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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS
The Honorable Frank R. Addy, Jr., Post-Conviction Relief Court Judge

Case No. 2023-CP-07-00723

Christopher Ray Smith, Petitioner-Respondent,

v.

State of South Carolina, Respondent-Petitioner.

NOTICE OF CROSS-APPEAL

The State of South Carolina hereby cross appeals the Honorable Frank R. Addy, Jr.'s Order Granting Post-Conviction Relief in Part, filed August 18, 2025. The State filed a timely motion to reconsider, alter, or amend pursuant to Rule 59(e), SCRPC, which was denied by Judge Addy by written order filed on October 1, 2025, and received on October 10, 2025. The State received Petitioner-Respondent's Notice of Appeal on October 17, 2025.

Respectfully submitted,

ALAN WILSON
Attorney General

D. RUSSELL BARLOW
Senior Assistant Deputy Attorney General

KYLEE KANEALEY
Assistant Attorney General
SC Bar No. 107060
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

October 30, 2025

By: 
Attorneys for Respondent-Petitioner

Other Counsel of Record:
Tommy A. Thomas, Esquire
Wanda H. Carter, Esquire

CHRISTOPHER R. SMITH

2025 OCT -1 STATE OF SOUTH CAROLINA
APR 11 31

APPLICANT

JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

Submitted by: COURT

Attorney for : Plaintiff Defendant
or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):** Affirmed; Reversed; Remanded; Other

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

This matter originally came before the Court on April 15, 2025 on Applicant's petition for Post-Conviction Relief. The Court issued a Form-4 order dated May 8, 2025 granting partial relieve with the formal order being issued on August 18, 2025. The orders only granted relief with respect to indictments 2020-GS-07-334, 1415, & 1416 and 2021-GS-07-1077 to 1079 and denied relief with respect to the other indictments to which Applicant plead on May 17, 2022. The State timely moved to reconsider the Court's granting of partial relief, and the Court has fully considered the argument and authority as outlined in the State's motion dated September 3, 2025.

Having fully reconsidered the matter, the Court denies the State's motion. Again, the Court found Applicant credible as to his testimony that the plea to indictments 2020-GS-07-334, 1415, & 1416 and 2021-GS-07-1077 to 1079 was rushed. The plea court misadvised Applicant and his counsel on material and relevant considerations when the plea court encouraged him to plead. Finally, plea counsel should have corrected the court's erroneous understanding of the law in counsel's advice to Applicant. Accordingly, the Court finds that, but for the erroneous advice by the plea court and counsel, Applicant would not have entered his admittedly rushed plea to these indictments. Relief is, therefore, warranted, and the Court declines to alter or amend the order of August 18, 2025.

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.
Note: Title abstractors and researchers should refer to the official court order for judgment details.
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.


 Circuit Court Judge

2159
 Judge Code

Sept. 5, 2025
 Date

For Clerk of Court Office Use Only


This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

Tommy Thomas, Esq.

 ATTORNEY(S) FOR THE PLAINTIFF(S)

Kylee Kanealey, Esq.

 ATTORNEY(S) FOR THE DEFENDANT(S)



 CLERK OF COURT

Court Reporter: No court reporter. State's motion was addressed without a hearing.

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

STATE OF SOUTH CAROLINA)
 COUNTY OF BEAUFORT)
 Christopher Ray Smith,)
 Applicant,)
 vs.)
 State of South Carolina,)
 Respondent.)

2025 AUG 18 PM 1:20
 JERRI ANN ROSENEAU
 BEAUFORT COUNTY, S.C.
 CLERK OF COURT

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT

Order Granting Post-Conviction Relief
 in Part

Case No.: 2023-CP-07-00723

THIS MATTER CAME BEFORE THE COURT pursuant to an application for post-conviction relief (PCR) filed by Christopher Ray Smith (“Applicant”) on April 17, 2023 and amended October 10, 2024. Respondent filed a return and motion for more definite statement on November 28, 2023. A hearing was held on April 15, 2025 at the Beaufort County Courthouse. Applicant was present and represented by Tommy A. Thomas, Esquire, and respondent was represented by Assistant Attorney General Kylee Kanealey.

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Beaufort County Clerk of Court. During its December 2020 term, the Beaufort County Grand Jury indicted Applicant for two counts of possession with intent to distribute (PWID) oxycodone (2020-GS-07-00334; -01417), trafficking heroin (2020-GS-07-00358), trafficking cocaine (2020-GS-07-00359), PWID buprenorphine (2020-GS-07-01418), PWID amphetamine (2020-GS-07-01419), and PWID alprazolam (2020-GS-07-01420). In June 2022, Applicant was further indicted but waived presentment for trafficking methamphetamine (2020-GS-07-01415), trafficking heroin (2020-GS-07-0416), PWID amphetamine (2021-GS-07-01077), PWID buprenorphine (2021-GS-07-01078), and PWID oxycodone (2021-GS-07-01079). Applicant’s charges arose from three separate incidents as detailed below.

On May 17, 2022, Applicant pleaded guilty before the Honorable Carmen T. Mullen to all charges stemming from his January 2020 arrest but was not sentenced.¹ Applicant was represented at his plea by Jeffrey Stephens, Esquire (hereafter “plea counsel” or “trial counsel”), and Assistant Solicitor Samantha Molina represented the State. On May 18, 2022, Applicant pleaded guilty to his remaining charges with the same attorneys present. Judge Mullen accepted his plea and sentenced him to twenty-five (25) years for each count of trafficking heroin, fifteen (15) years for each count of PWID oxycodone, ten (10) years each for trafficking cocaine and trafficking methamphetamine, five (5) years for each count of PWID buprenorphine and PWID amphetamine, and three (3) years for PWID alprazolam, all to run concurrently. Applicant did not file an appeal.

Current Post-Conviction Relief Application

In Applicant’s first request for PCR, he filed an initial application and one amendment. His initial application, filed April 17, 2023, alleged ineffective assistance of counsel for failure to challenge an improper *Terry*² stop and failure to properly advise him regarding a guilty plea. He requested vacation of his conviction and sentence, as well as a new trial, as relief. The State filed a return on November 23, 2023. Tommy A. Thomas, Esquire, Applicant’s PCR counsel, filed an amendment on October 10, 2024. It alleged ineffective assistance of counsel more specifically alleging plea counsel lacked sufficient time and information to advise Applicant regarding his plea, including serious versus most serious charges and the associated strikes; improper advice from counsel by advising that, even if the plea court said 85% sentences, they would be changed to 65%

¹ As stipulated by the State, Applicant’s plea counsel was not prepared to advise Applicant on the remaining charges at that time and request more time to meet with Applicant to review his file. Further, Judge Mullen recommended Applicant be sentenced to all charges in one day so he would receive fewer strikes.

² 392 U.S. 1, 88 S.Ct. 1868 (1968).



sentences; and improper guilty plea because Applicant thought he was pleading to a 65% sentence and confusion due to the bifurcation of the plea and sentencing.

Factual History

On April 11, 2019, police discovered Applicant's truck crashed in a ditch on the side of the highway. Applicant was inside of the truck and appeared disoriented. After providing false information to the police, Applicant was arrested, and his truck was searched incident to his arrest. The search revealed drugs, drug paraphernalia, and a large amount of cash.³

On January 27, 2020, after attempting to find his whereabouts, police conducted a traffic stop involving Applicant, during which police discovered Applicant had an active arrest warrant. Police arrested Applicant and discovered many different drugs in Applicant's truck in a search incident to arrest.⁴

On July 16, 2020, police conducted surveillance on a hotel where they believed Applicant was staying. When Applicant left his hotel room, police arrested him in the hotel parking lot pursuant to active arrest warrants. After his arrest, Applicant confessed he had cash and various drugs in his hotel room. Police obtained and executed a search warrant for Applicant's hotel room, where they discovered various types of drugs and cash.⁵

Findings of Fact and Conclusions of Law

In addition to the pleadings in this action, this Court had before it a copy of the Beaufort County Clerk of Court records regarding the subject conviction, Applicant's records from the

³ This incident resulted in Applicant's first indictment for PWID oxycodone (2020-GS-07-00334).

⁴ This incident resulted in the December 2020 indictments: PWID oxycodone (2020-GS-07-01417); trafficking heroin (2020-GS-07-00358); trafficking cocaine (2020-GS-07-00359); PWID buprenorphine (2020-GS-07-01418); PWID amphetamine (2020-GS-07-01419); and PWID alprazolam (2020-GS-07-01420).

⁵ This resulted in all of the June 2022 indictments.



South Carolina Department of Corrections, the plea transcript including Pretrial Motions heard on May 16 and 18, 2022, and the records of the current action. This Court had the opportunity to listen to testimony and rule on witnesses' credibility, as well as entertain the arguments of counsel. After careful review of the applicable legal standards, this Court's findings of fact and conclusions of law are set forth below as required by S.C. Code Ann. § 17-27-80.

The Sixth and Fourteenth Amendments to the United States Constitution guarantee criminal defendants the right to the effective assistance of counsel. U.S. Const. amend. VI and XIV; *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052 (1984). Where an application for PCR alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "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." *Id.*, 466 U.S. at 686; *see Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The reviewing court presumes that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Strickland*, 466 U.S. at 691, 104 S.Ct. at 2067. The applicant must overcome this presumption in order to receive relief. *Bell v. State*, 321 S.C. 238, 467 S.E.2d 926 (1996); *see also Cherry v. State*, 300 S.C. 115, 386 S.E.2d 624 (1989); Rule 71.1(d) SCRPC. Further, a PCR applicant must prove that counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.*, 300 S.C. at 117-18.

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under

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prevailing professional norms.” *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (citing *Strickland*, 466 U.S. at 688, 104 S.Ct. at 2065). Second, counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117-118, 386 S.E.2d at 625.

The considerations are worded slightly differently when dealing with guilty pleas, notably considering whether counsel’s performance was deficient and then whether, but for that deficiency, Applicant would have proceeded to trial rather than pleading guilty. *Johnson v. Catoe*, 336 S.C. 354, 520 S.E.2d 617 (1999); *Wolfe v. State*, 326 S.C. 158, 485 S.E.2d 367 (1997); *Satterwhite v. State*, 325 S.C. 254, 481 S.E.2d 709 (1997). Where there is no evidence contradicting or conflicting with an applicant’s testimony that he would not have pled guilty but for counsel’s deficient performance, applicant is entitled to relief. *Jackson v. State*, 342 S.C. 95, 535 S.E.2d 926 (2000). In *Stalk v. State*, 383 S.C. 559, 681 S.E.2d 592 (2009), the Court held that something more than an applicant’s testimony that he would have proceeded to trial is necessary. In that instance, the applicant alleged that he pleaded guilty because his attorney had not conducted a proper investigation, yet provided no evidence as to what such investigation may have uncovered.

Notable Facts at the Trial Level

This Court notes that the first underlying case arose from a traffic stop in January 2020. This resulted in Applicant entering a guilty plea after a jury had been selected and pretrial evidentiary hearings had been held. Subsequently, there was an overnight break so counsel could review Applicant’s other pending charges with him so as to attempt a global resolution of all of Applicant’s charges. Importantly, the January 2020 charges included two offenses classified as

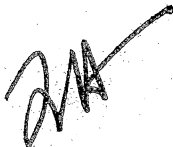


“serious” pursuant to S.C. Code § 17-25-45, as did the July 2020 charges. Therefore, at the time of the plea, Applicant was facing four offenses classified as “serious” arising out of two separate incidents.

Ground 1 – Failure to Advise as to 65% versus 85% Prison Time, Rendering Plea Involuntary

During the PCR process, Applicant maintained that trial counsel was not prepared for a trial on the January incident, and Applicant was unaware of any investigation into the charges. He indicated that trial counsel only met with him a few times after his bond was revoked, and that trial counsel advised Applicant that the drug offense laws would be changed sometime in the future, resulting in Applicant not having to serve a full sentence. Trial counsel stated that he spoke with Applicant roughly 3 to 4 times prior to the plea on indictments 2020-CP-07-358, -359, and -1417-1420. He further stated that he would not have misadvised Applicant regarding 65% versus 85% release eligibility. At the most, any discussion about possible future changes in the law was of a hopeful, yet speculative, nature and would not have been presented as something that would definitely occur.

As to the number of times trial counsel met with Applicant, the underlying factual allegations from the January 27, 2020 incident are not very complicated and, therefore, extensive, repeated meetings were not necessary for trial counsel to adequately prepare. “In reviewing a claim that defense counsel failed to properly investigate a defense to a crime, a court’s principle concern is whether the investigation ‘*was itself reasonable.*’” *Taylor v. State*, 404 S.C. 350, 364, 745 S.E.2d 97, 104 (2013), citing *Wiggins v. Smith*, 539 U.S. 510, 522–23, 123 S.Ct. 2527 (2003) (emphasis in original).



Upon review of the record as a whole, this Court finds trial counsel's testimony much more credible than Applicant's. On page 12 of the May 17, 2022 plea transcript, the plea court specifically addressed the non-parole implications of the plea, and this Court believes trial counsel when he stated that he would not have misadvised Applicant concerning the 85% implications. Applicant has not shown deficiency in trial counsel's performance, nor has he shown that, but for trial counsel's actions, he would have proceeded to trial. *Johnson v. Catoe*, 336 S.C. 354, 520 S.E.2d 617 (1999); *Wolfe v. State*, 326 S.C. 158, 485 S.E.2d 367 (1997); *Satterwhite v. State*, 325 S.C. 254, 481 S.E.2d 709 (1997). Accordingly, the Court denies post-conviction relief as to the allegation of incorrect advice regarding the plea to the charges arising from the January 2020 incident.

Grounds 2-4 – Confusion as to Bifurcation; Insufficient Time to Review Discovery; Lack of Understanding Concerning Serious versus Most Serious Charges

The plea transcript reflects a colloquy between the plea court, trial counsel, and Applicant on these issues. This Court is concerned that the plea court misadvised counsel and Applicant by stating that, assuming he pled to and was sentenced on both the January and July incidents together, they would constitute *only a single strike* against Applicant, which is an incorrect statement of the law. (See pages 12-13 of May 17, 2022 plea transcript; page 5 of May 18, 2022 plea transcript) The plea court specifically advised Applicant, "Obviously, our goal...is that these would all run together *and all would only count as one strike....*" (emphasis added)

The determining factor of whether offenses amount to one or more strikes is whether the incidents are distinct from each other and occurred on separate dates, not whether they were all handled together as part of a global resolution. See S.C. Code § 17-25-50. The plea court appeared concerned that, pursuant to S.C. Code § 17-25-45(F), entry of a guilty plea to the January 2020 incident, wherein two of those offenses were strikes, could result in life without the possibility of



parole (LWOP) eligibility for the July 2020 incident. In actuality, by entering pleas to indictments 2020-GS-07-1415, -1416, -0358, and -0359, Applicant had two (2) strikes against him instead of one as the plea judge advised him and trial counsel on both May 17 and 18. That is, indictments -0358 and -0359 arose out of the same temporal event, as did -1415 and -1416; so, despite pleading to four (4) serious offenses, Applicant has two strikes against him under S.C. Code § 17-25-50 even though they were resolved contemporaneously during the same plea proceeding.

The plea court also emphasized this misreading of the law in encouraging Applicant and trial counsel to handle all pending charges in a single proceeding.⁶ Trial counsel also testified at the PCR hearing that the May 18, 2022 plea hearing felt rushed. Applicant echoed these sentiments during his testimony. This Court finds that trial counsel had an obligation to correct the plea court's misimpression that pleading to all four serious charges together would result in just a single strike, not two. Failure to provide this information qualifies as deficient performance in regard to prevailing professional standards. *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (citing *Strickland*, 466 U.S. at 688, 104 S.Ct. at 2065). This Court also finds that Applicant was credible with regard to his confusion concerning the May 18, 2022 plea and, obviously, being one strike away from life imprisonment is a much more precarious position than being two strikes away from LWOP. This is clear evidence of prejudice to Applicant, as the circumstances surrounding his conviction changed drastically due to the ineffective representation of trial counsel. *Cherry*, 300 S.C. at 117-118, 386 S.E.2d at 625. Accordingly, this Court finds that Applicant has demonstrated ineffectiveness and prejudice, satisfying both prongs of the relevant case law test, with respect to the plea of May 18, 2022. This Court therefore grants post-conviction relief on indictments 2020-GS-07-0334, -1415, and -1416 and 2021-GS-07-1077, -1078, and -1079.

⁶ Certainly, as a practical matter, the trial court was correct in encouraging a possible global resolution of all pending charges. However, the advice she gave was still legally incorrect.



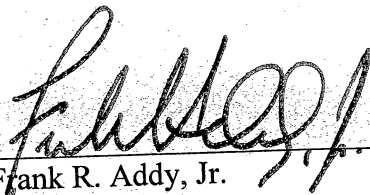
Conclusion

Based on the foregoing, it is clear that Trial Counsel's level of representation fell below what is required by prevailing professional norms, thus providing ineffective assistance of counsel to Applicant. As such, Applicant was found guilty of multiple charges, including several most serious charges, and received an aggregate sentence of twenty-five years, plus two strikes toward LWOP. Therefore, this Court grants relief on one of the four grounds above, vacates the conviction and sentence of the trial court for indictments 2020-GS-07-0334, -1415, and -1416 and 2021-GS-07-1077, -1078, and -1079, and remands Applicant and this charge to Beaufort County for further proceedings. The Court finds for Applicant with respect to indictments 2020-GS-07-334, 1415, and 1416 and 2021-GS-07-1077, 1078 and 1079. However, relief is denied with respect to the plea on the January, 2020 incident.

IT IS THEREFORE ORDERED:

1. This court grants relief on the three instances of ineffective assistance of counsel;
2. Applicant's conviction and sentence are vacated; and
3. Applicant and his charge are remanded to Beaufort County for further proceedings.

AND IT IS SO ORDERED this 11th day of August, 2025.



Frank R. Addy, Jr.
Presiding Judge
Fourteenth Judicial Circuit

Greenwood, South Carolina