

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

Dec 04 2025

S.C. SUPREME COURT

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Thomas McGee, III., Circuit Court Judge

Case No. 2018-CP-08-1191

Jeremy Dale Parks,

Appellant,

v.

State of South Carolina,

Respondent.

NOTICE OF APPEAL

Jeremy Dale Parks hereby appeals the denial and dismissal of his application for post conviction relief in this case. An evidentiary hearing in the matter was convened before the Honorable Thomas McGee, III. Following the hearing, Judge McGee issued a written order denying and dismissing the application with prejudice filed November 6, 2025. Undersigned counsel was emailed a written filed copy of said order on November 6, 2025.

December 4, 2025

s/ Denise Grainger. Swope
Denise Grainger, Swope
PO Box 80355
Charleston, South Carolina 29416
(843) 852-4925
Attorney for Appellant

Other Counsel of Record:

Danielle Dixon
Asst. Atty. General
PO Box 11549
Columbia, SC 29211-1549
(803) 734-3970
Attorney for Respondent

STATE OF SOUTH CAROLINA)
 COUNTY OF BERKELEY)
)
 Jeremy Dale Parks, #324805,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

COURT OF COMMON PLEAS
 NINTH JUDICIAL CIRCUIT

Case No.: 2018-CP-08-01191

ORDER OF DISMISSAL

2025 NOV -6 AM 11:44
 LEAH GUERRY DUPREE
 CLERK OF COURT
 BERKELEY COUNTY, SC
 FILED

This matter is before the Court by way of an application for post-conviction relief (PCR) filed by Jeremy Dale Parks (Applicant) June 29, 2018. On February 14, 2019, Respondent made its return requesting an evidentiary hearing. On October 13, 2025, an evidentiary hearing convened before the Honorable Thomas W. McGee, III.¹ Applicant was present and represented by Denise Swope, Esquire. Assistant Attorney General Danielle Dixon represented Respondent. At the hearing, Applicant testified on his behalf. Respondent called a witness trial counsel David Schwacke, Esquire. Following a thorough review of the records before this Court and the testimony presented at the hearing, this Court finds Applicant did not meet his burden of proof. Thus, this Court denies relief and dismisses this application with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving an aggregate forty-five-year sentence. In February 2014, the Berkeley County Grand Jury indicted Applicant for three counts of first-degree criminal sexual conduct (CSC) with a minor (2014-GS-

¹ This matter was previously continued on July 26, 2019; January 29, 2020, so that Applicant could be evaluated; September 22, 2022, after Applicant’s former counsel was relieved; December 1, 2021; March 7, 2022, at the request of counsel for Applicant; December 16, 2024, at the request of counsel for Applicant; and May 27, 2025, at the request of counsel for Applicant. Applicant was previously represented by different counsel, who was relieved September 30, 2021. On October 7, 2021, Denise Swope, Esquire, was appointed to represent Applicant.

08-00260, -261, -262) and one count of third-degree CSC with a minor (-263). In September 2015, the Berkeley County Grand Jury indicted Applicant of an additional count of first-degree CSC with a minor (2015-GS-08-01478).

On September 14, 2015, Applicant proceeded to a jury trial before the Honorable Deadra Jefferson. Public Defenders David Schwacke and Debbie Littlejohn represented Applicant, and Deputy Solicitor Debbie Herring-Lash prosecuted the case. The jury convicted Applicant, and Judge Buckner sentenced him to concurrent terms of thirty years for each first-degree CSC charge, and a consecutive term of fifteen years for the third-degree CSC charge.

Applicant timely filed a notice of appeal, which was perfected by Appellate Defender David Alexander. On appeal, Applicant argued the trial court erred in (1) charging the victim's testimony need not be corroborated and (2) ruling the victim was a competent witness. The South Carolina Court of Appeals affirmed issue two on the merits but found issue one was unpreserved. The remittitur was sent February 23, 2018.

CURRENT APPLICATION

On June 29, 2018, Applicant timely commenced this PCR action alleging counsel was ineffective for failing failed to investigate the facts of the case. Respondent filed a return requesting an evidentiary hearing. At the start of the hearing, Applicant relayed he was proceeding on the ground in his application as well as additional allegations that counsel was ineffective for (1) not properly preserving the issue related to the trial court's charge that the victim's testimony did not need to be corroborated; and (2) failing to explain the evidence, which he contends caused him to be surprised by a document.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the records before it, including the Berkeley County Clerk of Court records of the underlying convictions, Applicant's records from the South Carolina Department of Corrections, the trial transcript, the records of Applicant's direct appeal, and the records of this PCR application. This Court has further had the opportunity to observe the witnesses presented at the PCR hearing, closely pass upon their credibility, and weigh their testimony accordingly.² After a careful review based on the Strickland standard set forth below, this Court finds Applicant has failed to carry his burden of proof. Below are this Court's findings of facts and conclusions of law as required by section 17-27-80 of the South Carolina Code (2017).

Ineffective Assistance of Counsel

In a PCR action, an applicant bears the burden of proving the allegations. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). In evaluating claims of ineffective assistance of counsel, courts apply the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, an applicant must prove counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment," and an applicant must overcome this presumption to receive relief. Id.; Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, a PCR applicant must prove the deficiency prejudiced him 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 117-18, 386 S.E.2d at 625.

Failed to investigate facts of case

² This Court will reference PCR testimony where relevant below.

Applicant first contends trial counsel was ineffective for not investigating. Applicant did not prove this ground. In order to prevail upon a claim that counsel did not adequately prepare a case, an applicant must present evidence of what counsel could have discovered or what other defenses counsel could have developed and presented had counsel been more prepared. Harris v. State, 377 S.C. 66, 75-76, 659 S.E.2d 140, 145-46 (2008), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018) (citing Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998)). An applicant must also present evidence showing the discoverable matters or defenses would have resulted in a different outcome. Id. (citing Davis v. State, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997), and Skeen v. State, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. Id., 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)).

At the PCR hearing, Applicant testified counsel could have told him more about what was going on in his case, and every time he saw counsel, counsel could not remember what happened at the prior meeting. Applicant stated he received a stack of paperwork indicating the victim was still a virgin. He explained the minor victim had MRSA on her behind and “you have to squeeze that to get the puss out.” Applicant averred this could have been offered as an explanation about why the minor victim was “sore down there.” Applicant testified counsel edited the recording of the minor victim’s forensic interview, and counsel did not use the MRSA argument at trial. Finally, he testified the victim’s mother—who testified against him at trial—received a two-year sentence suspended to probation. He averred she merely said what the prosecution wanted her to say at trial, and she would not offer the same testimony if he was tried again. However, Applicant did not call the victim’s mother as a witness at the PCR hearing.

Trial counsel testified he met with Applicant approximately fifteen to eighteen times, and

they reviewed discovery, the charges, and potential defenses. Counsel testified he had adequate time to meet with Applicant and review discovery. He stated most of the witnesses Applicant wanted him to interview were already parties in the case, and Applicant received their written statements. Counsel testified Applicant wanted him to investigate “Mr. Mike” as the possible perpetrator of the sexual abuse, but the problem with that defense was the victim (who was Applicant’s daughter) identified Applicant as the abuser. Counsel testified he had an investigator talk to Mike, but he stated Mike would not have been helpful to Applicant’s case. Regarding MRSA, counsel explained it was not an STD or an indication of sexual activity and would not have formed a reasonable defense. He testified the mother’s testimony about the sexual abuse she observed went beyond the popping of blisters. Ultimately, counsel testified he had adequate time to prepare for trial and discuss the case with Applicant, and he asked Applicant questions to ensure he had no further questions

This Court finds counsel’s foregoing testimony credible. Based on this credible testimony, this Court finds counsel’s preparation and investigation of this case was reasonable under prevailing professional norms and not deficient. Likewise, a review of the trial transcript shows counsel reviewed the discovery produced by the State and was prepared for trial. Applicant has not set forth anything more counsel should have done that would have reasonably changed the outcome and thus did not prove deficiency.

Applicant also did not prove prejudice. Critically, Applicant did not produce any additional witnesses or evidence at the PCR hearing that counsel may have uncovered upon further investigation and thus did not meet his burden of proof. Cf. Glover v. State, 318 S.C. 496, 498–99, 458 S.E.2d 538, 540 (1995) (“In order to support a claim that trial counsel was ineffective for failing to interview or call potential alibi witnesses, a PCR applicant must produce the witnesses at the PCR hearing or otherwise introduce the witnesses’ testimony in a manner consistent with the

rules of evidence. The applicant's mere speculation what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice.”). This allegation is thus denied.

Failure to properly preserve direct appeal issue

Applicant next contends counsel was ineffective for not properly objecting when the trial court charged the jury that the victim’s testimony did not need to be corroborated. Although counsel *did* object to this charge—on the basis the victim’s testimony here was, in fact, corroborated—Applicant contends counsel did not properly argue the objection raised on appeal. Applicant did not prove this ground.

In his argument to the Court of Appeals, Applicant relied on State v. Stukes, 416 S.C. 493, 78 S.E.2d 480 (2016), which held that charging section 16-3-657 of the South Carolina Code³ was an unconstitutional comment on the facts and confusing to the jury. Critically, Stukes had not been decided at the time of Applicant’s 2015 general sessions trial, and Stukes reversed prior caselaw that provided the corroboration charge was not reversible error as long as it was not “unduly emphasized and the charge as a whole comports with the law.” State v. Rayfield, 369 S.C. 106, 117-18, 631 S.E.2d 244, 250 (2006), abrogated by State v. Stukes, 416 S.C. 493, 787 S.E.2d 480 (2016). Because the charge was proper under the law that existed at the time of trial and Stukes had not yet been decided, counsel was not deficient for not raising the argument in Stukes. See Pantovich v. State, 427 S.C. 555, 562–63, 832 S.E.2d 596, 600 (2019) (“[A] retrospective PCR analysis under Strickland . . . seeks to determine whether counsel was ineffective at the time of the alleged error. . . . [W]e do not require attorneys to be clairvoyant in anticipating changes to the law”); Winkler v. State, 418 S.C. 643, 653, 795 S.E.2d 686, 692 (2016) (“Because the law did not

³ This section provides “[t]he testimony of the victim need not be corroborated in prosecution [for CSC].”

support the double jeopardy objection, we found counsel acted reasonably in not making it.”); *id.* (“An attorney is not required to anticipate potential changes in the law which are not in existence at the time of the conviction.” (quoting *Hayden v. State*, 360 S.C. at 408, 602 S.E.2d at 49)).

Further, based on the substantial and overwhelming corroborating evidence presented by the State here, it is not reasonably probable the outcome would have been different had counsel objected to this charge for the reason set forth in *Stukes*. Unlike many criminal trials involving CSC with a minor, which hinge on the credibility of the victim alone, the State presented substantial evidence to corroborate the victim’s testimony about the sexual abuse perpetrated by Applicant. Specifically, the victim’s mother testified she witnessed Applicant sexually abusing the victim “[m]ore than eight times” (Tr. 245-46; R. 210-11), and she described several occasions in detail. (Tr. 216-18, 220-21, 242-46; R. 181-83, 185-86, 207-11). Likewise, the forensic evidence showed the victim had a well-healed cleft on vagina and her anus was dilated with no stool. (Tr. 342; R. 307). Finally, after the victim disclosed the abuse and DSS became involved, Applicant told the victim’s mother, “[I]f I’m going down, you’re going down with me.” (Tr. 284; R. 249). Here evidence did, in fact, corroborate the victim’s testimony. Thus, there is no reasonable probability the outcome would have been different had the *Stukes* argument (which was contrary to existing law at the time) been preserved for appeal.

Failed to explain evidence

At the PCR hearing, Applicant asserted counsel was ineffective for not explaining the evidence, which he asserted left him surprised by a document. More specifically, at the hearing, Applicant alleged trial counsel showed him paperwork indicating the victim was a virgin. He then stated counsel did not review discovery with him. Applicant testified he had a learning disability, and counsel treated him like he was stupid. Although he initially stated he would have accepted a plea offer if counsel had explained the evidence, he later stated he turned down a twenty-five-year

plea offer because he “wasn’t going to jail for something [he] didn’t do.” Applicant also stated he would have testified in his defense if counsel had reviewed discovery.

Counsel, in contrast, testified he reviewed discovery with Applicant and asked Applicant questions to ensure he had no further questions. Counsel explained the State offered a straight-up plea to one count of first-degree CSC and two counts of unlawful conduct, to run concurrent. He testified he relayed the offer to Applicant and Applicant understood the offer.

This Court finds credible counsel’s foregoing testimony. This Court likewise finds not credible Applicant’s testimony that (1) he had paperwork indicating the victim was a virgin, (2) counsel did not review discovery with him, or (3) he would have accepted the plea offer if counsel had explained the evidence. Based on counsel’s foregoing credible testimony, counsel’s representation here was reasonable under prevailing professional norms and not deficient. Finally, Applicant has not shown how the outcome would have been different had counsel further explained the evidence and thus did not prove prejudice.

CONCLUSION

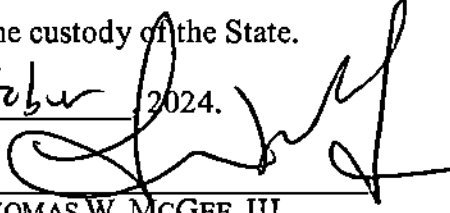
Based on the foregoing, this Court concludes Applicant has not established any constitutional violations that would require this Court to grant relief. Thus, this application is denied and dismissed with prejudice. Should Applicant wish to appeal, he must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. See Rule 203, SCACR. Applicant has the right to an appellate counsel’s assistance in seeking review of the denial of PCR. Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). If Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on applicant’s behalf. Rule 71.1(g), SCRCP. Attention is directed to Rule 243, SCACR, for appellate procedures.

IT IS THEREFORE ORDERED:

1. This application for PCR is denied and dismissed with *prejudice; and*

2. Applicant shall be remanded to and remain in the custody of the State.

AND IT IS SO ORDERED THIS 30 day of October 2024.


THOMAS W. MCGEE, III
Presiding Judge
Ninth Judicial Circuit

2706

Columbia, South Carolina