STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) NINTH JUDICIAL CIRCUIT

RECEIVED
May 20 2026
SC Court of Appeals

Antwan L. Scott, SCDC #361401, Applicant,

v.

State of South Carolina, Respondent.

CASE NO. 2024-CP-10-05752

ORDER OF DISMISSAL WITH PREJUDICE

Presiding Judge:	Hon. Thomas W. McGee, III
Applicant's Attorney:	Christopher L. Murphy, Esq.
Respondent's Attorney:	Sydney N. Willingham, Esq.
Plea Counsel:	J. Sterling Chillico, Esq.
Solicitor:	Benjamin Chad Simpson, Esq.
Date of Hearing:	April 15, 2026
Court Reporter:	Abigail Kiker

FILED
2026 MAY 18 AM 11: 34
JULIE J. ARMSTRONG
CLERK OF COURT

This matter comes before the Court pursuant to an application for post-conviction relief ("PCR") filed by Antwan L. Scott ("Applicant") on November 18, 2024. Respondent filed its "Return and Motion for a More Definite Statement," requesting that an evidentiary hearing be held on the allegations. On April 15, 2026, an evidentiary hearing was held at the Charleston County Courthouse before the Honorable Thomas W. McGee, III. Applicant was present and represented by Christopher L. Murphy, Esquire. Assistant Attorney General Sydney N. Willingham represented Respondent. Applicant proceeded on the allegation in his application. This Court received testimony from Applicant, his plea counsel, J. Sterling Chillico, Esquire, and Assistant Solicitor Benjamin Chad Simpson.

Following a thorough review of the record, along with the testimony and evidence presented at the hearing, this Court finds Applicant has failed to establish any constitutional

violations or deprivations entitling him to relief and, accordingly, **DENIES** and **DISMISSES** this action with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a thirty-five-year sentence. In October 2024, the Charleston County Grand Jury indicted Applicant for murder (2024-GS-10-4739). On October 31, 2024, Applicant appeared before the Honorable Deadra L. Jefferson and pled guilty pursuant to a negotiated thirty-five-year sentence. J. Sterling Chillico, Esquire, represented Applicant, and Assistant Solicitor Benjamin Chad Simpson represented the State. Judge Jefferson sentenced Applicant to thirty-five years' imprisonment. Applicant did not appeal.

FACTS GIVING RISE TO THE CONVICTION

The underlying facts of the crime for which Applicant is incarcerated were articulated by the State during the plea proceedings as follows:

> Mr. Gaber Badali (ph) Baghdady was 60 years old in 2022 and was the recently hired manager of Toast on King Street; you may be familiar with that restaurant establishment. He was called Mr. Jimmy by his co-workers and friends at that establishment.
>
> The defendant was a recently terminated employee. He had been terminated some days before this incident occurred. On June 28th of 2022 at about 11:45 p.m., Charleston police officers were flagged down and 911 was called regarding some shots fired at the rear of the Toast All Day restaurant on King Street. After a search of the area, Mr. Baghdady was found deceased. He was killed by a single gunshot wound to the head.
>
> The investigation proceeded and, obviously, surveillance video was the main line of inquiry there. Toast on King had a pretty extensive surveillance camera system. Once that camera was downloaded and reviewed, the defendant was identified by a employee of the Toast hospitality organization approaching the rear of the business. He did put on a mask, but at the location where he put the mask on was on -- on one camera.
>
> The camera from inside shows that he entered with a handgun and confronted Mr.

> Jimmy in the back office. Kind of presumed that he would have been familiar with some of the closing procedures at the restaurant, and this was right around the time that the manager was taking the cash from the night and taking it to the office.
>
> The victim was not -- struggled with the defendant. The defendant entered with the gun and a struggle ensued sort of over the gun. They sort of struggle with one another and then go slightly off camera, and that's when you -- when you see that the victim go to the floor where he remained until he was discovered.
>
> Again, as I mentioned, he was identified by an employee of the organization from the video surveillance but also, he was wearing a fairly distinctive ring in the video of the incident. He had gone to the management company of Toast a few days prior to pick up a last check, and in that video from that, you see the defendant clearly, and you see him also wearing the same distinctive ring.
>
> Following his arrest, he also did confess to being the person in the video and the person that committed the offense.

(Plea Tr. pp. 8-9).

CURRENT APPLICATION

On November 18, 2024, Applicant timely filed this PCR action alleging he is being held in custody unlawfully based on ineffective assistance of counsel.[1] Applicant did not set forth any specific facts to support this claim.

Applicant raised the following additional allegations at the evidentiary hearing:

1. Involuntary Guilty Plea.
2. Failure to Relay Plea Offer of twenty-five years.
3. Failure to review discovery.

STANDARD OF REVIEW

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

[1] The page of the application that states the requested relief is missing from the application.
[2] S.C. Code Ann. §§ 17-27-10 to -160.

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy[.]

S.C. Code Ann. § 17-27-20(A).

Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive effective assistance of counsel guaranteed by the Sixth Amendment. See generally S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right and raises a question of fact that can only be determined by an evidentiary hearing. Rogers v. State, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland to determine whether counsel's conduct "was so [ineffective] as to require reversal" of the applicant's conviction. Strickland v. Washington, 466 U.S. 668 at 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. Id. at 687-88; Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim.

Strickland, 466 U.S. at 700; see also Bell v. Cone, 535 U.S. 685, 695 (2002) (explaining that "[without proof of both deficient performance and prejudice to the defense... it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable" (citation and internal quotation marks omitted)).

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea. Hill v. Lockhart, 474 U.S. 52 (1985), extended the two-part Strickland test to challenge guilty pleas based on ineffective assistance of counsel. See Padilla v. Kentucky, 559 U.S. 356, 373 (2010) (recognizing that the guilty plea process is a "critical phase of litigation" for purposes of the Sixth Amendment right to effective assistance of counsel). The analysis of counsel's performance under the first prong of Strickland remains unchanged, the applicant must show that counsel's representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases. Hill, 474 U.S. at 58-59; accord Thompson v. State, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000).

An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice to plead guilty was not "within the range of competence demanded of attorneys in criminal cases." Hill, 474 U.S. at 56. The second, or "prejudice" prong, however, "focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process." Id. at 58-59. Specifically, when an applicant claims counsel's deficient performance caused him to accept a plea, the applicant "must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." Id. at 59.

This inquiry "focuses on a defendant's decision-making" and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed

to trial. Lee v. United States, 582 U.S. 357, 367 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—**not** whether counsel would have still advised him or her to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999) (emphasis added).

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

Applicant has alleged and elected to pursue various claims of ineffective assistance of counsel through the post-conviction relief action presently before this Court. In analyzing these claims, this Court has considered the legal arguments by counsel and thoroughly reviewed the record in its entirety. This Court additionally heard the testimony presented at the evidentiary hearing and was able to observe the witnesses, which allowed the Court to evaluate and scrutinize their credibility.

Upon conducting and completing its analysis, this Court finds that Applicant has failed to establish any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. See Rule 71.1(e), SCRCP (stating that in a post-conviction relief action, "[t]he applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."); Lucero v. State, 414 S.C. 238, 244, 777 S.E.2d 409, 412 (Ct. App. 2015) ("In a PCR proceeding, the applicant bears the burden of establishing that he or she is entitled to relief."); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) ("The burden of proof is on the Applicant in post-conviction proceedings to prove the allegations in his application.").

Accordingly, set forth below are the relevant findings of fact and conclusions of law as required by § 17-27-80 of the South Carolina Code:

INITIAL FINDINGS

This Court finds applicable the strong presumption that at all stages of Plea Counsel's representation of Applicant, he rendered adequate assistance and exercised reasonable professional judgment in his representation. Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (citing Strickland, *supra*). The United States Supreme Court has cautioned that "every effort be made to eliminate the distorting effects of hindsight" and evaluate counsel's decisions at the time they were made. Strickland, 466 U.S. at 689; see Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992).

ALLEGATIONS OF INEFFECTIVE ASSISTANCE OF PLEA COUNSEL

Allegation 1: Involuntary Guilty Plea.

Applicant alleges Counsel's representation was constitutionally ineffective, specifically, Applicant alleges that his plea was entered involuntarily due to the advice of Counsel. This Court finds this allegation is without merit.

An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for trial counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial instead. See Roscoe v. State, 345 S.C.16, 20, 546 S.E.2d 417, 419 (2001); see also Richardson v. State, 310 S.C. 360, 362, 426 S.E.2d 795, 797 (1993). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. See Harres v. Leeke, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984) (finding the voluntariness of a

guilty plea "is not determined by an examination of the specific inquiry made by the sentencing judge alone but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing.").

To find a guilty plea has been voluntarily and knowingly entered, the record must establish Applicant had a complete understanding of the consequences of the plea and the charges against him or her. Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). Before a court can accept a guilty plea, the defendant must be advised of the constitutional rights he is waiving, the right to a jury trial, the right to confront one's accusers, and the privilege against self-incrimination. Boykin v. Alabama, 395 U.S. 238, 244 (1969). Additionally, the defendant "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999). The defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993).

Plea Colloquy

In the instant case, the colloquy at the guilty plea shows that Applicant's plea was knowingly and voluntarily entered. See Rayford v. State, 314 S.C. 46, 443 S.E.2d 805 (1994) ("finding a guilty plea voluntary where [Applicant] admitted committing the crimes, acknowledged the potential sentences, and stated that his plea had not been induced by promises"). The colloquy establishes that Applicant had no misconceptions regarding sentencing. Judge Jefferson informed Applicant that he was entering a guilty plea for murder. (Plea Tr. p. 3). Plea Counsel confirmed that she explained the charge, the punishment, and his rights to Applicant prior

to the plea. (Plea Tr. p. 4). Judge Jefferson informed Applicant the mandatory minimum sentence is 30 years and the maximum sentence is life for the offense of murder. (Plea Tr. pp. 6-7). Applicant confirmed that he understood this information. (Plea Tr. p. 7). Judge Jefferson explained that the offense is classified as violent and most serious. (Plea Tr. p. 7). She explained that if Applicant received an additional most serious offense he could potentially face life without parole. (Plea Tr. p. 7). Applicant did not contest the State's recitation of facts. (Plea Tr. p. 10). Applicant confirmed that it was his free and voluntary decision to plead. (Plea Tr. p. 10). Applicant was advised of his constitutional right to a jury trial where the State must prove its case beyond a reasonable doubt, the right to confront all witnesses, examine all the evidence presented against him, and the right to remain silent. (Plea Tr. pp. 10-11). Applicant confirmed that he was satisfied with the services of his lawyer and she had done everything he asked her to. (Plea Tr. p. 12). Applicant confirmed he was pleading guilty freely and voluntarily of his own free will. (Plea Tr. p. 12). Applicant should be held to the assertions he made to the court. See generally Wolfe, 485 S.E.2d at 367 ("[Applicant's] claim he understood from counsel that the trial judge's questions at the guilty plea were only a 'polite fiction' was 'not an invitation to answer untruthfully'").

PCR Evidentiary Hearing

Applicant testified on direct examination that his plea was involuntary because he was not informed of his rights. Applicant testified it would have been "pointless" to go to trial because was facing a life sentence. On cross examination, Applicant testified he did not recall agreeing to the Solicitor's recitation of facts or being informed of his rights to a jury trial.

Plea Counsel testified she discussed the option of pleading or proceeding to trial at length with Applicant and that he had no intention of going to trial due to the overwhelming evidence in the case and the potential sentence exposure he faced at trial. Plea Counsel testified the State's

evidence included a video of Applicant entering the restaurant which showed him chambering the bullet prior to entry and a confession from Applicant. Further, Plea Counsel testified that she discussed the potential sentences Applicant would face if he proceeded to trial and that she believed he would likely receive a life sentence had he proceeded. Plea Counsel testified it was Applicant's decision alone to enter the guilty plea. Plea Counsel testified she believed it was in Applicant's best interest to plead.

Findings

As an initial matter, this Court finds the record supports that Judge Jefferson informed Applicant that the offense of murder carries a mandatory minimum sentence of thirty years. (Plea Tr. p. 9). This Court finds from the record that Applicant understood the charges, the weight of the evidence, and the proceedings against him. Further, this Court finds Plea Counsel's testimony *credible* and Applicant's testimony on this topic *not credible*. Plea Counsel testified that she discussed the option of proceeding to trial or pleading with Applicant, and the possible sentencing outcome had he decided to proceed with the trial. Plea Counsel *credibly* testified that Applicant chose to enter a global plea to avoid facing a potential life sentence at trial. Further, Judge Jefferson advised Applicant of his constitutional right to a jury trial where the State must prove its case beyond a reasonable doubt, the right to confront all witnesses, examine all the evidence presented against him, and the right to remain silent. (Plea Tr. pp. 10-11). Moreover, to whatever extent Applicant was not entirely satisfied with the plea, he was presented an opportunity to express his dissatisfaction with the plea court, knowingly opted not to do so, and instead chose to proceed with his guilty plea so that he would not have to proceed to trial.

Based on the foregoing, this Court finds Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Plea Counsel failed to render reasonable,

effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Plea Counsel's performance.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation is **DENIED** and **DISMISSED.**

Allegation 2: Failure to Relay 25-year Plea Offer.

Applicant alleges Counsel's representation was constitutionally ineffective, specifically, Applicant alleges that Plea Counsel failed to relay a plea offer of 25-years. This Court finds this allegation is without merit.

Claims of ineffective assistance of counsel in the plea bargain context are governed by the two-part test set forth in Strickland. See Hill v. Lockhart, 474 U.S. 52 (1985). "The art of negotiation is at least as nuanced as the art of trial advocacy, and it presents questions further removed from immediate judicial supervision." Premo v. Moore, 562 U.S. 115 (2011). "As a general rule, defense counsel has the duty to communicate formal offers from the prosecution to accept a plea on terms and conditions that may be favorable to the accused." Missouri v. Frye, 566 U.S. 134 (2012). To show prejudice from ineffective assistance of counsel where a plea offer has lapsed, defendants must demonstrate a reasonable probability they would have accepted the earlier plea offer had they been afforded effective assistance of counsel. Id. "Defendants must also demonstrate a reasonable probability the plea would have been entered without the prosecution canceling it or the trial court refusing to accept it, if they had the authority to exercise that discretion under state law." Id. To establish prejudice, it is necessary to show a reasonable probability that the result of the criminal process would have been more favorable by reason of a plea to a lesser charge or a sentence of less prison time. Id. cf. Glover v. United States, 531 U.S. 198 (2001)

("[A]ny amount of [additional] jail time has Sixth Amendment significance").

"Where a defendant complains that ineffective assistance led him to accept a plea offer as opposed to proceeding to trial, the defendant will have to show 'a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial.'" Frye, *supra* (quoting Hill, 474 U.S. at 59). "In order to complete a showing of Strickland prejudice, defendants who have shown a reasonable probability they would have accepted the earlier plea offer must also show that, if the prosecution had the discretion to cancel it or if the trial court had the discretion to refuse to accept it, there is a reasonable probability neither the prosecution nor the trial court would have prevented the offer from being accepted or implemented." Frye, 566 U.S. at 148. "This further showing is of particular importance because a defendant has *no right to be offered a plea*." See Weatherford v. Bursey, 429 U.S. 54 (1977) (emphasis added).

PCR Evidentiary Hearing

Applicant testified on direct examination there was a 25-year plea offer for voluntary manslaughter that was not conveyed to him by Plea Counsel. Applicant testified on direct examination that he understood he was facing a life sentence at trial and a 35-year sentence was better than a life sentence.

Plea Counsel testified on direct examination there was never a 25-year plea offer by the State. Plea Counsel testified she tried to negotiate a voluntary manslaughter sentence for 25 years but ultimately it was not a sentence the State was prepared to offer. Plea Counsel testified there was no offer for less than 35 years.

Solicitor Simpson testified on direct examination there was never a 25-year plea offer by the State. Solicitor Simpson testified Plea Counsel did advocate for a 25-year sentence on behalf

of Applicant, but 35 years was the best offer the State would make. Solicitor Simpson testified the State would have made a recommendation for a life sentence had Applicant proceeded to trial.

Findings

This Court finds that 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.* This Court additionally finds that 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 Applicant's testimony on this topic *not credible* and *not persuasive*. This Court finds Plea Counsel *credibly* testified she advocated for a 25-year plea offer, however, the State never offered lower than a 35-year sentence. This testimony was corroborated by Solicitor Simpson's testimony which this Court also finds *credible*. Solicitor Simpson testified that the State would have recommended a life sentence had Applicant proceeded to trial. This Court finds Applicant has not met his burden to show a reasonable probability he would not have pleaded guilty and would have insisted on going to trial. This Court finds Applicant received the benefit of no longer facing a *potential life sentence* when he decided to plead. Thus, Applicant failed in his burden of proving deficiency or prejudice. See Glover, *supra.*

Based on the foregoing, this Court finds Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Plea Counsel failed to render reasonable effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Plea Counsel's performance.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation is **DENIED** and **DISMISSED.**

Allegation 3: Failure to Review Discovery.

Applicant alleges Counsel's representation was constitutionally ineffective, specifically, Applicant alleges that Plea Counsel failed to review or give him a copy of his discovery. This Court finds this allegation is without merit.

In order to prevail upon a claim that counsel did not adequately prepare or investigate a case, an applicant must present evidence of what counsel could have discovered or what other defenses applicant could have requested counsel develop and present had counsel been more prepared. Harris v. State, 377 S.C. 66, 75–76, 659 S.E.2d 140, 145–46 (2008) (citing Jackson v. State, 329 S.C. 345, 353–54, 495 S.E.2d 768, 772 (1998)), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018). Likewise, in order to prevail on a claim that counsel did not review discovery with applicant, the applicant must demonstrate prejudice by showing what evidence could have been discovered or what other defenses could have been pursued. Id.

PCR Evidentiary Hearing

Applicant testified on direct examination that Plea Counsel did not review his discovery with him.

Plea Counsel testified on direct examination she fully went over the discovery with Applicant and produced him the paper discovery. Plea Counsel testified on cross-examination she went to the jail at least two times reviewing the videos in discovery and spent almost five hours doing so. Plea Counsel further testified on cross-examination that she met with Applicant over ten times according to her notes and she kept him informed about his case.

Findings

This Court finds that 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.* This Court additionally finds that 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 Plea Counsel *credibly* testified she reviewed the discovery with Applicant in depth. Applicant failed to present "any evidence of how additional preparation or communication would have resulted in a different outcome." Smith v. State, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (Ct. App. 2012); Applicant has not suggested any defenses, or any evidence or anything that should have been investigated further, resulting in mere speculation. Thus, Applicant failed in his burden of proving deficiency or prejudice. See Glover, *supra.*

Based on the foregoing, this Court finds Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Plea Counsel failed to render reasonable effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Plea Counsel's performance.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation is **DENIED** and **DISMISSED.**

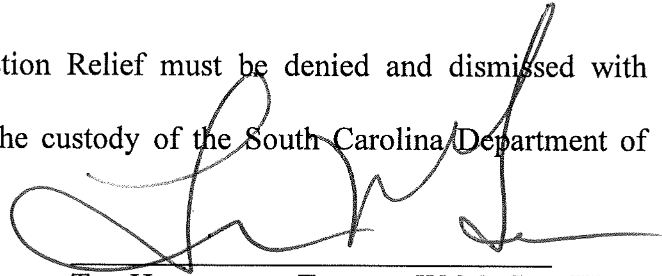
Conclusion

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

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf if the Applicant wishes to seek appellate review. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

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



THE HONORABLE THOMAS W. MCGEE, III
Presiding Judge
Ninth Judicial Circuit 2786

Columbia, South Carolina