


STATE OF SOUTH CAROLINA)
 COUNTY OF ORANGEBURG)
)
 Lindy Lamont Jones, Jr., #388515,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE FIRST JUDICIAL CIRCUIT

Case No.: 2022-CP-38-01611

**ORDER OF DISMISSAL WITH
 PREJUDICE**

FILED FOR RECORD
 JUNE 16, 2025
 12:02
 CLERK


Presiding Judge: Hon. Thomas W. McGee, III
 Applicant's Attorney: Arthur K. Aiken, Esq.
 Respondent's Attorney: Ryan T. Kowalski, Esq.
 Plea Counsel: Jason B. Turnblad, Esq.
 Date of Hearing: March 27, 2025

This matter comes before the Court by way of the post-conviction relief (PCR) action filed by Lindy Jones, Jr. (Applicant) on November 14, 2022. Respondent, the State of South Carolina, made its Return on December 7, 2023, requesting an evidentiary hearing to resolve the claims as set forth in the application. An evidentiary hearing convened on March 25, 2025, at the Dorchester County Courthouse before the Honorable Thomas W. McGee, III. Applicant was present and represented by Arthur K. Aiken, Esquire. Assistant Attorney General Ryan T. Kowalski represented Respondent. At the hearing, Applicant proceeded forward on the claims set forth in his application. In support of these claims, Applicant testified on his own behalf, and Respondent presented testimony from Jason B. Turnblad (Plea Counsel). Following a thorough review of the record in its entirety, along with the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant has failed to establish any constitutional violations or deprivations entitling him to relief and, accordingly, denies and dismissed this action with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined to the South Carolina Department of Corrections. On August 5, 2019, Orangeburg Grand Jury indicted Applicant for murder (2019-GS-38-1846) and possession of a weapon during the commission of a violent crime (2019-GS-38-1845). On July 25, 2022, Applicant proceeded to a guilty plea before the Honorable Roger M. Young. Assistant Solicitor Thomas B. Scott, III, prosecuted the case. Applicant was represented by Jason B. Turnblad, Esquire. In exchange for Applicant's guilty plea to murder, the solicitor dismissed the charge for possession of a weapon during the commission of a violent crime. Following the solicitor's recommendation of thirty (30) to thirty-five (35) years, Judge Young sentenced Applicant to thirty-five (35) years imprisonment for murder. Applicant did not file an appeal.

FACTUAL HISTORY

On August 1, 2019, Willie Fields (Victim) got off work around 4:18 pm. (Plea Tr. 5-6). Victim's mother, Angela Fields, called him to warn him that bad weather was approaching, and she wanted him to come home after work. (Plea Tr. 6). Victim's mother became nervous when Victim did not answer his phone. (Plea Tr. 6). When Victim's mother checked Victim's phone location, it pinged in two different areas: Applicant's residence and another location. (Plea Tr. 6). Victim's mother went to the other location and found Victim's car with blood in it, and Victim's cellphone. (Plea Tr. 6). Law enforcement officers responded to the location and impounded the car. (Plea Tr. 6). The next day, law enforcement canvassed Applicant's neighborhood and found Victim's body in the woods along a dirt road that leads to Applicant's house. (Plea Tr. 7). Police spoke to a witness who lives across from Applicant. (Plea Tr. 7). Witness stated that he was asleep that afternoon and heard gunshots. (Plea Tr. 7). Witness stated he looked out of his window and saw Victim's white car and saw Applicant and Applicant's brother running back into their

residence. (Plea Tr. 7). Witness stated a few minutes later, Applicant and his brother came out of the residence, got into the white car and left the neighborhood. (Plea Tr. 7).

Law enforcement obtained a search warrant for Applicant's home, in which they found Applicant. (Plea Tr. 7). After advising him of his *Miranda*¹ rights, Applicant admitted to shooting Victim, putting Victim's body in the trunk of Victim's car, and dumping Victim's body in the woods, then parking the car in the next neighborhood over. (Plea Tr. 8). Law enforcement found Victim's blood in Applicant's home and found Applicant's DNA in Victim's car. (Plea Tr. 8).

CURRENT APPLICATION

In his current application for post-conviction relief, Applicant alleges he is being held unlawfully based on the following:²

- I. Ineffective assistance of counsel
 - a. Failure to file a motion for reconsideration on sentence.
 - b. Failure to properly advise on charge of murder and lesser included charge of voluntary manslaughter.
 - c. Failure to engage in plea negotiations with solicitor for lesser included charge of voluntary manslaughter.
- II. Involuntary Plea
 - a. Plead guilty to murder pursuant to counsel's advice.

Applicant requests relief as follows: Vacate guilty plea and grant a new trial for murder or give option to plea to lesser included offense of voluntary manslaughter.³

STANDARD OF REVIEW

Ineffective Assistance of Counsel

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. *Strickland v.*

¹ *Miranda v. Arizona*, 384 U.S. 426 (1966).

² Unless quoted, Applicant's allegations have been summarized for brevity and clarity.

³ The appropriate remedy would be to grant a new trial on the original indictments. *Gilstrap v. State*, 252 S.C. 625, 628, 168 S.E.2d 88, 89 (1969) (stating that even under the assumption that all the allegations were true, the relief to be granted on PCR is remand for a new trial); *Smith v. State*, 413 S.C. 194, 195, 775 S.E.2d 696, 696 (2015) ("We now clarify the proper remedy is a new trial.").

Washington, 466 U.S. 668 (1984); *Taylor v. State*, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRPC; *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in *Strickland v. Washington* to determine whether counsel’s conduct “was so [ineffective] as to require reversal” of the applicant’s conviction. 466 U.S. 668, 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel’s performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel’s deficient performance. *Id.* at 687–88; *accord. Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. *Strickland*, 466 U.S. at 700; *see also Bell v. Cone*, 535 U.S. 685, 695 (2002) (explaining that “[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable.” (citation and internal quotation marks omitted)).

Regarding the deficiency prong of the *Strickland* analysis, the proper measure of performance is whether counsel provided representation within the reasonable range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. When

analyzing counsel's performance, the reviewing court will strongly presume counsel provided adequate assistance, and the applicant is responsible for rebutting that presumption "by proving that his attorney's representation was unreasonable under prevailing professional norms and that the challenged action was not sound strategy." *Kimmelman v. Morrison*, 477 U.S. 365, 384 (1986); *cf. Cullen v. Pinholster*, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation).

Furthermore, the reviewing court will scrutinize counsel's performance in a highly deferential manner, make every effort "to eliminate the distorting effects of hindsight," and "evaluate the conduct from counsel's perspective at the time" in light of then-existing circumstances. *Strickland*, 466 U.S. at 689. In order to establish counsel's performance was deficient, the applicant must demonstrate "counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." *Id.* at 687. Accordingly, counsel's performance will be considered deficient only when it was objectively incompetent under prevailing professional norms and *not* when it simply "deviated from best practices or most common custom." *Harrington v. Richter*, 562 U.S. 86, 105 (2011).

Beyond satisfying the burden required by the deficiency prong, an applicant also bears the burden of establishing prejudice in order to be entitled to relief as "[a]n error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment." *Strickland*, 466 U.S. at 691. To meet this burden, counsel's deficient performance must have prejudiced the applicant to such an extent, there is a reasonable probability the result of the proceeding would have been different but for counsel's unprofessional errors. *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625. Importantly, "[t]he

likelihood of a different result must be *substantial*, not just conceivable.” *Richter*, 562 U.S.at 112.

· ***Guilty Pleas Based on Ineffective Assistance of Counsel***

Hill v. Lockhart, 474 U.S. 52 (1985) extended the two-part *Strickland* test to challenge guilty pleas based on ineffective assistance of counsel. See *Padilla v. Kentucky*, 559 U.S. 356, 373 (2010) (recognizing that the guilty plea process is a “critical phase of litigation” for purposes of the Sixth Amendment right to effective assistance of counsel). The analysis of counsel’s performance under the first prong of *Strickland* remains unchanged, the applicant must show that counsel’s representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases. *Hill*, 474 U.S. at 58-59; accord *Thompson v. State*, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel’s advice to plead guilty was not “within the range of competence demanded of attorneys in criminal cases.” *Hill*, 474 U.S. at 56.

The second, or “prejudice” prong, however, “focuses on whether counsel’s constitutionally ineffective performance affected the outcome of the plea process.” *Id.* at 58-59. Specifically, when an applicant claims counsel’s deficient performance caused him to accept a plea, the applicant “must show that there is a reasonable probability that, but for [plea] counsel’s [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial.” *Id.* at 59. This inquiry “focuses on a defendant’s decisionmaking” and does not turn on the outcome of a defendant’s actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. *Lee v. United States*, 582 U.S. 357, 367 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. *Padilla*, 559 U.S. at 372. The question is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—not whether counsel would have

still advised him or her to plead guilty. *Turner v. State*, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

FINDINGS OF FACT & CONCLUSIONS OF LAW

Before this Court are the records of the Orangeburg County Clerk of Court records regarding the subject convictions, Applicant's records from SCDC, and the PCR application. In analyzing these claims, this Court has considered the legal arguments by counsel and thoroughly reviewed the record in its entirety. This Court additionally heard the testimony presented at the evidentiary hearing and was able to observe the witnesses, which allowed the Court to evaluate and scrutinize their credibility.

From the transcript of Applicant's guilty plea, this Court makes the following findings: 1) Applicant understood his constitutional rights, charges, and potential sentences at his plea hearing (Plea Tr. pp. 2-4) and 2) Applicant's plea was freely, knowingly, and voluntarily entered into (Plea Tr. p. 5). Upon conducting and completing its analysis, this Court finds that Applicant has failed to establish any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief.

INEFFECTIVE ASSISTANCE OF PLEA COUNSEL

Allegation: Failure to properly advise on charge of murder and lesser included charge of voluntary manslaughter

Allegation: Failure to explain plea deal and constitutional rights

Applicant alleged that Plea Counsel was ineffective for failing to properly advise him on murder and manslaughter, failing to explain to Applicant his constitutional rights, failing to sufficiently discuss his case with him during short meetings, and failing to explain the nature of

the plea deal. This Court finds that Plea Counsel informed Applicant of the nature of his murder charge, including manslaughter, as well as his plea deal and constitutional rights.

South Carolina case law has established that even if counsel only met with his client very briefly, that alone does not establish that he was unprepared or ineffective at trial. *See Harris v. State*, 377 S.C. 66, 75, 659 S.E.2d 140, 145 (2008) (citing *Easter*) ("First, there is no question that counsel met with [Applicant] on several occasions prior to the first trial. Even if the meetings were brief, this fact alone is not indicative of inadequate trial preparation."). "[B]revity of time spent in consultation with a defendant alone is not indicative of inadequate trial preparation." *Smith v. State*, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (2012).

At the evidentiary hearing, Applicant testified that Plea Counsel did not discuss his case with him during their meetings. Applicant testified that Plea Counsel did not discuss trial or options or explain to Applicant his right to remain silent. On cross-examination, Applicant testified that he met with Plea Counsel ten times in total.

On direct examination, Plea Counsel testified that he had enough time to meet and speak with the Applicant. Plea Counsel testified that he usually meets with clients once every three months, and he and Applicant met possibly a dozen times. Plea Counsel testified that he explained to Applicant his charges, possible sentences, and constitutional rights.

This Court finds Applicant has failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [his] case." *Ard v. Catoe, supra*. Also, this Court finds Applicant has failed to overcome his burden in proving Plea Counsel's representation was deficient and any resulting prejudice from that alleged deficiency. *See Butler, supra*. This Court finds credible Plea Counsel's testimony that he informed Applicant of the nature of the charges against him, his

constitutional rights, and the possible sentences he was facing. Furthermore, the plea court informed Applicant of his constitutional rights, including his right to a jury trial. (Plea Tr. pp. 2-4) This Court finds Applicant's testimony at the evidentiary hearing regarding the allegations that Plea Counsel was deficient in failing to advise him **not credible**.

Applicant has failed to prove Plea Counsel was ineffective for not informing Applicant of his constitutional rights or the nature of his plea deal, his charges, and potential sentences. Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel, or any prejudice flowing therefrom. Thus, this allegation must be **DENIED** and **DISMISSED**.

Allegation: Plea Counsel Failed to Acquire a Plea Deal for Voluntary Manslaughter

Applicant testified that Plea Counsel told him he would obtain a plea deal for voluntary manslaughter; however, Applicant has no right to any specific plea deal from the State. See *Lafler v. Cooper*, 566 U.S. 156,168 (2012) ("It is, of course, true that defendants have 'no right to be offered a plea... nor a federal right that the judge accept it.'"); *Reed v. Becka*, 333 S.C. 676, 685,511 S.E.2d 396,401 (Ct. App. 1999) ("[I]t is the prerogative of any person to waive his rights, confess, and plead guilty, under judicially defined safeguards, which are adequately enforced. However, a defendant has no constitutional right to plea bargain.") (citations omitted). The decision whether to offer a plea bargain is within the solicitor's discretion. *State v. Whipple*, 324 S.C. 43,49,476 S.E.2d 683, 686 (1996) (citing *State v. Chisolm*, 312 S.C. 235, 439 S.E.2d 850 (1996)). Plea Counsel **credibly** testified that he attempted to obtain a plea deal for manslaughter, and that the State would not move from a murder charge. Applicant not receiving a plea offer for voluntary manslaughter was not the result of any deficiency by Plea Counsel, rather it was the result of the Solicitor lawfully exercising his discretion.

Therefore, Applicant has failed to demonstrate how Plea Counsel's failure to acquire a plea deal for voluntary manslaughter was unreasonable in light of prevailing professional norms. Applicant has failed to prove Plea Counsel was ineffective for not acquiring a plea offer from the Solicitor for voluntary manslaughter. Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel, or any prejudice flowing therefrom. Thus, this allegation must be **DENIED** and **DISMISSED**.

INVOLUNTARY GUILTY PLEA ALLEGATION

Applicant alleges that Plea Counsel told him to plead guilty and that he pled guilty to protect his brother from murder charges. This Court finds that Applicant freely, knowingly, and voluntarily pled guilty. To find a guilty plea is voluntarily and knowingly entered into, the record must establish Applicant had a full understanding of the consequences of his plea and the charges against him. *See Boykin v. Alabama*, 395 U.S. 238, 243 (1969); *Dover v. State*, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. *See Harris v. Leeke*, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984). "Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual . . . , a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed." *Dalton v. State*, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007). Indeed, admissions made during a guilty plea should be considered conclusive unless an applicant presents valid reasons why he should be allowed to depart from the truth of his statements." *Id.* at 137–38, 654 S.E.2d at 874. Surmounting *Strickland*'s high bar is not easy, and the societal interest in finality has "special force with respect to convictions based on guilty pleas." *Lee*, 582 U.S. 368-369, 137 S. Ct. at 1967. Voluntarily

pleading guilty requires “sufficient awareness of the relevant circumstances and likely consequences.” *Brady v. United States*, 397 U.S. 742, 748, 90 S.Ct. 1463, 25 L.Ed.2d 747 (1970).

At the evidentiary hearing, Applicant testified that he was very concerned about his brother’s well-being, and that Applicant was told if he did not plead to murder then his brother would be charged with murder. Applicant testified that he pled guilty because he was concerned about his brother being charged with murder. Applicant testified that Plea Counsel did not try to stop him from pleading guilty and that he encouraged Applicant to plead guilty.

On direct examination, Plea Counsel testified that Applicant wanted to plead guilty from the beginning. Plea Counsel testified that Applicant told him that he did not want his brother to be involved, held responsible, or punished. On cross-examination, Plea Counsel testified that he told Applicant that he believed the State would not charge his brother with murder if Applicant pled guilty to murder. Plea Counsel testified that he told Applicant he needed to make his own decisions.

Applicant’s testimony at the evidentiary hearing asserts that the possibility of additional charges against his brother was a factor in his decision to plead guilty. In the version of the facts of the case articulated by the Solicitor at Applicant’s guilty plea, Applicant is identified as the shooter because he had given a statement admitting to it. (Plea Tr. 8). The Solicitor then stated that Applicant’s brother had been charged with accessory after the fact, and that a plea offer had already been made to Applicant’s brother that the Solicitor would recommend an active Youthful Offender Act sentence in exchange for Applicant’s brother pleading as charged. (Plea Tr. p. 9). There is nothing in the record to suggest that the State was going to charge Applicant’s brother for murder based on Applicant’s decision to plead guilty or go to trial. Plea Counsel credibly testified that Applicant always wanted to plead guilty. This Court finds the combination of the record and Plea

Counsel's credible testimony show that Applicant has not met his burden of proof showing a reasonable probability that he would have gone to trial but for Plea Counsel's performance.

This Court finds Applicant has presented no valid reason why he should be able to depart from the statements made during his guilty plea. Based on the plea transcript and the evidence presented at the evidentiary hearing, this Court finds Applicant freely, knowingly, and voluntarily pled guilty. Accordingly, this Court finds Applicant has failed to establish his guilty plea was involuntary and further failed to establish any deficiency by Plea Counsel, or any prejudice flowing therefrom. Thus, this allegation must be **DENIED** and **DISMISSED**.

Allegation: Failure to file a motion to reconsider the sentence

Applicant failed to present any evidence, testimony, or legal authority regarding this allegation at the evidentiary hearing. "When a party provides no legal authority regarding a particular argument, the argument is abandoned and the court will not address the merits of the issue." *Palmer v. State*, 427 S.C. 36, 47, 829 S.E.2d 255, 261 (Ct. App. 2019) (citing *State v. Lindsey*, 394 S.C. 354, 363, 714 S.E.2d 554, 558 (Ct. App. 2011)). Therefore, this Court deems this allegation abandoned.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be **DENIED** and **DISMISSED with PREJUDICE**.

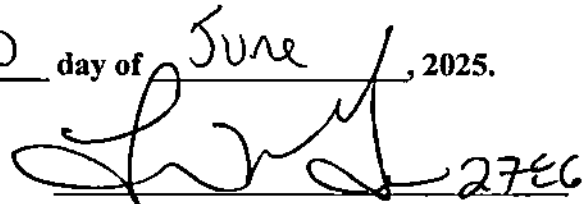
This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453,

409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRPC, provides that PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf if the Applicant wishes to seek appellate review. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief shall be denied and dismissed with prejudice; and
2. The Applicant shall be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 10 day of June, 2025.



THOMAS W. MCGEE, III
Presiding Judge
First Judicial Circuit

Richland, South Carolina