STATE OF SOUTH CAROLINA COUNTY OF DARLINGTON	)	IN THE COURT OF COMMON PLEAS FOR THE FOURTH JUDICIAL CIRCUIT
Sinatra L. Hunter, #336934, Applicant, v. State of South Carolina, Respondent.	)	CASE NO. 2024-CP-16-00949 **ORDER OF DISMISSAL WITH PREJUDICE**

Presiding Judge:	Hon. S. B. Doby
Applicant's Attorney:	Steve W. Fowler, Esq.
Respondent's Attorney:	Sydney N. Willingham, Esq.
Plea Counsel:	John M. Ervin, III, Esq.
Date of Hearing:	September 3, 2025
Court Reporter:	Brenda L. Jones

This matter comes before the Court pursuant to an application for post-conviction relief ("PCR") filed by Sinatra L. Hunter ("Applicant") on October 1, 2024. Respondent filed its Return, requesting that an evidentiary hearing be held on the allegations. On September 3, 2025, an evidentiary hearing was held at the Darlington County Courthouse before the Honorable S. B. Doby. Applicant was present and represented by Steve W. Fowler, Esquire. Assistant Attorney General Sydney N. Willingham represented Respondent. Applicant proceeded on the allegation in his application. This Court received testimony from Applicant and his plea counsel, Marianna Leigh White, Esquire.

Following a thorough review of the record, along with the testimony and evidence presented at the hearing, this Court finds Applicant has failed to establish any constitutional violations or deprivations entitling him to relief and, accordingly, **DENIES** and **DISMISSES** this action with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections (SCDC) pursuant to orders of commitment of the Darlington County Clerk of Court. During its May 2022 term, the Darlington County Grand Jury indicted Applicant for throwing of bodily fluids by prisoner, detainee on state corrections or local law enforcement officer, corrections employee, or visitor (2022-GS-16-01363), burglary in the third degree (2022-GS-16-00497), burglary in the first degree (2022-GS-16-00498), petit or simple larceny (2022-GS-16-00499), armed robbery (2022-GS-16-00500), possession of a weapon during the commission of a violent crime (2022-GS-16-00501), and attempted murder (2023-GS-16-01085). Applicant was represented by Marianna Leigh White and Jacob Lynn Godwin of the Fourth Circuit Public Defender's Office. Assistant Solicitor Glenn Mondrae Bell of the Fourth Circuit Solicitor's Office prosecuted the case.

On March 26, 2024, Applicant appeared before the Honorable R. Kirk Griffin, circuit court judge, and pled guilty as indicted to attempted murder, burglary in the first degree, armed robbery, and throwing bodily fluids. The burglary in the third degree, petit or simple larceny, and possession of a weapon during the commission of a violent crime were *nolle prossed*. Judge Griffin sentenced Applicant as negotiated to twenty–five (25) years imprisonment for attempted murder, twenty–five (25) years imprisonment for burglary in the first degree, and twenty–five (25) years imprisonment for armed robbery, to be served concurrently with credit for 737 days, and twelve (12) months imprisonment for throwing bodily fluids to be served consecutively.

Applicant did not appeal his convictions or sentences.

FACTS GIVING RISE TO THE CONVICTION

The facts are outlined as read into the record by the State at Applicant's guilty plea hearing:

> Yes, Your Honor. March 21, 2022, in the City Limits of Darlington located in Darlington County, Sinatra Hunter did approach Ms. Gloria Hawkins. She was out

in her yard. She was working doing some gardening. He came – he came up behind her, startled her, and she has a fenced in yard. He approached her. He started asking for someone that she was not familiar with, and at which point then he then accosted her, started asking for money. She was asking him to leave. At some point, I struggled ensued. He pushed her down. She struck her head upon a brick. At that point, he started choking her saying, I'm gonna kill you if you don't give me some money. At which point – at which point, she then played dead, layed lifeless. He then – and I'll show you – I'll try to make it make a little bit more sense, Your Honor, this whole parcel here is her, is her property. She was gardening in this location. The assault took place here and this is where she fell. Mr. Hunter then entered the garage. And that's when he's going through her car. After she didn't see him anymore. She then goes into her home, starts calling 911. When he can hear her calling 911 he then kicks in the door to the home thus the burglary first, and takes her phone and flees the scene. He doesn't – he doesn't – he doesn't assault her anymore. But he does take her phone and then flee. He was armed with a box cutter which Mr. – which he did pull out on Ms. Hawkins while, while they were in the garden area and that's what also gave rise to armed robbery. It was within the next hour Mr. Sinatra Hunter was apprehended by the Darlington City Police Department. They immediately placed him under arrest. He was searched incident to arrest. He had two box cutters on him, screwdriver. They took him down to the precinct. He did – he gave a confession after being Mirandized that he, that did put him in the location, that did put him pushing down Ms. Hawkins, and that's what gave rise to the charge, Your Honor. And that's the charges in regards to Ms. Hawkins as the victim.

In regards to the throwing part of the fluids, Your Honor, on May 24, 2022 at the Darlington County Detention Center while in holding cell number three Mr. Sinatra hunter did take a white Styrofoam from cup filled with his feces and did throw it upon Correctional Officer, Kevin Doyle, giving rise to the charge.

Your Honor, as far as prior record, Mr. Sinatra Hunter does have a voluntary manslaughter, burglary second violent, and grand larceny from 1998. Your Honor, this was originally life without parole case. The State has opted to allow Mr. Hunter to plea to a negotiate 25 in lieu of us going to trial.

(Plea Tr. pp. 22–25).

CURRENT APPLICATION

In his application for post-conviction relief, Applicant alleges he is entitled to relief based on the following:

1. Ineffective Assistance of Counsel
   a. "Never appeal conviction after informing me that he/she would."

Applicant raised the following additional allegations at the evidentiary hearing:

1. Counsel failed to investigate Applicant's mental health and/or competency.
2. Counsel failed to adequately review discovery with Applicant.

Applicant requested relief in the form of "[r]elease from custody, or trial, or overturn conviction."

Attached herewith and incorporated herein are the records of the Darlington County Clerk of Court regarding the subject convictions, the transcript from Applicant's plea proceeding, Applicant's records from SCDC, and the records of the current PCR action. Respondent reserves the right to amend this return upon receipt of any relevant materials.

STANDARD OF REVIEW

The Uniform Post-Conviction Procedure Act[1] (the Act) provides that any person who has been convicted of a crime may seek post-conviction relief based on the following types of allegations:

> 1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
> 2. That the court was without jurisdiction to impose sentence;
> 3. That the sentence exceeds the maximum authorized by law;
> 4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
> 5. That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
> 6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy[.]

S.C. Code Ann. § 17-27-20(A).

Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive effective assistance of counsel guaranteed by the Sixth Amendment. See generally S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of

[1] S.C. Code Ann. §§ 17-27-10 to -160.

denial of such representation sets forth a *prima facie* violation of this constitutional right and raises a question of fact that can only be determined by an evidentiary hearing. Rogers v. State, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland to determine whether counsel's conduct "was so [ineffective] as to require reversal" of the applicant's conviction. Strickland v. Washington, 466 U.S. 668 at 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. Id. at 687-88; Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. Strickland, 466 U.S. at 700; see also Bell v. Cone, 535 U.S. 685, 695 (2002) (explaining that "[without proof of both deficient performance and prejudice to the defense... it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable" (citation and internal quotation marks omitted)).

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea. Hill v. Lockhart, 474 U.S. 52 (1985), extended the two-part Strickland test to challenge guilty pleas based on ineffective assistance of counsel. See Padilla v. Kentucky, 559 U.S. 356, 373 (2010) (recognizing that the guilty plea process is a "critical phase of litigation" for purposes of the Sixth Amendment right to effective assistance of counsel). The analysis of counsel's performance under the first prong of Strickland remains unchanged, the applicant must show that counsel's

representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases. Hill, 474 U.S. at 58-59; accord Thompson v. State, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000).

An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice to plead guilty was not "within the range of competence demanded of attorneys in criminal cases." Hill, 474 U.S. at 56. The second, or "prejudice" prong, however, "focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process." Id. at 58-59. Specifically, when an applicant claims counsel's deficient performance caused him to accept a plea, the applicant "must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." Id. at 59.

This inquiry "focuses on a defendant's decision-making" and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. Lee v. United States, 582 U.S. 357, 367 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—**not** whether counsel would have still advised him or her to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999) (emphasis added).

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

Applicant has alleged and elected to pursue various claims of ineffective assistance of counsel through the post-conviction relief action presently before this Court. In analyzing these claims, this Court has considered the legal arguments by counsel and thoroughly reviewed the

record in its entirety. This Court additionally heard the testimony presented at the evidentiary hearing and was able to observe the witnesses, which allowed the Court to evaluate and scrutinize their credibility.

Upon conducting and completing its analysis, this Court finds that Applicant has failed to establish any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. See Rule 71.1(e), SCRCP (stating that in a post-conviction relief action, "[t]he applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."); Lucero v. State, 414 S.C. 238, 244, 777 S.E.2d 409, 412 (Ct. App. 2015) ("In a PCR proceeding, the applicant bears the burden of establishing that he or she is entitled to relief."); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) ("The burden of proof is on the Applicant in post-conviction proceedings to prove the allegations in his application.").

Accordingly, set forth below are the relevant findings of fact and conclusions of law as required by § 17-27-80 of the South Carolina Code:

INITIAL FINDINGS

This Court finds applicable the strong presumption that at all stages of Plea Counsel's representation of Applicant, he rendered adequate assistance and exercised reasonable professional judgment in his representation. Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (citing Strickland, *supra*). The United States Supreme Court has cautioned that "every effort be made to eliminate the distorting effects of hindsight" and evaluate counsel's decisions at the time they were made. Strickland, 466 U.S. at 689; see Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992).

ALLEGATIONS OF INEFFECTIVE ASSISTANCE OF PLEA COUNSEL

Allegation 1: Failure to appeal conviction after informing Applicant that he/she would.

Applicant alleges Plea Counsel's representation was constitutionally ineffective for failing to appeal his conviction after informing him that they would. This Court finds this allegation is without merit.

Though counsel is required to make certain that a defendant is made fully aware of his or her right to appeal after a *trial*, a different standard applies to a guilty plea:

> Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea.

Turner v. State, 380 S.C. 223, 224-25, 670 S.E.2d 373, 374 (2008) (citations omitted); see also Roe v. Flores-Ortega, 528 U.S. 470, 480 (2000) (imposing the duty to consult when there is reason to think either that a rational defendant would want to appeal or that the particular defendant reasonably demonstrated interest in doing so); contra Frazer v. South Carolina, 430 F.3d 696 (4th Cir. 2005) (reading Flores-Ortega to mean counsel generally has a duty to consult with his client regarding whether to pursue an appeal). Therefore, in a collateral action attacking a guilty plea, the "bare assertion that a defendant was not advised of appellate rights is insufficient to grant relief." Jones v. State, 382 S.C. 589, 598, 677 S.E.2d 20, 23-24 (2009) (quoting Weathers v. State, 319 S.C. 59, 61, 459 S.E.2d 838, 839 (1995)).

Where an Applicant reasonably demonstrates an interest in appealing, or where there is a reason to think a rational defendant would want to appeal, and where Counsel fails to either initiate that appeal or comply with Anders procedure, "White permits consideration of the full trial record on [an] issue in conjunction with appellate review of the PCR proceeding under an exception to

the prohibition against appellate courts considering appeals in the absence of notice of direct appeal given and timely served." Smith v. State, 309 S.C. 413, 415, 424 S.E.2d 480, 481 (1992) (citing Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986)).

PCR Evidentiary Hearing

Applicant alleges that Plea Counsel failed to appeal his conviction after informing him that she would. (PCR Tr. pp. 10-11). Applicant pled guilty to the charges against him, and at the evidentiary hearing, Applicant did not allege that he had a viable issue for a direct appeal, or that there were other extraordinary circumstances which would require him to be advised of his right to a direct appeal from his guilty plea. Moreover, Applicant testified at the evidentiary hearing that he pleaded so he would not get a life sentence. (PCR Tr. p. 11).

Plea counsel testified that she did not discuss an appeal with Applicant. (PCR Tr. p. 20).

Findings

This Court finds from the record that the plea court did advise Applicant of his right to appeal his guilty plea. (Plea Tr. p. 22). Further, the plea court questioned Applicant's understanding of the proceeding and considered the circumstances of Applicant's crime. This Court further finds no extraordinary circumstances objectively warranted counsel to inform Applicant about appealing his conviction. See Roe v. Flores–Ortega, 528 U.S. 470 (2000) (holding that counsel has a constitutional duty to inform a defendant of his right to appeal a guilty plea if there is reason to think that a rational defendant would want to appeal or that the defendant demonstrated an interest in appealing). Furthermore, this Court finds Plea Counsel's testimony *credible* that she would have filed a notice of appeal if Applicant had asked her to. (PCR Tr. p. 21).

As such, Applicant has failed in his burden of presenting any *credible* evidence to this Court that he was not advised of the right to appeal his guilty plea, nor did Applicant present any *credible* evidence that he requested Plea Counsel file an appeal. Moreover, to whatever extent Applicant was not entirely satisfied with the plea, he was presented an opportunity to express his dissatisfaction with the plea court, knowingly opted not to do so, and instead chose to proceed with his guilty plea so that he would not face a potential life without parole sentence.

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 with PREJUDICE.**

Allegation 2: Counsel failed to investigate Applicant's mental health and/or competency.

Applicant alleged Plea Counsel's representation was constitutionally ineffective for failing to further investigate his mental health. This Court finds this allegation to be without merit.

Due process prohibits the conviction of a person who is mentally incompetent, and that right cannot be waived by a guilty plea. Jeter v. State, 308 S.C. 230, 232, 417 S.E.2d 594, 595 (1992) (citing Bishop v. U.S., 350 U.S. 961 (1956); Pate v. Robinson, 383 U.S. 375 (1966)). The test of competency to enter a plea is the same as required to stand trial: the accused must have sufficient capability to consult with his lawyer with a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings against him. Id., 417 S.E.2d at 596 (citing State v. Lambert, 266 S.C. 574, 225 S.E.2d 340 (1976); Carnes v. State, 275 S.C. 353, 271 S.E.2d 121 (1980)). An applicant alleging incompetence in fact must show by a preponderance of the evidence that he was incompetent at the time of his plea. Id.

An applicant alleging ineffective assistance of counsel for failure to seek a mental health evaluation, however, must still satisfy the two prongs of Strickland, though considered in reverse

as a practical necessity: applicant must demonstrate (1) a 'reasonable probability' that he was not competent at the time of the crime or at the time of the plea, and (2) that counsel's failure to seek an evaluation was unreasonable. Id. at 233, 417 S.E.2d at 596. Counsel may reasonably rely on his own perceptions in deciding if a client is competent to stand trial. Id.

Plea Hearing

The record shows that Applicant had a Blair[2] hearing prior to entering his guilty plea. (Plea Tr. pp. 4-16). Forensic psychologist, Dr. Colbi Sutton, testified at the hearing regarding the Applicant's competency. (Plea Tr. pp. 4-16). Dr. Sutton testified that Applicant was competent to stand trial. (Plea Tr. p. 9). Further, Dr. Sutton testified that Applicant had made comments about wanting to harm himself. (Plea Tr. p. 9). However, Dr. Sutton later discovered in reviewing records that Applicant openly admitted that once he returned to the detention center, he was not suicidal and made the statements to delay court proceedings. (Plea Tr. pp. 9-10).

Applicant testified at the hearing he understood the charges, the sentencing parameters, and that he was waiving his constitutional rights by entering a plea. (Plea Tr. pp. 18-20). Further, Applicant did not contest the recitation of facts by the Solicitor. (Plea Tr. pp. 22-25).

PCR Evidentiary Hearing

At the evidentiary hearing, Applicant testified that he took medication for schizophrenia. (PCR Tr. p. 12). Applicant alleges that because of his mental health, he did not understand what was going on at the time of his plea. (PCR Tr. p. 12). Applicant testified he had an evaluation, but his counsel did not go over it with him. (PCR Tr. p. 14). However, Plea Counsel testified she recalled Applicant had at least two evaluations with the Department of Mental Health and an additional private evaluation. (PCR Tr. p. 21). Further, Plea Counsel testified that she and

[2] State v. Blair, 275 S.C. 529, 273 S.E.2d 536 (1981)

Applicant had several discussions about his mental health and his evaluations. (PCR Tr. pp. 23, 25). Plea Counsel testified she was not concerned regarding Applicant's ability to assist in his own defense. (PCR Tr. p. 23). Plea Counsel testified she petitioned the court to order a competency evaluation for Applicant to get a professional opinion as a safeguard. (PCR Tr. p. 23).

Findings

As an initial matter, this Court finds Applicant has failed to meet his burden to present any competent evidence that he was incompetent at the time he entered his guilty plea. Further, this Court finds from the record that Applicant understood the charges, the weight of the evidence, and the proceedings against him. There was no indication or evidence presented at the PCR evidentiary hearing to dispute Applicant was competent at the time of plea. Further, the plea court had the opportunity to examine Applicant's fitness to stand trial at the Blair hearing, and the court found Applicant competent. (Plea Tr. p. 16). This Court finds Plea Counsel's testimony *credible* that she discussed Applicant's mental state and competency with him. (PCR Tr. pp. 23, 25).

As such, this Court finds Applicant has failed in his burden of proving any deficiency or prejudice flowing from the deficiency. Notably, the record before this Court wholly refutes Applicant's allegation. Accordingly, this allegation is **DENIED** and **DISMISSED with PREJUDICE.**

Allegation 3: Counsel failed to adequately review discovery with Applicant.

Applicant alleged Plea Counsel's representation was constitutionally ineffective for failing to adequately review discovery with Applicant. This Court finds this allegation to be without merit.

In order to prevail upon a claim that counsel did not adequately prepare, investigate, or review discovery in a case, an applicant must present evidence to show how additional time spent in consultation regarding discovery would have resulted in a different outcome or what other

defenses applicant could have requested counsel develop and present had counsel been more prepared. Harris v. State, 377 S.C. 66, 75–76, 659 S.E.2d 140, 145–46 (2008) (citing Jackson v. State, 329 S.C. 345, 353–54, 495 S.E.2d 768, 772 (1998), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018). The applicant must further present evidence demonstrating how the discoverable matters or defenses would have resulted in a different outcome. Id. Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. Id. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

PCR Evidentiary Hearing

At the evidentiary hearing, Applicant testified that Plea Counsel did not review witness statements or show him any videos produced through discovery. (PCR Tr. p. 15). Plea Counsel testified that she received discovery from the State and reviewed it with Applicant several times. (PCR Tr. p. 19). Plea Counsel testified to her recollection of the evidence, which included: paper materials, police reports, incident reports, photographs, a video statement given by Applicant, and body camera footage of the victim. (PCR Tr. p. 19).

Findings

As an initial matter, this Court finds Plea Counsel's testimony *credible* and Applicant's testimony on this topic *not credible*. Additionally, this Court concludes that Applicant did not provide any *credible* evidence that additional time reviewing discovery would have led him not to plead guilty, but instead to proceed to trial. Further, to whatever extent Applicant was not entirely satisfied with the amount of time or extent he and Plea Counsel reviewed discovery, he was presented an opportunity to express his dissatisfaction to the plea court and chose to proceed with his guilty plea.

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 with PREJUDICE.**

CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be **DENIED** and **DISMISSED with PREJUDICE.**

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf if the Applicant wishes to seek appellate review. Your attention is directed to South Carolina Appellate Court Rule 243 for the appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

S. B. DOBY
Presiding Judge
Fourth Judicial Circuit

Bishopville, South Carolina