

STATE OF SOUTH CAROLINA  
COUNTY MARION

Christopher E. Bennett, #392357,

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS  
) FOR THE TWELFTH JUDICIAL CIRCUIT  
)  
) CASE NO. 2024-CP-33-00189  
)  
)  
)

**ORDER OF DISMISSAL**

**RECEIVED**

JAN 30 2026

SC Court of Appeals

Presiding Judge:	Hon. B. Alex Hyman
Applicant's Attorney:	Charles T. Brooks, III, Esq.
Respondent's Attorney:	Kylee Kanealey, Esq.
Plea Counsel:	Jeffrey T. Lucas, II, Esq.
Assistant Solicitor:	David A. Richardson, Jr., Esq.
Date of Hearing:	February 5, 2025
Court Reporter:	Keshia Reed

This matter comes before the Court by way of Christopher E. Bennett's (Applicant) Application for post-conviction relief (PCR), filed on March 11, 2024. On September 13, 2024, Respondent filed a Return and Motion for More Definite Statement. On February 5, 2025, an evidentiary hearing was convened at the Florence County Courthouse before the Honorable B. Alex Hyman. Assistant Attorney General Kylee Kanealey represented Respondent. Applicant was present and represented by Charles Thomas Brooks, III, Esquire. At the hearing, Applicant proceeded forward on the claims in his PCR application. In support of these claims, Applicant testified on his own behalf. Respondent presented testimony from Jeffrey T. Lucas, II, Esquire, and Twelfth Circuit Assistant Solicitor David A. Richardson, Jr.

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**

Applicant is presently confined in the South Carolina Department of Corrections (SCDC). During the August 2022 term of the Marion County Grand Jury, Applicant was indicted for two counts of Criminal Sexual Conduct with a Minor, Second Degree (2022-GS-33-00380; -00520). Applicant was represented by Jeffrey T. Lucas, II, Esquire (Plea Counsel). Twelfth Circuit Assistant Solicitor David A. Richardson, Jr. (A.S. Richardson) prosecuted the case.

On August 7, 2023, Applicant appeared before the Honorable Michael G. Nettles to plead guilty to Criminal Sexual Conduct with a Minor, Third Degree, in exchange for a negotiated sentence of fifteen (15) years. (Marion Tr. pp. 3-4). However, the morning of the hearing, Applicant elected to reject the offer. The State revoked the offer on the record. (Marion Tr. p. 3).

On October 27, 2023, Applicant appeared before the Honorable H. Steven DeBerry, IV, and pleaded guilty pursuant to North Carolina v. Alford<sup>1</sup> to Criminal Sexual Conduct with a Minor, Second Degree (-380), with a negotiated sentence of twenty (20) years. In exchange for his plea, one count of Criminal Sexual Conduct with a Minor, Second Degree (-520), was dismissed. Judge DeBerry accepted the negotiated plea and sentenced Applicant to twenty (20) years imprisonment.

Applicant did not appeal his sentence or conviction.

### **FACTS PRESENTED AT PLEA HEARING**

The facts giving rise to Applicant's conviction were articulated by the State at Applicant's plea hearing as follows:

This occurred between June and July of 2021 in Marion County at 116 Pee Dee Circle. The defendant, who was approximately 51 years of age, was involved in a

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<sup>2</sup> 400 U.S. 25 (1970).

relationship with the mother of the child in this case. That's how he had access to the child. The child at the time was 11 years of age. And during this time, he had engaged in sexual intercourse with the child that resulted in pregnancy. The report was made to law enforcement, and DNA samples were obtained. The child was born actually of the victim. The DNA results are as follows: it's approximately a 180 billion times more likely that Christopher Bennett is the true biological father than if a random man is the father. So the DNA affirmed what the minor child stated happened.

(Plea Tr. p. 8).

#### CURRENT ACTION BEFORE THIS COURT

In his application for post-conviction relief, filed March 11, 2024, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Plea Counsel.
  - a. Plea Counsel failed to adequately explain the initial plea offer to Applicant, and had Plea Counsel explained the offer sufficiently, Applicant would have accepted it.
2. Involuntary Guilty Plea.
  - a. Applicant coerced into pleading guilty based on Plea Counsel's failure to explain initial offer.

Applicant is seeking relief in the form of "hav[ing] the Guilty Plea vacated and granted a new trial in this matter."

Before this Court are Marion County Clerk of Court records regarding the subject conviction and sentences, Applicant's records from the SCDC, Applicant's plea transcript, Applicant's PCR transcript, and the records of Applicant's current PCR action.

#### STANDARD OF REVIEW

The Uniform Post-Conviction Procedure Act<sup>2</sup> (the Act) provides that any person who has been convicted of a crime may seek post-conviction relief based upon the following types of allegations:

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<sup>2</sup> S.C. Code Ann. §§ 17-27-10 to -160.

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), SCRPC; 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 decisionmaking" 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 claims of ineffective assistance of Plea Counsel and involuntary guilty plea 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*

As an initial matter, this Court further 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).

This Court makes the following findings from the record of the October 27, 2023, guilty plea hearing: 1. Applicant indicated that he was not under the influence of drugs or alcohol and did not suffer from any physical or mental condition that prevented him from knowing why he was there or what he was doing (Plea Tr. p. 5); 2. Applicant understood that his case was a Marion County case and that he had to waive the right to have it heard in Marion County in order to have it heard in Florence County, which Applicant indicated that he wished to do (Plea Tr. pp. 5-6); 3. Applicant understood that when he pleaded guilty, he would be waiving certain constitutional rights, such as the right to remain silent and the right to a jury trial (Plea Tr. pp. 6-7). 5. Applicant understood the rights that he would have in a jury trial and the difference between a jury trial and pleading guilty (Plea Tr. pp. 6-7); 6. Applicant indicated that no one threatened him, promised him, or coerced him in any way to get him to plead guilty (Plea Tr. p. 7); 7. Applicant indicated that pleading guilty was his decision and that he was doing so freely and voluntarily (Plea Tr. p. 7); 8. Applicant indicated that he was completely satisfied with Plea Counsel and had no

complaints against him or anybody else (Plea Tr. p. 7); 9. Applicant understood that if he did not agree with what happened at the proceedings, then he could appeal the decision within ten days in writing to the plea court (Plea Tr. pp. 7–8); 10. Applicant understood that the offense he was pleading guilty to was a violent and a most serious offense and indicated that he had talked with Plea Counsel about the ramifications of that kind of offense within the legal system in South Carolina (Plea Tr. p. 9); 11. Applicant indicated that the facts A.S. Richardson articulated to the plea court were the facts upon which Applicant was pleading guilty to pursuant to Alford (Plea Tr. pp. 9–10); 12. A substantial factual basis existed for Applicant's guilty plea (Plea Tr. p. 10); 13. Applicant's plea was qualified as freely, voluntarily, and intelligently entered into (Plea Tr. p. 10); 14. Applicant entered his plea with the advice of Plea Counsel, with whom Applicant indicated he was satisfied with and against whom he had no complaints (Plea Tr. p. 10).

*INEFFECTIVE ASSISTANCE OF PLEA COUNSEL ALLEGATIONS*

- Allegation 1:** Plea Counsel failed to adequately explain the initial plea offer to Applicant, and had Plea Counsel explained the offer sufficiently, Applicant would have accepted it.
- Allegation 2:** Applicant coerced into pleading guilty based on Plea Counsel's failure to explain initial offer.

Applicant alleges Plea Counsel rendered ineffective assistance of counsel. Specifically, the Applicant avers that he was not fully informed of the first plea offer and that, had Plea Counsel thoroughly explained to him what "sixty-five percent" meant, he would have accepted the offer. Additionally, Applicant alleges his plea was entered into involuntarily, as his plea was coerced based on Plea Counsel's inadequate advice concerning his initial offer.

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, 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. This Court finds this allegation is without merit.

A defendant has the right to effective assistance of counsel during the plea-bargaining process. Davie v. State, 381 S.C. 601, 675 S.E.2d 416 (2009) (abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018)). "The United States Supreme Court has held that 'defense counsel has the duty to communicate formal offers from the prosecution to accept a plea on terms and conditions that may be favorable to the accused.'" Collins v. State, 422 S.C. 250, 261, 810 S.E.2d 871, 876 (2018) (quoting Missouri v. Frye, 566 U.S. 134, 145 (2012)); see also Lafler v. Cooper, 566 U.S. 156, 169–70 (2012) (rejecting proposition that a fair trial wipes clean any deficient performance by defense counsel during plea bargaining). Generally, defense counsel provides deficient performance when he or she does not communicate such an offer to the defendant. Frye, 566 U.S. at 145.

"This Court has repeatedly acknowledged that normally, parole eligibility is a collateral consequence of sentencing of which a defendant need not be specifically advised before entering a guilty plea." Randall v. State, 356 S.C. 639, 641, 591 S.E.2d 608, 610 (2004). However, where counsel actively and grossly misinforms an applicant of a collateral consequence, and the applicant relies on that misinformation, they are deprived of their right to constitutional counsel and their plea is rendered involuntary and unintelligent. Griffin v. Martin, 278 S.C. 620, 621–22, 300 S.E.2d 482, 483 (1983) (citing Strader v. Garrison, 611 F.2d 61 (4th Cir. 1979)).

### Marion County Hearing

At the Marion County hearing, A.S. Richardson informed the plea court of the plea offer he made to Applicant:

Based on the nature of the circumstances and trying to protect this child somewhat, I made an offer of a 15-year sentence on a CSC minor third degree. And that was going to be a negotiated 15, which would have involved sex offender registry and GPS monitor upon release, that would have been a violent serious offense . . . .

(Marion Tr. p. 4).

The following colloquy occurred among the plea court, A.S. Richardson, and Applicant for the benefit of Applicant being fully informed of the plea offer and the consequences of refusing it:

THE COURT: All right. In order for [Applicant] to be fully aware of what the plea offer was and ramifications of his refusal to accept that, how much time is he expose to?

A.S. RICHARDSON: The two charges that he has pending are both up to 20 years, no parole. So he's got a total exposure of 40 years, no parole in the department of corrections. And those would also carry sex offender registry, which would essentially be a lifetime because even under that new law he wouldn't be able to apply to get removed from the registry for another 25 years.

THE COURT: Right. Yes, sir, your full name?

APPLICANT: Christopher Eric Bennett.

THE COURT: [Applicant], do you understand the amount of time that you're exposed to and what the plea offer was? Do you understand that?

APPLICANT: Yes, sir, if I may speak?

THE COURT: Well, let me ask you some questions first.

APPLICANT: Yes, sir.

THE COURT: And you understand that the offer has been made that you -- it's a negotiated 15 years if you'd enter the plea, you get 15 years. You wouldn't get a day more or a day less. You understand that?

APPLICANT: Yes, sir.

THE COURT: There also collateral consequences with GPS or the sex offender registry and a monitor. You understand that?

APPLICANT: Well, that part I don't understand the monitor, the GPS. Could you go into a little bit more detail with that?

THE COURT: As I understand it, it's -- it would be what a lifetime.

A.S. RICHARDSON: It goes right with sex offender registry. It's a component of that offense where upon release the defendant has a GPS monitor placed on them to where ---

THE COURT: They monitor his whereabouts?

A.S. RICHARDSON: Right.

THE COURT: All right. Do you understand ---

A.S. RICHARDSON: That's for the plea and for the ---

THE COURT: Yes.

APPLICANT: You saying the plea would be up to 15 years on it?

THE COURT: Right. Is it a negotiated 15 years or is it up to 15 years?

A.S. RICHARDSON: It's a negotiated 15 years on the plea. And I think he was asking about the monitor. The monitor doesn't come into play until after release from incarceration, and then that's just on there until a court sometime in the future would take him off, but that you have would be about 25 years after that.

THE COURT: Right. Do you understand all of that?

APPLICANT: Yes, sir.

(Marion Tr. pp. 4-7).

### **Guilty Plea Hearing**

At the guilty plea hearing, A.S. Richardson informed the plea court that Applicant did not have a prior record and that Applicant's case "was just a tragic case with difficult consequences for everybody[.]" (Plea Tr. p. 9).

### **PCR Evidentiary Hearing**

On direct examination, Applicant testified that his initial posture was a jury trial. (PCR Tr. p. 8). Applicant testified that when he and Plea Counsel first talked, they had only met once and that the majority of their communication occurred over the phone. (PCR Tr. p. 8). Applicant testified that Plea Counsel initially told him that the maximum sentence was twenty years and that he was working with A.S. Richardson to get Applicant a better deal than the maximum sentence. (PCR Tr. pp. 8-9). Applicant testified that Plea Counsel returned with a plea deal that involved

fifteen years on a third-degree nonviolent charge.<sup>3</sup> (PCR Tr. p. 9). Applicant testified that his sentence was classified as eighty-five percent, with no chance of parole, and without any of the benefits that he would have otherwise received. (PCR Tr. p. 11). Applicant testified that because he had never been in jail before, he did not understand the classification or degree, but that he now knew that the characterization of a crime determines the amount of time served. (PCR Tr. p. 9).

Applicant testified that Plea Counsel advised him that he would give him specifics on the initial plea offer at the courthouse. (PCR Tr. pp. 9–10). Applicant testified that he believed he would have a chance to discuss particulars of the initial plea with Plea Counsel and his family, but he did not get the chance. (PCR Tr. p. 10). Applicant testified that Plea Counsel told him the offer was for fifteen years, that he was in shock, and that he reminded Plea Counsel that he had said he would try to get him a better deal. (PCR Tr. p. 10). Applicant testified he also reminded Plea Counsel that Plea Counsel told him they would talk about the offer, what it entails, and what the third degree is. (PCR Tr. p. 10). Applicant testified that he never thought that the plea offer would increase because he and Plea Counsel never discussed that possibility. (PCR Tr. p. 10).

Applicant testified that he accepted the second plea deal and received a twenty-year sentence because he felt like he had no choice. (PCR Tr. pp. 10, 11). Applicant testified that he had not been in the system before, which he felt was the reason why he missed out on a better plea deal and received the twenty-year plea deal instead. (PCR Tr. p. 14).

On cross-examination, Applicant testified that at no point did he desire to proceed to trial. (PCR Tr. p. 15). Applicant testified that he was in a state of shock at the time of the plea, which affected his responses to the plea court. (PCR Tr. pp. 15–16). Applicant testified that he was able

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<sup>3</sup> A.S. Richardson informed the plea court at the Marion hearing that the third-degree charge was a "violent serious offense." (Marion Tr. p. 4).

to address the plea court despite being in shock and that he made a statement of guilt to the plea court. (PCR Tr. p. 16).

On direct examination, Plea Counsel testified that he had met with Applicant three to four times and had also had various phone calls. (PCR Tr. p. 18). Plea Counsel testified that he reviewed discovery with Applicant and explained the charges and their elements to Applicant. (PCR Tr. p. 18). Plea Counsel testified that he discussed with Applicant his extensive plea negotiations with A.S. Richardson. (PCR Tr. p. 19). Plea Counsel testified that he was trying to limit the negative consequences that Applicant could face. (PCR Tr. p. 19). Plea Counsel testified that the State's plea offer bounced around between fifteen years and twenty years. (PCR Tr. p. 19). Plea Counsel testified that he and A.S. Richardson ultimately settled on the Alford plea, and Applicant accepted it. (PCR Tr. p. 19). Plea Counsel testified that Applicant agreed to the Alford plea because he knew what the effect of going to trial would be based on the evidence, and Applicant did not want to go through with that. (PCR Tr. p. 19). Plea Counsel testified that Applicant never expressed to him that he wanted to go to trial. (PCR Tr. p. 20).

On cross-examination, Plea Counsel testified that he represented Applicant for approximately six months to a year and that he went to the jail in Marion County to see Applicant numerous times. (PCR Tr. pp. 23–24, 26). Plea Counsel testified that he had the discovery for a "significant amount of time" while he was discussing the case with A.S. Richardson. (PCR Tr. p. 21). Plea Counsel testified that Applicant's case was not an easy case to defend, especially based on the DNA evidence that Applicant was the father of the minor victim's child. (PCR Tr. pp. 21–22, 24). Plea Counsel testified that A.S. Richardson was not willing to lower the offer because of the facts of the case. (PCR Tr. p. 22). Plea Counsel testified that he did not recall if he advised Applicant to take the fifteen-year offer. (PCR Tr. p. 23). Plea Counsel testified that the offer

ranged from fifteen to twenty years before the DNA results were received and that after the DNA results were available, A.S. Richardson no longer wanted to negotiate. (PCR Tr. pp. 25-26, 27). Plea Counsel testified that he did not communicate to Applicant what the ramifications of the DNA results would be for the Applicant's case because he did not know the results of the DNA test. (PCR Tr. p. 26). Plea Counsel testified that he did not recall what the fifteen-year offer would have been characterized as. (PCR Tr. p. 27). Plea Counsel testified that Applicant's situation would have been better if he had accepted the initial offer, and Applicant relied on his advice. (PCR Tr. p. 28).

On redirect examination, Plea Counsel testified that the only plea offer was the one Applicant accepted. (PCR Tr. p. 28). Plea Counsel testified that no other plea offer was made that was not communicated; only the twenty-year plea offer was made. (PCR Tr. p. 28).

On direct examination, A.S. Richardson testified that the copies of e-mails between him and Plea Counsel from August 2023 concerning plea offers accurately reflected their communications. (PCR Tr. p. 31; Def. Exh. 1). A.S. Richardson testified that Applicant's case was a DNA case and that the DNA evidence was overwhelming, which is why the plea offers were so high. (PCR Tr. p. 32). A.S. Richardson testified that the DNA evidence was out for a long time before the first plea offer was made. (PCR Tr. pp. 34, 35). A.S. Richardson testified that Applicant's case was CSC with a minor and that he always tries to do something to prevent children from having to testify in such cases. (PCR Tr. p. 32). A.S. Richardson testified that he initially made a plea offer of a fifteen-year sentence on a charge of CSC with a minor, third degree, to Plea Counsel. (PCR Tr. p. 32).

A.S. Richardson testified that Applicant and Plea Counsel met in the jury room on the day of the Marion County hearing and that Plea Counsel exited the jury room with a look on his face

and said that Applicant was not accepting the plea offer. (PCR Tr. pp. 32–33). A.S. Richardson testified that Applicant rejected the plea offer of fifteen years on the record, at which point, A.S. Richardson revoked the plea offer. (PCR Tr. p. 33). A.S. Richardson testified that he received an email on August 14, 2023, from Plea Counsel that said that Applicant wanted to take a deal and that A.S. Richardson should call Plea Counsel back to discuss a plea deal. (PCR Tr. p. 33).

A.S. Richardson testified that, considering the strength of the case and that Applicant rejected the plea offer, he was not going to make an offer below fifteen years. A.S. Richardson also testified that Victim's family did not want to go below fifteen years and did not want the fifteen-year plea offer from the start. (PCR Tr. p. 34). A.S. Richardson testified that he sent an email to Judge DeBerry on August 14, 2023, indicating to him what Applicant's case was about, that Applicant had rejected the plea offer, and that he intended to call the case for trial during the November term of court in Marion County. (PCR Tr. p. 34). A.S. Richardson testified that he copied Plea Counsel on the email and that Plea Counsel replied, referencing the updated offer. (PCR Tr. p. 34). Specifically, A.S. Richardson testified that Plea Counsel responded, "If Chris agrees to plea, he would only be pleading to one count of CSC second with a 20-year sentence, correct?" (PCR Tr. p. 34).

On cross-examination, A.S. Richardson testified that the fifteen-year deal would have been extremely beneficial compared with the twenty-year deal. (PCR Tr. p. 36). A.S. Richardson testified that he recalled that, prior to the Marion hearing, Plea Counsel and Applicant were discussing for long enough for him to realize that Applicant was likely not going to accept the offer. (PCR Tr. p. 37). A.S. Richardson testified that he did not know the contents of Plea Counsel's and Applicant's private discussions, but there was enough on the record to make him comfortable that everybody understood. (PCR Tr. p. 38).

On recall examination, Applicant testified that he recalled discussing with Plea Counsel prior to the Marion hearing, but Plea Counsel did not go into the detail that A.S. Richardson did. (PCR Tr. p. 39). Applicant testified that Plea Counsel did not explain the fifteen-year plea deal and did not explain the alternative deal he pled to. (PCR Tr. p. 41). Applicant testified that Plea Counsel gave him a paper that stated the fifteen-year plea deal and told him that it was a good deal and to sign it; Applicant testified that he glanced at it. (PCR Tr. pp. 39, 42). Applicant testified that Plea Counsel told him it was a fifteen-year offer "blah blah," and that Applicant told Plea Counsel that he still had questions about it. (PCR Tr. pp. 39-40). Applicant testified that Plea Counsel stated, "We here now we need to go ahead and do this," and the conversation went back and forth like this for fifteen minutes. (PCR Tr. pp. 40, 42).

Applicant testified that Plea Counsel did not explain in detail what sixty-five percent meant, and he believed it meant he would serve thirteen to fourteen years. (PCR Tr. p. 42). Applicant testified that he later learned that sixty-five percent meant he would have to serve approximately seven years, considering credits, school, and other factors. (PCR Tr. p. 42). Applicant testified that when he spoke with Plea Counsel at the Marion County hearing, he never realized that if he did not take the fifteen-year plea deal, then he could get a worse plea deal. (PCR Tr. p. 43). Applicant testified that Plea Counsel never explained that he could get a worse plea offer because it was anticipated that Applicant would take the fifteen-year deal, "so why would you even bring up 20?" (PCR Tr. p. 43).

On cross-examination on recall, Applicant testified that Plea Counsel told him that fifteen years was a good deal, but Applicant still chose to reject it. (PCR Tr. p. 43).

## Findings

As an initial matter, Applicant concedes that Plea Counsel communicated the initial fifteen-year offer with him and merely asserts that he was not adequately advised of (1) what serving sixty-five percent of the sentence meant, and (2) that if he rejected the offer, he would receive a harsher sentence. Based on the record and Applicant's testimony, this Court finds that Plea Counsel correctly advised Applicant of the pertinent terms of the initial plea offer, specifically, the negotiated fifteen-year sentence, the fact that it required Applicant to serve sixty-five percent of the sentence, and that he was pleading to Criminal Sexual Conduct of a Minor, Third Degree. Additionally, this Court finds that Applicant was aware of the strength of the evidence against him (*i.e.*, the damning DNA evidence that he was the father of the minor victim's child) and of the collateral consequences (*i.e.*, the GPS monitoring). Therefore, Applicant has failed in his burden to show that Plea Counsel actively and grossly misinformed him of the direct or collateral consequences of his plea; he cannot establish he was deprived of effective counsel and that his plea was involuntary or unintelligent. See Griffin, supra.

Further, this Court finds Applicant's testimony that he did not understand what "sixty-five percent" meant, and that Plea Counsel's inadequate advice induced him to plead is **not credible**. Applicant testified that, prior to the Marion hearing, he and Plea Counsel spoke for fifteen minutes regarding the offer, and Plea Counsel explained that the offer was for fifteen years, was sixty-five percent, and advised him to accept it. Applicant stated that his lack of a criminal record did not allow him to understand what sixty-five percent of the sentence meant. It is beyond this Court how a high school graduate, with a technical degree, who owned a business, cannot comprehend what sixty-five percent of fifteen years means. Moreover, Applicant testified that he had asked Plea Counsel multiple times about the sixty-five percent, but Plea Counsel did not answer

adequately, and he still had questions. However, the transcript from the Marion hearing indicates that the only question Applicant had regarding the initial plea offer concerned GPS monitoring; at no point did he ask the plea court about the sixty-five percent when he had the opportunity to do so.

Second, Applicant testified that had he known that the State would not offer him a lesser sentence, he would have accepted the fifteen-year offer, and that Plea Counsel failed to advise him that he could receive a harsher sentence if he rejected the plea offer. However, Plea Counsel **credibly** testified that he discussed Applicant's plea negotiations with Applicant, including that the offer ranged from fifteen to twenty years. A.S. Richardson **credibly** testified that the DNA results were available before the fifteen-year offer, referencing the emails between him and Plea Counsel (Def. Exh. 1). Further, Applicant testified that Plea Counsel strongly advised him to take the fifteen-year offer. Applicant also testified that he told Plea Counsel that fifteen years was a long time, indicating that was his reason for rejecting the fifteen-year offer. Moreover, it is axiomatic that where the State makes a favorable plea offer, and there is overwhelming evidence of guilt, rejection of that offer will not result in more favorable offers in the future.

Plea Counsel's lack of memory concerning the fifteen-year offer Applicant rejected is not in itself indicative that he failed to discuss this issue with Applicant, especially where the record and Applicant's own testimony indicate there were discussions and Applicant understood. See Hinson v. State, 297 S.C. 456, 377 S.E.2d 338 (1989) (Defense counsel's testimony that he could not recall advice to Applicant is not dispositive plea was induced by erroneous advice). It appears that Applicant rejected the fifteen-year offer, against the advice of Plea Counsel, based on the fifteen-year sentence being too long and on his apprehension of GPS monitoring, and now regrets his decision, as he ultimately pled to a longer sentence.

This Court finds that Plea Counsel correctly and adequately explained the initial offer to Applicant, advised Applicant to take the favorable plea offer, and Applicant elected to reject the offer based on his displeasure with the terms of the offer and not based on Plea Counsel's erroneous advice. Additionally, this Court finds that Applicant's plea was entered freely, voluntarily, and knowingly, and that he was not coerced into pleading guilty by Plea Counsel's allegedly erroneous advice. Notably, Plea Counsel negotiated a twenty-year offer to an Alford plea on Applicant's behalf, despite overwhelming evidence of Applicant's guilt. This Court firmly believes that, had Applicant chosen to proceed to trial, the outcome would undoubtedly have resulted in the maximum penalty based on the compelling facts of his case.

Based on the foregoing, this Court finds 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 that Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Additionally, this Court finds that Applicant's plea was entered into voluntarily, intelligently, and knowingly. Thus, Applicant's request for relief by way of this allegation is **DENIED** and **DISMISSED**.

[CONCLUSION PAGE FOLLOWS]

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.**

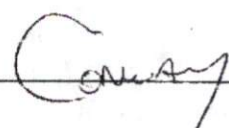
This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), 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.

AND IT IS SO ORDERED this 6 day of JAN., 2026

  
B. ALEX HYMAN  
Presiding Judge  
Twelfth Judicial Circuit

  
\_\_\_\_\_, South Carolina