than September 1, 2025, and that an order must be filed within 30 days of the completion of the hearing. In keeping with those parameters, this Court held the hearing as noted above and now issues this order in compliance with the Court's instruction.

THE CLAIM

Applicant alleges the following single ground, phrased as follows:

> Mr. Bixby is incompetent to be executed pursuant to the standards set forth in *Singleton v. State*, 313 S.C. 75, 437 S.E.2d 53 (1993), and as a result, his sentence cannot be lawfully carried out.

(PCR App. at 2).

APPLICABLE LAW

The United States Supreme Court has held that the Eighth Amendment bars a state from executing a prisoner if "his mental illness prevents him from comprehending the reasons for the penalty or its implications." *Ford v. Wainwright*, 477 U.S. 399, 417 (1986) (plurality opinion). In *Panetti v. Quarterman*, 551 U.S. 930 (2007), the Court conceptualized the relevant inquiry as including whether the condemned has a rational understanding of the crime, punishment, and the connection between the two. *Id.* at 958. The focus should be on whether the defendant's reality had been "so distorted *by mental illness* that his awareness of the crime and punishment has little or no relation to the understanding of those concepts shared by the community as a whole." *Id.* at 958–59 (emphasis added).

In *Madison v. Alabama,* 586 U.S. 265 (2019), the Court applied *Panetti* to facts showing other *mental conditions* that negatively affect the required rational understanding. In that case, the defendant had "suffered a series of strokes," and been "diagnosed as having vascular dementia, . . . cognitive impairment, and memory loss." *Id.* at 269. Because of these illnesses, Madison could no longer recall his crime and could not relate the crime to punishment. He argued that because of his showing of dementia—as opposed to a showing of delusions as alleged in *Panetti*—he should also be able to prove that he lacked the competency to be executed. *Id.* The Court resolved that while a failure to recall the facts of the crime alone is not enough to meet the standard, "[i]f that loss combines and interacts with other mental shortfalls to deprive a person of the capacity to comprehend why the State is exacting death as punishment, then the *Panetti* standard will be satisfied." *Id.* at 277. The Court underscored that the "standard focuses on whether a mental disorder has had a particular *effect*: an inability to rationally understand why the State is seeking

execution." *Id.* at 278. The Court explained that it is the illness, or in Madison's case, "mental disorder," that remains critical. *Id.* at 278–79.

Our state precedent similarly bars execution of the incompetent. In *Singleton v. State*, 313 S.C. 75, 437 S.E.2d 53 (1993), our Supreme Court considered whether the *Ford* standard as articulated in Justice Powell's concurrence in *Ford* or an expanded test offered by the American Bar Association would be the appropriate test for competency to be executed. Our Court observed that the Bar Association's standard followed the same "cognitive prong" as Justice Powell articulated but also embraced an assistance prong which Justice Powell had found unnecessary under the Eighth Amendment. *Id.* at 79, 437 S.E.2d at 56. Eventually, our Court expressed a test similar to the Bar's two-prong standard, though slightly modified to generally follow the type of assistance ability described by the Washington Supreme Court in *State v. Harris,* 789 P.2d 60 (1990). *Id.* at 84, 437 S.E.2d at 58. Our Court then set out this test:

> The first prong is the cognitive prong which can be defined as: whether a convicted defendant can understand the nature of the proceedings, what he or she was tried for, the reason for the punishment, or the nature of the punishment. The second prong is the assistance prong which can be defined as: whether the convicted defendant possesses sufficient capacity or ability to rationally communicate with counsel.

Id.

The Applicant has the burden of showing, "by a preponderance of the evidence that he lacks the requisite competency for execution." *State v. Motts*, 391 S.C. 635, 653, 707 S.E.2d 804, 813 (2011).

This Court acknowledges that in the order granting a stay in this matter, two justices have called the *Singleton* standard into question. (*See* March 13, 2025 Order, granting stay, (Few, J. dissenting with James, J., joining in dissent)). However, this Court will address the evidence as it relates to both prongs of the *Singleton* test noting that the failure to carry the burden of proof on

the first prong, *i.e.,* the cognitive prong, is a failure to carry the burden of proof under the *Eighth Amendment* prohibition. *See Singleton,* 313 S.C. at 79, 437 S.E.2d at 56. Consequently, if our Supreme Court should revisit the *Singleton* test as suggested, and if the *Singleton* test is amended to include only the cognitive prong for evaluation under state law, this Court finds that no further consideration is necessary as a factual matter given that Applicant has failed to carry his burden of proof on the cognitive prong. [1]

THE ARGUMENTS AND CONTESTED ISSUE

Notably, the medical testimony in this case is for the most part, as far as diagnosis, very similar. The contest is found in differing arguments on the effect, if any, on the ability to understand these proceedings and rationally communicate, due to Applicant's personality disorder. Applicant has posited two questions that are key, in his opinion:

> Is Steven Bixby incompetent to be executed because he is unable to understand the nature of the legal proceedings?
>
> Is he also incompetent to be executed because he lacks the capacity to rationally communicate with his attorneys?

(Applicant's Pre-hearing Brief at 2).

---

[1] Applicant contends that a "diagnosed mental illness is not required" to show an inmate is incompetent under the *Singleton* cognitive prong. (Applicant's Pre-hearing Brief, at 3). That is an assertion inconsistent with *Singleton* that expressed the "cognitive prong" generally followed Justice Powell's *Ford* concurrence. The *Ford* plurality opinion plainly stated that the bar arises when "mental illness prevents" understanding. 477 U.S. at 417. Without the "effect" of a "mental disorder," *Madison v. Alabama*, 586 U.S. 265, 278 (2019), a condemned inmate could escape execution by showing "a misanthropic personality or an amoral character" alone–a position flatly *rejected* in *Panetti v. Quarterman*, 551 U.S. 930, 959–960 (2007). Further, Applicant's brief also recognizes that our Supreme Court has looked to the history or presence of mental conditions and "opinions of mental health experts who have examined" the condemned in applying the *Singleton* test. (*See* Applicant's Pre-hearing Brief at 4, citing *Reed v. Ozmint*, 374 S.C. 19, 647 S.E.2d 209 (2008)). At any rate, as discussed below, no fact when viewed in a neutral lens demonstrates any *inability* to understand and rationally communicate, though the evidence certainly shows a disagreement with present counsel, particularly as to claims asserting Applicant is incompetent.

The Court accepts the concession that Applicant understands "what he . . . was tried for" and "the reason for the punishment, or the nature of the punishment." *Singleton,* 313 S.C. at 84, 437 S.E.2d at 58. Thus, answering the only questions posed, this Court considers both the medical testimony and other facts of record as referenced below.

SUMMARY OF RELEVANT FACTS FROM THE EVIDENTIARY HEARING

August 21, 2025
(Referenced Below found in Trans. Vol. I)

Due to scheduling concerns, the hearing began with the State calling their first witness out of order—Dr. Robert Ellis, M.D., Chief of Psychiatry at the Department of Corrections' (SCDC) Death Row. (Tr. I 5–16). Dr. Ellis testified regarding his treatment of Applicant while on Death Row. Dr. Ellis recounted Applicant's frustration with the claim that he was not competent and noted that when he told Applicant that he would be required to give testimony for the competency hearing, Applicant stated, "I'm not crazy. I'm not a mental health case. I may be an asshole, but I'm not crazy." (Tr. I 1–12). Applicant was not resistant to Dr. Ellis testifying and wanted him to "Just tell the truth." (Tr. I 12). Dr. Ellis also discussed his diagnosis for Applicant: narcissistic personality disorder and post-traumatic stress disorder (PTSD), which the other three expert witnesses would all later agree with. *Id.* Regarding Applicant's mental state over the seven years Dr. Ellis had interaction with Applicant, in Dr. Ellis's view, Applicant's mental state has been consistent. (Tr. I 12, 14).

Dr. Ellis testified he has prescribed medication for Applicant, but those were primarily to assist in long-term issues with pain stemming from his peripheral neuropathy; the medications merely had collateral mental health benefits. Dr. Ellis testified that he "sat down with Mr. Bixby and explained that it also worked for . . . depression and anxiety, and also explained the side effects." (Tr. I 13). Dr. Ellis testified that Applicant "was open to this specific medication,

especially when he had already seen the benefits from a pain perspective." (Tr. I 14). The doctor also confirmed that part of effective evaluation includes person-to-person communication. Dr. Ellis testified that sometimes Applicant would agree with his advice, but sometimes not and explained, "Initially maybe no, but definitely after contemplation I think we worked well together." (Tr. I 15). Dr. Ellis confirmed that Applicant has on occasion refused to take medication, but he never attributed that refusal to an inability to understand or communicate concerning the medication. (Tr. I 18). Dr. Ellis candidly testified that sometimes Applicant could be irate with personnel, but has also sometimes apologized for such anger. Dr. Ellis even related a time when Applicant accused SCDC of interfering with his ability to reach his lawyers, when, in fact, his lawyers' "phones were down," then when that information was related to him, "he was very apologetic and very . . . you know, apologized and said, '*Oh, thank you for helping with this . . . .*'" (Tr. I 16–17). On cross-examination, Dr. Ellis testified that there were "similarities of trust" in engaging in communication whether for a medical or legal purpose, though the purpose for use of the information received is different. (Tr. I 22–23). In his reply testimony, Dr. Ellis agreed with the principle that the ability to communicate is "basic" regardless of the goals of use of the information received. (Tr. I 26).

Applicant then called Dr. Richart DeMier, Ph.D., a forensic psychologist, who opined that Applicant is not competent to be executed because his personality disorders cause him to be unable to maintain a rational understanding of the legal proceedings or what is before the court, and that Applicant is unable to rationally communicate with his attorneys. (Tr. I 43–45, 73–74). Dr. DeMier diagnosed Applicant with narcissistic personality disorder, paranoid personality disorder, and PTSD, but noted that Applicant did not meet the criteria for any psychotic disorder. (Tr. I 45–50, 147–148). He also stated that Applicant often engages in magical thinking (mostly with respect to

dates and numbers), essentially where someone assigns personal meaning or significance to things where none is objectively apparent, but noted that with respect to his often bizarre religious and political beliefs, such do not constitute delusions or fixed false beliefs. (Tr. I 66–67; 85, 100). Dr. DeMier noted that while Appellant was apprehensive in his interviews due to his distrust of the competency proceedings, he was still "somewhat cooperative," ultimately engaged in over 14 hours of interviews with Dr. DeMier, and was generally responsive to questions covering a wide variety of topics. (Tr. I 77–83, 105–107, 114–117). He also indicated in his report that Applicant understood the meaning and the rationale for his sentence of execution, though he does not agree with it. (Tr. I 75–76, 99). The following are some examples of what Dr. DeMier labeled "bizarre beliefs" regarding the legal system: (1) his unadjudicated handwritten filings become the law of the case when they are not responded to and override everything else in his case—including his conviction and sentence; (2) the Constitution is superior to all statutory law (in the sense that all statutory law is null and void); (3) competency proceedings are unconstitutional, and (4) treason is the only crime punishable by death, according to the Constitution. (Tr. I 65, 131–133).

The State's witness, Dr. Richard L. Frierson, M.D., a forensic psychiatrist, concluded that Applicant is competent to be executed under the *Singleton* standard. (Tr. I 146). Dr. Frierson diagnosed Applicant with narcissistic personality disorder with paranoid and schizotypal traits, other specified trauma and stressor-related disorder, and alcohol-use disorder in a controlled environment. (Tr. I 146). Regarding Applicant's understanding of the proceedings, Dr. Frierson explained:

> Mr. Bixby understands that he was convicted of two counts of murder in Abbeville County for actions that happened on December 8, 2003, leading to the deaths of a police officer and a constable.
>
> He understands that he went to trial in Abbeville County. He understands that a jury found him guilty and that he was sentenced to death by that jury.

> He understands that his case has been through many appeals over the course of the last 20-plus years. . . .
>
> He understands that, although he has exhausted his appeals, there is always direct appeals, pleadings that can be made to the United States Supreme Court. He understands the South Carolina method of execution, that he would have a choice of lethal injection, firing squad, or electric chair. He *actually educated me* that the default method was the electric chair. I thought it was lethal injection, so *I was educated* by Mr. Bixby on that point.
>
> He understands that today's hearing is about his competency to be executed. He objects to that being raised as an issue because he does not believe he . . . lacks the competency to be executed. He believes that it negates his arguments. To be viewed as mentally ill negates his arguments about the Constitution for which he strongly believes.
>
> He understands that other individuals may not accept his views of the Constitution, including his defense counsel. However, he made it clear to me that . . . he's not going to give up what he believes to be true regarding what the Constitution means. That he would be prepared to, if he is executed, keep his beliefs intact until the end, and to die, sort of, as a martyr representing his beliefs.
>
> He made it clear to me that he is not afraid to die. That he is a religious man. He believes that he will be reunited with his parents in Heaven.

(Tr. I 148–149) (emphasis added).[2]

Dr. Frierson also noted Applicant's own self-awareness regarding his own obstinacy: "He realized how he can come across to others. That other people can find him offensive at times because of how strongly he holds his belief. He coined the word [offensivity][3] and said [offensivity] is his forte." (Tr. I 150). Combining his prior interviews with Applicant for pre-trial

---

[2] The fact that Applicant was aware of recent changes in the method of execution shows not only his ability to understand, but also the ability to communicate changes and choices regarding the proceedings that results in execution.

[3] The transcript reflects a spelling of "authencivity" which appears to be a scrivener's or similar error. Dr. Frierson's report spells the word as "offensivity" and, in context writes that Applicant "prided himself on being contrary in his interactions with others: 'offensivity is my forte', 'I'm general asshole.'" State's Exhibit 3 (Frierson Report), at p. 20.

evaluations, Dr. Frierson has conducted over 21 hours of interviews. (Tr. I 152–153). Having previously evaluated Applicant in 2006, Dr. Frierson noted that his overall mental state has largely remained the same. (Tr. I 153). Dr. Frierson opined that Applicant's beliefs are not unique to him and are shared by a significant number of people across the country as part of a broader "constitutionalist" movement. (Tr. I 150–151). Dr. Frierson indicated that Applicant had no major cognitive impairment, though he is relatively undereducated as demonstrated in his writing. (Tr. I 171–176).

Regarding Applicant's ability to communicate with his attorneys, Dr. Frierson noted that though Applicant suffers from mental disorders that impact his ability to socially function, such as narcissism, this does not affect his ability to choose whether to be cooperative or not. (Tr. I 176–179). Further, these disorders do not affect his ability to rationally communicate with his attorneys. (Tr. I 181–184).

August 22, 2025
(Referenced Below found in Trans. Vol. II)

Dr. Donna Maddox, M.D., a forensic psychiatrist and the Court's expert, also testified. Dr. Maddox similarly concluded that Applicant is able to understand the nature of the proceedings and has the ability to rationally communicate with his attorneys. (Tr. II 7–9). Regarding the cognitive prong, Dr. Maddox had similar conclusions to Dr. Frierson and related many of the same facts described above. (Tr. II 10–11, 32). Dr. Maddox noted that personality disorders alone rarely result in a finding of incompetency. (Tr. II 22). Regarding Applicant's ability to rationally communicate with his attorneys, Dr. Maddox emphasized that even though Applicant does not agree with his attorneys' strategies, he still understands the rationale of their actions and can choose whether to cooperate with them. (Tr. II 37–38). Dr. Maddox, having previously been retained to evaluate

Applicant in the pre-trial phase of proceedings, had the benefit of being able to personally interview many of Applicant's relatives and neighbors. (Tr. II 41–43).

After Dr. Maddox's testimony, Applicant's guardian ad litem (GAL) gave a statement to the Court outlining his own interactions with Applicant in his role as a GAL. (Tr. II 47–54).[4]

Finally, Applicant was permitted to give his own statement concerning his grievances with the proceedings. (Tr. II 57–64). Applicant was respectful of his present attorneys from the federal Capital Habeas Unit, expressing, "The Capital Habeas Unit has done more for me than all of my past attorneys combined, period." (Tr. II 63). This Court noted the total lack of any disrespect or expression of Applicant's intent to refuse to hear or communicate with his attorneys. Applicant simply disagrees with their strategy based on strongly held beliefs – beliefs not unique to him, but unlikely to prevail.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court's expert, the State's expert, and Applicant's expert opine that Applicant's personality order certainly predicts the choices that he makes.[5] However, the Court's expert and the State's expert both opine Applicant has the *ability* both to understand the nature of the proceedings and to rationally communicate with counsel under *Singleton.* As Dr. Maddox described it, the question is whether Applicant has the "tools on [his] tool belt" to be able to understand the proceedings and rationally communication with his attorneys. (Tr. II 44). This

---

[4] The guardian stated opinions and referenced other matters in his statement initially; however, this Court only allowed for purposes of the record, the guardian's report on interactions with Applicant. Other evidence and opinion referenced in the statements cannot be considered, and has not been considered in light of this Court's ruling on the statement's parameters. (*See* Tr. II 54–55).

[5] No expert, nor for that matter his current treating psychiatrist, testified to any indication of delusion, hallucinations, or psychosis of any kind.

Court finds the Court's expert and the State's expert to be more credible and persuasive in their opinions that Applicant does indeed have the ability to both understand the proceedings, and if he chooses to, rationally communicate with counsel.

Understanding the Nature of the Proceedings

It is undisputed that Applicant holds strong beliefs based on the Constitution and often conspiratorial beliefs about the judiciary, our legal system, and his case. He believes he is entitled to a directed verdict of innocence and that the courts have acted unlawfully in convicting him. He also possesses strong religious beliefs that he expresses and interprets facts as having religious significance that others may not find correlated. However, none of the testifying experts opine that these beliefs, whether on law or religion, rise to the level of delusion or render him incapable of understanding reality. As such, and in light of the specific testimony provided, the Court finds that Applicant can understand the nature of the proceedings and satisfies the first *Singleton* prong.

First, this Court finds that the Court's expert and the State's expert have vast experience not simply in evaluations generally, but actual prior experience with this Applicant. This provides the court with excellent historical context for Applicant's mental health, and the overall consistency thereof. Moreover, the Court finds Dr. Frierson's research particularly thorough in ensuring that Applicant had outside support for his political beliefs or assertions. Dr. Frierson provides a long listing of sources consulted and this Court notes his research into Applicant's friend Donald Sullivan who shared Applicant's belief system, supported Applicant with canteen money, and articulated and expressed beliefs consistent with Applicant's legal positions. (*See* State's Exhibit 3 (Frierson Report) at p. 2–5; Tr. I 151–152). Similarly, the Court finds credible and persuasive Dr. Maddox's opinion, which includes her familiarity and personal participation

with the extensive mitigation investigation conducted during the trial stage of litigation.[6] Both doctors Frierson and Maddox concluded that Applicant understands the nature of his proceedings. (Tr. I 148–149; Tr. II 7).

Second, this Court's finds Applicant's expert, Dr. DeMeir, not credible in his opinion that Applicant lacks the *ability* to understand the nature of the proceedings because Dr. DeMeir's testimony appears clouded by Applicant's belief system and rather abrasive, at times, personality. That façade was more fully explored and addressed by the Court's expert and the State's expert, but Dr. DeMier's opinion is especially problematic because of the inconsistencies of his own testimony. Dr. DeMier testified on direct examination that Mr. Bixby does not have an understanding of the nature of the proceedings (Tr. I 43), but admits on cross examination and in his report that Applicant (1) has no deficits in his ability to understand and appreciate punishment, (2) understands the meaning of and the rational for punishment, (3) has a clear understanding of the State's rationale for his execution—appreciating that his execution could be approaching soon, (4) that he understands and recognizes the finality of death, (5) that he was able to understand the content and purpose of the forensic evaluation form, (6) that he was able to understand the limits of confidentiality related to his examination, (7) that he understood the potential disposition of Dr.

---

[6] In the Applicant's Pre-hearing Brief, Applicant concedes Dr. DeMeir's information are "drawn in part from the PCR testimony" of a social worker, (*see* Applicant's Pre-hearing Brief at p. 11 n. 8)—far from the personal assessment that Dr. Maddox relied upon in her testimony. Dr. Maddox's assessment is based on personal interviews and personal knowledge, which lends it notable weight in comparison. The distinction also puts into stark relief the instances where Dr. DeMier presented opinions as to Applicant and his mother's irrationality, but failed to support such with appropriate investigation. Dr. DeMeir was critical of Applicant's parents, particularly his mother, for having "irrational" beliefs about using aspirin during pregnancy, but never looked to see if those beliefs were based on documented theories or if there were conflicting reports. He simply makes personal assessments to find the parents objectionable, and while that lessens the expert's credibility, or specifically the weight of the opinion, the question here is Applicant's *ability*—not his parents.

DeMier's report, (8) that he understands the purpose of the conducted hearing was to present the experts' findings as to his competency to be executed, and (9) that he understands a finding of incompetence would essentially commute his death sentence to a life sentence. (Tr. I 75, 88–89, 90–92). Dr. DeMier appears to contaminate his opinion with concerns that Appellant *disagrees* with what his hearing "*should*" be about, and as such he far exceeds the parameters of the *Singleton* standard. (Tr. I 91).

Third, this Court finds Dr. Maddox's testimony compelling when explaining that Applicant can reverse his conclusions on certain misunderstandings and even apologize for holding a grudge. (Tr. II 13–14). Similarly, Dr. Ellis who testified to one incident where Applicant indicated his thought that SCDC was interfering with contacting his counsel, but later learned counsel had phone issues and apologized for his behavior. (Tr. I 16–17). Both of these incidents certainly demonstrate his ability to understand the circumstances of his reality, assess new information, exercise choice, and rationally communicate with others. His beliefs may predispose, or even greatly predispose, him to anti-government thoughts—but does not form an unreasonable, unshakeable belief that interferes with choice. Further, Dr. Maddox and Dr. Frierson testified that Applicant indicated his distrust and/or disdain toward them but nevertheless fully communicated and engaged with them in the many hours of interviews needed for their evaluations. (Tr. I 156; Tr. II 13–14). Similarly, Dr. DeMeir had to agree that Applicant still participated in his lengthy interview, knowing it was what *counsel* wished for him to do.

The Court finds credible the testimony of Dr. Frierson and Dr. Maddox that Applicant understands the nature of the proceedings, and most specifically this proceeding (which he disagrees with) and the choices and realities related to his pending execution. This Court discounts and gives little weight to Dr. DeMeir's opinions, given their inconsistency with his own testimony

and when compared to that which was offered by doctors Frierson and Maddox. The Court also finds persuasive the assessments of doctors Frierson, Maddox, and Ellis indicating Applicant has shown stability in his condition, the ability for self-reflection, the ability to change incorrect assumptions, and the ability to modulate his emotions (though Applicant appears to enjoy being contrary or actively offensive, even finding humor in that). While Applicant has expressed disagreement with the legitimacy of these proceedings and the legal system generally, he has the ability to understand and shows a rational understanding of the potential consequences of this proceeding as well as his conviction and sentence. Applicant (or rather his counsel in these proceedings) has failed in his burden of proof.

The Assistance Prong – Ability to Rationally Communicate

The Court finds that Applicant is capable of rational communication with his attorneys. Doctors Frierson and Maddox testified that Applicant is capable of engaging in reciprocal conversation, answering questions with relevant and responsive information, and discussing legal strategy, even if he disagrees with the strategy ultimately pursued. These are the hallmark indications of one's ability to communicate rationally with others, including counsel, and the record supports these experts' opinions.

Particularly compelling is Dr. Maddox's observations that Applicant understands his counsel's strategy options but does not agree that it is the best option for him based on his beliefs. (Tr. II 32, 37–38). Similarly, Dr. Frierson found Applicant understands what defense counsel wants to do, but he disagrees, even while maintaining respect for everything that they have done for him. (Tr. I 165–167; 219–220).

Applicant was able to provide his experts with detailed information relating to a myriad of topics that relate to his criminal and collateral litigation—that is, areas where exculpatory or

mitigating information might be discovered. *Singleton*, 313 S.C. at 79, 437 S.E.2d at 56 (noting that the ABA assistance prong "is defined as the ability to assist counsel, or the court, in identifying exculpatory or mitigating information."). These topics included the sequence of events leading up to his crime, his rationale or justification for committing the crime, his life history, and his social background. (Tr. I 155–173; Tr. II 7–10, 41–43; State's Exhibit 3; Court's Exhibit 1).

By itself, the ability to coherently and consistently discuss such topics clearly satisfies the second prong under *Singleton*, but the record goes further. While not legally accurate, a common failure for defendants who lack formal legal educations, Applicant was still able to rationally discuss complex matters such as Dr. Frierson's Hippocratic Oath and his perceived paradox of Dr. Frierson doing harm by either telling the court the truth (that he is perfectly competent and therefore perpetuating his execution) or lying to the court (thereby committing harm by way of misrepresenting the mental health status of a patient). (Tr. I 172). Such evidence goes well beyond rational communication and demonstrates a clear ability for logical and abstract reasoning.

Further still, record testimony from both Dr. Frierson and Dr. Maddox reveals that Applicant's ability to choose to rationally communicate persists even when being asked to discuss matters with people he views unfavorably or with whom he has experienced some manner of disagreement. Both Dr. Frierson and Dr. Maddox have a history with Applicant that led to Applicant feeling either betrayed or insulted, but both were able to communicate effectively with Applicant over multiple hours of interviews.[7] (Tr. I 153; Tr. II 39–40). As both experts concluded,

---

[7] Dr. Frierson testified that Applicant called him "Judas," in reference to his having provided prior medical opinions in his case that he believed were ethical violations. (Tr. I 156). Dr. Maddox testified to having shown sympathy to Applicant, which was received as an insult and led to Applicant's desire to fire her. (Tr. II 13–14). Despite these facts, Applicant willingly communicated with both individuals for purposes of a legal argument pursued by his attorneys that he did not personally endorse.

his ability to communicate rationally exists. His ability to choose to cooperate and utilize that ability exists. At most, it would appear that Applicant simply chooses at times not to agree and/or cooperate when his beliefs about constitutional rights or religion are directly challenged,[8] and his personality disorders make such disagreement more difficult to manage. (Tr. I 184). Since all experts agree that these matters are not in any sense delusions, the Court finds no basis to deem such a relevant impediment in considering the *Singleton* standard. *Singleton*, 313 S.C. at 82–83, 437 S.E.2d at 57–58 (citing favorably the articulation set forth by *State v. Harris*, 114 Wash.2d 419, 789 P.2d 60 (Wash. 1990) that a defendant "need not be able to 'suggest a particular trial strategy' or to 'choose among alternative defenses'. . . merely that he understand his existing death sentence for murder and "be able to communicate rationally with counsel.") (cleaned up). The Court specifically credits the testimony of doctors Frierson and Maddox that Applicant's personality disorders do not impair his *capacity* to rationally communicate with counsel.

Moreover, other courts have considered non-mainstream beliefs and also found such to be separate from a competency concern. Of particular note is this passage from a Utah case relying on the well-accepted and respected medical manual, the Diagnostic and Statistical Manual of Mental Disorders (DSM):

> Mitchell also contends that "the content of a belief is not helpful in distinguishing between religious beliefs and delusions." (Def. Br. at 52.) But under the DSM, the content of the beliefs is key to determining whether religious beliefs are delusional. As the manual explains, "Ideas that may appear delusional in one culture (e.g., sorcery and witchcraft) may be commonly held in another." DSM–IV at 306. Therefore, the content of Mitchell's beliefs and the similarity of those beliefs to Mitchell's fundamentalist LDS subculture is highly relevant. *See, e.g.,* Mike C. Jackson & K.W.M. Fulford, *Spiritual Experience and Psychopathology,* 1 Philosophy, Psychiatry, and Psychology 41–65 (1997) ("Spiritual experiences need to be understood in the context of a person's spiritual or religious tradition, which

---

[8] The Court also acknowledges the concerns raised by the GAL but finds that those concerns reflect the challenges of working with a difficult client, not the absence of rational capacity.

> psychiatrists may not be qualified to evaluate on the basis of their professional experience alone").
>
> Because all religious ideas deal with things that are not susceptible to proof, Dr. Gardner explained that the "distinguishing feature is not how unusual or unrealistic they are, but how they are taken in, processed and incorporated. That is, are these ideas part of one's environment, whether it is shared by a lot of other people or not? It doesn't require 50 people, 100 people, 1,000 people or 1 million people believing those ideas. It is that those ideas are taken from the real world, taken in a normal way, the way we take information and process it and incorporate it, modify it, change it from real world experience." (Tr. at 688.)
>
> "To suggest, as Dr. Golding, Dr. Skeem, and Dr. DeMeir have done, that Brian Mitchell's ideas have occurred de novo from a delusional disorder, rather than from shared cultural and subcultural experiences, is simply false." (Gov't Ex. 5 at 31.) Mitchell "took in these ideas in the same way all learning is done, through exposure, processing, discussion, and incorporation." (Gov't Ex. 5 at 31.)

United States v. Mitchell, 706 F. Supp. 2d 1148, 1194–95 (D. Utah 2010) (internal footnote omitted).

In that case, a federal court looked at religious beliefs outside the mainstream, but nonetheless "'highly consistent with a small but vigorous group of fundamentalist extremists that are on the fringe of mainstream LDS life.'" *Id.* at 1195. Consistent with that fact, the court assessed there was a cultural explanation to the belief system rather than a delusional one. *Id.* at 1195–1196. Further, like Applicant, Mitchell was diagnosed with personality disorders, but the federal court noted, "Expert testimony at the competency hearing established that, unlike psychoses, personality disorders do not impair a person's ability to accurately interpret reality. . . . Individuals with personality disorders 'have the ability for a rational and factual understanding of the issues they face but may make very maladaptive choices, based on their interpretation of the world.'" *Id.* at 1220 (internal citations omitted).

In contrast to the testimony offered by Dr. Maddox and Dr. Frierson, and in contrast to the conclusion reached in *Mitchell*, Dr. DeMier opined that Applicant's personality disorders impair

his ability to rationally communicate with counsel—citing his bizarre beliefs and inability to consider alternative legal strategies. As mentioned above, *Singleton* does not encapsulate such as part of its two-pronged analysis of competency for execution. Moreover, the credibility of Dr. DeMier's opinion is questionable because Dr. DeMier readily admits that Applicant was a cooperative, albeit at times domineering, conversationalist during his various forensic interviews and that he was able to discuss and engage with Applicant on the same spectrum of topics discussed by Dr. Frierson and Dr. Maddox. (Tr. I 77–83, 109–116). This Court views those subjects as being the same potentially exculpatory and mitigating subject matter an attorney would seek to investigate on behalf of their client, and Applicant's ability to discuss such with expert witnesses is this action speaks to his ability to discuss the same with attorneys directly or via members of his defense team. Additionally, Dr. DeMier concedes that Applicant's bizarre beliefs regarding the constitution are assumed under the framework of what the law "should be" and that he is fully aware that courts have disagreed with him and applied the law differently.[9] This admission bolsters the Court's conclusion that Applicant can rationally communicate whenever and with whomever he wishes, and that what exists between Applicant and counsel is simply his obstinance regarding what the correct application of constitutional law should be, and his desire that the pursued arguments reflect those beliefs. Neither the obstinance nor the desire for conforming arguments is relevant under *Singleton*.

Applicant has consistently cooperated with the experts in this case, and has not obstructed the proceedings needed for this action. While Applicant has often disagreed with counsel and

---

[9] Dr. DeMier even at times fails to articulate the *Singleton* standard correctly, slipping into a paradigm of evaluating "cooperation," instead of "rational communication." (Tr. I 109). To compound the matter, Dr. DeMier then added that he had not spoken to any of Applicant's previous attorneys to ascertain whether cooperation (or more appropriately, rational communication) was taking place with counsel. *Id.*

expresses distrust regarding their strategy in this proceeding, the evidence demonstrates that he understands their role, the rationale for why they are engaging in this competency proceeding, and that he can choose whether or not to cooperate with them. Moreover, the record demonstrates that he wished for counsel to continue representing him, insinuated his continued intention of assisting counsel, and even expressed his appreciation for his counsel's efforts, stating: "the Capital Habeas Unit has done more for me than all of my past attorneys combined, period." (Tr. I 165–167; Tr. II 63). Such is not the position of a defendant who cannot rationally communicate with his attorneys.

The second prong under *Singleton* seeks to ensure a defendant has the ability to rationally communicate with counsel, and *Singleton* has made clear that such is defined as "the ability to assist counsel, or the court, in identifying exculpatory or mitigating information." *Id.*, 313 S.C. at 79, 437 S.E.2d at 56. Applicant's argument has attempted to distort that question and instead seeks to litigate whether or not a defendant can accept certain legal and constitutional interpretations as "currently accepted" (which the record demonstrates Applicant *does* recognize), and whether a defendant can accept those current legal and constitutional interpretations as inherently "correct," such that he then agrees with counsel and rationally communicates *within that framework of agreement*. Neither distortion is appropriate. Rational communication does not require acquiescence as to the propriety of legal opinions; *Singleton* requires no such conformity in one's beliefs as to what the law should be. [10]

---

[10] Many a case has been litigated over a defendant's right to disagree with counsel. This Court is persuaded, by analogy, by the United States Supreme Court's decisions in favor of the capital defendant in deciding whether or not to admit guilt:

> Counsel may reasonably assess a concession of guilt as best suited to avoiding the death penalty, as [counsel] did in this case. But the client may not share that objective. He may wish to avoid, above all else, the opprobrium that comes with admitting he killed family members. Or he may hold life in prison not worth living

The Court finds no merit to Applicant's alleged distinction that though Applicant has practically conceded an ability to rationally communicate with the various mental health experts, such does not equate to an ability to rationally communicate with counsel due to differences in the nature of the relationship. As Dr. Maddox plainly put it: the assessment of capacity is whether he has the tools to do so [i.e. rationally communicate]? Not does he use them, but does he have it." (Tr. II 27). She goes on to add: "If you can demonstrate capacity in one set of circumstances, that should transcend – it should go over to other circumstances." (Tr. II 45).

The Court is cognizant of the fact that Applicant has personality disorders that often make him a more difficult or stubborn client, but Counsel cannot require their clients possess an agreeable view of the law before rational communication can be established. What is necessary is that the client be able to rationally communicate with counsel so as to provide *information* relevant to the crime and mitigation of guilt. Everything within the record demonstrates that Applicant possesses that ability and has chosen to cooperate in that regard, both recently and over the course of his many years of litigation. To the extent Applicant has ever refused to cooperate or communicate with his attorneys, the Court is convinced that it was a conscious choice by Applicant, and not the absence of capacity.

> and prefer to risk death for any hope, however small, of exoneration. See Tr. of Oral Arg. 21–22 (it is for the defendant to make the value judgment whether "to take a minuscule chance of not being convicted and spending a life in ... prison")
>
> . . . .
>
> Preserving for the defendant the ability to decide whether to maintain his innocence should not displace counsel's, or the court's, respective trial management roles. See *Gonzalez,* 553 U.S., at 249, 128 S.Ct. 1765 ("[n]umerous choices affecting conduct of the trial" do not require client consent, including "the objections to make, the witnesses to call, and the arguments to advance"); cf. *post,* at 1515 – 1516.

Mccoy v. Louisiana, 584 U.S. 414, 422–24 (2018).

Additionally, while the Court does not endorse Applicant's argument that his ability to rationally communicate with multiple medical experts is somehow relevantly distinguishable from communication with counsel, Applicant has failed to present any testimony or evidence from his past or present attorneys that would substantiate this distorted argument, and the record would indicate that rational communication has been ongoing given previous counsels' abilities to present a trial defense, a trial mitigation defense, a direct appeal, a post-conviction relief defense, and a federal habeas defense. This Court credits Dr. Maddox's testimony that the ability to rationally communicate is routinely determined by forensic psychiatrists in assessing a defendant for court proceedings. *See* Brief for Amici Curiae American Psychological Assoc., American Psychiatric Assoc. et al., *Panetti v. Quarterman*, 551 U.S. 930 (2007), 2007 WL 579235, at *17 ("The evaluation of an individual's capacity to appreciate - or rationally understand - information is a fundamental and uncontroversial aspect of forensic mental health assessment that can be, and regularly is, performed by mental health professionals. The central feature of such an assessment is the clinical interview."). Applicant fails to present any evidence that would satisfy even his own incorrect interpretation of the *Singleton* standard.

The record strongly supports the conclusion that Applicant possesses the ability to rationally communicate with counsel under *Singleton*, and this Court so finds.

CONCLUSION

The Court finds that all experts tend to agree that Applicant's personality structure is unusually rigid and inflexible, and that his beliefs are unlikely to change. The Court notes that it heard directly from the Applicant and had the opportunity to observe his demeanor and hear his remarks. The Court further finds that while Applicant's communication style may be ideologically driven and at times one-directional, he has demonstrated the *ability* to engage with legal

professionals, respond to questions, and make strategic decisions, even if those decisions are not aligned with counsel's advice. The Court concludes, based on the totality of the evidence, and in light of the credibility findings above, that Applicant has failed to meet his burden of proof. Accordingly, the Court concludes that Applicant is competent to be executed under South Carolina law.

IT IS THEREFORE ORDERED:

1. That this application for post-conviction relief is denied and dismissed with prejudice; and

IT IS SO ORDERED this 11 **day of** September**, 2025**

THE HONORABLE R. SCOTT SPROUSE
CIRCUIT COURT JUDGE FOR THE
EIGHTH JUDICIAL CIRCUIT

Walhalla, South Carolina.