

**NOTICE OF APPEAL FROM A PCR DENIAL BY THE COURT OF
COMMON PLEAS**

THE STATE OF SOUTH CAROLINA
In Supreme Court of SC

APPEAL FROM Horry COUNTY
Court of Common Pleas

S. Bryan Doby, Circuit Court Judge

Case #2021-CP-26-07792

RECEIVED

MAY 27 2026

S.C. SUPREME COURT

The State,

Respondent,

v.

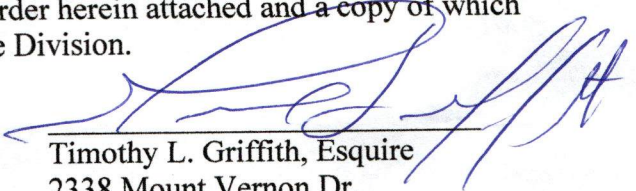
David Campbell

Appellant.

NOTICE OF APPEAL

David Campbell appeals the decision of the Court, in the order dated April 24, 2026, retrieved from public index by counsel on May 19, 2026, where Mr. Campbell was denied his request for Post-Conviction Relief. Mr. Campbell was represented at the hearing by Timothy L. Griffith, Attorney at Law who files this notice on behalf of the Appellant. The order herein attached and a copy of which is also forwarded to the SCCID Appellate Division.

Dated 5/21/26


Timothy L. Griffith, Esquire
2338 Mount Vernon Dr.
Sumter, SC 29154
Telephone: (803) 499-2012
Attorney for Appellant (relieved)
Will not be representing on appeal

Other Counsel of Record:
MacKinnon Westraad, Esquire
Assistant Attorney General
South Carolina Attorney General's Office
P.O. Box 11549, Columbia, S.C. 29211

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

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

David Campbell, #265686,)

CASE NO. 2021-CP-26-07792)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

**ORDER OF DISMISSAL
WITH PREJUDICE**

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

2026 APR 24 P 12:04

FILED
HORRY COUNTY

Presiding Judge: Hon. S. Bryan Doby
Applicant's Attorney: Timothy L. Griffith, Esq.
Respondent's Attorney: MacKinnon Westraad, Esq.
Trial Counsels: Russell B. Long, Esq.
L. Morgan Martin, Esq.
Date of Hearing: March 10, 2026
Court Reporter: Natalie Dahl

This matter comes before the Court pursuant to an application for post-conviction relief ("PCR") filed by David Campbell ("Applicant") on November 30, 2021. Respondent filed its Return and Motion for a More Definite Statement, requesting that an evidentiary hearing be held on the allegations. On March 10, 2026, an evidentiary hearing was held at the Horry County Courthouse before the Honorable S. Bryan Doby. Applicant was present and represented by Timothy L. Griffith, Esquire. Assistant Attorney General MacKinnon Westraad represented Respondent. Applicant proceeded on the allegations within his original PCR application. In support of these claims, Applicant testified on his own behalf and provided testimony from witness Robert Anderson. Respondent called Russell B. Long, Esquire ("Trial Counsel Long"), and L. Morgan Martin, Esquire ("Trial Counsel Martin"), to testify.

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 (SCDC) pursuant to orders of commitment of the Horry County Clerk of Court. During its February 2016 term, the Horry County Grand Jury indicted Applicant for failure to stop at a blue light (2016-GS-26-00536). During its February 2017 term, the Horry County Grand Jury indicted Applicant for trafficking cocaine between ten and twenty-eight grams, third offense (2017-GS-26-00942). Applicant was represented by Trial Counsel Long and Trial Counsel Martin. David P. Caraker, Jr., and William G. Ervin, of the Fifteenth Circuit Solicitor's Office, prosecuted the case.

On May 15-17, 2017, Applicant proceeded to a jury trial before the Honorable Thomas A. Russo. Applicant was found guilty as indicted, and Judge Russo sentenced Applicant to thirty years' imprisonment for trafficking cocaine and five years' imprisonment for failure to stop at a blue light, to run concurrently.¹

Applicant filed a timely notice of appeal on May 26, 2017, that was perfected by Tara D. Shurling, Esquire ("Appellate Counsel"), raising the following issues:

1. The lower court erred in overruling Appellant's objection to the State's introduction of irrelevant and highly prejudicial testimony concerning matters which took place before the traffic stop in this case after the State conceded that this case began as a traffic violation and agreed that nothing prior to that stop was relevant to the case.
2. The lower court erred in denying the Appellant's Motion for a Mistrial where the State introduced testimony concerning matters which took place before the

¹ Applicant also had two pending criminal domestic violence charges at the time of this trial, which the State dismissed in accordance with these convictions. (Trial Tr. pp. 340-341).

traffic stop in this case after conceding that this case began with a traffic violation committed by Appellant and agreed that nothing prior to that stop was relevant to the case.

The South Carolina Court of Appeals dismissed Applicant's appeal by unpublished opinion. State v. Campbell, Op. No. 2021-UP-074 (S.C. Ct. App. filed March 10, 2021). Applicant petitioned for rehearing, which was denied on June 21, 2021. Applicant appealed to the South Carolina Supreme Court, which dismissed the appeal for failure to timely serve and file a petition for writ of certiorari in accordance with Rule 242(c), SCACR. The remittitur was issued on August 17, 2021, recalled on August 18, 2021, and reissued on September 9, 2021.

FACTS GIVING RISE TO THE CONVICTION

On November 30, 2015, a Horry County police officer initiated a traffic stop of Applicant's vehicle on Pine Island Road for failure to signal. (Trial Tr. pp. 123, 165, 204-05). Applicant sped to the nearby Sandygate Apartments, crashed his car, and fled on foot before being apprehended. (Trial Tr. pp. 129-31, 167-69, 205-06). While being chased, Applicant threw two bags of cocaine onto the second floor of the apartment's breezeway. (Trial Tr. pp. 132-35, 169-70, 206-07). The cocaine weighed a total of 11.2 grams. (Trial Tr. p. 234).

CURRENT APPLICATION

In his application for post-conviction relief, Applicant alleges he is being detained unlawfully for the following reasons (excerpts verbatim):

1. Lawyer did not call any of my witnesses.
 - a. In court my lawyer said he did not have time.
2. Courts did not give me my pretrial motions
 - a. In my transcript my pretrial motions is missing.
3. Lawyer did not allow me to help with my case.
 - a. Lawyer said in court he would not allow me to take the stand in my defense.

Before this Court are the Horry County Clerk of Court records regarding the subject's convictions and sentences, Applicant's records from the SCDC, the trial transcript, direct appeal records, and the records of the current PCR action.

STANDARD OF REVIEW

The Uniform Post-Conviction Procedure Act² (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. 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).

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. 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

² S.C. Code Ann. §§ 17-27-10 to -160.

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; see Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) ("To establish a claim of ineffective assistance of trial counsel, a PCR applicant has the burden of proving counsel's representation fell below an objective standard of reasonableness and, but for counsel's errors, there is a reasonable probability the result at trial would have been different."). Importantly, "[t]he likelihood of a different result must be

substantial, not just conceivable." Richter, 562 U.S. at 112.

Finally, the Strickland standard must be applied with scrupulous care, lest "intrusive post-trial inquiry" threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689–90. Courts must be wary of second-guessing counsel's trial tactics, and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992). The applicant's burden of proving both Strickland components is heavy in light of the strong presumption that counsel's conduct fell within the range of reasonable professional legal assistance. 466 U.S. at 690. Representation is constitutionally ineffective only if counsel's conduct "so undermined the proper functioning of the adversarial process" that the defendant was denied a fair proceeding. Id. at 686; see Nix v. Whiteside, 475 U.S. 157, 175 (1986) (noting that under Strickland, the "benchmark" of the right to counsel is the "fairness of the adversary proceeding"); cf. United States v. Morrow, 977 F.2d 222, 229 (6th Cir. 1992) ("[T]he threshold issue is not whether [the applicant's] attorney was inadequate; rather, it is whether he was so *manifestly* ineffective that defeat was snatched from the hands of probable victory.").

FINDINGS OF FACT 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 also heard the testimony presented at the evidentiary hearing and observed the witnesses, allowing 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), SCRCF (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

As a matter of general impression, this Court further finds applicable the strong presumption that at all stages of Trial Counsels' representation of Applicant, they rendered adequate assistance and exercised reasonable professional judgment in their 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 TRIAL COUNSEL

Allegation: Lawyer did not call any of my witnesses

Applicant alleges Trial Counsels' representation was constitutionally ineffective for failing to call any of his witnesses. Specifically, Applicant alleges his attorneys said they "did not have time." This Court finds this allegation is without merit.

Counsel must, at a minimum, make some effort to interview potential witnesses identified

by the defendant and make an independent investigation of the facts and circumstances of the case. Edwards, 392 S.C. at 456, 710 S.E.2d at 64; Walker v. State, 407 S.C. 400, 405, 756 S.E.2d 144, 147 (2014). To support a claim that trial counsel was ineffective for failing to interview or call potential witnesses, a PCR applicant must produce the witnesses at the PCR hearing or otherwise introduce the witnesses' testimony in a manner consistent with the rules of evidence. Glover, 318 S.C. at 498-99, 458 S.E.2d at 540. The applicant's mere speculation about the witnesses' testimony cannot, by itself, satisfy the applicant's burden of showing prejudice. Id.

When an applicant alleges trial counsel failed to investigate or present an alibi witness, the PCR court must make two findings to determine if counsel's deficient performance constitutes prejudice under Strickland. Walker v. State, 397 S.C. 226, 723 S.E.2d 610 (Ct. App. 2012), rev'd, 407 S.C. 400, 756 S.E.2d 144 (2014). "*First*, the court must find as a matter of law whether the witness's testimony meets the legal definition of an alibi. *Second*, the court must assess the witness's credibility." Walker, 397 S.C. at 238, 723 S.E.2d at 616 (emphasis added). In making the first finding, the Court must consider the entire record. Id.

Through an alibi, an accused attempts "to show that because he was not at the scene of the crime at the time of its commission, having been at another place at the time, he could not have committed the crime." State v. Robbins, 275 S.C. 373, 375, 271 S.E.2d 319, 320 (1980) (quoting 21 Am. Jur. 2d Criminal Law § 136). To do so, the accused must show "he was at a place so distant that his participation in the crime was impossible." Id. Furthermore, the alibi must account for the entire time during which these crimes were committed. Id. "Since an alibi derives its potency as a defense from the fact that it involves the *physical impossibility* of the accused's guilt, a purported alibi which leaves it possible for the accused to be the guilty person is no alibi at all."

State v. Glover, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (citing Robbins, 275 S.C. 373, 271 S.E.2d 319) (emphasis added).

In determining prejudice, the strength of the evidence against an applicant must be considered in determining whether there is a "reasonable probability that the result of the trial would have been different had counsel's performance not been deficient." Ford v. State, 314 S.C. 245, 248, 442 S.E.2d 604, 606 (1994); Geter v. State, 305 S.C. 365, 409 S.E.2d 344 (1991) (Finding that though counsel was ineffective for failing to object to repeated reference to petitioner's prior incarceration, the overwhelming evidence of petitioner's guilt—the corroborating testimony of the victims' and medical evidence—did not establish a reasonable probability the result of trial would have been different had counsel not been deficient.); Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018) (In determining whether an applicant alleging ineffective assistance of counsel has proven prejudice, the postconviction relief (PCR) court should consider the specific impact counsel's error had on the outcome of the trial; in addition, the PCR court should consider the strength of the State's case in light of all the evidence presented to the jury).

PCR Evidentiary Hearing

On direct examination, Applicant testified that he told Trial Counsels about an alibi witness, but that she was not called. Applicant testified that she was not present at the PCR hearing.

On direct examination, Trial Counsel Long testified that he was unaware of any alibi witnesses provided by Applicant. Trial Counsel Long testified that he did not understand how Applicant could have an alibi witness, since he was pursued by police vehicles on video, chased by officers on foot, and ultimately arrested.

Findings

This Court finds the combination of the record and Trial Counsel's testimony 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 Trial Counsels' representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, *supra*. Trial Counsel Long credibly testified that he was not aware of any alibi witnesses, and that an alibi witness would not make sense given the circumstances of Applicant's case. Most notably, Applicant did not present this alibi witness at his PCR hearing, so this Court cannot determine the validity of this allegation. See Harris, 377 S.C. at 75-76, 659 S.E.2d at 145-46; see also Glover, 318 S.C. at 498-99, 458 S.E.2d at 540 (To support a claim that trial counsel was ineffective for failing to interview or call potential witnesses, a PCR applicant must produce the witnesses at the PCR hearing or otherwise introduce the witnesses' testimony in a manner consistent with the rules of evidence.).

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

Accordingly, this Court finds Applicant has failed to establish any deficiency by Trial Counsels or any prejudice flowing therefrom. Thus, this allegation must be **DENIED and DISMISSED with PREJUDICE.**

Allegation: Lawyer did not allow me to help with my case

Applicant alleges Trial Counsels' representation was constitutionally ineffective for not allowing him to help with his case. Specifically, Applicant alleges his attorney said he would not allow Applicant to take the stand in his defense. This Court finds this allegation to be without merit.

PCR Evidentiary Hearing

On cross-examination, Applicant testified that Trial Counsels advised him not to testify because of his prior drug charges. Applicant testified that he agreed with his attorneys' advice, which was why he did not testify.

On direct examination, Trial Counsel Long testified he had represented Applicant and his family on numerous occasions. Trial Counsel Long testified that he encouraged Applicant to accept the seven-year plea deal, but Applicant refused and was offended by the suggestion, so they went to trial. Trial Counsel Long testified that Applicant was correct about their advice regarding whether Applicant should testify. Trial Counsels Long and Martin both testified they properly informed Applicant of his right to testify as well as the implications of his prior drug charges if he chose to testify.

Findings

This Court finds the combination of the record and Trial Counsel's testimony 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 Trial Counsels' representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, *supra*. Based on the record before this Court, it is clear that Trial Counsels

and Judge Russo properly gave Applicant the opportunity to testify.³ Further, Applicant's own testimony that he agreed with his attorneys' advice refutes this allegation.

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

Accordingly, this Court finds Applicant has failed to establish any deficiency by Trial Counsels or any prejudice flowing therefrom. Thus, these allegations must be **DENIED and DISMISSED with PREJUDICE.**

ALLEGATION OF MISSING TRANSCRIPT PORTIONS

Allegation: Motions from transcript are missing

Applicant alleges portions are missing from his trial transcript. Specifically, Applicant alleges there were pretrial motions that are not reflected in the transcript. This Court finds this allegation is without merit.

PCR Evidentiary Hearing

On direct examination, Applicant testified in detail about portions of the transcript he believed were missing, including a motion to suppress an officer's testimony.⁴ Applicant testified that Trial Counsels made motions that are not reflected in the transcript. Applicant testified about

³ Trial Tr. pp. 251-255.

⁴ A motion to suppress the search and seizure of Applicant, which would include the officer testimony and video evidence, was argued and ruled upon, beginning on page 49 of the trial transcript.

how Appellate Counsel obtained the recording of the trial to see if the missing portions were reflected in the recording, but Applicant alleged the recording was also altered.

On direct examination, lay witness Robert Anderson testified that he was present at Applicant's trial and heard Applicant's attorneys move to suppress an officer's testimony.

On direct examination, Trial Counsel Long testified that he was contacted by Appellate Counsel regarding whether the trial transcript appeared accurate. Trial Counsel Long testified that it was accurate, that nothing seemed to be missing, and he told Appellate Counsel as much. Trial Counsel Long testified he remembered there was a motion to suppress, but he could not remember the specifics.

On cross-examination, Trial Counsel testified he did not know what lay witness Robert Anderson was referring to in his testimony.

On direct examination, Trial Counsel Martin testified that the case was old and that he could not remember the specifics, but acknowledged that he had filed some of the motions Applicant referenced in his testimony, including a motion to suppress and a motion for a mistrial.

Findings

This Court finds there is no credibility to the allegation that the record of Applicant's trial was altered. Based on a review of the record and the testimony, pretrial motions were made on Applicant's behalf. Trial Counsel Long credibly testified that he reviewed the transcript after he was contacted by Appellate Counsel, but that nothing appeared to be missing. Applicant testified that a motion for a mistrial was missing, but later acknowledged that there was a verbal motion, not a written motion. Further, no evidence was presented as to how this allegation prejudiced his case.

Accordingly, this Court finds Applicant has failed to establish any constitutional violations or deprivations relating to the transcript that would require this Court to grant his application for post-conviction relief. Thus, these allegations must be **DENIED** and **DISMISSED** with **PREJUDICE**.

[CONCLUSION & SIGNATURE PAGE FOLLOWS]


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 the 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.


S. BRYAN DOBY
Presiding Judge 2784
Fifteenth Judicial Circuit

Bishopville, South Carolina