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S.C. SUPREME COURT

NOTICE OF APPEAL FROM A PCR DENIAL BY THE COURT OF COMMON PLEAS

THE STATE OF SOUTH CAROLINA
In Supreme Court of SC

APPEAL FROM CLARENDON COUNTY
Court of Common Pleas

H. Steven DeBerry, IV, Circuit Court Judge

Case #2023-CP-14-00248

The State, Respondent,

v.

Tammy D. Brown Appellant.

NOTICE OF APPEAL

Tammy D. Brown, appeals the decision of the Court, in the order dated January 15, 2026, received by counsel on March 23, 2026, where Ms. Brown was denied her request for Post-Conviction Relief. Ms. Brown was represented at the hearing by Timothy L. Griffith, Attorney at Law who files this notice on behalf of the Appellant. The order herein attached and a copy of which is also forwarded to the SCCID Appellate Division.

Dated 3/24/26

Timothy L. Griffith, Esquire
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CLARENDON, SC 29154
Telephone: (803) 499-2012
Attorney for Appellant (relieved)
Will not be representing on appeal

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STATE OF SOUTH CAROLINA COUNTY OF CLARENDON	)	IN THE COURT OF COMMON PLEAS FOR THE THIRD JUDICIAL CIRCUIT
Tammy D. Brown, SCDC #376555, Applicant, v. State of South Carolina, Respondent.	)	Case No. 2023-CP-14-00248 **ORDER OF DISMISSAL**

INTRODUCTION

The matter before this Court is an action for post-conviction relief (PCR) commenced by Tammy D. Brown ("Applicant") on July 14, 2023. On August 18, 2025, a hearing into the matter was convened before the Honorable H. Steven DeBerry, IV, at the Sumter County Courthouse. Applicant was present and represented by Timothy L. Griffith, Esquire. Assistant Attorney General Cruise Mitchell represented the State. At the evidentiary hearing, testimony was taken from Applicant, Charles D. Barr, Esquire ("Counsel"), and Christopher R. DuRant, Esquire ("Solicitor").

After hearing the testimony at the PCR hearing and upon full review of the record, this Court finds Applicant's allegations regarding ineffective assistance of counsel are without merit. For the reasons discussed below, this Court denies relief and dismisses this action with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Clarendon County Clerk of Court. During its December 2014 term, the Clarendon County Grand Jury indicted Applicant for felony driving under the influence,

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death results and felony driving under the influence, great bodily injury results (2014-GS-14-0408, Counts 1&2). Applicant was represented by Charles David Barr, esquire. The case was prosecuted by Assistant Solicitors Christopher DuRant and Hugh McMillian.

On May 14-18, 2018, Applicant proceeded to trial before the Honorable R. Ferrell Cothran Jr., and a jury. The jury found Applicant guilty as indicted. On May 18, 2018, Judge Cothran Jr. sentenced Applicant to fifteen years imprisonment for felony driving under the influence, death results and twelve years' imprisonment for felony driving under the influence, great and bodily injury results. Applicant filed a timely notice of appeal. The appeal was perfected by Appellate Defender Adam S. Ruffin. In a published opinion, the South Carolina Court of Appeals affirmed Applicant's conviction. *State v. Brown*, 436 S.C. 505, 873 S.E.2d 445 (Ct. App. 2022), reh'g denied (June 23, 2022), cert. denied (June 27, 2023). Applicant filed a petition for rehearing which was denied on June 23, 2022. Applicant filed a petition for writ of certiorari in the Supreme Court which was denied on June 27, 2023. The remittitur was submitted on June 28, 2023.

Facts[1]

Just before midnight on August 30, 2014, Appellant drove her White Hyundai Tiburon east on Highway 261 from Paxville towards Manning. (R. 212). Around the same time, Guillermo Lopez-Arenas was driving a black Dodge Dakota pickup truck along with his passenger Arturo Murrieta-Blas. The black truck turned from Home Branch Road onto Highway 261 to head east. As the black pickup turned, Appellant's vehicle collided with the rear end of the pickup and caused the truck to crash into a tree. (R. 274, 467, 703). Arenas was pronounced dead on the scene by Coroner, Hayes Samuels. (R. 220-21, 327-28). Blas was transported by helicopter to the hospital

[1] This section was summarized from the Statement of the Facts presented in the Final Brief of Respondent from Applicant's direct appeal. (FBOR.pp.3 – 5).

in Florence where he underwent emergency surgery. (R. 194-97, 220-21). Blas spent the next two months in the hospital. (R. 195).

The driver of the white Hyundai was identified as Appellant. (R. 209). When Trooper Jeffrey Minnix of the South Carolina Highway Patrol arrived at the scene of the wreck, Appellant was already in the back of an ambulance receiving treatment from EMS. (R. 209). Minnix positioned his car as close as possible to the wreck but was unable to get very close because of the way the vehicles of other first responders were parked at the scene. (R. 203). Because of the distance of Minnix's car from the ambulance and the limited capabilities of his car's camera system, Minnix's interaction with Appellant was not recorded. (R. 207-09). Minnix interviewed Appellant in the back of the ambulance. (R. 216-17). While interviewing Appellant, EMS informed Minnix that Appellant needed to be transported to the hospital. Therefore, Minnix did not request Appellant to perform any field sobriety tests. (R. 95, 219). Minnix observed that Appellant's eyes were bloodshot and she had an odor of alcohol coming from her person. (R. 216-17). Appellant initially told Minnix she had consumed two shots of tequila, but then revised her statement and said she drank wine coolers instead. (R. 205, 217-18). Appellant admitted that the clear cup in the floorboard of her car previously contained a wine cooler that her friend made her for the road. (R. 205).

Appellant was transported to Clarendon Memorial Hospital for evaluation. At the hospital, she was interviewed again by Minnix and Trooper Paige Dubose. (R. 222, 314-15). Appellant was placed under arrest at the hospital and was read her Miranda rights and her implied consent rights. (R. 224, 315, 708). Appellant declined to voluntarily provide Minnix and Dubose with a blood sample. (R. 225). Minnix remained with Appellant at the hospital while Dubose left to obtain a search warrant for Appellant's blood sample from the on call magistrate. Dubose met with Judge

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Robin Locklair at Locklair's home where she provided sworn oral testimony to establish probable cause for the search warrant. (R. 152-53, 318-19). Judge Locklair issued the search warrant. (R. 154, 704-07).

Dubose returned to the hospital with the search warrant and Minnix asked for the assistance of hospital phlebotomist, Angela Floyd, to draw the blood sample. (R. 228). Minnix utilized the SLED blood and urine collection form to inform Appellant of her right to an independent blood sample. (R. 228-32, 702). Appellant refused to sign the blood collection report. (R. 231, 324). Two vials of Appellant's blood were collected and given to Minnix. (R. 234, 381-83). The portion of the blood collection report regarding Appellant's right to an independent blood test was checked in error by Floyd. (R. 378-79, 384, 702). According to Floyd, Minnix, and Dubose, Appellant never requested an independent blood sample in their presence. (R. 232-33, 325-26, 380, 385). Appellant acknowledged at trial that she never made a direct request to law enforcement for an independent sample. (R. 167). Appellant's blood was transported to SLED where it was analyzed by forensic toxicologist Kelly Budgen. According to Budgen's analysis, Appellant had a .210 blood alcohol concentration. (R. 423).

At trial, the State called Lance Corporal Bryan Ridgeway of the South Carolina Highway Patrol as an expert witness in accident reconstruction. (R. 465-66). The speed limit in the intersection where the accident occurred was 45 miles per hour. (R. 212-14). Ridgeway estimated that Appellant's vehicle was traveling at 64.6 miles per hour when she began to break and 55.92 miles per hour when her vehicle hit the black pickup truck. (R. 511, 513). According to Ridgeway, the wreck would not have occurred if Appellant had been traveling within the posted speed limit. (R. 531). Appellant was convicted of both counts at the conclusion of trial.

CURRENT APPLICATION

In her application for post-conviction relief, Applicant alleges she is being held in custody unlawfully based on the following:

1. Ineffective Assistance of Counsel
   a. "Did not submit sufficient evidence."
2. "Tampered evidence."
   a. "Not allowed independent blood test when asked for recording of speed limit from SCDOT."
   b. "Based on how evidence I am innocent."
3. "Bias by Judge."

Applicant amended her application to include the following allegations:

1. Ineffective Assistance of Counsel
   a. Trial Attny did not submit proof that the speed limit sign was 55 and not 35 as the state claimed even though the jury went to the scene. Did not focus on the speed limit sign.
   b. Trial Attny did not reject jurors who informed the Court that they were related to the Assistant Solicitor.
   c. Appointed, but not trial Attny, King Cutter of the Clarendon Co PD office, did not represent her as appointed to do so, at the magistrate level case for failure to wear a seatbelt. At that hearing the Judge said there was no proof but Mr. Cutter has her pay the fine anyway.
   d. Her attorney did not show her the urine sample data or discuss it with her? There was a break in the chain of custody as to the urine sample. Did not match original case numbers.
   e. (See case for Adam Rowell, or Mayfield Edwards and co-defendants PCR by Shawn Kent), Talbert McKinsey the CO who had signed her into the jail was also allowed to be on the jury with no objection by her Trial attorney.
   f. APPEAL ATTNY (Adam Sinclair Ruffin) – did not use the speed limit recording from SCDOT. Tammy had recorded the SCDOT telling her the speed limit was 55 there.
2. Prosecutorial Misconduct
   a. Assistant Solicitor Durant convinced nurse who had checked the box at the hospital showing Defendant wanted an independent blood test, to testify that she had checked the box by accident, when independent blood sample was not taken from defendant to be tested independently. The trial was almost four years after the fact and nurse testified under the influence of the Assistant Solicitor.
   b. Assistant Solicitor did not get the warrant or affidavit signed by a judge and he himself signed the affidavits and warrant, and the judge in the case said the warrant was deficient.
   c. Abuse of discretion by the Assistant Solicitor in that they did not present the urine sample or the analysis of it.

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d. Speeding was not in evidence and SOL brought it up in opening and closing and Mr. Barr did not object.
e. EMS who attended scene was on the jury.
f. APPEAL ATTORNEY ineffective
g. Did not submit issues pointed out by the Applicant.

3. Judicial Misconduct
   a. Judicial Bias : The trial Judge did not recuse himself even though he had lost family members to a drunk driver. Attnys had conf with Judge and came out and said the AT Gen said the speed limit was not 55 it was 35.
4. New Evidence
   a. A recording, from an SCDOT (appeal attorney should have this as provided by Ms. Brown) employee stating the actual speed limit at the location which is different from what was presented in Court. This was sent to her Appeal attorney so should be in his possession.

Applicant requests relief as follows:

"Time serve, sentence reduction."

Before this Court are the Clarendon County Clerk of Court records regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the trial transcript, the records from Applicant's direct appeal, and the records of the current PCR action.

INEFFECTIVE ASSISTANCE OF COUNSEL, GENERALLY

In a PCR action, Applicant bears the burden of proving the allegations in his application by a preponderance of the evidence. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985); Rule 71.1(e), SCRCP. Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel's performance was deficient. *Strickland*, 466 U.S. at 687; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its

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"reasonableness under prevailing professional norms." *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Id.* (citing *Strickland*, 466 U.S. at 690). "When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109–10 (2011). "[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight." *Yarborough*, 540 U.S. at 6; *see also Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) ("[C]ounsel's performance need not be optimal to be reasonable.").

Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 694). "This does not require a showing that counsel's actions 'more likely than not altered the outcome,' but the difference between *Strickland*'s prejudice standard and a more-probable-than-not standard is slight and matters 'only in the rarest case.'" *Harrington*, 562 U.S. at 111-12 (quoting *Strickland*, 466 U.S. at 697). "The likelihood of a different result must be substantial, not just conceivable." *Id.* at 112.

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on

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the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696–97.

FINDINGS OF FACT & CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the PCR hearing, observed the witnesses, passed upon their credibility, and weighed their testimony accordingly. After hearing the testimony presented and considering the legal arguments by counsel, as well as the record in this action incorporated by way of the State's return, this Court proceeds to the claims raised in the application and finds each to be without merit. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings of facts and conclusions of law based upon all of the probative evidence presented.

Counsels' Alleged Failure to Submit Proof the Speed Limit was 55 mph and Newly Discovered Evidence

Applicant alleges Counsel was ineffective for failing to submit proof that the speed limit sign was 55 and not 35 as the state claimed even though the jury went to scene. Applicant also alleges Appellate Counsel Adam Ruffin was ineffective for failing to use an alleged recording from a SCDOT employee stating the speed limit was 55 mph. Applicant contends this recording is newly discovered evidence. These allegations are without merit.

1. PCR Testimony

At the evidentiary hearing, Applicant testified she lived on the road where the incident occurred her entire life. She stated the speed limit is 55 mph, then goes down to 45 mph before Highway 15. She explained she was never cited for speeding and she was traveling the speed limit at the time of the collision. She further claimed she was in possession of a recording of an SCDOT employee stating the speed limit on that road was 55 mph.

Counsel Barr testified that the speeding issue was problematic for the defense. He noted that the MAIT team witness was very good and testified that Applicant had been traveling at an estimated speed of 65 mph. Counsel further explained that the collision bent the victim's truck chassis into an L-shaped, creating a visually damaging impression for the defense.

Solicitor DuRant testified that the collision occurred on the highway to Manning/Pikesville. He indicated that a yellow sign in that area displayed a reduced speed of 45 mph. He further explained that there was a dispute as to whether the yellow sign was merely advisory or constituted an actual reduction of the speed limit. Solicitor testified he recalled an Attorney General's opinion concluding that such a sign does, in fact, operate to reduce the speed limit.

2. Discussion

This Court finds Counsel was not deficient for failing to properly address the speed limit issue. At Applicant's trial, Counsel argued in his opening statement that he did not believe the evidence was going to show the speed limit was 45 mph and that "Ms. Brown was probably driving at a reasonable speed when she made contact with [victim's] vehicle." (R. 35). Counsel cross-examined Trooper Paige DuBose regarding the discrepancy in the posted speed limit, and successfully elicited testimony that speed was not a major factor in this case. (R. 362–365). Additionally, Counsel cross-examined Trooper Joseph Ham concerning the uniformity of speed

limit signage in South Carolina. (Trial Tr. p. 420–421). These cross-examinations aimed to create reasonable doubt regarding both the actual speed limit in the area and whether Applicant was exceeding it at the time of the collision. Additionally, Counsel requested that the jury visit the scene of the collision and explained in his closing argument that he wanted them to see that the posted speed limit was 55 mph just before the area of the collision. (Trial Tr. p. 698). This Court finds Counsel adequately addressed the issue of the speed limit during Applicant's trial; thus, he was not deficient.

Notwithstanding lack of deficiency, Applicant has further failed to prove prejudice as to this allegation. First, the evidence presented at trial clearly demonstrates that the speed limit where the collision occurred was 45 mph. Trooper Jeffrey Minix testified that, in the area where the collision occurred, SCDOT placed a cautionary speed limit sign lowering the limit to 45 mph from 55 mph. Minix further explained that it was against the law to travel faster than 45 mph in that area. (Trial Tr. pp. 234–235). MAIT reconstruction expert Bryan Ridgeway likewise testified the speed limit in this area is 45 mph. (Trial Tr. p. 527). Furthermore, although the SCDOT sign was not black and white and was posted as a cautionary speed limit, it nevertheless established the legal maximum speed at which a person may travel. *See Rochester v. Bussey*, 251 S.C. 347, 162 S.E.2d 841 (1968) (holding that "where 'M.P.H' sign was erected by Highway Department after Department determined that hazard existed which made speed in excess of that posted unsafe under average conditions, 35 miles per hour was maximum permissible speed...").

Next, the evidence at Applicant's trial showed she was traveling at least 64.67 mph before braking. (Trial Tr. pp. 554–555). Thus, even if her argument were correct and the speed limit was 55 mph, she was still exceeding it by nearly 10 mph. For these reasons, this Court finds Applicant

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has failed to show a reasonable probability the outcome of her trial would have been different had Counsel more thoroughly addressed the speed limit issue.

Accordingly, this Court finds this allegation is DENIED.

Regarding the allegations pertaining to the SCDOT recording, this Court finds both that Applicant has failed to meet her burden demonstrating Appellate Counsel Ruffin was ineffective and she has failed to make a prima facie case of newly discovered evidence. Applicant has failed to present any evidence of the alleged recording at the evidentiary hearing; thus, she has failed to prove prejudice as to this allegation. Furthermore, as stated above, the evidence at Applicant's trial showed she was traveling at 64.67 mph before braking, so any recording demonstrating the speed limit was 55 mph in that area would not have been beneficial to her defense. This Court finds Applicant has failed to meet her burden entitling her to post-conviction relief as to these allegations.

Accordingly, this Court finds these allegations are DENIED.

Counsel's Alleged Failure to Strike Jurors

Applicant alleges Counsel was ineffective for failing to reject jurors who informed the Court that they were related to the Assistant Solicitor. This Court finds this allegation is without merit. At Applicant's trial three potential jurors indicated they were in some way related to Solicitor DuRant. Juror number 21 explained that he and Solicitor were fourth or fifth cousins. (Trial Tr. p. 12). He swore he could be fair and impartial despite this relationship. (Trial Tr. p. 13). Juror number 124 explained he is family and friend of Solicitor. (Trial Tr. p. 13). He swore this relationship would not affect his ability to be fair and impartial. (Trial (Tr. p. 13). Juror number 6 explained that her husband and Solicitor's father are cousins. (Trial Tr. p. 13). This juror swore this relationship would not affect her ability to be fair and impartial. (Trial Tr. p. 13). Juror number

6 was struck by Counsel. (Trial Tr. p. 26). Juror number 123 testified he was working at the Clarendon County detention center while Applicant was incarcerated there. He testified he did not remember and no longer worked there at the time of trial. (Trial Tr. p. 17). He further swore this would not affect his ability to be fair and impartial. (Trial Tr. p. 17).

Here, all jurors affirmed to the trial court that their respective relationships with Solicitor would not affect their ability to be fair and impartial. Additionally, the juror who worked at the Clarendon County Detention Center testified he had no recollection of Applicant and his employment at the time would not affect his ability to be fair and impartial. Thus, this Court finds Applicant has not met her burden establishing Counsel was deficient for failing to strike them. Additionally, this Court finds Applicant has failed to prove she was prejudiced by any alleged deficiency. This Court finds Applicant has failed to "provide credible evidence that the trial attorney's refusal to strike a juror prejudiced the defense." *Palacio v. State*, 333 S.C. 506, 517, 511 S.E.2d 62, 68 (1999).

Accordingly, this Court finds this allegation is DENIED.

Counsel's Alleged Failure to Discuss Urine Sample and Failure to Object to Chain of Custody

Applicant alleges Counsel was ineffective for failing to discuss urine sample data with her and object to break in chain of custody as the urine and blood sample. This Court finds these allegations are without merit. At the evidentiary hearing, Applicant testified Counsel did not have the results of either the breath test or the urine sample. Applicant avers the urine sample was not signed and dated so it could have been mixed up.

As an initial matter, Applicant's urine sample was never admitted into evidence by the State and there is no evidence in the record that her urine was even tested. In fact, it can be inferred from the record Applicant's urine was not analyzed and Counsel was aware of that. (Trial Tr. p.

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130). Therefore, Applicant has failed to prove Counsel was deficient for failing to discuss the results of the urine sample.

Furthermore, to the extent Applicant is alleging Counsel was ineffective for failing to object to the chain of custody of the blood, this allegation is without merit. At Applicant's trial, Counsel objected to the break in the chain of custody (Trial Tr. p. 449) and moved to suppress the blood sample on the basis that the taking of the blood should have been videotaped (Trial Tr. p. 450). Therefore, this Court finds Counsel was not deficient for failing to object to the chain of custody.

Additionally, Applicant has failed to prove prejudice regarding this allegation. Applicant failed to present any credible evidence that the urine analysis would have aided her defense. Based on the evidence presented by the State at Applicant's trial, it is far more likely any urine analysis would have produced additional corroborating evidence of Applicant's intoxication. The State presented overwhelming evidence of Applicant's intoxication at the time of the collision. Law enforcement found a plastic cup on the floorboard of Applicant's vehicle that emitted a strong odor of alcohol. (Trial Tr. p. 225; 334). While in the back of the ambulance, Applicant stated to law enforcement that she had two shots of tequila but quickly changed her account to two wine coolers. (Trial Tr. p. 226). She also admitted that the plastic cup on the floorboard had contained a wine cooler she made for the road. (Trial Tr. p. 226). After she was transported to the hospital, a blood sample was collected and later analyzed by a forensic toxicologist, who determined her blood alcohol concentration was .210. (Trial Tr. p. 458). Therefore, this Court finds Applicant has failed to prove she was prejudiced as to this allegation. Thus, this Court finds Applicant has failed to prove prejudice as to this allegation.

Accordingly, this allegation is DENIED.

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Allegations of Prosecutorial Misconduct

Applicant makes various allegations of prosecutorial misconduct. First, Applicant alleges Solicitor DuRant coerced the nurse to testify that she mistakenly checked the box indicating Applicant requested an independent blood test. This allegation is without merit.

At Applicant's trial, the phlebotomist, Angela Floyd, testified to the following:

Q. Okay. And then this section here which is checked the correct one, only one can apply who fills that out?

A. They show us the boxes to check and we check those. And then I sign my name and then you print your name up under that.

Q. Okay. So you signed and print your name here. There's a check mark - - and then before you there, there's another box section down here - - with some other check marks and your name. Did you fill out this section?

A. You have to check off their, that would be my part checking off there.

Q. Okay. Now, let's go through that first. This is the part that you checked off here states the first one you checked is using a non-ethanol prep. A blood sample was collected into an unused uncontaminated vial and given directly to the arresting officer or to the subject requesting a sample for her - - his or her independent test after collection. You check that?

A. That was done in error.

(Trial Tr. pp. 398-399)

...

Q. Okay. How many of the check marks on this page in its entirety were made by you?

A. Three.

Q. Three. Okay. So there's one up here in this section that says correct the correct one. A blood sample was requested by the subject for his or her own independent test. And then down here about using the non-ethanol prep collected using uncontaminated vial. And then about the urine sample. You said one of them was made in error. Which one was made in error?

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A. Where the blood sample is requested by the subject for his or her own independent test.

(Trial Tr. p. 400).

Applicant avers that Solicitor DuRant improperly influenced Ms. Floyd into making this testimony. This is wholly without merit. At the evidentiary hearing, Solicitor testified he did not pressure Ms. Floyd to give false testimony. This Court finds Solicitor's testimony on this matter to be credible and Applicant's testimony not credible. This Court finds Applicant has failed to present any credible evidence demonstrating that Ms. Floyd gave false testimony or that Solicitor DuRant coerced her into doing so. Thus, this Court finds Solicitor DuRant did not engage in prosecutorial misconduct regarding the testimony of Ms. Angela Floyd.

Accordingly, this allegation is DENIED.

Applicant next asserts that Solicitor DuRant failed to obtain a judge's signature on the warrant and affidavit, claiming he signed them himself, and the trial judge later found the warrant deficient. This allegation is without merit. At the evidentiary hearing, Solicitor DuRant testified he did not sign the search warrant; rather, it was signed by the magistrate judge. During Applicant's pre-trial suppression hearing, Magistrate Judge Robin Locklair also testified that she signed and dated the search warrant. (Trial Tr. p. 180). The record therefore conclusively refutes this allegation.

To the extent Applicant is alleging the search warrant was defective, this issue was properly preserved for direct appeal and is therefore not a cognizable post-conviction relief claim. At Applicant's trial, Counsel moved to suppress the blood sample on the ground the search warrant was defective. (Trial Tr. p. 90). Solicitor DuRant acknowledged that the search warrant affidavit was facially defective but contended that it was properly supplemented with sworn oral testimony of law enforcement. (Trial Tr. pp. 198-199). The trial court agreed, finding that sufficient probable

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cause existed despite the facial defect. (Trial Tr. pp. 211-212). Therefore, this Court finds this issue was properly raised at Applicant's trial and was preserved for direct appeal.

Accordingly, this allegation is DENIED.

Applicant next argues that Solicitor DuRant committed prosecutorial misconduct by failing to present the urine sample or an analysis of it. This allegation is without merit. The record establishes that Applicant's urine sample was never analyzed. (Trial Tr. p. 130). Thus, no urine analysis existed for Solicitor DuRant to present. Moreover, as previously discussed, Applicant presented no evidence at the evidentiary hearing showing how any urine analysis would have benefitted her defense. Therefore, this Court finds she has failed to prove prejudice.

Additionally, even if a urine analysis had existed, prosecutors are entitled to present their cases as they see fit. *See Terry v. State*, 394 S.C. 62, 714 S.E.2d 326 (2011) (holding that prosecutor's decision not to introduce during guilt phase defendant's inculpatory statements to police officer was matter of prosecutorial discretion and strategy, and not prosecutorial misconduct.); *see also Old Chief v. U.S.*, 519 U.S. 172, 117 S.Ct. 644, 136 L.Ed.2d 574 (1997) (it is "unquestionably true as a general matter" that "the prosecution is entitled to prove its case by evidence of its own choice...").

Accordingly, this Court finds this allegation is DENIED.

Next, Applicant contends Solicitor DuRant improperly argued Applicant was speeding in his opening and closing arguments even though speeding was not in evidence. As previously discussed, this Court finds the State presented ample evidence that Applicant was speeding at the time of the collision.

Accordingly, this Court finds this allegation is DENIED.

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Allegation Regarding Seat Belt Violation and Alleged Ineffectiveness of King Cutter

Applicant alleges Counsel King Cutter, who represented her on her seatbelt/open container violations, was ineffective because there was allegedly no proof of the violation. Applicant was sentenced to a fine on this violation. Therefore, this Court finds Applicant was not entitled to a 6th Amendment right to effective assistance of counsel on violations that do not lead to actual imprisonment. *See Scott v. Illinois*, 440 U.S. 367, 99 S. Ct. 1158 (1979) (holding that the right to appointed counsel only applies to offenses that actually leads to imprisonment.).

Accordingly, this Court finds this allegation is DENIED.

CONCLUSION

Based on the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. This Court finds Counsel was not deficient in any manner, nor was Applicant prejudiced by Counsel's representation. Therefore, this Court denies relief on all allegations and dismisses this PCR action with prejudice.

Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review pursuant to Rule 203, SCACR. Applicant has a right to appellate counsel's assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. The application for post-conviction relief be denied and dismissed with prejudice; and
2. Applicant must remain in the custody of the State.

TND

AND IT IS SO ORDERED this 24 day of Nov., 2025.

H. STEVEN DEBERRY, IV
Presiding Judge
Third Judicial Circuit

Florence, South Carolina