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**S.C. SUPREME COURT**

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT  
APPEAL FROM BARNWELL COUNTY  
Court of Common Pleas  
The Honorable Deadra Jefferson, PCR Action Judge  
2019-CP-06-00126

MICHAEL BUCKMON #235058,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

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**NOTICE OF APPEAL**

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Michael Buckmon appeals the denial of his post-conviction relief application. The post-conviction relief action was heard and denied by the Honorable Deadra Jefferson, circuit court judge, on December 16, 2025, and was denied by written order issued filed on March 4, 2026.

Applicant received notice of the judgement on March 12, 2026.

/s Chelsey F. Marto  
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STATE OF SOUTH CAROLINA  
COUNTY OF BARNWELL

Michael P. Buckmon, # 235058,

Applicant,

v.

State Of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
FOR THE SECOND JUDICIAL CIRCUIT

Case No.: 2019-CP-06-00126

**ORDER OF DISMISSAL**

FILED FOR RECORD  
2026 MAR -4 PM 2:42  
RHONDA D. HEGELVEEN  
CLERK OF COURT  
BARNWELL COUNTY, S.C.

Presiding Judge:  
Applicant's Attorney:  
Respondent's Attorney:  
Date of Hearing:  
Court Reporter

Hon. Deadra L. Jefferson  
Chelsey F. Marto, Esq.  
T. Cruise Mitchell, Esq.  
December 16, 2025  
Penny Johnson

This matter is before the Court by way of an application for post-conviction relief (PCR) filed by Michael Paul Buckmon ("Applicant") on April 1, 2019, amended on January 26, 2022, and December 9, 2025. Respondent filed a Return and Motion for More Definite Statement on July 15, 2019. On December 17, 2025, an evidentiary hearing convened before this Court. Applicant was present and represented by Chelsey F. Marto, Esq. Assistant Attorney General T. Cruise Mitchell, Esq. represented the State. At the evidentiary hearing, testimony was taken from Applicant and Deputy Solicitor David W. Miller ("Solicitor Miller").<sup>1</sup> After hearing the testimony at the PCR hearing, and upon full review of the record, this Court finds Applicant did not meet his burden of proof. Accordingly, relief is Denied, and this application is Dismissed with Prejudice.

**PROCEDURAL HISTORY**

<sup>1</sup> The Court is advised by Respondent that Applicant's trial counsel, Michael Chesser, Esq., resigned as an active member of the SC Bar December 17, 2018, under Rule 409, SCACR. As a result, they were unable to procure his presence for the evidentiary hearing. The parties consented to going forward in Attorney Chesser's absence.

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Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Barnwell County Clerk of Court. Applicant was indicted for Murder<sup>2</sup> (Indictment No. 2016-GS-06-00210), Arson – First Degree with Death<sup>3</sup> (Indictment No. 2016-GS-06-00205), and Criminal Sexual Conduct – First Degree<sup>4</sup> (Indictment No. 2014-GS-06-00359). Applicant was represented by Michael Chesser, Esq. The case was prosecuted by Deputy Solicitor David Miller of the Second Circuit Solicitor's Office. On August 17-19, 2016, Applicant proceeded to a jury trial before the Honorable Doyet A. Early, III. Applicant was found guilty as indicted on all three (3) charges. Judge Early sentenced Applicant to the South Carolina Department of Corrections (SCDC) for a period of thirty (30) years for Criminal Sexual Conduct – First Degree, thirty (30) years for Arson – First Degree with Death, and life imprisonment for Murder. The sentences were concurrent. Judge Early gave the Applicant credit for time served pursuant to S.C. Code Ann. § 24-13-40 to be calculated and applied by the SCDC.

Applicant timely filed a notice of appeal. The appeal was perfected by Appellate Defender Susan B. Hackett. On July 25, 2017, an Anders brief was filed on behalf of Applicant. On February 13, 2018, the South Carolina Court of Appeals dismissed Applicant's appeal. The Remittitur was issued on March 1, 2019.

#### CURRENT APPLICATION

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

1. Ineffective Assistance of Counsel

<sup>2</sup> The offense of murder is a violent, most serious offense, punishable by death, or mandatory minimum term of imprisonment for thirty years to life. S.C. Code Ann. §16-03-20.

<sup>3</sup> The offense of arson in the first degree is a violent, most serious offense, punishable by imprisonment not less than thirty years. S.C. Code Ann. § 16-11-0110(A).

<sup>4</sup> The offense of criminal sexual conduct in the first degree is a violent, most serious offense, punishable by imprisonment for not more than thirty years, according to the discretion of the court.

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- a. "Ineffective Assistance of Counsel, deficient performance...counsel fail[ed] to impeach, failed to object, failed to present evidence pertaining to my innocen[ce]."
2. Prosecutorial Misconduct
  - a. "Prosecutor committing prosecutorial misconduct, using false or perjur[ed] testimony for conviction."
  - b. Bad faith or prosecution team withheld evidence constituting violation, due process, violation of 14<sup>th</sup> Amendmen."
3. Newly Discovered Evidence

On January 26, 2022, Applicant, through then PCR counsel Nancy Fennell, Esq. filed an amended application raising the following additional allegations:

1. Ineffective Assistance of Counsel:
  - a. Failing to obtain forensic testing of the t-shirt and jeans of co-defendant Bolen and for failing to pursue the issue of having the test results in order to use support Applicant's innocence.
  - b. Failing to cross-examine witnesses regarding his perjury and failing to introduce evidence of co-defendant Bolen's videotape interview to cross-examine him. Counsel's failure to present the evidence of the prior interview for impeachment purposes regarding the arson charge was ineffective assistance of counsel. Counsel failed to introduce the evidence to show how co-defendant Bolen's prior statement reflected he did not see Applicant start a fire. This deficient performance was prejudicial to Applicant because Applicant's conviction was the result of allowing this perjury.
  - c. Failing to obtain and use impeachment evidence related to co-defendant Bolen wearing the jeans on the night of the alleged crime. Counsel was ineffective for failing to use the evidence related to the t-shirt with blood and the burning of the t-shirt to impeach co-defendant Bolen's testimony.
  - d. Failing to have blood splatter analysis determination done to use to impeach co-defendant Bolen's testimony regarding where Applicant was standing when the hammer was used to strike the victim. Counsel's defective performance in this regard prejudiced Applicant because the reports indicate no blood splatter was found by the back door where co-defendant Bolen stated he was standing. Counsel was ineffective for failing to obtain expert testimony on this issue to use for impeachment and in support of Applicant's innocence.
  - e. Failing to cross-examine co-defendant Bolen on whether he was offered any type of deal for providing testimony.
2. Prosecutorial Misconduct
  - a. Fourteenth Amendment violation for withheld evidence relating to the test results and blood analyst determination of the blood splatter found on co-defendant bolen. Such evidence would have been favorable to Applicant. Prosecutor withheld the evidence, intentionally depriving Applicant of the use of the evidence in his criminal trial in bad faith.

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- b. Allowing and using perjured testimony to obtain a conviction.

On December 9, 2025, Applicant, through PCR counsel Chelsey F. Marto, filed an amended application raising the following additional allegations:

1. Ineffective assistance of counsel for:
  - a. Failure to investigate and test the co-defendant's shirt and jeans.
  - b. Failure to move to have Bolen's testimony excluded because he was in a delusional state of mind.
  - c. Failure to properly cross-examine witnesses.
    - i. Failure to properly cross-examine Bolen.
      1. Failure to use his first statement against him to show that the allegation that he saw Applicant start the fire was not in the initial statement.
      2. Failure to use the bloody and burned shirt as impeachment evidence.
      3. Failure to cross-examine Bolen about how he was the one wearing jeans.
      4. Failure to cross-examine Bolen about promises made in exchange for testifying.
      5. Failure to argue that Bolen's assertion of where Applicant was standing was incorrect based on the blood splatter.
      6. Failure to properly cross-examine regarding why the blood was on Bolen.
      7. Failure to cross-examine Bolen concerning prior inconsistent statements regarding the hammer and shirt.
  - d. Coerced Applicant out of testifying.
  - e. Failure to move to dismiss the CSC charge pre-trial and to properly argue that no evidence was presented of the CSC charge on directed verdict.
2. Prosecutorial misconduct for:
  - a. Putting forward false and misleading testimony through Bolen's testimony, which was ripe with inconsistencies to improperly frame Applicant for a crime he did not commit.
  - b. For improperly suppressing the test results on the clothing or otherwise failing to wait for test results to come back before taking the case to trial.

At the evidentiary hearing, Applicant only proceeded on the allegations raised in his amended application filed December 9, 2025.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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

This Court has had the opportunity to review the trial transcript in its entirety and heard the testimony at the PCR hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. After a careful review based on the Strickland standard set forth below, this Court finds Applicant has failed to carry his burden of proof. Below are this Court's findings of facts and conclusions of law as required by S.C. Code Ann. § 17-27-80.

#### *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), SCRPC. 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 "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,

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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 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

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easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

***Counsel's Failure to Investigate and Test Co-Defendant's Shirt and Jeans, and Prosecutorial Misconduct***

Applicant contends Counsel was ineffective for failing to investigate and test co-defendant Bolen's shirt and jeans. Applicant further contends the prosecutor engaged in misconduct for putting forth false and misleading testimony through Bolen and for improperly suppressing these test results or otherwise failing to wait for the test results to come back before taking the case to trial. This Court finds these allegations are without merit.

At the evidentiary hearing, Applicant testified the blood on co-defendant Bolen's shirt and jeans should have been tested by law enforcement. Applicant believes this test would demonstrate that his co-defendant committed the crime. Solicitor Miller testified they did not have the shirt and jeans tested because they were not determinative of any issue in the case and of little evidentiary value as it was uncontroverted the blood belonged to the victim. Solicitor Miller explained that Applicant hit the victim with a hammer and there was blood everywhere which was corroborated by photographs introduced at trial. Solicitor Miller testified that the trial transcript reflects that Counsel argued in closing that the lack of testing shows an inadequate investigation by the State. Moreover, counsel further argued the location of blood splatter on the co-defendant Bolen's closing as well as his t-shirt in the burnt tub as lack of the Applicant's culpability in the crime. (Tr. 245:7-19, 334; 327:9-17).

This Court finds Counsel was not ineffective for failing to test co-defendant's shirt and jeans. This Court finds it was not unreasonable for Counsel not to independently test the blood on Bolen's jeans and shirt. As Solicitor Miller credibly testified, there was no dispute that the blood on Bolen's clothing belonged to the victim. Furthermore, Counsel effectively utilized the absence

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of forensic testing in his closing argument. During his closing, Counsel argued the following regarding the lack of testing:

This is Matthew Bolen's shirt that he took into the bathroom of Donna Dempsey's house and attempted to burn in the bathtub. It was retrieved from the bathtub. Again, the color. Also, this is something that for whatever reason SLED chose not to test for blood.

(R. 325).

At the end of closing, Counsel finishes his argument with the following:

I submit to you that Bolen had blood on jeans and on his shirt. He denied wearing his jeans on the stand. He wanted to put those jeans away from him, but Agent Seals had testified that he had earlier stated that he did have on pants or jeans and not those red shorts that you see in the photo. Agent Seal testified to that.

I submit to you that as jurors you in effect have a right to forensic evidence if it's out there. In other words, Dr. Ross testified that she took sperm and DNA type of samples. In other words, she took samples from Donna Dempsey and sent them off for analysis. And yet, there is not testimony of DNA or sperm results.

There's no blood splatter analysis. Agent Seals testified that there were various locations of suspected blood splatter, pictures taken and so on, and no analysis. That is inexplicable. There is, of course, no analysis on Bolen's jeans with what would appear to be blood splatter.

I ask you to require that evidence and the absence of that evidence in the presence of reasonable doubt. I ask you to find Michael Paul Buckmon not guilty. Thank you.

(R. 333-334).<sup>5</sup>

This Court finds trial Counsel seized the opportunity to argue the State's investigation was inadequate. Considering the totality of the record and testimony in this proceeding had forensic testing been conducted on the clothing, Counsel would have lost the viability of this argument at

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<sup>5</sup> Applicant testified that sex with the victim was "consensual" and that he had admitted same pretrial. The trial testimony reflects that both the Applicant and Bolen engaged in sex with the victim who was "passed out" from the injury inflicted by the hammer and incapable of "consent." The testimony further reflects that Bolen walked in in on the Applicant having sex with the victim.

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trial. Therefore, Counsel was not deficient for failing to investigate and test co-defendant Bolen's clothing.

Similarly, this Court finds Solicitor Miller did not engage in prosecutorial misconduct regarding the testing of Bolen's clothing. Solicitor Miller credibly testified that there was no reason to have the clothing tested as there was no dispute that it was the victim's blood on Bolen's clothing. This Court further finds Solicitor Miller did not engage in prosecutorial misconduct by presenting the testimony of Applicant's co-defendant Bolen. Solicitors have the right to prosecute 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..."). The believability of a witness is for a jury to determine and does not go to admissibility of a witness's testimony.

Further, Applicant has failed to prove he was prejudiced by this lack of testing. He has offered no credible evidence that additional testing of Bolen's clothing would have been favorable to his defense and altered the trial result, relying instead on mere speculation. It was not in dispute that it was the victim's blood on Bolen's clothing. Applicant asserts that such testing would have shown that Bolen was the individual who delivered the fatal blow. However, the State prosecuted this case under an accomplice liability theory, making it irrelevant who actually struck the victim with the hammer. Moreover, blood splatter on Bolen's clothing would not be determinative of who struck the fatal blow. There is ample evidence in the record to support the conclusion that the jury

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clearly found that Applicant and Bolen were acting in concert with one another. Therefore, Applicant has failed to prove he was prejudiced as to this allegation.

Accordingly, this Court finds these allegations are Denied.

***Counsel's Failure to Move to Have Bolen's Testimony Excluded Because He was in a Delusional State of Mind.***

Applicant contends Counsel was ineffective for failing to move to have Bolen's testimony excluded because he was in a delusional state of mind. This Court finds this allegation is without merit.

At the evidentiary hearing, Applicant testified that Bolen admitted in his interview with SLED that he was in a delusional state of mind due to being high on drugs. He also asserts Bolen was delusional when testifying. Solicitor Miller testified there was no indication Bolen was in a delusional state of mind at the time of trial. He further testified that there was no indication that Bolen was not in his "right mind" at trial. Solicitor Miller explained that there was nothing in Bolen's testimony that was contradicted by the evidence.

This Court finds Counsel was not ineffective for failing to object to Bolen's testimony on the basis that he was in a delusional state of mind. Applicant has failed to present any credible evidence that Bolen was delusional at the time of trial. Solicitor Miller credibly testified that there was zero indication he was delusional at the time of trial. Furthermore, this goes to credibility of a witness which is a jury question. There is no indication in the trial record supporting the assertion that any objection on this basis would have been sustained.

Accordingly, this Court finds this allegation is Denied.

***Counsel's Failure to Properly Cross-Examine Co-Defendant: Clothing and Blood Splatter Evidence to Impeach Testimony***

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Applicant makes various allegations that Counsel was ineffective for failing to properly cross-examine co-defendant Bolen. This Court finds the record clearly refutes these allegations. Applicant contends Counsel was ineffective for failing to impeach Bolen using Bolen's shirt and jeans. Additionally, Applicant argues the blood splatter showed that Bolen committed the crime. This Court finds the record clearly refutes this allegation.

At the evidentiary hearing, Applicant testified that Counsel's cross-examination of Bolen was very poor. Applicant explained that Counsel failed to cross-examine Bolen regarding who set the fire. Applicant testified Counsel should have impeached Bolen using the bloody and burnt shirt. Applicant further testified Counsel should have used blood splatter evidence to demonstrate that Bolen committed the crime and not him. Applicant further testified Bolen lied about not having pants on the night of the murder and Counsel should have used this to impeach him. Solicitor Miller testified to various points in the transcript, discussed below, that refute these allegations.

At Applicant's trial, Counsel cross-examined Bolen concerning his inconsistent statements to law enforcement, including whether he provided the hammer to Applicant.<sup>6</sup> During that questioning, Bolen admitted that he told law enforcement one version of events and testified differently at trial. (R. 193). Counsel further cross-examined Bolen regarding his clothing on the night of the murder and introduced a photograph taken that day showing Bolen wearing a red shirt. (Defense Ex. 19; R. 195).

Counsel cross-examined Agent Seals extensively regarding the jeans, the shirt, and the significance of the blood splatter, including whether striking the victim with a hammer would result in blood on the jeans. (R. 241-246). Counsel additionally cross-examined Agent Seals regarding the burned shirt found in the hallway bathroom and established that the shirt belonged

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<sup>6</sup> Bolen's cross examination is at R. 189, 1:16 to 202, 1:25.

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to Bolen. (R. 241). Counsel relied on the admitted exhibits depicting the shirt and jeans during this line of questioning.

Finally, Counsel argued these points extensively in closing asserting that Bolen burned his shirt, that he initiated the fire, and that the blood found on Bolen's clothing was consistent with the blood splatter discovered at the crime scene. (R. 324-327, 333).

In light of the foregoing, this Court finds the record clearly demonstrates that trial counsel thoroughly cross-examined Bolen and other witnesses regarding the very issues Applicant now asserts. Accordingly, this Court finds Counsel was not deficient in his cross-examination of Bolen.

Further, Applicant has failed to establish prejudice resulting from any alleged deficiency in Counsel's cross-examination of Bolen. As noted previously, the State prosecuted this case under a theory of accomplice liability. Applicant testified that he was "merely present" and there was nothing he could have done. Accordingly, even if the jury believed Bolen was the principal actor, Applicant nevertheless could have been found guilty as an accomplice. Therefore, Applicant has failed to demonstrate a reasonable probability the outcome at trial would have been different had Counsel further cross-examined Bolen.

***Counsel's Failure to Properly Cross-Examine Co-Defendant: Bolen Wearing the Jeans***

Applicant further contends Counsel was ineffective for failing to cross-examine Bolen about how he was the one wearing jeans. This Court finds this allegation is without merit.

At Applicant's trial, Counsel engaged in the following exchange with Bolen on cross-examination:

Q. So at some point you changed these red shorts for a pair of blue jeans, right?

A. No.

Q. Is it your testimony here then that you were not wearing blue jeans on that Halloween night over at Donna Dempsey's?

A. Not that I remember, no.

Q. So you don't remember what you were wearing?

A. Red shorts, as far as I can recall.

(R. 196). Applicant then admitted into evidence four photographs of Bolen's jeans found in his vehicle. (R. 199-201).

During the cross-examination of Agent Seals, the following exchange occurred:

Q. Okay. Now, you had occasion to interview Matthew Bolen, right?

A. That is correct.

Q. And that was -- actually, I believe it was November 12<sup>th</sup> and 13<sup>th</sup>?

A. November 12<sup>th</sup>.

Q. Okay. Do you recall that he told you that he was wearing pants at the time that he was at Donna Dempsey's house?

A. I can't recall if he said that or not.

Q. Can I show you something and have you take a look at it?

A. Yes, you can.

Q. I'll show you that. (Tenders document to witness.)  
Having seen that, Agent Seals, does it refresh your recollection?

A. Yes sir.

Ladies and Gentlemen of the jury, what has been presented to me is a copy of my report. It's page 24 and it's a part where I'm referencing the interview with Bolen.

Q. Okay. And you indicate that your understanding was he was wearing pants at this time when he was at Donna Dempsey's, correct?

A. That's correct.

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Q. All right. Thank you.

(R. 295-296).

Counsel clearly attempted to elicit testimony from Bolen that he was wearing jeans on the night of the murder. Counsel also introduced into evidence four (4) photographs of jeans found in Bolen's vehicle, which Bolen admitted belonged to him. The clear purpose of the evidence was to show the jury that these were the pants Bolen was wearing on the night of the murder. Rather than confronting Bolen directly with his prior inconsistent statement, Counsel instead elicited testimony concerning the statement during his cross-examination of Agent Seals. This Court finds Counsel's approach objectively reasonable. Therefore, Counsel was not deficient for failing to further cross-examine Bolen on this inconsistency. Furthermore, as the prior inconsistent statement was presented to the jury through the cross-examination of Agent Seals, Applicant has failed to prove he was prejudiced.

Accordingly, this Court finds this allegation is Denied.

***Counsel's Failure to Properly Cross-Examine Co-Defendant: Promises Made in Exchange for Testifying***

Applicant contends Counsel was ineffective for failing to cross-examine Bolen regarding promises made in exchange for his testimony. This Court finds this allegation is without merit.

At the evidentiary hearing, Applicant testified that he and Bolen were both offered thirty (30) -year plea deals. Applicant testified Counsel should have cross-examined Bolen regarding this deal to impeach his credibility. Solicitor Miller testified he made absolutely no promises or plea deal to Bolen in exchange for his testimony. Solicitor Miller explained that there was never a plea offer made to Bolen or Applicant prior to trial. Moreover, he testified that he never made an offer to the Applicant in exchange for his trial testimony because Applicant lacked "credibility" as he had already given three (3) different versions of the events.

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During the cross-examination of Bolen, Counsel elicited the following testimony:

Q. In this case here you're charged with murder; isn't that correct?

A. Yes, sir.

Q. And you're charged with arson in the first degree?

A. Yes, sir.

Q. On the murder charge you understand that you're facing 30 years to life?

A. Yes, sir.

Q. Day for day?

A. Yes, sir.

Q. And if you get life you come out of prison in a box, right?

A. Yes, sir.

Q. And you understand on the arson first you're looking at 30 years?

A. Yes, sir.

Q. And of those 30 whatever you get - - well, actually of the 30 you'd do 85 percent of those. You understand that?

A. Yes, sir.

Q. So you're here to help yourself, right?

A. Yes, sir.

(R. 191-192).

This Court finds Solicitor Miller's testimony credible on this issue and finds the Applicant's testimony lacks credibility. Based on Solicitor Miller's testimony this Court finds that no plea offer was made to Bolen prior to trial in exchange for his testimony. Accordingly, there was no agreement on which Counsel could have cross-examined Bolen. Therefore, this Court finds Counsel was not deficient for failing to cross-examine Bolen regarding alleged promises in

exchange for his testimony. Further, the record demonstrates that Counsel did effectively cross-examine Bolen concerning his pending charges and the potential sentences he faced, and successfully elicited testimony that Bolen was testifying in an effort to benefit himself on those charges. Thus, this Court finds Applicant has failed to meet his burden establishing ineffective assistance of counsel as to this allegation.

Accordingly, this Court finds this allegation is Denied.

***Counsel's Failure to Properly Cross-Examine Co-Defendant: Bolen's Prior Inconsistent Statements Regarding the Hammer***

Applicant contends Counsel was ineffective for failing to cross-examine Bolen concerning prior inconsistent statements regarding the hammer. This Court finds the record directly refutes this allegation.

At Applicant's trial, Counsel directly cross-examined Bolen concerning his inconsistent statements about whether he provided the hammer to Applicant. During that questioning, Bolen admitted he told law enforcement one version of events and testified differently at trial. (R. 193). Therefore, this Court finds Counsel was not deficient for failing to cross-examine Bolen on this issue.

Accordingly, this Court finds this allegation is Denied.

***Counsel Coerced Applicant out of Testifying***

Applicant contends Counsel was ineffective for coercing Applicant out of testifying. This Court finds this allegation is without merit.

At the evidentiary hearing, Applicant testified that Counsel talked him out of testifying because of his prior convictions. Applicant further testified that his attorney "scared" him out of testifying. Applicant asserts his testimony would have been that Bolen committed the crime. Applicant testified that he was advised of his right to testify, and he informed the trial court he did

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not wish to. Applicant testified his testimony at trial would have been the same as his statements made to law enforcement, which were already before the jury.

Applicant's assertions regarding his right to testify are not supported by the record. At his trial, Applicant was advised of his right to testify in a colloquy with the trial court. (R. 311). After being advised of his rights, Applicant stated the following to the trial court:

The Court: Sir, you're not here to ask questions. I'm asking you about your right to remain silent. You want to testify or not?

The Defendant: No. They pretty much read what I was stating so there's no reason for me to testify.

The Court: And obviously - - I'm not cutting you off but your lawyers have the right to argue all the points you're making about the inferences that they can draw from what Mr. Bolen testified about and what he didn't testify about. If they believe him and what he said, that would be enough evidence to convict you. If they don't believe him - - I don't know how they're going to read you - - and take your statement. They - - that's why we have jurors to determine what the true facts are. I don't make that decision.

The Defendant: I mean, if I testify it's still dealing with what they seen on the videos. It's the same thing.

The Court: That's a decision you have to make.

Mr. Chesser: Me and you have made a decision. We've thought about it. He just wants to know you understand your rights.

The Defendant: Yes, sir.

Mr. Chesser: And we've talked about it.  
Your Honor, he indicates that he does not wish to testify.

The Court: Is that correct, sir?

The Defendant: Yes, sir.

(R. 312-313).

The record clearly demonstrates Applicant was properly advised of his right to testify and voluntarily elected not to do so. Applicant's testimony at the evidentiary hearing, as well as his

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statements to the trial court, further establish that his decision was based on his prior criminal record, and that his trial testimony would have been consistent with his prior statements to law enforcement, which were already before the jury. Additionally, Counsel informed the trial court that he discussed the decision with Applicant and that, following the discussion, Applicant decided he did not wish to testify. Thus, this Court finds the record amply supports that Applicant articulated a reasonable basis for waiving his right to testify and that his decision was made knowingly, freely, voluntarily and not the result of any coercion by Counsel.

Furthermore, this Court finds Applicant has failed to demonstrate that he was prejudiced by his decision not to testify. As noted above, Applicant explained that his proposed testimony would have been consistent with his prior statements to law enforcement, which were already before the jury. Had Applicant testified, he would have merely offered the same account, while also subjecting himself to impeachment based on his prior inconsistent statements and prior convictions. Thus, Applicant has failed to demonstrate a reasonable probability the outcome of the trial would have been different had he testified.

Accordingly, this Court find this allegation is Denied.

***Counsel's Failure to Properly Argue There was No Evidence of CSC***

Applicant contends Counsel was ineffective for failing to move to dismiss the criminal sexual conduct (CSC) charge prior to trial and failing to properly argue there was no evidence of CSC charge on directed verdict. This Court finds this allegation is without merit.

At Applicant's trial, Counsel moved for a directed verdict on the basis of no direct and no substantial circumstantial evidence or indirect evidence such that a jury could reasonably find that he is guilty of these three (3) charges. In response, Solicitor Miller summarized the evidence the

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State presented in support of the CSC charge. (R. 308-310). The trial court then denied Counsel's motion, finding that sufficient direct and or substantial circumstantial evidence had been presented for the charge to be submitted to the jury. (R. 310-311).

The record clearly reflects that Counsel moved for a directed verdict on the ground that the evidence was insufficient to support the CSC charge. Therefore, this Court finds Counsel was not deficient. Further, this Court finds that the record does not support nor was any evidence presented during this hearing that any attempt to dismiss the CSC charge prior to trial would have been successful.

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 relief. Thus, this application is denied and dismissed with prejudice.

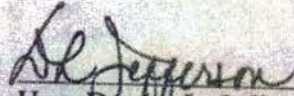
Should Applicant wish to secure appellate review, he must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an applicant has the right to an appellate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

**IT IS THEREFORE ORDERED, AJUDGED, AND DECREED** that Applicant's application for PCR is Denied and Dismissed with Prejudice; and Applicant must remain in the custody of the State.

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[Signature]

IT IS SO ORDERED.

February 17, 2026  
Charleston, South Carolina  
At Chambers

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Hon. Deadra L. Jefferson  
Presiding Judge  
Second Judicial Circuit

2026/20  
DJ