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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Daniel D. Hall, Circuit Court Judge

Case No. 2020-CP-23-1368

Antwon M. Rogers # 327699 .... Petitioner,

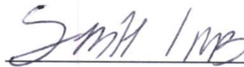
v.

State of South Carolina.. Respondent.

NOTICE OF APPEAL

Peitioner appeals the Honorable Daniel D. Hall's Order of Dismissal dismissing petitioner's application for post-conviction relief. On October 9, 2025, the court signed an order dismissing Petitioner's application for post-conviction relief with prejudice. Appellant, through counsel, received written notice of entry of this order on October 29, 2025. A copy of the Order of Dismissal is attached.

October 30, 2025



Sarah M. Henry
406 Pettigru Street
Greenville, South Carolina 29601
(864) 478-8324
Attorney for Petitioner

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	) IN THE COURT OF COMMON PLEAS) FOR THE THIRTEENTH JUDICIAL CIRCUIT
Antwon M. Rogers, #327699, Applicant, v. State of South Carolina, Respondent.	Case No: 2020–CP–23–1368 **ORDER OF DISMISSAL** (*with prejudice*) ENTERED COMPUTER

This matter comes before the Court by way of an application for post-conviction relief filed on March 3, 2020, by Applicant Antwon M. Rogers, challenging his 30-year sentence for kidnapping and first-degree criminal sexual conduct. On March 8, 2023, an evidentiary hearing was held at the Greenville County Courthouse before the Honorable Daniel D. Hall. Assistant Attorney General D. Russell Barlow, II, represented Respondent. Applicant was present and represented by Sarah M. Henry, Esq. This Court received testimony from Applicant and his plea counsel, Assistant Public Defender Teal Johnson.

At the conclusion of the hearing, this Court took the matter under advisement. Thereafter, this Court advised the parties that the application is denied and dismissed with prejudice and instructed the State to submit and prepare a proposed order for this Court's consideration.

This Court now issues this order with its findings of facts and conclusions of law as required under S.C. Code Ann. § 17-27-80. Based upon the record, the evidence presented at the evidentiary hearing held in this matter, the argument of the parties, and consideration of the applicable statutory and case law, this Court finds that the Applicant has failed to establish any deficient performance on the part of counsel and/or any prejudice resulting from counsel's performance required under *Strickland v. Washington*, 466 U.S. 668 (1984), and *Cherry v. State*,

300 S.C. 115, 386 S.E.2d 624 (1989), or any other cognizable claim allowed under S.C. Code Ann. § 17-27-20. Consequently, Applicant's request for post-conviction relief is **DENIED** and the application is **DISMISSED** with prejudice.

PROCEDURAL HISTORY

Applicant is presently incarcerated in the South Carolina Department of Corrections, Evans Correctional Institution, pursuant to orders of commitment of the Greenville County Clerk of Court. During its November of 2015 term, the Greenville County Grand Jury indicted Applicant for kidnapping (2015-GS-23-9874), first-degree criminal sexual conduct (2015-GS-23-9880), reckless driving (2015-GS-23-9882), failure to stop for a blue light, first offense (2015-GS-23-9876), two counts of the possession of a weapon during the commission of a violent crime (2015-GS-23-9877; -9874), criminal conspiracy (2015-GS-23-9878), grand larceny (2015-GS-23-9879), and driving as a habitual traffic offender (2015-GS-23-9875).

On June 4, 2019, Applicant appeared before the Honorable Edward W. Miller and pleaded guilty to kidnapping (2015-GS-23-9874) and first-degree criminal sexual conduct (2015-GS-23-9880).[1] Assistant Public Defender Teal Johnson of the Thirteenth Circuit Public Defender's Office represented Applicant. (Plea Tr. pp. 1). Assistant Solicitor William Douglas Richardson, Jr., of the Thirteenth Circuit Solicitor's Office, prosecuted the case. (Plea Tr. p. 1) The solicitor presented the following recitation of facts:

> Your Honor, the first incident took place on July 27, 2015. This defendant was at the Quality Inn located in the city of Easley, which is in Pickens County. The victim, [redacted], was staying at that same hotel. The defendant entered the victim's room after asking for a cigarette. Once inside the room, he pulled out a knife, put it to the victim's throat. He then pushed her onto the bed and

[1] Applicant also pled guilty to charges out of Pickens County for armed robbery (2016-GS-39-93) and first-degree criminal sexual conduct (2016-GS-39-240). Applicant does not challenge these convictions in his application and the convictions are not addressed specifically herein.

raped her at knifepoint. He used a Bi-Lo shopping bag as a condom. The defendant then forced the victim into a bathroom. He ransacked the room, taking victim's -- the victim's cell phone and also money to the extent of $250. He then cut the cord to the landline in the room -- telephone landline in the room and was seen on videotape leaving the room and running away.

The second incident, Your Honor, took place on August the 9th, 2015. The second victim, [redacted], and her husband were at their home. She left the home to go get dinner and a movie for them to watch from a Redbox dispensary. She got lost trying to locate that Redbox, so she stopped at the 7-Eleven, which is located in Greenville County on Highway 123. At that location was this defendant and also another male and a female. They asked her to buy some gas for them. She did buy that gas for them. She then asked for directions to the Redbox, which -- where she wanted to buy the movie. This defendant said he would give her directions and -- or, actually, he said to follow him and he would take her to the Redbox.

Your Honor, she did follow him. At some point in time -- I will say at this point in time, it's about 2:30 in the morning and he's driving a stolen car. He actually drops the car off at a closed gas station on Saluda Dam Road in Pickens County and approaches her vehicle on the passenger's side, gets in her vehicle, and tells her that he would tell her how to get there. So they went to the Redbox which was located at a Dollar General on Highway 183, which is also in Pickens County. She got out of the vehicle and approached the Redbox, actually rented the movie. When she turned around, this defendant was standing behind her pointing a gun at her head. At that point in time he asked her, "Where's all the money?" She said she didn't have any. He then took her hand and stuck it against the car with the weapon -- with the gun and removed her wedding ring. At that point in time, she asked -- he told her to take her pants down. She refused. He hit her in the head with the gun, pistol-whipped her with the gun on the side of her face. He bent her over and raped her vaginally from behind with the gun pointed to her head. Once -- he actually also used a – a shopping bag in this case too as a condom.

Once he completed, he put her into the trunk of her car and he took her to another location in Greenville County. That location was off Anderson Road, just before the Anderson County line. He opened the trunk at that location, had her come out of the trunk at gunpoint,

> and then raped her again vaginally. Your Honor, once he completed in that instance, he had her actually wash herself with a green tea bottle and wash herself with a shirt, a white shirt that was found in the car. We actually have that shirt in evidence. He told her that it would be a shame to kill her. And at that point, he let her go and she walked to a residence. He left the scene. She walked to a residence. He left the scene driving her car. She walked to a residence and had the resident call 911.
>
> Subsequent to that, he -- he actually also took her cell phone, so he went to Spartanburg County and actually sold that. They have kiosks in the WestGate Mall. He sold it there. We were able to obtain documentation showing him selling the phone, his fingerprint, which is required to sell phones at these kiosks and I believe also his driver's license. Once he sold the phone, he left that location and ended up in Hendersonville, North Carolina, where he was arrested. Upon search of -- he was arrested at a Red Roof Inn there. And upon search of his room, they found the gun. They also found the ring and other items belonging to the victim. Your Honor, those are the facts as we would show it at trial.

(Plea Tr. pp. 11-14). The State did not make a recommendation, however, in accordance with the plea agreement, the remaining charges were dismissed. (Plea Tr. p. 15). Applicant was sentenced to 30 years imprisonment for each conviction, to be served concurrently. (Plea Tr. p. 22). Applicant did not appeal his convictions or sentences.

ALLEGATIONS RAISED AND RELIEF SOUGHT

In his initial application for post-conviction relief, Applicant did not assert any claims he was being held in custody unlawfully. Respondent moved for a more definite statement and requested that counsel be appointed in this action. On April 15, 2020, Sarah M. Henry, Esq., was appointed as counsel. On September 19, 2022, Applicant, through counsel, amended his application raising the following allegations:

1. Ineffective Assistance of Plea Counsel

   a. "Applicant's original attorney Ms. Johnson informed Applicant that he would receive 15 years in jail as part of his guilty plea. Applicant would not have agreed to accept the plea if he had believed that he would receive more than 15 years in jail."

   b. "Ms. Johnson was aware that Applicant was being held in restricted housing at the GCDC and was unable to contact his family and support. Ms. Johnson failed to contact any of his family for them to show up and support him at his plea hearing, and this potentially affected his sentencing from the court."

   c. "Ms. Johnson failed to investigate Applicant's case including Applicant's allegations that the victim's had actually been attacked by other people prior to their consensual encounters with him."

   d. "Finally, Applicant alleges that due to Ms. Johnson's failure to render effective assistance Applicant's guilty plea was not voluntary."

Ineffective Assistance Claims

This Court is guided by the familiar test: To show a violation of the Sixth Amendment, an applicant must show that counsel's representation fell below an objective standard of reasonableness, and but for counsel's error, there is a reasonable probability that the outcome of the trial would have been different. *Strickland*, at 694; *Simpson v. Moore*, 367 S.C. 587, 595–96, 627 S.E.2d 701, 706 (2006). Indeed, "[a] defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial." *Kolle v. State*, 386 S.C. 578, 588, 690 S.E.2d 73, 78 (2010) (quoting *Rolen v. State*, 384 S.C. 409, 413, 683 S.E.2d 471, 474 (2009)); *Burket v. Angelone*, 208 F.3d 172, 189 (4th Cir. 2000) (same). This is the *Strickland* test as applied in the guilty plea context.

"It is beyond dispute that a guilty plea must be both knowing and voluntary." *Parke v. Raley*, 506 U.S. 20, 29, 113 S.Ct. 517 (1992). It is also clear the record should reflect that voluntary choice. *Boykin v. Alabama,* 395 U.S. 238, 242, 89 S.Ct. 1709 (1969) ("a guilty plea should only be accepted where the record evidences 'an affirmative showing that it was intelligent and voluntary.'"). "Where, as here, a defendant is represented by counsel during the plea process and enters his plea upon the advice of counsel, the voluntariness of the plea depends on whether counsel's advice 'was within the range of competence demanded of attorneys in criminal cases.' " *Hill v. Lockhart*, 474 U.S. 52, 56, 106 S.Ct. 366 (1985) (quoting *McMann v. Richardson*, 397 U.S. 759, 771, 90 S.Ct. 1441 (1970)). It is presumed that counsel made all decisions in exercise of reasonable judgment. *Strickland,* 466 U.S. at 689. It is the applicant's burden to prove, by a preponderance of the evidence, that he is entitled to relief. Rule 71.1 (e), SCRCP. *See also Speaks v. State*, 377 S.C. 396, 399, 660 S.E.2d 512, 514 (2008) ("the burden of proof is on the applicant to prove the allegations in his application"). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. *See Harres v. Leeke*, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984) (finding the voluntariness of a guilty plea "is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing.").

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After carefully considering the record and the arguments presented by counsel, this Court now presents the relevant findings of fact and conclusions of law as required by S.C. Code Ann. §17-27-80 (2003). This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments at the PCR hearing. This Court has further had the opportunity

to observe each witness who testified at the hearing and to closely pass upon their credibility. This Court has weighed the testimony accordingly and finds that plea counsel rendered reasonably effective assistance under prevailing professional norms and demonstrated a normal degree of skill, knowledge and professional judgment that are expected of an attorney who practices criminal law. *Strickland v. Washington*, 466 U.S. 668, 694 (1984). Thus, Applicant has not shown resulting prejudice, i.e. that but for plea counsel's alleged deficiencies, there is a reasonable probability he would not have pleaded guilty and, instead, would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59, 106 S.Ct. 366, 370 (1985).

MERITS ANALYSIS

Misadvise as to Sentencing

Applicant alleges that his plea was involuntary because plea counsel told him he would receive a 15-year sentence, and if he believed he would receive more than 15 years, he would not have accepted the plea. This Court finds the allegation to be without merit. This Court finds the record refutes Applicant's allegations and reflects that Applicant's guilty plea was knowingly and voluntarily entered with a complete understanding of the charges and consequences of the plea.

Applicant testified that plea counsel told him he could get 15 years; however, Applicant also testified that plea counsel told him he would only get 15 years if he pleaded guilty. Plea counsel testified that she never told Applicant he would only get 15 years. She testified that she explained to Applicant that the State would remain silent at sentencing, but the judge could give him 30 years consecutive. The record shows that the plea court advised Applicant that he could receive a 30-year sentence on each of the charges. (Plea Tr. p. 8). Applicant confirmed that he understood the maximum possible punishments for the charges and proceeded to enter a guilty plea. (Plea Tr. pp. 8-9). *See generally Wolfe v. State*, 326 S.C. 158, 485 S.E.2d 367 (1997) (defendant's claim he understood from counsel that the trial judge's questions at the guilty plea

were only a "polite fiction" was "not an invitation to answer untruthfully"). This Court sees no reason to otherwise conclude that Applicant was unaware or did not understand the sentencing parameters of the charges. Statements made during a guilty plea should be considered conclusively unless an Applicant presents valid reasons why he should be allowed to depart from the truth of his statements. *See Crawford v. U.S.*, 519 F.2d 347, 350 (4th Cir. 1975) (*overruled on other grounds by U.S. v. Whitley*, 759 F.2d 327 (4th Cir.1985)). Moreover, if there was any misunderstanding on Applicant's part, the plea colloquy cured any alleged deficiency regarding plea counsel's advice. *Moorehead v. State*, 329 S.C. 329, 333, 496 S.E.2d 415, 416 (1998).

This Court finds Applicant has failed to show that plea counsel's representation fell below an objective standard of reasonableness, and that but for plea counsel's alleged errors, Applicant would not have pled guilty and proceeded to trial. *See Roscoe v. State*, 345 S.C.16, 20, 546 S.E.2d 417, 419 (2001); *see also Richardson v. State*, 310 S.C. 360, 362 426 S.E.2d 795, 797 (1993). Accordingly, this allegation must be **DENIED** and **DISMISSED**.

Failure to Contact Family Members for Mitigation

Applicant alleges plea counsel was constitutionally ineffective for failing to call family members to attend his plea hearing, potentially affecting his sentence. This Court finds this allegation to be without merit.

At the plea hearing, counsel presented the following statement to the plea court:

> I'm not here to offer excuses, Your Honor, but he's had a pretty hard life. His dad left his mom at age two to go to Detroit. I called his family as he instructed me, and, you know, no one's here on his behalf. I mean, it's kind of sad, but his family has always been there for him. You know, I've always been able to talk to them and get information I needed. They -- they've been there for us, but, again, I just would point out to the Court that they're not here today. I think that's kind of telling about the kind of life he's had.

(Plea Tr. pp. 19-20).

At the evidentiary hearing, Applicant testified that he did not know whether plea counsel contacted his family members or not. Applicant testified that he did not know what happened to his family not showing and that his mother, cousin, and girl would have been present. Applicant testified that his family could have shown that he was a man of good character and not the monster the State painted him out to be. Applicant testified that plea counsel did try to locate Kelly Sloan, but Ms. Sloan kept lying and prolonging so she never came. Plea counsel testified that her notes reflected that she did call the people Applicant wanted her to call. However, she could not recall if she told them the date of the hearing.

As an initial basis for denying this allegation, Applicant asserts that his family could have shown he was a man of good character, however, Applicant did not present those witnesses to this Court to pass on the testimony that they may have provided at the plea hearing. Mere speculation of such testimony cannot satisfy the prejudice burden of proof, and the witnesses must be presented at the evidentiary hearing. *Martin v. State*, 427 S.C. 450, 455, 832 S.E.2d 277, 279-280 (2019). Even so, considering the facts and circumstances of this case, testimony of Applicant's good character from family members would have been of little help in regard to Applicant's sentencing. *See Strickland*, 466 U.S. at 699 (finding that counsel reasonably surmised that character evidence would be of little help considering the aggravating circumstance of the case).

Additionally, in non-capital cases, there is no required fact finding that could reduce or increase the sentencing range. The sentencing range is set by statute as a result of the plea. Considering Applicant was sentenced within the sentencing range, and was well aware of the possibility of being sentencing to the max, it is nearly impossible to show the required *Strickland* prejudice.

This Court finds that Applicant has failed to establish that plea counsel acted deficiently and that there's a reasonable probability that the outcome of his sentencing was prejudiced by those deficiencies. Whether Applicant's family was advised of the hearing date or not, this Court finds that Applicant has not presented any supporting evidence that there's a reasonable probability he would have received a lesser sentence had their testimony been presented to the plea court.. In fact, the only supporting testimony from Applicant himself, is that he did not know whether plea counsel called his family or not. Accordingly, this Court finds Applicant has failed to establish any deficiency by plea counsel or any prejudice flowing therefrom. Thus, this allegation must be **DENIED** and **DISMISSED**.

Failure to Investigate

Applicant alleges that his plea was involuntary because plea counsel failed to investigate Applicant's contention that the victims were attacked by a different perpetrator prior to their consensual sexual encounters with him. This Court finds the allegation to be without merit, especially in light of Applicant's admission of guilt.

Counsel has a duty to conduct an independent investigation of the facts and circumstances of a case, but such a duty is measured under reasonableness and depends on a number of issues. *Ard v. Catoe*, 372 S.C. 318, 331-332, 642 S.E.2d 590, 597 (2007). At the evidentiary hearing, Applicant testified that the second victim was known to him, and she returned to the trailer with bruises because she was assaulted by someone else. Applicant testified that he told plea counsel the circumstances behind victim two but did not know if she investigated those things. Plea counsel testified that she hired an investigator to investigate the victims and that the investigator's report on the victims was that they were "solid." In regard to a lack of DNA found in the rape kit, plea counsel testified that it was ultimately Applicant's decision to plead guilty and the State's

argument was that he used a grocery bag as a condom and made the victim douche with green tea which would explain the lack of DNA.

To prevail on this type of ineffective assistance claim, Applicant must not only present the evidence or defenses that counsel allegedly failed to investigate and discover, but that there is a reasonable probability Applicant would have elected to proceed to trial had this evidence been discovered. *Harris v. State*, 377 S.C. 66, 75-76, 659 S.E.2d 140, 145-46 (2008). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. *Harris*, 377 S.C. at 75, 659 S.E.2d at 145 (citing *Glover v. State*, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

Applicant presented no evidence to this Court as to what plea counsel could have discovered or what other defenses could have been pursued had plea counsel been more fully prepared. His testimony rests on mere speculation considering he presented no witnesses to support an alleged additional perpetrator. Considering the facts of Applicant's crime(s), this Court finds that plea counsel had no reasonable basis to investigate that there was an additional perpetrator. *See Strickland*, 466 U.S. at 691 (finding that deference must be given to counsel's reasonable decision that makes particular investigations unnecessary; decisions to not investigate must be assessed for reasonableness). Even so, this Court cannot overlook Applicant's solemn judicial admission of guilt, rendering any further investigation unnecessary.

As to these allegations, plea counsel's decisions are objectively reasonable under the circumstances and her representation cannot be found as deficient. Further, other than his own contention, Applicant has failed to show any support that such discoverable material exists. Applicant cannot satisfy the prejudice standard, i.e., that there is a reasonable probability that had counsel investigated what Applicant has alleged, the evidence would have been discovered and he

would have elected to proceed to trial. *Hill, supra*. Accordingly, this allegation is **DENIED** and **DISMISSED**.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations during his plea hearing. Therefore, this PCR application must be **DENIED** and **DISMISSED** with prejudice.

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 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 remanded to the custody of Respondent for completion of his sentence.

AND IT IS SO ORDERED THIS 9th **DAY OF** October**, 2025.**

THE HONORABLE DANIEL D. HALL
Presiding Judge, Thirteenth Judicial Circuit