NOTICE OF APPEAL FROM COMMON PLEAS REGARDING A POST CONVICTION RELIEF

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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

G.D. Morgan, Jr, Circuit Court Judge

Case No. 2020-CP-21-01703

The State,.....Respondent,

Cecelia E. Knox,.....Appellant,

Notice of Appeal

Cecelia E. Knox appeals the order of the Honorable G.D. Morgan, Jr., dated September 30, 2025, which denied her application for Post-Conviction Relief with prejudice. Appellant received written notice of the order on November 21, 2025.

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STATE OF SOUTH CAROLINA COUNTY OF FLORENCE	)	IN THE COURT OF COMMON PLEAS FOR THE TWELFTH JUDICIAL CIRCUIT
Cecelia E. Knox, #178039, Applicant, v. State of South Carolina, Respondent.	)	CASE NO. 2020–CP–21–01703 **ORDER OF DISMISSAL WITH PREJUDICE**

Presiding Judge:	Hon. G. D. Morgan, Jr.
Applicant's Attorney:	Ola A. Johnson, Esq.
Respondent's Attorney:	Shayla J. Flores, Esq.
Trial Counsel:	Caroline B. Lawson, Esq.
Date of Hearing:	January 23, 2024
Court Reporter:	Krystal J. Smith

This matter comes before the Court by way of Cecelia E. Knox's (Applicant) application for post-conviction relief (PCR) filed on July 23, 2020. Respondent, the State of South Carolina, filed its Return and Motion for a More Definite Statement on December 3, 2020, requesting an evidentiary hearing to resolve the claims set forth in the application once Applicant provided a more definite statement. On June 3, 2022, Applicant, through counsel, issued an amendment to her Application for post-conviction relief.

On January 23, 2024, an evidentiary hearing was held at the Florence County Courthouse before the Honorable G. D. Morgan, Jr., circuit court judge. Applicant was present and represented by Ola A. Johnson, Esquire. Assistant Attorney General Shayla Joan Flores, Esquire, represented Respondent. Applicant proceeded on the claims set forth in her original and amended applications. In support of these claims, Applicant testified on her own behalf.

Respondent presented testimony from former Twelfth Circuit Assistant Public Defender Caroline B. Lawson, Esquire (Plea Counsel).

Following a thorough review of the record in its entirety, along with the testimony and evidence presented at the evidentiary 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

The records before this Court establish Applicant is presently confined in the South Carolina Department of Corrections. Applicant was indicted during the August 2019 term of the Florence County Grand Jury for murder and desecration of human remains (2019-GS-21-1151). Applicant was represented by Plea Counsel. Twelfth Circuit Assistant Solicitor, J. Ryan White, Esquire, prosecuted the case.

On December 12, 2019, Applicant appeared before the Honorable D. Craig Brown, and pleaded guilty as indicted to murder. Applicant's indictment for desecration of human remains was nolle pross'd. Judge Brown sentenced Applicant to confinement in the State Department of Corrections for the balance of her natural life.

Applicant did not appeal her convictions or sentences.

FACTS GIVING RISE TO THE CONVICTION

The facts were taken from the guilty plea transcript as articulated by the State:

> Thank you, Judge. On April 21st, 2019, what can only be described as a brutal murder occurred here in Florence Count. Judge, the incident location is 724 McKeithan Road. At that particular residence resided Ms. Cecelia Knox, along with her wife Janna and an 11-year-old child. Judge, that weekend Jana was scheduled for surgery at McLeod, and the victim in this case, Ms. Ara Echevarria, was on her way to Florida from California and had decided to stop at the residence to visit her friend Jana. Judge, she could not have

picked a more unfortunate time to be passing through. It just so happened that Ms. Cecelia Knox and Jana Knox during that weekend were involved in a domestic dispute. The State would put forth evidence that it would, you know, stem from a financial dispute. Judge, the dispute kind of spilled over at the hospital, at which time Ms. Cecelia Knox left the hospital to go home in an irate state of mind. Ms. Jana Knox, still at the hospital, calls home to the victim in the case and tells her to please protect the child because she thinks that she's going to do some kind of harm to her. Cecelia leaves the hospital. She arrives at that residence, and she begins to argue and confront the victim in this case, Ms. Echevarria. She's trying to get the child and Ms. Echevarria is trying to get the child away from Ms. Knox. She calls 9-1-1 immediately, and that 9-1-1 call is quite dark. You know, it's – the last words that she would speak she's trying to get help for the child. Judge, the child gave a confession or actually gave a statement, two - - separate statements, and describes what happens next. It's just absolutely bone chilling. Ms. Knox gets - - starts to beat on Ms. Echevarria in the guest room. She beats her so bad, Judge, that the puddle in the carpet and the wood flooring that the Sheriff's Office pulled up, you know was at least two by two feet in diameter. Judge, the child then testified that Ms. Knox drags Ms. Echevarria into the bathtub, where she gets a hammer and, you know, strikes her twice in the back of the head. The Sheriff's Office followed up on that eventually and they could see the blood spatter from the Luminol tests across the bathroom wall. Judge, when Ms. Jana Knox calls home, she hangs up and then she immediately calls 9-1-1 and tells law enforcement to please get over to the house because she thinks that Ms. Cecelia Knox is going to harm the child. Law enforcement arrives. At that point, Ms. Echevarria is deceased inside. Ms. Knox tells the child to lie to law enforcement and together they go out and greet the law enforcement officer as he approaches and tell the officer that everything is fine, that the third party involved in the altercation has left the scene. Believing her and the child, law enforcement then departs. Judge, at that time Ms. Knox - - Ms. Cecelia Knox and the child, with the body, you know, still in the house, they drive and pick Ms. Jana Knox up at McLeod. They come back to the house. They get Ms. Echevarria's vehicle and they go back to McLeod where they hide it. Judge, Ms. Knox – Ms. Cecilia Knox then takes the child and Ms. Jana Knox to a hotel room. Well, let me back up, Judge. Before that, they go on a shopping spree that night to buy various items to clean up the crime scene, and they have the child in tow while they're doing that. They go back. They clean up the crime scene. Then Ms. Cecelia Knox drives the child and Jana Knox to a hotel room to stay for a night. She drives to Atlanta. She picks up her brother. They drive back to Florence. They load the body up, drive it back to South

> Atlanta, and dump the body in a - - in a park. Judge, at this time she drives and drops off her brother. Then she drives back to Florence, picks up the child and her wife Jana, and they go down to the beach for a vacation that was already planned. They stay down there for about five days, Judge. Eventually, I think the guilt overcame Jana and she called law enforcement, and they eventually turned themselves in. Judge, it's been a long process. I mean this case is investigated by Lead Investigator Roger Tilton, along with Sarah Miller of the Sheriff's Office. They have done an excellent job. This case could not be any stronger. The evidence that they have accumulated really put the closing - - the finishing touches on it, so to speak. But, Judge, the one thing that lingered out there that they did not confess to was the murder weapon and that had to be extracted, if you will, from the child. That child - - when they got back from the beach, Ms. Cecelia Knox and Ms. Jana Knox called their family from Florida to come take the child and drive it back down - - drive him back down to Florida, and we had to go to considerable lengths to get the child and keep him here so that he could be a witness in the case. He provided the murder weapon, that it was a large hammer, Judge, that he - - she- - Ms. Cecelia Knox used to beat the victim. Judge, the last piece of the puzzle was the body, and it's sad and it's sad we had no idea where it was. And we triangulated cell phones. We dug through cell phone records and we tried our best to pinpoint a location, but it was like finding a needle in a haystack, Judge. Eventually, we met with Ms. Cecelia Knox and she - - I don't' know whether she had forgotten where it was or if she just didn't want to tell us, but the information she gave us did not get us to the body. It just didn't get us quite there. It wasn't until the brother, who was arrested a time later, eventually gave up the location, and it was four months almost to the day from the murder that the body was found. And I want to show, Judge, if I could - - and these have been provided to defense counsel - - a photograph of the skull as recovered in the park and then the remains at autopsy.

(Plea Tr. pp. 9–13).

CURRENT ACTION BEFORE THIS COURT

In her original application for post-conviction relief, filed July 23, 2020, Applicant alleges she is being held in custody unlawfully based on:

1. Ineffective assistance of counsel
   a. "Representation failed below reasonable standard"
2. Involuntary Guilty Plea
   a. "Plea was unknowing"

On June 3, 2022, Applicant, through counsel, amended her application to include the following additional allegations:

> 3. Ineffective Assistance of Counsel
>   a. "Applicant was mistakenly advised by the court and led to believe that her sentence for Murder would be parole eligible in 85% instead of having to serve 100% or day for day (p. 6, Lines 17-20) and counsel Caroline Lawson failed to advise her."
>   b. "Applicants (*sic*) counsel Caroline Lawson failed to have the Applicant evaluated regarding competence and criminal responsibility despite being advised of Applicants (*sic*) history of mental health problems and the fact that Applicant was not taking her medications at the time of the guilty plea (p. 17 Line 24).
>   c. "Applicants (*sic*) counsel Caroline Lawson, failed to meet with the applicant (*sic*) a sufficient number of times to properly review the evidence and discuss this case with applicant (*sic*)."
>   d. "Applicants (*sic*) counsel Caroline Lawson failed to properly advise her regarding the potential sentence she was facing."
>   e. "Applicants (*sic*) counsel Caroline Lawson failed to advise the Applicant regarding her right to appeal."
>   f. "Applicants (*sic*) counsel Caroline Lawson, failed to review the states evidence with the Applicant and failed to properly investigate the facts of this case."

Applicant requests relief in the form of a new trial.

This Court has before it the Florence County Clerk of Court records regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the plea transcript, and the records of this PCR action.

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 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

[1] S.C. Code Ann. §§ 17-27-10 *et seq.*

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 her 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 FACT 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. See, e.g., State v. Mercer, 381 S.C. 149, 166, 672 S.E.2d 556, 565 (2009) ("In this post-trial setting, our jurisprudence recognizes the gatekeeping role of the trial court in making a credibility assessment."); Clemons v. Mississippi, 494 U.S. 738, 766 (1990) (Blackmun, J., concurring in part and dissenting in part) ("The trial judge who hears the witnesses live, observes

their demeanor and in general smells the smoke of the battle is by his very position far better equipped to make findings of fact which will have the reliability that we need and desire.").

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 her 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 facts 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, she rendered adequate assistance and exercised reasonable professional judgment in her 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).

This Court makes the following findings from the record: 1. Applicant understood the charge and potential sentence she faced at her plea hearing (Plea Tr. pp. 4–5); 2. Applicant affirmed

she had been treated previously for drug abuse and it did not affect her ability to understand the proceedings (Plea Tr. p. 5); 3. Applicant understood that she could receive a life sentence (Plea Tr. p. 5); 4. Applicant understood her right to a jury trial and that she waived those rights by pleading guilty (Plea Tr. p. 7); 5. Applicant indicated she had enough time with Plea Counsel (Plea Tr. p. 8); 6. Applicant indicated Plea Counsel answered all of her questions, and she had no more questions for Plea Counsel (Plea Tr. p. 8); 7. Applicant indicated no promises were made to her, and her decision to plead guilty was voluntary (Plea Tr. p. 8); 8. Applicant's plea was qualified as freely, knowingly, and voluntarily entered into (Plea Tr. p. 15).

ALLEGATIONS OF INEFFECTIVE ASSISTANCE OF PLEA COUNSEL

Allegation 2a: Involuntary Guilty Plea

Applicant alleges that her guilty plea was involuntary, as it was not knowingly entered into. This Court finds this allegation is without merit.

For a plea to be valid, the applicant must have been aware of the nature and crucial elements of the offense, the maximum and minimum penalties, and the rights he is waiving by accepting the plea. Boykin v. Alabama, 395 U.S. 238 (1969); Roddy v. State, 339 S.C. 29 (2000). A plea is not knowing or voluntary if a defendant "lacks knowledge of material evidence in the prosecution's possession." Gibson v. State, 334 S.C. 515, 523, 514 S.E.2d 320, 324 (1999).

A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." Roddy v. State, 339 S.C. at 34, 528 S.E.2d at 421 (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). "'[T]he 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.'" Dalton, 376 S.C. at 138, 654 S.E.2d at 874 (quoting Harres v. Leeke, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984)). Further, "guilty pleas, freely and voluntarily entered, act as a waiver of all non-jurisdictional defects and defenses, including the claims of a violation of a constitutional right prior to the plea." Whetsell v. State, 276 S.C. 295, 297, 277 S.E.2d 891, 892 (1981).

An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for trial counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial instead. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001); Richardson v. State, 310 S.C. 360, 363, 362 426 S.E.2d 795, 797 (1993). Given Applicant's burden of proof and the analysis to be applied to this claim, Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it will be treated as such.

Guilty Plea Proceedings

The following colloquy occurred during the guilty plea proceedings:

The Court:	All right. Ms. Knox, you heard the facts as stated by the prosecutor as it relates to this charge and the death of the victim in this case. Do you agree with those facts?
[Applicant]:	Not all of them, but the majority of them.
The Court:	Do you agree that you took the life of the victim in this case with malice aforethought to satisfy the elements of this offense?
[Applicant]:	Yes, sir.
The Court:	And are you guilty of this charge?
[Applicant]:	Yes, sir.
The Court:	And how do you plead? Guilty or not guilty?
[Applicant]:	Guilty.
The Court:	All right. I find that there is a substantial factual basis for this plea. I also find the defendant's decision to plead has been entered into freely, voluntarily,

knowingly, and intelligently. That she has had the advice and counsel of an attorney with whom she has indicated she is completely satisfied. I'll accept her plea.

. . . .

Mr. White: And, Judge, I want to make sure Ms. Lawson gets the last word. Probation did want to address Your Honor. I think she's on probation at the — at the current juncture.

The Court: All right. Yes, sir?

Probation: Yes, sir. She was sentenced in Richland County on February 6th of this year. Judge Manning sentenced her on an assault and battery second degree. He suspended that and put her on gave her three years, probation for one year, ordered that she continue taking her mental health medication. She transferred here to Florence, and this murder would have occurred maybe a month and a half after she got here, and this plea is a violation of that probation. The victim in the case -- in our case is the -- Jana Knox.

The Court: All right. Ms. Knox, it's just been conveyed to me that you were on probation at the time or that this plea here today is a violation of your probation. Do you understand that?

[Applicant]: Yes, sir.

The Court: Which could subject you to additional time. Do you understand that?

[Applicant]: Yes, sir.

The Court: Do you still want to plead guilty to this charge?

[Applicant]: Yes, sir.

The Court: All right. I previously accepted the plea. The defendant has indicated that even in light of the fact she's on probation and this is a violation of probation which could subject her to additional time, she still wishes to go forward with her guilty plea. Ms. Lawson, are you representing her on the probation matter as well?

Ms. Lawson: Yes, sir.

The Court: All right. Pursuant to her plea here today, I do find the defendant has willfully violated the conditions of her probation. Pursuant to such finding of a willful violation — as well as the previous finding or acceptance of a guilty plea to this murder. Anything further, Mr. White?

Mr. White: Judge, just for the record, it has been no indication as far as I'm concerned – and we can ask Ms. Lawson as well — any concern about Ms. Knox's mental health and her mental health status and her medication that she's on now. Or is she -- I don't know if she's on anything or not.
Ms . Lawson: She's not on anything —
Mr. White: Okay.
Ms. Lawson: — at the moment, Your Honor.
The Court: Well, in my discussions with her today or in my questioning of her here today, there's nothing that leads me or gives me any pause or concern concerning as it relates to her mental well-being. More specifically, there's no concern or pause that I have. That she has indeed entered this plea freely, voluntarily, knowingly, and intelligently.

(Plea Tr. pp. 15–18).

PCR Evidentiary Hearing

On cross-examination, the following colloquy occurred:

Q: And so in your original application, you alleged that your guilty plea was unknowing. Can you explain a little bit for the Court what you meant by that?
A: No, I can't because it was knowing.
Q: Okay.
A: Yeah.

(PCR Tr. p. 12).

Findings

This Court finds the combination of the record and Plea Counsel's **credible** testimony at the evidentiary hearing provides Applicant knew the nature of the charges against her, the terms of her plea, and the consequences of pleading guilty pursuant to the requirements of Boykin v. Alabama, 395 U.S. 238 (1969) and Roddy v. State, 339 S.C. 29 (2000). Moreover, the plea colloquy cured any alleged deficiency regarding Plea Counsel's advice. The plea transcript reflects that Applicant entered her plea knowingly and voluntarily, engaged in an intelligent colloquy with

the plea court, and gave appropriate responses to the plea court's questions. Applicant has presented no valid reason why she should be able to depart from the statements made during her guilty plea as provided *supra*. See Crawford v. United States, 519 F.2d 347, 350 (4th Cir. 1975), overruled on other grounds by United States v. Whitley, 759 F.2d 327 (4th Cir. 1985) (finding that the accuracy and truth of an accused's statements at a guilty plea proceeding are "conclusively" established unless he makes some reasonable allegation why this should not be so). Thus, based on the record from the plea proceeding and the evidentiary hearing, this Court finds Applicant freely, knowingly, and voluntarily pled guilty.

Accordingly, this allegation must be **DENIED** and **DISMISSED**.

Allegation 3a: **"Applicant was mistakenly advised by the court and led to believe that her sentence for Murder would be parole eligible in 85% instead of having to serve 100% or day for day (p. 6, Lines 17-20) and [Plea Counsel] failed to advise her."**

Allegation 3d: **"[Plea Counsel] failed to properly advise her regarding the potential sentence she was facing."**

Applicant alleges Plea Counsel was constitutionally ineffective for failing to advise Applicant of the Court's misstatement of law or object to it on the record. Applicant also alleges Plea Counsel failed to advise her of the sentencing ranges she was facing. This Court finds these allegations are without merit.

Guilty Plea Hearing

The following colloquy occurred during Applicant's guilty plea proceeding:

The Court: The State indicates you're pleading guilty to murder. Is that correct?
[Applicant]: Yes, sir.
The Court: Do you understand it carries a minimum of 30 years up to life imprisonment?
[Applicant][: Yes, sir.

The Court: The State has indicated this plea is being entered into without recommendation or negotiation. Is that your understanding?

[Applicant]: Yes, Sir.

The Court: Understanding that I could give you up to life imprisonment today, do you still want to go forward and plead guilty to this charge?

[Applicant]: Yes, sir.

The Court: Do you also understand that under South Carolina Law that this is considered to be a violent offense, as well as a most serious offense?

[Applicant]: Yes, sir.

The Court: Do you understand that a most serious offense falls under the two-strike rule? In other words, if at some point you are released from the Department of Corrections and you are convicted by plea or trial of another most serious offense and the State has properly noticed you of their intent to seek life, the Court would have no alternative but to give you life. Do you understand that?

[Applicant]: Yes, sir.

The Court: In addition, do you understand that this Court - - whatever sentence this Court imposes, It's a no-parole offense? Do you understand that?

[Applicant]: Yes, sir.

The Court: All right, sir. Do you understand that if the Court were to give you a sentence of less than life, you would have to do at least 85 percent of it before you were even eligible for parole? Do you understand that?

[Applicant]: Yes, sir.

The Court: All right. Understanding the penalty of this charge for which you're pleading guilty to and understanding the consequences of such plea, do you still want to go forward and plead guilty to this charge here today?

[Applicant]: Yes, sir.

(Plea Tr. pp. 5–7).

PCR Evidentiary Hearing

On direct examination, Applicant testified that Plea Counsel told her that she would request a sentence of less than life, but she ended up getting a life sentence. (PCR Tr. p. 10). Applicant testified that she was aware and understood that she could receive a life sentence. Id. Applicant testified that Plea Counsel did not tell her she would get less than thirty years. Id. Applicant

testified that she recalled the plea court stating that she would be eligible for parole after serving eighty-five percent of her sentence if she received a sentence of less than life imprisonment during her plea hearing. (PCR Tr. p. 7; p. 12). Applicant testified that Plea Counsel did not inform her that the court's statement was incorrect, as she would be required to serve the day-for-day on a murder charge, nor did Plea Counsel correct the court regarding this misstatement. (PCR Tr. pp. 7–8). Applicant testified that she was sentenced to her "[n]atural life." (PCR Tr. p. 12). When asked whether she recalled the plea court informing her that whatever sentence it imposed would be for a no-parole offense, Applicant testified that she recalled the judge saying, "natural life, no parole." (PCR Tr. pp. 11–12).

On cross-examination, Applicant testified that she believed Plea Counsel explained the potential sentencing range with her. (PCR Tr. p. 15).

On direct examination, Plea Counsel testified that she explained the sentencing range to Applicant. (PCR Tr. p. 19). Plea Counsel testified that Applicant was aware that the only offer the State made was to plead guilty to murder and receive a life sentence. Id. Plea Counsel testified to her recollection that the plea court advised Applicant that if the court gave her a sentence of less than life, she would be required to complete at least eighty-five percent of her sentence before becoming eligible for parole. (PCR Tr. p. 24). Plea Counsel testified that Applicant received an offer to plead to a life sentence and that this offer was noted on an offer sheet with the last line reflecting the word "life" in Mr. White's handwriting. (PCR Tr. p. 18). Plea Counsel testified that she advised Applicant of the potential sentencing range. (PCR Tr. p. 24).

On cross-examination, Plea Counsel testified that she explained the sentencing range to Applicant. (PCR Tr. p. 25). Plea Counsel testified that she never told Applicant she would get less than thirty years. Id.

Findings

This Court finds Applicant has failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [her] case." Ard v. Catoe, *supra*. This Court further finds Applicant has failed to overcome her burden in proving Plea Counsel's representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, *supra*. This Court finds Plea Counsel **credibly** testified that she explained the sentencing range with Applicant. Also, from the record, this Court finds the plea court fully informed Applicant of the sentencing range. Nevertheless, Applicant also testified that she knew she could receive a life sentence. Therefore, Applicant has failed in her burden of proving and deficiency in Plea Counsel's performance or any resulting prejudice.

Turning to the next allegation, This Court notes that the record reflects the plea court gave an incorrect statement as to what Applicant would be required to serve if she was sentenced to anything less than life. Murder carries a mandatory minimum sentence of thirty (30) years, and that sentence is a day-for-day sentence. See S.C. Code Ann. § 16-3-20(A) (A person who is convicted of or pleads guilty to murder must be punished by death, or by a mandatory minimum term of imprisonment for thirty years to life.). Here, Applicant was sentenced to life. This forecloses any argument that Plea Counsel was deficient for failing to object to the incorrect statement of the law from the plea court and any resulting prejudice. Applicant testified multiple times that she was aware she could be sentenced to life imprisonment, and the plea court informed her of the same.

Moreover, Applicant testified that she never intended to go to trial. (PCR Tr. p. 14). Applicant testified that she "would not have wanted to go to trial because [she] didn't want [her]

son to take the stand." (PCR Tr. p. 14). See Suber v. State, 371 S.C. 554, 558, 640 S.E.2d 884, 886 (2007) (The applicant must prove prejudice by showing that, but for counsel's inadequacy, there is a reasonable probability he would not have pleaded guilty and, instead, would have insisted on going to trial.).

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Plea Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or omissions to prove the second prong of Strickland as laid out in Hill—that but for Plea Counsel's deficient performance, Applicant would have gone to trial and not pled guilty.

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**.

Allegation 3b: **"[Plea Counsel] failed to have the Applicant evaluated regarding competence and criminal responsibility despite being advised of Applicants (*sic*) history of mental health problems and the fact that Applicant was not taking her medications at the time of the guilty plea (p. 17 Line 24)."**

Applicant alleged Plea Counsel was constitutionally ineffective for failing to investigate her mental health history or subject her to a competency evaluation prior to entering her guilty plea. 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 she 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.

Guilty Plea Hearing

The following colloquy occurred at the guilty plea between Applicant and the plea court:

The Court:	Have you ever been treated for alcohol abuse, drug abuse, or mental illness?
[Applicant]:	Yes, sir.
The Court:	What have you been treated for?
[Applicant]:	Drugs and – umm --
The Court:	When was that?
[Applicant]:	Maybe '17.
The Court:	Does that in any way affect your ability to know and understand what you're doing here today?
[Applicant]:	No, sir.
The Court:	I need you to speak up. Okay?
[Applicant]:	No, sir.
The Court:	Within the last 24 hours, have you taken any medication, drugs or alcohol?
[Applicant]:	No, sir.
The Court:	Are you aware of any physical, emotional or nervous problem that would prevent you or keep you from understanding what's going on here today?
[Applicant]:	No, sir.

(Plea Tr. pp. 4–5).

The following colloquy occurred between the plea court, Plea Counsel, and the solicitor:

> Mr. White: Judge, just for the record, it has been no indication as far as I'm concerned - - and we can ask Ms. Lawson as well - - any concern about Ms. Knox's mental health and her mental health status and her medication that she's on now. Or is she - - I don't know if she's on anything or not.
> Ms. Lawson: She's not on anything - -
> Mr. White: Okay.
> Ms. Lawson: - - at the moment, Your Honor.
> The Court: Well, in my discussions with her today or in my questioning of her here today, there's nothing that leads me or gives me any pause or concern concerning as it relates to her mental well-being. More specifically, there's no concern or pause that I have. That she is fully aware of what's going on here today. That she has indeed entered this plea freely, voluntarily, knowingly, and intelligently.

(Plea Tr. pp. 17–18).

PCR Evidentiary Hearing

On direct examination, Applicant testified in the affirmative that Plea Counsel and Applicant discussed her past mental health issues. (PCR Tr. p. 8). Applicant testified that she could not recall if she informed Plea Counsel that she was taking medication at the time of her plea. Id. Applicant testified that she believed she reviewed her mental health records with Plea Counsel and informed Plea Counsel that she went to Pee Dee Mental Health and Columbia Mental Health. Id.

On cross-examination, Applicant testified that she was evaluated before her PCR evidentiary hearing but the doctor was not present to testify. (PCR Tr. p. 13). Applicant testified that she did not believe she requested that Plea Counsel have her mental health evaluated prior to entering her guilty plea. Id. Applicant testified in the affirmative that she understood her actions

when she entered her plea. (PCR Tr. p. 14). Applicant testified that she believed that Plea Counsel should have requested that Applicant's mental health be evaluated, as she had been seeing mental health specialists back-to-back, had anger problems, and had been diagnosed with post-traumatic stress syndrome. Id.

On direct examination, Plea Counsel testified that from her notes she was aware of Applicant's history of mental health issues. (PCR Tr. p. 21). Plea Counsel testified that she could not recall if Applicant informed her that she had stopped taking her medication. Id. Plea Counsel testified that Applicant was always "lucid" in their meetings and had a good understanding of their discussions. (PCR Tr. pp. 21–22). Plea Counsel testified that she did not seek a mental health evaluation because her interactions with Applicant did not cause her to have any concerns with her mental competency. (PCR Tr. p. 22).

On cross-examination, Plea Counsel testified Applicant did not sign a HIPAA release in order for Plea Counsel to gain access to all of her records. (PCR Tr. p. 26). Plea Counsel testified that her notes reflect a medication list Applicant gave her and her diagnoses. Id. Plea Counsel testified that Applicant never voiced an issue with her medications at the jail. (PCR Tr. pp. 26–27).

Findings

This Court finds Applicant has failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [her] case." Ard v. Catoe, *supra*. This Court further finds Applicant has failed to overcome her burden in proving Plea Counsel's representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, *supra*. This Court finds that based on the record and the testimony rendered at the evidentiary hearing, that Applicant has failed to

present any evidence that Applicant was incompetent at the time of her guilty plea. This Court further finds from Plea Counsel's **credible** testimony that the decision to not seek an evaluation was reasonable based on her perceptions during her interactions with Applicant. See Garren v. State, 423 S.C. 1, 813 S.E.2d 704 (2018) (finding counsel will not be found deficient where they reasonably relied on their perceptions of a defendant's competency in determining if an evaluation was necessary); see also Jeter v. State, 308 S.C. 230, 417 S.E.2d 594 (1992) (finding counsel acted reasonably in relying on his own perceptions of a defendant's competency).

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**.

Allegation 3c: "[Plea Counsel] failed to meet with the applicant (*sic*) a sufficient number of times to properly review the evidence and discuss this case with applicant (*sic*)."

Applicant alleged Plea Counsel was constitutionally ineffective for failing to meet with her a sufficient number of times to properly review the evidence and discuss her case. This Court finds this allegation is without merit.

Federal case law holds that there is no constitutional minimum number of meetings between attorneys and their clients to satisfy competency. Campbell v. Polk, 447 F.3d 270, 279 fn.2 (4th Cir. 2006) (no constitutional minimum number of meetings to satisfy competency); United States v. Olson, 846 F.2d 1103, 1108 (7th Cir. 1988) (reciting that there is no constitutional minimum number of meetings between attorney and client and observing that an experienced attorney may get more out of a single meeting than a neophyte). "Brevity of time spent in consultation, without more, does not establish that counsel was ineffective." Easter v. Estelle, 609 F.2d 756, 759 (5th Cir. 1980) (holding it is not enough to merely show that counsel only met with

his client twice before trial as long as counsel devoted sufficient time to insure an adequate defense and to become thoroughly familiar with the facts of the case and the law applicable to the case, and holding the record revealed that counsel was so prepared.).

South Carolina case law has established that even if Counsel only met with his client very briefly, that alone does not establish that he was unprepared or ineffective at trial. See Harris v. State, 377 S.C. 66, 75, 659 S.E.2d 140, 145 (2008) (citing Easter) (finding "Even if the meetings were brief, this fact alone is not indicative of inadequate trial preparation."), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018).

Additionally, "brevity of time spent in consultation with a defendant alone is not indicative of inadequate trial preparation." Smith v. State, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (2012). Applicant must show evidence indicating "how additional preparation or communication would have resulted in a different outcome." Id.; see Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998) (where application failed to show ineffective assistance of counsel based on lack of preparation by neglecting to show evidence of what counsel failed to discover or what defenses counsel could have pursued had he more fully prepared for the case); Skeen v. State, 325 S.C. 210, 214-15, 481 S.E.2d 129, 132 (1997) (where applicant failed to show ineffective assistance of counsel when he did not present evidence showing how additional preparation would have impacted the trial).

Guilty Plea Hearing

The following colloquy occurred at Applicant's guilty plea hearing between Applicant and the plea court:

The Court:	You're represented by Ms. Lawson. Are you satisfied with her representation?
Applicant:	Yes, sir.
The Court:	Have you talked to her enough?

Applicant: Yes, sir.
The Court: Understood your talks with her?
Applicant: Yes, sir.
The Court: Need any more time to talk to her?
Applicant: No, sir.
The Court: Have any complaints about her?
Applicant: No, sir.

(Plea Tr. pp. 7–8).

PCR Evidentiary Hearing

On direct examination, Applicant testified that she saw Plea Counsel maybe two or three times. (PCR Tr. p. 9–10). Applicant testified that Plea Counsel provided her with all of her discovery. (PCR Tr. p. 11). Applicant testified that she felt she did not see Plea Counsel enough. Id.

On cross-examination, Applicant testified that Plea Counsel met maybe two or three times with her for about forty-five minutes each time. (PCR Tr. p. 14). Applicant testified that Plea Counsel shared the discovery with her prior to entering her plea. (PCR Tr. p. 15).

On direct examination, Plea Counsel testified that her notes reflected six meetings with Applicant. (PCR Tr. p. 22). Plea Counsel testified that they reviewed the evidence thoroughly in Applicant's case. Id.

On cross-examination, Plea Counsel testified that her notes reflected that she met with Applicant six times. (PCR Tr. p. 26). Plea Counsel testified that she showed Applicant all the photographs and evidence, but she could not recall if Applicant watched one of the interviews with her or not. (PCR Tr. p. 29).

Findings

This Court finds Applicant has failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all

significant decisions in [her] case." Ard v. Catoe, *supra*. This Court further finds Applicant has failed to overcome her burden in proving Plea Counsel's representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, *supra*. This Court finds Plea Counsel **credibly** testified that she met with Applicant six times and reviewed all of the discovery with Applicant. This Court further finds Applicant failed to present "any evidence of how additional preparation or communication would have resulted in a different outcome." Smith v. State, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (Ct. App. 2012); see Jackson v. State, 329 S.C. 345, 353–54, 495 S.E.2d 768, 772 (1998) (explaining that, where an applicant failed to present any evidence of what counsel could have discovered or what other defenses he would have requested counsel pursue had counsel more fully prepared for the trial, applicant failed to show his counsel's lack of preparation prejudiced him); Harris v. State, 377 S.C. 66, 75, 659 S.E.2d 140, 145 (2008) (finding that, when there is evidence counsel met with a defendant in preparation for trial and there is no evidence additional preparation on the part of counsel would have affected the outcome at trial, counsel cannot be said to have been ineffective), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018).

Moreover, to whatever extent Applicant was not entirely satisfied with the amount of time spent in consultation with Plea Counsel, she was presented an opportunity to express her dissatisfaction to the plea court, and knowingly opted not to do so, instead choosing to proceed with her guilty plea.

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Plea Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or

omissions to prove the second prong of Strickland as laid out in Hill—that but for Plea Counsel's deficient performance, Applicant would have gone to trial and not pled guilty.

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**.

Allegation 3e: "[Plea Counsel] failed to advise the Applicant regarding her right to appeal."

Applicant alleges Plea Counsel was constitutionally ineffective for failing to file a direct appeal of her guilty plea. 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, 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, 596, 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

On direct examination, Applicant testified that she believed she was informed of her right to appeal by Plea Counsel and that she thinks she asked Plea Counsel to file an appeal. (PCR Tr. pp. 10–11).

On cross-examination, Applicant testified that Plea Counsel explained her right to appeal to her. (PCR Tr. pp. 15–16). Applicant testified that she believed she told Plea Counsel she wanted to appeal. (PCR Tr. p. 16).

On direct examination, Plea Counsel testified that she explained to Applicant her right to appeal. (PCR Tr. p. 24).

On cross-examination, Plea Counsel testified that she explained to Applicant her right to an appeal, but Applicant never asked her to file an appeal. (PCR Tr. pp. 27–28).

Findings

This Court finds Applicant has failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [her] case." Ard v. Catoe, *supra*. This Court further finds Applicant has failed to overcome her burden in proving Plea Counsel's representation was deficient and any

resulting prejudice from that alleged deficiency. See Butler, *supra*. This Court finds Plea Counsel **credibly** testified that she informed Applicant of her right to appeal and that Applicant did not request that she file an appeal. This Court finds Applicant's testimony on this matter **not credible** and **not persuasive** where her testimony on certain matters was direct and concise and, in this matter, was passive and uncertain. Additionally, this Court has reviewed the guilty plea transcript and finds no nonfrivolous grounds present that would have warranted an appeal.

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove that she requested Plea Counsel file an appeal on her behalf or that there was any extraordinary circumstance(s) that would have warranted the filing of an appeal. Thus, this allegation must be **DENIED** and **DISMISSED.**

Allegation 3f: "[Plea Counsel] failed to review the State's evidence with the Applicant and failed to properly investigate the facts of this case."

Applicant alleges Plea Counsel was constitutionally ineffective for failing to review the State's evidence with her or properly investigate the facts of her case. This Court finds this allegation is without merit.

"[S]trategic choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable; and strategic choices made after less than complete investigation are reasonable precisely to the extent that reasonable professional judgments support the limitations on investigation." Strickland, 466 U.S. at 690-91. "In other words, counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." Id. at 691. "In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments." Id.

"The reasonableness of counsel's actions may be determined or substantially influenced by the defendant's own statements or actions." Id. "Counsel's actions are usually based, quite properly, on informed strategic choices made by the defendant and on information supplied by the defendant." Id. "In particular, what investigation decisions are reasonable depends critically on such information." Id.

In order to prevail upon a claim that counsel did not adequately prepare or investigate a case, an applicant must present evidence of what counsel could have discovered 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)). Furthermore, an applicant must also present evidence to show how 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); 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)).

Guilty Plea Proceedings

The following colloquy occurred between Applicant and the plea court:

The Court:	You're represented by Ms. Lawson. Are you satisfied with her representation?
[Applicant]:	Yes, sir.
The Court:	Have you talked to her enough?
[Applicant]:	Yes, sir.
The Court:	Understood your talks with her?
[Applicant]:	Yes, sir.
The Court:	Need any more time to talk to her?
[Applicant]:	No, sir.
The Court:	Have any complaints about her?

[Applicant]: No, sir.

(Plea Tr. pp. 7–8).

PCR Evidentiary Hearing

On direct examination, Applicant testified that Plea Counsel provided all her discovery. (PCR Tr. p. 11). Applicant testified that Plea Counsel hired a private investigator who met with her. Id.

On cross-examination, Applicant testified that Plea Counsel shared and reviewed all of her discovery with her. (PCR Tr. p. 15; p. 16). Applicant testified that the only part she wanted Plea Counsel to investigate was her mental health. (PCR Tr. p. 16). Applicant testified that maybe it would have helped, but maybe it would not have helped if Plea Counsel had investigated her mental health. Id.

On direct examination, the following colloquy occurred with Plea Counsel:

> Q: And what was your understanding of applicant's history of mental health issues?
> A: So, according to my notes, looking back, I know that she had been diagnosed with PTSD in the past, I believe bipolar disorder. She had been counseling from a pretty young age since she was a teenager, had gone to behavioral health, just drug issues and untreated mental illness. I knew the medications that she had been prescribed for basically irritability and anti-psychotics. I reached out to her mother, I believe spoke with her about that as well. So, yeah, I did have an understanding as to her mental health history.
> Q: And did applicant inform you at any point that she had stopped taking her medications?
> A: I don't recall.
> Q: In your opinion, did applicant appear to be lucid during your conversations?
> A: She did, and she's very pleasant to sit down and talk to, seemed to have a very good understanding, very respectful to me at all times, had a good understanding of every piece of discovery that we looked at together.
> Q: And did applicant ever -- did you ever have applicant evaluated for those mental health issues?

A: No, I did not. I did not, and that's based upon the lucidity of our conversations. I knew that she had kind of had a history of abuse in her past. I asked her, would you like for me to dig into that for you? It may or may not be relevant. And she told me, no, I don't really want to talk too much more about that. I don't want you digging into, you know, that portion of my life, but we did talk a significant bit about her mental health history.

Q: And so in just confirming, it's your testimony that you didn't see a need to have applicant evaluated just from your interactions with her?

A: No, not from a *Blair* -- from a *Blair* standpoint from my interactions with her.

(PCR Tr. pp. 21–22).

Plea Counsel testified that the discovery in the case was voluminous, and she reviewed it with Applicant at length. (PCR Tr. p. 23). Plea Counsel testified that she did investigate the facts surrounding the case. (PCR Tr. p. 24).

On cross-examination, Plea Counsel testified that Applicant did not sign a HIPAA release, so she could not gain access to Applicant's mental health records. Plea Counsel testified that she attempted to contact Applicant's mother to shed some light on her past. (PCR Tr. p. 28).

Findings

As an initial matter, this Court finds by Applicant's own testimony that Plea Counsel shared and reviewed all of the discovery with Applicant. Thus, Applicant has failed in her burden of proving Plea Counsel's performance was deficient and any resulting prejudice from the alleged deficiency.

Turning to Plea Counsel's alleged failure to investigate, this Court finds Applicant has failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [her] case." Ard v. Catoe, *supra*. This Court further finds Applicant has failed to overcome her burden in proving

Plea Counsel's representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, *supra*. This Court finds Plea Counsel **credibly** testified that she conducted her own independent investigation into the facts of Applicant's case. As found *supra*, this Court again reasserts its finding that Plea Counsel's performance was not deficient in not having Applicant mentally evaluated. Plea Counsel **credibly** testified that she asked Applicant if she would like for her to investigate her mental health history and Applicant told her no. Furthermore, Applicant did not sign a HIPAA form. Additionally, Applicant's testimony on this matter was speculative at best and mere speculation is not enough to meet her burden. See Moorehead v. State, 329, 496 S.E.2d 415 (1998) (failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result).

Moreover, to whatever extent Applicant was not entirely satisfied with Plea Counsel's representation, she was presented an opportunity to express her dissatisfaction to the plea court, and knowingly opted not to do so, instead choosing to proceed with her guilty plea.

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Plea Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or omissions to prove the second prong of Strickland as laid out in Hill—that but for Plea Counsel's deficient performance, Applicant would have gone to trial and not pled guilty.

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**.

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 her application. Therefore, this application for post-conviction relief must be **DENIED and DISMISSED WITH PREJUDICE**.

This Court notifies the Applicant that she 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 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.

AND IT IS SO ORDERED this 30 **day of** September **2025.**

FILED
25 NOV 2025 12:23
DORIS POULOS O'HARA
CCCP & GS
FLORENCE COUNTY, SC

G. D. MORGAN, JR.
Presiding Judge
Twelfth Judicial Circuit

Greenville, South Carolina

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2020CP2101703

Cecelia Elaine Knox		**South Carolina State Of**	
PLAINTIFF(S)		**DEFENDANT(S)**	
Submitted by:		**Attorney for:** ☐ Plaintiff ☐ Defendant ☐ 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. ☐ See Page 2 for additional information.

☐ **ACTION DISMISSED (*CHECK REASON*):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____

☐ **ACTION STRICKEN (*CHECK REASON*):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX)**

☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

FILED
2025 NOV 20 P 12: 2
DORIS POULOS O'HARA
CCCP & GS
FLORENCE COUNTY, SC

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

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.

		11/20/2025
Circuit Court Judge	**Judge Code**	**Date**

For Clerk of Court Office Use Only

This judgment was entered on **November 20, 2025**, and a copy mailed first class or placed in the appropriate attorney's box on **November 21, 2025**, to attorneys of record or to parties (when appearing pro se) as follows:

Ola A. Johnson PO Box 549 Lexington, SC 29071

D. Russell Barlow II PO Box 11549 Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Doris P. O'Hara

Court Reporter

Doris Poulos O'Hara - Clerk of Court

Court Reporter:

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), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.