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May 26 2026

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

CERTIORARI TO BEAUFORT COUNTY
Court of Common Pleas
The Honorable Dale E. Van Slambrook, PCR Court Judge

Case No. 2023-CP-07-00324

ANTONIO RICARDO LEE,

RESPONDENT,

v.

STATE OF SOUTH CAROLINA,

PETITIONER.

NOTICE OF APPEAL

The State of South Carolina hereby appeals the Honorable Dale E. Van Slambrook's Order Granting Post-Conviction Relief, filed February 26, 2026. The State filed a timely motion to reconsider, alter, or amend pursuant to Rule 59(e), SCRPC, which was denied by Judge Van Slambrook by written order filed on May 19, 2026, and received on May 20, 2026. Copies of both orders are attached hereto.

May 26, 2026

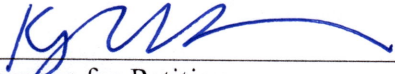
Respectfully submitted,

ALAN WILSON
Attorney General

D. RUSSELL BARLOW
Senior Assistant Deputy Attorney General

KYLEE KANEALEY
Assistant Attorney General
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Other Counsel of Record:
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By: 
Attorneys for Petitioner

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

) IN THE COURT OF COMMON PLEAS
) FOR THE FOURTEENTH JUDICIAL CIRCUIT

Antonio Lee, #381145,
Applicant,

) Case No.: 2023-CP-07-00324

v.
State of South Carolina,
Respondent.

) **ORDER GRANTING RELIEF**

FILED
CLERK OF COURT
2026 FEB 28 AM 11:30

This matter comes before this Court by way of Mr. Antonio Lee's (Applicant's) post-conviction relief application filed on February 15, 2023. An evidentiary hearing was held on November 13, 2025, at the Beaufort County Courthouse. Chelsey Marto, Esquire, represented Applicant. Assistant Attorney General Kylee Kanealey represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Counsel Jeffrey Stephens, Esquire, also testified. After reviewing all records and evidence before this Court, this Court finds Applicant has met his requisite burden of proof in establishing he is entitled to post-conviction relief and grants relief accordingly. Findings of fact and conclusions of law are set forth below.

Procedural History

Applicant is currently incarcerated in the South Carolina Department of Corrections pursuant to orders of commitment from the Beaufort County Clerk of Court. He was indicted in August 2019 for trafficking cocaine (2018-GS-07-01997), possession with intent to distribute heroin (2018-GS-07-01187), possession with intent to distribute a controlled substance within proximity to a school or park (2018-GS-07-01188), and possession of marijuana (2018-GS-07-01184). He was represented by Jeffrey Stephens and Sharon Carroway, Esquires, and Sarah Fowler and Daniel Gorley, Esquire, prosecuted the case. He proceeded to a jury trial on August 12-14, 2019, before the Honorable Deadra Jefferson, circuit court judge. He was found guilty as

indicted and sentenced to twenty-five years' imprisonment for trafficking cocaine, eight years for both PWID charges, and one year imprisonment for possession of marijuana.

Applicant filed an appeal, which was perfected by Appellate Defender Victor Seeger, Esquire. The South Carolina Court of Appeals affirmed Applicant's convictions and sentences by unpublished opinion. The remittitur was issued on March 7, 2022.

Relevant Facts

A search warrant was executed at a house Applicant occasionally resided in with multiple other people. (Tr. 68, 150, 152-56, 165, 266, 284-86). Applicant was charged with cocaine and marijuana found in the house. The warrant was procured after an tip was received by an informant who told the police he was going to buy drugs shortly before arriving at the home for a buy. (Tr. 36-43). Drugs were found in multiple different locations in the home, including a room other adults stayed in and on other adult's persons. (Tr. 284-86). However, Applicant was charged with all drugs found in the home. No other adults were charged with any drug offenses.

Current Action Before this Court

At the PCR hearing, Applicant proceeded forward on the following allegations:

1. Ineffective assistance of counsel for:
 - a. Failure to investigate and prepare a defense to suppress drugs and incriminating evidence after law enforcement failed to establish probable cause.
 - b. Failure to obtain a specific ruling on the credibility and reliability of the confidential informant.
 - c. Failure to effectively challenge search warrants based on lack of probable cause.
 - d. Failure to effectively suppress incriminating evidence obtained from the faulty execution of the search warrant.
 - e. Failure to effectively challenge the indictments.
 - f. Failure to prepare and present a proper trial defense.
 - g. Failure to move for a mistrial or request the judge recuse herself after participating in ex parte communications with the prosecutor concerning the confidential informant.
 - h. Failure to acquire phone records.
 - i. Failure to call Shae Dalrymple and Joseph Atkins to testify.
 - j. Improperly waiving Applicant's dominion and control defense during the motion

- for directed verdict.
- k. Failure to properly object to the prosecutor's inflammatory language during opening and closing arguments.
 - l. Being ineffective pursuant to *United States v. Cronin*, 466 U.S. 648, 104 S.Ct. 2039 (1984).
 - m. Failure to object to improper jury instructions.
 - n. Failing to move to dismiss the charges based on selective discriminatory enforcement.
 - o. Failure to challenge the DNA evidence pursuant to Rule 403.
 - p. Failure to object to the prosecutor's misrepresentation of DNA statistics during closing argument.
 - q. Failure to challenge selective DNA testing.

Findings of Fact and Conclusions of Law

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. Before this Court are the Beaufort County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the trial transcript, direct appeal records, and this PCR action's records. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusion of law as required by South Carolina Code Annotated Section 17-27-80 (2003).

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show "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. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. *See also* Rule 71.1(e), SCRPC ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."). Reasonableness is determined by the "variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant," and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690); *see Dunn v. Reeves*, 141 S. Ct. 2405, 2410 (2021) (noting counsel's strategic decisions are to be afforded "'strong presumption' of reasonableness that the defendant must overcome); *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). Judicial scrutiny of counsel's performance remains deferential towards defense counsel with a presumption that counsel was competent. *Strickland*, 466 U.S. at 688-89.

Second, counsel's deficient performance must have prejudiced the applicant so 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. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. 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.

In *State v. Stewart*, 858 S.E.2d 808 (S.C. 2021), the Court overruled *State v. Adams*, 291 S.C. 132, 352 S.E.2d 483 (1987) and determined that “[t]he jury charge instructing a jury that it may infer knowledge or possession when a substance is found on property under defendant’s control should no longer be given.” *Stewart*, 858 S.E.2d at 813. Specifically, it found that the *Adams* court misconstrued prior decisions¹ when it found that the Court was permitted to give a charge on inference of knowledge and possession to a jury. Though it found that the jury can draw an inference of knowledge and possession and that the parties can argue that they draw or not draw an inference accordingly, the *Stewart* court was clear that the Court never should have extrapolated from that that they could charge on inference themselves. *Id.*

Here, Counsel was deficient in failing to object to this erroneous jury instruction. Though the trial occurred during the pendency of the appeal, Counsel should have been diligent in researching cases currently before the courts and determined that an objection should have been launched, if for no other reason than to preserve this issue on appeal, which would have happened **after** the *Stewart* decision was reached. Counsel failed to present a reasonable, strategic decision why they did not object.

This clearly prejudiced Applicant. Applicant was a transient resident at a home shared with multiple other adults, who were apparent users themselves, given the location of some of the drugs found. Charging the jury that they could presume that any drugs found in a house he

¹ See *State v. Hudson*, 277 S.C. 200, 284 S.E.2d 733 (S.C. 1981); *State v. Brown*, 267 S.C. 311, 227 S.E.2d 674 (S.C. 1976)

resided him could be inference enough to place them on him personally clearly altered the jury's decision, to Applicant's detriment. This charge gave the jury license to place anything found in the house on Applicant personally, regardless of whether they were in another resident's bedroom, or even his person. Thus, Counsel's failure to object was both unreasonable and prejudicial. Relief is granted accordingly.

Conclusion

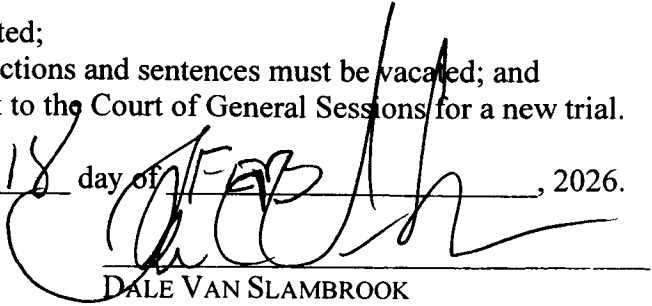
Based on all the foregoing, this Court finds and concludes that Applicant has established constitutional violations or deprivations requiring this Court to grant his application. Therefore, this PCR application must be granted, the convictions and sentences vacated, and the matter must be sent back to General Sessions Court for a new trial.

This Court notifies the State that they must file and serve a notice of appeal within thirty days of receipt by counsel of the judgment entry's written notice to secure appropriate appellate review. *See* Rule 203, SCACR. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate appellate procedures.

IT IS THEREFORE ORDERED:

1. The PCR application be granted;
2. Applicant's underlying convictions and sentences must be vacated; and
3. This matter is remanded back to the Court of General Sessions for a new trial.

AND IT IS SO ORDERED this 18 day of February, 2026.



DALE VAN SLAMBROOK
Presiding Judge
Fourteenth Judicial Circuit

Moncks Ca, South Carolina.

FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS**

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2023CP0700324**

Antonio Ricardo Lee		South Carolina State Of	
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PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

Order Granting Relief

This order ends does not end the case.
Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

s/D. Van Slambrook
Circuit Court Judge

2781
Judge Code

2/18/2026
Date

For Clerk of Court Office Use Only

This judgment was entered on **February 26, 2026**, and a copy mailed first class or placed in the appropriate attorney's box on **February 27, 2026**, to attorneys of record or to parties (when appearing pro se) as follows:

Antonio Richardo Lee #381145 Allendale Correctional
Instituti Post Office Box 1151 Fairfax, SC 29827
Chelsey Faith Marto PO Box 8795 Columbia, SC 29201

Danielle Dixon PO Box 11549 Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

MK

Court Reporter

Jerri Ann Roseneau - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
IN THE FOURTEENTH JUDICIAL CIRCUIT

Antonio Lee, #381145,)
Applicant,)

Case No.: 2023-CP-07-00324

v.)

**ORDER DENYING RESPONDENT'S
MOTION FOR RECONSIDERATION**

State of South Carolina,)
Respondent.)

2026 MAY 19 AM 11:27
JERRI A. ROSENBAUM
CLERK OF COURT
BEAUFORT COUNTY, S.C.

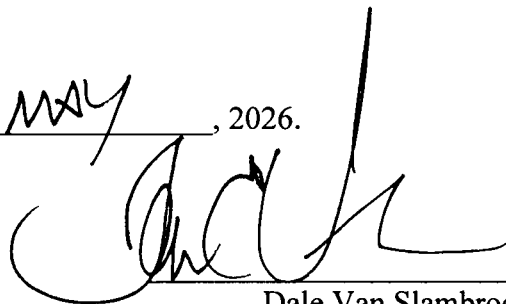
The matter before this Court by way of an Application for post-conviction relief (hereafter “PCR”) filed February 15, 2023. This Court convened an evidentiary hearing into the matter on November 13, 2025, at the Beaufort County Courthouse. Applicant was present at the hearing and represented by Chelsey F. Marto. Respondent was represented by Kylee Kanealey, Esquire, of the South Carolina Attorney General’s Office. The Court granted relief by written Order dated February 26, 2026. On March 9, 2026, Respondent filed a Motion for Reconsideration. Applicant’s attorney submitted its return on April 2, 2026.

After careful consideration of the arguments of Counsel and review of the record, this Court is unable to discover any material fact or principle of law that has either been overlooked or disregarded, and further finds no error of law or fact not appropriately considered. The Order of Dismissal issued by this Court contains the appropriate findings of fact and conclusions of law as required by section 17-27-80 of the South Carolina Code of Laws and Rule 52(a) of the South Carolina Rules of Civil procedure. Accordingly, Respondent’s Motion for Reconsideration is **DENIED.**



IT IS THEREFORE ORDERED that Respondent's motion is hereby **DENIED AND DISMISSED**.

AND IT IS SO ORDERED this 11 day of MAY, 2026.



Dale Van Slambrook
Presiding Judge
Fourteenth Judicial Circuit

Moncks Corn, South Carolina

