NOTICE OF APPEAL FROM COMMON PLEAS REGARDING A POST CONVICTION RELIEF

RECEIVED
Apr 06 2026
S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM YORK COUNTY
Court of Common Pleas

Marvin H. Dukes, III, Circuit Court Judge

Case No. 2020-CP-46-01268

The State,.....Respondent,

Adam Shoop,.....Appellant,

Notice of Appeal

Adam Shoop appeals the order of the Honorable Marvin H. Dukes, III, dated February 27, 2026, which denied his application for Post-Conviction Relief with prejudice. Appellant received written notice of the order on April 3rd, 2026.

Ola Johnson, SC Bar No. 68563
PO Box 549
Lexington, South Carolina 29071
(803) 360-8692

Other Counsel of Record:
Zachary W. Jones
Post Office Box 11549
Columbia, SC 29211

(803)734-3737

ALAN WILSON
ATTORNEY GENERAL

March 9, 2026

The Honorable Angie Bryant
York County Clerk of Court
Post Office Box 649
York, SC 29745-0649

Re: **Adam Shoop, #381002 v. State of South Carolina**
2020-CP-46-01268

Dear Ms. Bryant:

Enclosed for filing please find the original Order of Dismissal signed by the Honorable J. Marvin H. Dukes III, in the above-captioned case. Please forward a time-stamped copy to our office.

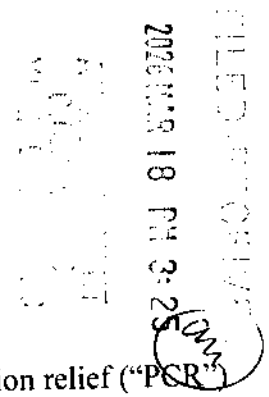
Sincerely,

Jordan Killough

Jordan B. Killough
Assistant Attorney General

JBK/bw
Enclosures

STATE OF SOUTH CAROLINA COUNTY OF YORK	)	IN THE COURT OF COMMON PLEAS FOR THE SIXTEENTH JUDICIAL CIRCUIT
Adam Shoop, #381002, Applicant, v. State of South Carolina, Respondent.	)	Case No. 2020-CP-46-01268 **ORDER OF DISMISSAL**



INTRODUCTION

The matter before this Court arises from an application for post-conviction relief ("PCR") commenced by Adam Shoop ("Applicant") on April 14, 2020, and amended on August 16, 2022; on November 28, 2023; on February 21, 2024; on July 31, 2024; and on February 3, 2025. On February 11, 2025, a hearing into the matter was convened before this Court at the Moss Justice Center in York, South Carolina. Applicant was present and represented by Ola A. Johnson, Esquire. Assistant Attorney General Zachary W. Jones represented the State. After hearing the testimony at the PCR hearing and upon full review of the record, this Court finds all of Applicant's allegations are without merit. For the reasons discussed below, this Court denies and dismisses this application with prejudice.

PROCEDURAL HISTORY

Applicant is presently incarcerated within the South Carolina Department of Corrections. During its July 2018 term, the York County Grand Jury indicted Applicant for two counts of Contributing to the Delinquency of a Minor (2018-GS-46-03443, 2018-GS-46-03442) and

Distribution of a Controlled Substance to a Person Under the Age of 18 (2018-GS-46-03445). Additionally, Applicant waived presentment to the Grand Jury of indictments for two counts of Assault and Battery of a High and Aggravated Nature (2019-GS-46-5033, 2019-GS-46-5034). Geoffry Dunn, Esquire ("Counsel"), represented Applicant, and Solicitor Erin M. Joyner, Esquire, and Solicitor Corissa Jolla, Esquire represented the State. On August 6, 2019, Applicant appeared in General Sessions Court for a trial before the Honorable William McKinnon, circuit court judge. After jury selection, and after pretrial motions regarding inclusion of prior bad acts under Rule 404(b) were heard and denied, Applicant pled guilty pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970). Judge McKinnon sentenced Applicant to seventeen years for each of the Assault and Battery of a High and Aggravated Nature charges, ten years for the Distribution of a Controlled Substance to a Person Under the Age of 18 charge, and three (3) years for each of the Contributing to the Delinquency of a Minor charges, all charges are to run concurrent.

A notice of appeal was filed on Applicant's behalf on August 15, 2019. The South Carolina Court of Appeals dismissed the appeal on October 11, 2019 for failing to provide sufficient written explanation that there was an appealable issue in the case pursuant to Rule 203 (d)(1)(B)(iv) of the South Carolina Rules of Appellate Procedure. The Remittitur was issued on October 29, 2019.

FACTUAL SUMMARY

At Applicant's guilty plea hearing, the solicitor summarized the facts as follows:

> If the State [had] proceeded to trial today we would have heard the testimony of Sky Shoop who is the defendant's biological daughter that during a time period of August 24th through March—August 2014 through March of 2015 which she was in the seventh grade . . . there were multiple occasions in which her father provided marijuana to her. In addition that on one particular evening he provided marijuana to her, alcohol, and that she consumed these items together in excess at which point she was sexually assaulted by her father including fondling, digital penetration, and penile penetration.

> Your Honor, she would have also testified regarding an incident that occurred in the summer of 2016 during the summer between her eighth and ninth grade years . . . and she was fourteen years old. On that occasion she was living . . . just across the border in North Carolina. She went dirt biking with her father; they came to an abandoned property that was just over the line located at 130 Highway 151 in Clover within York County and at an abandoned warehouse her father had sexual intercourse with her discarding a condom.
>
> As part of those facts, your Honor, she would have testified that prior to going dirt biking she was provided cocaine and thus that her father allowed her to go dirt biking . . . while under the influence of cocaine in addition to having sex with her first constituting also contributing.
>
> The State would have also presented the testimony of the officers who recovered a condom from that abandoned warehouse after learning about that potential evidence. In searching for that potential evidence after a March 2018 forensic interview would have presented testimony of the recovery of the condom and the results of the DNA testing which your Honor has heard in the pretrial hearing which found Mr. Shoop to be the major contributor inside the condom and the victim Sky Shoop to be the major contributor to the outside of the condom.

(Tr.pp.208–10).

CURRENT APPLICATION

In his initial application for post-conviction relief, Applicant alleged he is being held in custody unlawfully based on the following reasons:

1. "Prosecutorial Misconduct"
   a. "The Solicitor failed to correct false/perjured testimony from a witness who was on the stand during pretrial motion hearing."
2. "Ineffective Assistance of Counsel"
   a. "Defense Counsel failed to impeach the testimony and or the witness/victim on the stand during pretrial motion hearing"
   b. "Defense Counsel did not investigate witness nor did defense counsel subpoena any defense witnesses."
   c. "Defense Counsel failed to request a continuance in order to get more testing done."
   d. "Defense Counsel failed to speak with any experts in regards to any testing of evidence."
3. "Due to the duress I was under because of my Defense Counsel's failure to do multiple

things I asked for, I was forced into a plea agreement. My lawyer said that the solicitor wants a conviction and if I didn't take the plea that the solicitor will push for the maximum time allowed by law. So I pled out through the scare tactics laid upon me under duress. I was denied any and all remedies I sought from the very beginning."

As requested relief, Applicant states he is seeking his conviction be vacated, and to have his sentence set aside.

Applicant filed an amended application on August 16, 2022, raising the following allegations:

1. Counsel failed to discuss defense strategy or review evidence with Applicant;
2. Counsel failed to explain the details of Applicant's guilty plea and sentencing to Applicant;
3. Counsel failed to investigate the State's case;
4. Counsel failed to meet with Applicant a sufficient number of times;
5. Counsel failed to retain a DNA expert to review the State's evidence;
6. Counsel failed to meet with and call witnesses to aid in Applicant's defense at trial;
7. Counsel failed to notify Applicant of the need to provide a sufficient explanation under Rule 203, SCACR, to support his appeal.

Applicant filed a second amended application on November 28, 2023, raising the following allegation:

1. Counsel failed to meet with Applicant's sister, Mary Rose Michel, who attempted to give him information regarding exculpatory statements made by the victim, Sky Shoop, prior to Applicant's trial and guilty plea.

Applicant filed a third amended application on February 21, 2024, raising the following allegation:

1. Counsel failed to interview Danielle Susigan, the mother of the victim, who could provide information regarding inconsistencies in the victim's statements and could testify that, prior to Applicant's trial and guilty plea, the victim admitted to the solicitor that she lied about selling drugs for Applicant.

Applicant filed a fourth amended application on July 31, 2024, raising the following allegations:

1. Counsel failed to move to sever the charges;
2. Counsel failed to file a speedy trial motion and a motion to dismiss the charges;
3. Applicant requests permission to further amend his application to conform to the evidence

presented at the PCR hearing.

Applicant filed a fifth amended application on February 3, 2025, raising the following allegation:

1. Counsel failed to interview Raven Shoop, who had information that was relevant to aid in Applicant's defense.

At the outset of the evidentiary hearing on February 11, 2025, Applicant clarified that he would be proceeding on the following allegations, dropping all other issues:

1. Counsel coerced Applicant into entering a guilty plea;
2. Counsel failed to discuss defense strategy or review evidence with Applicant;
3. Counsel failed to explain the details of Applicant's guilty plea and sentencing to Applicant;
4. Counsel failed to investigate the State's case;
5. Counsel failed to meet with Applicant a sufficient number of times;
6. Counsel failed to retain a DNA expert to review the State's evidence;
7. Counsel failed to meet with and call witnesses to aid in Applicant's defense at trial;
8. Counsel failed to notify Applicant of the need to provide a sufficient explanation under Rule 203, SCACR, to support his appeal;
9. Counsel failed to meet with Applicant's sister, Mary Rose Michel, who attempted to give him information regarding exculpatory statements made by the victim, Sky Shoop, prior to Applicant's trial and guilty plea;
10. Counsel failed to interview Danielle Susigan, the mother of the victim, who could provide information regarding inconsistencies in the victim's statements and could testify that, prior to Applicant's trial and guilty plea, the victim admitted to the solicitor that she lied about selling drugs for Applicant;
11. Counsel failed to move to sever the charges;
12. Counsel failed to file a speedy trial motion and a motion to dismiss the charges.

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. Before the Court are the initial and amended applications for PCR, the records of the York County Clerk of Court concerning the subject convictions, the records of Applicant's pretrial motions and plea proceedings, and the records of Applicant's appeal. 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 finds all of Applicant's allegations are 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:

Ineffective Assistance of Counsel, Generally

In a PCR action, the 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, the 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 "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.* (quoting *Strickland*, 466 U.S. at 690). "When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he 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 he 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.

In the context of a guilty plea, the applicant must show there is a reasonable probability that, but for ineffective assistance of counsel, he or she would not have pled guilty but, instead, would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. *See Blackledge v. Allison*, 431 U.S. 63, 74 (1977) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible."). "Indeed, where a thorough colloquy is conducted, courts must exercise caution in setting aside the guilty plea." *Garren v. State*, 423 S.C. 1, 12, 813 S.E.2d 704, 712

(2018); *see Jamison v. State*, 410 S.C. 456, 469–71, 765 S.E.2d 123, 129–30 (2014) (observing that "guilty plea[s] must be treated as final in the vast majority of cases" and instructing that caution must be exercised so as not to "undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea"). Absent valid reasons why the applicant is entitled to depart from previous judicial admissions made at the plea hearing, statements made during the original proceeding remain conclusive. *Dalton v. State*, 376 S.C. 130, 137–38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

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

1. Coercion by Counsel

Applicant contends his guilty plea was not voluntarily entered but was the product of coercion by Counsel. The Court finds this allegation is without merit.

At the evidentiary hearing, Applicant testified that he pled guilty because he did not believe Counsel had called enough witnesses and because he was upset that Counsel had not obeyed Applicant's requests to retain a DNA expert or subpoena Applicant's sister, Mary Rose Michel. He testified that Counsel told him he could get consecutive maximum sentences if they lost at trial. Applicant testified that Counsel told him his best bet was to take the plea offer, but Counsel said the decision was up to Applicant.

Counsel testified at the evidentiary hearing that he warned Applicant the State's case

against him was strong, due to the DNA evidence connecting him to the condom found at the scene where the victim told police Applicant had sexual intercourse with her. Counsel believed the DNA evidence and the victim's testimony would probably persuade the jury to find Applicant guilty. Counsel also explained to Applicant that the solicitor would request the maximum sentence if Applicant were found guilty at trial.

The Court finds Applicant has not shown that his guilty plea was the product of coercion. Counsel acted reasonably in explaining to Applicant the risks of proceeding to trial, including the strength of the State's case and the high sentencing exposure Applicant was facing if he were to be found guilty. While these considerations certainly played a part in persuading Applicant to forego his trial and accept the State's plea offer, they do not amount to impermissible coercion. Counsel gave Applicant reasonable advice, and Applicant made the final decision. The Court notes that a jury had already been selected and pre-trial motions had already been heard by the time Applicant changed his plea to guilty, which further supports the conclusion that Counsel was willing to go ahead with trial if Applicant had chosen to do so. Moreover, the transcript reflects Applicant's solemn affirmation that it was his own free and voluntary choice to enter an *Alford* plea. (Tr.p.207, lines 6–14). "It is also well established that a guilty plea is not rendered invalid because it represents a compromise by defendant, thrusts a difficult judgment upon him, or is motivated by fear of greater punishment." *United States v. Cox*, 464 F.2d 937, 942 (6th Cir. 1972).

Applicant's other contention—that he only pled guilty because he did not feel that Counsel had done enough work on his case—appears to be based on Applicant's other allegations of ineffective assistance, each of which this Court finds meritless as discussed in greater detail below. Absent any objective deficiency or prejudice related to Counsel's conduct, Applicant's merely subjective dissatisfaction with Counsel's preparation for trial does not render his plea involuntary.

See United States v. Rodriguez-DeMaya, 674 F.2d 1122, 1128 (5th Cir. 1982) (holding district court properly found guilty plea was free and voluntary despite defendant's claim "that she feared that her court-appointed attorney would not defend her if she pleaded not guilty").

Accordingly, the Court finds this allegation meritless.

2. Failure to Discuss Strategy or Review Evidence with Applicant

Applicant next argues that his guilty plea was not voluntarily and intelligently entered because Counsel did not discuss any defense strategy or review any evidence with Applicant prior to trial. The Court finds this allegation is without merit.

Applicant testified that Counsel never discussed matters of defense strategy with him but simply sent him his case file in a box. Applicant claimed the only evidence Counsel showed him was the DNA report. Counsel, however, testified at the evidentiary hearing that he met with Applicant numerous times, went over the discovery with him, and frequently discussed the defense strategy, which Counsel explained was based on creating reasonable doubt in the minds of the jurors and poking holes in the victim's testimony.

The Court finds Counsel's testimony credible, and Applicant's contrary testimony not credible, as to this issue. Accordingly, the Court finds Applicant has not met his burden of proving that Counsel's performance was deficient as to this allegation. In addition, Applicant has not explained how further discussion of the evidence, or of defense strategy, would have caused him to change his mind about pleading guilty. Accordingly, the Court finds Applicant has failed to prove prejudice as well. For these reasons, the Court finds Applicant is not entitled to PCR on this ground.

3. Failure to Explain Details of Guilty Plea and Sentencing

Applicant next argues that his guilty plea was not voluntarily and intelligently entered

because Counsel did not explain that Applicant would be required to register as a sex offender, even though he pled to ABHAN instead of a criminal sexual conduct charge. The Court finds this allegation is without merit.

As a matter of law, Counsel had no obligation to inform Applicant about "collateral consequences" of his plea, including his placement on the sex offender registry. *See Page v. State*, 364 S.C. 632, 638, 615 S.E.2d 740, 743 (2005) ("[A] defendant's possible commitment under the Sexually Violent Predator Act is a collateral consequence of sentencing pursuant to a guilty plea or a conviction. Therefore counsel was under no obligation to inform Petitioner of possible commitment under the SVPA."); *Williams v. State*, 378 S.C. 511, 516, 662 S.E.2d 615, 618 (Ct. App. 2008) ("[R]egistration on the sexual offender registry is a collateral consequence of Williams' sentencing. Consequently, Williams' trial counsel was not ineffective . . . .").

Furthermore, the plea court itself told Applicant he would be required to register as a sex offender as a result of the plea, and Applicant—under oath—admitted that he understood that and agreed to it. (Tr.p.206, lines 1–8).

Finally, the Court finds Counsel's testimony on this point credible, and Applicant's contrary testimony not credible. Accordingly, the Court finds Applicant has failed to prove either deficiency or prejudice as to this ground.

4. Failure to Investigate

Applicant next argues Counsel failed to perform any investigations. Counsel, however, credibly testified that he hired an investigator to investigate the crime scene; interviewed witnesses identified by Applicant; and reviewed text messages, phone calls, videos, and photos.

The Court finds Applicant has failed to prove that Counsel's investigation was deficient. Moreover, in order to show prejudice, Applicant bears the burden of explaining exactly what

additional matters Counsel should have investigated, as well as the burden of proving that further investigation would have resulted in the discovery of beneficial evidence for the defense. *See, e.g.*, *Taylor v. State*, 258 S.C. 369, 378, 188 S.E.2d 850, 854 (1972) (holding a PCR applicant's allegation that his trial counsel failed to adequately investigate his case was unsupported where the applicant failed to point out any beneficial evidence which could have been discovered by further investigation).

The Court finds Applicant has not met his burden of proving either deficiency or prejudice as to this allegation.

5. Failure to Meet with Applicant Sufficiently

Applicant next argues Counsel failed to meet with him a sufficient number of times. The Court finds this allegation meritless.

As discussed above, Counsel credibly testified that he met with Applicant numerous times. Applicant also affirmed to the plea court that he had had enough time to speak with Counsel, that Counsel had done everything he asked him to do, and that he was completely satisfied with Counsel's performance. (Tr.p.206, line 19–p.207, line 5). Regardless, the brevity of time spent by counsel in consultation with a defendant is not, by itself, indicative of inadequate preparation. *Collins v. State*, 422 S.C. 250, 258, 810 S.E.2d 871, 875 (2018) (holding counsel's performance was not deficient, even though he represented his client for only six weeks and met with him only twice prior to trial).

In addition, to prove prejudice, the applicant must show a reasonable probability that additional time spent in preparation would have changed the outcome of his case. *Id.* at 259–60, 810 S.E.2d at 876 (citing *Jackson v. State*, 329 S.C. 345, 353–54, 495 S.E.2d 768, 772 (1998); *Skeen v. State*, 325 S.C. 210, 214–15, 481 S.E.2d 129, 132 (1997)). Applicant has failed to explain

how, merely by spending more time with Counsel prior to his plea, he would have been induced to change his mind about pleading guilty and insist on going to trial. Accordingly, the Court finds Applicant has failed to prove Counsel was ineffective as to this issue.

6. Failure to Retain DNA Expert

Applicant next argues Counsel failed to retain a DNA expert to review the DNA evidence. However, at the evidentiary hearing, Applicant failed to produce any DNA expert to substantiate this allegation. Accordingly, the Court finds Applicant has failed to meet his burden of proof as to this issue. *See, e.g.*, *Martin v. State*, 427 S.C. 450, 455, 832 S.E.2d 277, 279–80 (2019) (holding a PCR applicant who claims trial counsel was ineffective for failing to call certain witnesses must produce those witnesses or their testimony at the PCR hearing).

7. Failure to Interview or Call Witnesses

Applicant next argues Counsel failed to interview or call several witnesses who, Applicant claims, would have provided helpful testimony at trial. Applicant named multiple witnesses in his various pleadings and during his testimony at the evidentiary hearing; however, he only presented testimony from one of them, *i.e.* his sister, Mary Rose Michel. As to any allegations concerning other witnesses, the Court finds Applicant has failed to meet his burden of production by not producing them or their testimony at the evidentiary hearing. *See id.*

Mary Rose Michel testified that she overheard the victim talking to Krista Hawkins on the phone on one occasion in March of 2018. She testified that the victim told Hawkins she was tired of her father involving himself in her business and was going to get it to stop and that her father was going to get out of her life. Michel testified that she told these things to Counsel eight or ten times. She left numerous voicemail messages with Counsel, and she complained that Counsel only called her back seven times. She testified that she wanted to meet with Counsel face-to-face

to discuss these things, but Counsel only met with her for five minutes prior to Applicant's trial. Michel also claimed to have had conversations with other members of Applicant's household, but she did not testify as to the substance of those conversations. She claimed to have recordings of conversations with the victim, but those recordings were not entered into evidence, and Michel did not offer any further testimony about what was discussed in those conversations.

The Court notes that Michel's testimony clearly acknowledges that Counsel spoke with her multiple times by phone and met with her in person at least once prior to Applicant's trial. Moreover, Counsel credibly testified that he spoke with Michel a number of times and met with her in the courthouse before trial. Counsel explained that he was familiar with the substance of her testimony, which was that she had overheard comments about the victim and the victim's mother being unhappy with Applicant. Counsel explained that Michel and Applicant seemed to think the victim's mother had persuaded the victim to accuse Applicant of sexual abuse; however, Counsel did not think a jury would find this theory plausible because the State had evidence that the victim first disclosed the abuse to her boyfriend, not her mother. Counsel explained that the evidence tended to show that the mother only found out about the abuse from the victim's boyfriend, which was inconsistent with Applicant's claim that the mother originated the idea of accusing Applicant of sexual abuse.

The Court finds Applicant has not met his burden of proving either deficiency or prejudice as to this allegation. It seems undisputed that Counsel *did* communicate with Michel, was aware of her potential testimony, and understood how it related to the defense strategy of sowing reasonable doubt and poking holes in the victim's story. The Court also notes that "Mary Michael" was listed as a potential witness during jury selection, indicating that Counsel was prepared to call Michel as a witness at trial before Applicant decided to enter the plea. (Tr.p.15, line 16).

Accordingly, the Court finds Applicant has not proved that Counsel's preparation regarding this witness was deficient. In addition, the Court finds Applicant has not proved prejudice. The substance of Michel's testimony—that she overheard the victim complaining about Applicant and stating that she was going to get him out of her life—is not inconsistent with the State's theory that Applicant was sexually abusing the victim. Certainly, a sexual abuse victim would have ample reason to want their abuser out of their life. The Court agrees with Counsel that attempting to frame this conversation as evidence of the victim's bias, in support of Applicant's theory that the victim fabricated her claims of abuse, would likely not be persuasive to a jury—especially where the victim's account was ultimately corroborated by the discovery of a used condom at the abandoned warehouse, with Applicant's DNA on the inside and the victim's DNA on the outside. Therefore, even if Counsel had somehow failed to adequately interview Michel, there is still not a "reasonable probability" that, but for Counsel's failure, Applicant would have rejected the plea deal and insisted on going to trial. This allegation is denied and dismissed with prejudice.

8. Failure to Notify Applicant of the Guilty Plea Appeal Explanation Requirement

Applicant next argues Counsel failed to notify him of the provision of Rule 203(d)(1)(B)(iv), SCACR, which requires that every appeal from a guilty or *Alford* plea be accompanied by "a written explanation showing that there is an issue which can be reviewed on appeal." Applicant complains that he was prejudiced by Counsel's failure to apprise him of this requirement because his appeal was ultimately dismissed for failure to provide an adequate written explanation. The Court finds this allegation meritless.

This is not a claim that Applicant's right to direct appeal was not knowingly or voluntarily waived, as would be covered by *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974). It is undisputed that Counsel *did* file a direct appeal on Applicant's behalf. Counsel also filed a written

explanation pursuant to Rule 203(d)(1)(B)(iv), SCACR. At the evidentiary hearing, Counsel credibly testified that he warned Applicant it would be difficult to appeal from a guilty plea because, by pleading guilty, Applicant was waiving his right to challenge any part of the proceedings prior to the plea.

Clearly, the written explanation filed by Counsel did not satisfy the court of appeals that there were any issues of arguable merit to review, for the court of appeals dismissed the appeal. This fact, however, does not imply that Counsel's performance was deficient. It is very rare for convictions arising from guilty pleas to have any issues of arguable merit preserved for appellate review. Counsel credibly testified that he did not see any meritorious issues for appeal, and Applicant has not presented any. Accordingly, the Court finds Applicant has failed to prove either deficiency or prejudice as to this allegation.

9. Failure to Move to Sever the Charges

Applicant next argues Counsel failed to move to sever the charges. Applicant, however, has failed to articulate any meritorious grounds for severing the charges. At the evidentiary hearing, Applicant was asked to explain the basis for this allegation. In response, he simply complained that he was arrested on April 29th, 2018, not on April 30th, 2018; however, this complaint seems to have nothing to do with severance.

Moreover, if Counsel had moved to sever the charges, the motion would likely not have succeeded. Even where the charges do not arise out of a single, isolated incident, joinder will be allowed when the crimes involve connected transactions closely related in kind, place, and character. *State v. Beekman*, 415 S.C. 632, 637, 785 S.E.2d 202, 205 (2016) (providing examples). In this case, the charged offenses were closely related in that they all related to Applicant's offenses against the same victim (his daughter), of the same character (sexual abuse of a minor), in the same

fashion (plying the victim with illegal drugs and then having sexual intercourse with her). The Court finds Applicant has failed to prove that Counsel had any meritorious argument to make in favor of severance.

10. Failure to Move for a Speedy Trial or to Dismiss the Charges

Finally, Applicant argues Counsel failed to move for a speedy trial or to dismiss the charges against him for a speedy trial violation. Applicant complains that he was in jail for 18 or 19 months[1] before trial, and he was worried that witnesses might forget things due to the delay. Applicant claims these concerns put undue pressure on him to plead guilty. The Court finds this allegation meritless.

Again, it must be noted that a jury had already been selected and pre-trial motions made and ruled on *before* Applicant changed his mind and decided to accept the State's plea offer. This fact casts doubt on Applicant's claim that his guilty plea was improperly induced by the delay in bringing him to trial; at the time he decided to plead guilty, his trial was already underway.

At the evidentiary hearing, Counsel credibly testified that he did not make a speedy trial motion because he did not believe it would have changed anything. It is difficult to say that Counsel's belief was objectively unreasonable, since "the right to speedy trial is a more vague concept than other procedural rights. It is, for example, impossible to determine with precision when the right has been denied. We cannot definitely say how long is too long in a system where justice is supposed to be swift but deliberate." *Barker v. Wingo*, 407 U.S. 514, 521 (1972). "Our speedy trial standards recognize that pretrial delay is often both inevitable and wholly justifiable. The government may need time to collect witnesses against the accused, oppose his pretrial

[1] According to his own testimony, Applicant was arrested on April 29th, 2018. His trial began on August 5th, 2019, slightly more than fifteen months later.

motions, or, if he goes into hiding, track him down. We attach great weight to such considerations . . . ." *Doggett v. United States*, 505 U.S. 647, 656 (1992). The delay in this case—less than a year and a half—is not so extreme that Counsel's failure to make a speedy trial motion was objectively unreasonable. In the absence of any indication of actual prejudice to Applicant's ability to mount a defense, this Court finds Applicant has not met his burden of proving that Counsel was ineffective for failing to make a speedy trial motion or to request "the unsatisfactorily severe remedy of dismissal of the indictment." *Barker*, 407 U.S. at 522.

[*conclusion and signature on following page*]

CONCLUSION

Based on the foregoing, this Court finds Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Accordingly, this application must be denied and dismissed 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 PCR application is denied and dismissed with prejudice; and
2. Applicant shall be remanded to the custody of the State.

AND IT IS SO ORDERED this 27 day of February, 2026.

THE HONORABLE MARVIN H. DUKES, III
Presiding Judge
Sixteenth Judicial Circuit

Bennettsville, South Carolina