THE STATE OF SOUTH CAROLINA

In the Supreme Court

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S.C. SUPREME COURT

APPEAL FROM THE COUNTY OF FLORENCE

Court of Common Pleas

The Honorable Circuit Court Judge, Milton G. Kimpson

Case No. 2024-CP-21-00536

SCDC # 388887 Jarmaine M. Mcleod .... Petitioner,

v.

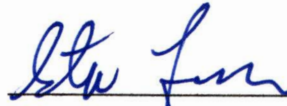
State of South Carolina, ...Respondent.

NOTICE OF APPEAL

The Petitioner hereby appeals against the order of the above-named Judge Order filed denying post-conviction relief to the Petitioner.

The Order was received by the undersigned counsel on May 28, 2026. The said Order was filed on May 21, 2026, in the above-named County Clerk of Court and is in their records.

This is the 28th day of May 2026.



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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE) FOR THE TWELFTH JUDICIAL CIRCUIT

Jarmaine M. McLeod, #388887,) CASE NO. 2024-CP-21-00536

Applicant,

v.

State of South Carolina,

Respondent.

ORDER OF DISMISSAL WITH PREJUDICE

FILED
2026 MAY 21 P 2:43
DORIS POULOS O'HARA

Presiding Judge:	Hon. Milton G. Kimpson
Applicant's Attorney:	Steven W. Fowler, Esq.
Respondent's Attorney:	MacKinnon Westraad, Esq.
Plea Counsel:	Rose M. Parham, Esq.
Date of Hearing:	February 24, 2026

This matter comes before this Court by way of Jarmaine M. McLeod's (Applicant) application for Post-Conviction Relief (PCR) commenced March 4, 2024. Respondent, the State of South Carolina, filed its Return and Partial Motion to Dismiss on July 16, 2024, requesting an evidentiary hearing.

On February 24, 2026, an evidentiary hearing was held at the Florence County Courthouse before the Honorable Milton G. Kimpson. Applicant was present at the hearing and represented by Steven W. Fowler, Esquire. Assistant Attorney General MacKinnon Westraad appeared on behalf of the Respondent. Applicant went forward on all of the allegations in his application. In support of these claims, Applicant testified on his own behalf. Respondent called Rose M. Parham, Esquire (Plea Counsel), to testify.

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 any form of relief. Accordingly, this Court denies relief and dismisses this action with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined with the South Carolina Department of Corrections (SCDC) pursuant to the Florence County Clerk of Court's orders of commitment. During the January 2020 term, the Florence County Grand Jury indicted Applicant for three counts of Murder and Possession of a Weapon During the Commission of a Violent Crime (2020–GS–21–00246). Applicant was represented by Plea Counsel. Twelfth Circuit Assistant Solicitor J. Ryan White, Esquire, prosecuted the case. On September 6, 2022, Applicant appeared before the Honorable D. Craig Brown and pleaded guilty to one count of Murder. Pursuant to negotiations, all other charges were dismissed. Judge DeBerry sentenced Applicant to thirty (30) years imprisonment.

Applicant did not appeal his conviction or sentence.

FACTS GIVING RISE TO THE PLEA

At Applicant's plea hearing, Twelfth Circuit Assistant Solicitor J. Ryan White articulated the facts giving rise to the plea as follows:

> SOLICITOR WHITE: This incident occurred May 11th, 2019. Judge, it happened downtown Timmonsville, and I mean right downtown. Judge, earlier in that day, Mr. McLeod, along with his co-defendants and a few friends, were out at the apartments there in Timmonsville. Everybody was out drinking and cooking out. There was a softball game planned for later on that evening. There at that cookout, that hangout, was a number of people, but also the deceased in this case, Mr. Leon Johnson, along with his close friend, Wanda Graham. Judge, as trivial as this may sound, at some point this all arose over Mr. McLeod's displeasure with Mr. Johnson, Leon Johnson, sitting in his chair. At some point, Ms. Graham and Mr. Johnson go to sit down. They sit down in Mr. McLeod's chair, and he took issue with that and there was an altercation over him -- that, you know, perceived slight. It didn't get too physical at that time. Mr. McLeod did shove Mr. Johnson, according to Ms. Wanda Graham, and then they kind of dispersed. Mr. Johnson and Ms. Graham went to a friend of theirs' apartment, Ms. Paula McDowell, and Mr. McLeod, along with a co-defendant, went to a group of their friends close by. At that time, as they're on the porch, you know, trying to get away from the situation,

several witnesses, including Ms. Graham and Ms. McDowell -- they see one of the co-defendants hand Mr. McLeod a gun. This is corroborated by both co-defendants who would have testified and, in fact, one of the co-defendants would testify that he overheard Mr. McLeod say, "On my kids, before the end of the day I'm going to kill him." Judge, at that time, once -- and the irony of this is tragic. Once Ms. Graham and Mr. Johnson see the gun being exchanged, Ms. Graham says, "Hey, let's call law enforcement." And they go to do that. They pick up the phone. They go so far they're about to dial the number, and Mr. Johnson, who will lose his life later on that evening, sees Mr. McLeod and the co-defendants and a few other boys walking away, and he says, "No, don't worry about it. It's -- they're gone. Let's not call law enforcement." And they don't, and Mr. McLeod and his friends walk on, and later on Mr. Johnson and Ms. Wanda -- they go to that softball game. And, Judge, the way Ms. Wanda tells it, they didn't think anything else about it. They thought it was over. It was one -- a one off that occurred earlier in the day, and they were just trying to enjoy themselves, Judge, and that's what they do. They get a plate of food from the softball game some four or five hours after that initial incident. They go and they sit on a park bench in downtown Timmonsville. When I say downtown Timmonsville, when we were going over and, you know, getting ready for this case, you walk out of the police department and town hall, you see the park bench that I'm referring to. Judge, they're there. They're eating a plate of food, and all of a sudden Mr. McLeod walks up on Mr. Johnson and Ms. Graham, along with a co-defendant. The co-defendant slaps the food out of his hand. Mr. Johnson turns to Ms. Graham and with his last words tells her to run, and she takes off and she makes it just a short distance away and she hears gunfire. Mr. Johnson was shot five times, four of which around his pelvis, and the fifth one in his -- his backside. Judge, the co-defendants would testify, and their testimony would be, you know, crucial, and they would all put the gun in Mr. McLeod's hand. You know, it's his -- his beef. It was his motive, and he's the one who ultimately pulled the trigger and took Mr. Johnson's life. And, Judge, he made it a short distance down the street, I'd say no more than 50 feet, and he died right there in downtown Timmonsville, minding his own business. And from all accounts, Judge, we've talked to several folks, including the co-defendants, who said Leon Johnson was just a stand-up guy. He was a hard worker. He worked for a concrete company, and he was liked by all. And why he had to lose his life that evening, I'll never quite understand, especially over something so trivial as this. Judge, the case was investigated by Mark Strickland, who is standing with me here today, who did an excellent job in putting this case together. And we were ready to go to trial, but ultimately, we felt that the negotiated 30 years was a good resolution to this case, and we'd ask that you go along with it. Judge, his only prior criminal conviction of note is assault and battery, second degree, from 2017. He received a 1 YOA probationary sentence.

(Plea Tr. pp. 8–12).

CURRENT ACTION BEFORE THIS COURT

In his PCR application, Applicant alleges he is detained unlawfully for the following reasons:

1. Ineffective Assistance of Plea Counsel.
   a. Involuntary Guilty Plea;
   b. Failed to move to have the case dismissed pursuant to the protection of person and property act:
   c. Failed to do an adequate pretrial investigation:
   d. Failed to provide a complete copy of discovery and failed to review discovery with Applicant:
   e. Failed to file a notice of appeal.
2. Violation of Applicant's Right to Due Process.
3. Actual Innocence.
   a. Applicant is actually innocent of murder.[1]

Applicant requests relief in the form of "remand for new trial and stand your ground hearing."

Before this Court are Applicant's Florence County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the plea transcript, and the records of the current PCR action.

STANDARD OF REVIEW

The Uniform Post-Conviction Procedure Act[2] 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

[1] At Applicant's evidentiary hearing, this Court clarified that Applicant can only proceed with the claim of "actual innocence" as it relates to ineffective assistance of counsel.
[2] S.C. Code Ann. §§ 17-27-10 to -160.

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 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 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. 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 that "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; 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.").

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, the United States Supreme Court in Hill v. Lockhart extended the two-part Strickland test to challenge guilty pleas based on ineffective assistance of counsel." Hill, 474 U.S. 52; cf. Padilla, 559 U.S. at 373 (recognizing the guilty plea process is a "critical phase of litigation" for purposes of the Sixth Amendment right to effective assistance of counsel). A claim of ineffective assistance of guilty plea counsel requires the applicant present evidence satisfying two prongs: first, evidence that counsel's performance was deficient; and second, evidence that counsel's deficient performance prejudiced the defendant by causing him to plead guilty rather than go to trial. Hill, 474 U.S. 52.

The analysis of counsel's performance under the first prong of Strickland remains unchanged—the applicant must show counsel's representation fell below the 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 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, 137 S. Ct. 1958, 1966, 198 L. Ed. 2d 476 (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 to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

Surmounting Strickland's high bar is never an easy task, and the strong societal interest in finality has "special force with respect to convictions based on guilty pleas." Lee, 582 U.S. at 368–69 (internal citations and quotation marks omitted); cf. Hill, 474 U.S. at 58 ("[R]equiring a showing of 'prejudice' from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel 'will serve the fundamental interest in the finality of guilty pleas.'"). Reviewing "[c]ourts should not upset a plea solely because of *post hoc* assertions from a defendant about how he would have pleaded but for his attorney's deficiencies. Lee, 582 U.S. at 369. Rather, judges should "look to contemporaneous evidence to substantiate a

defendant's expressed preferences." Id. In determining whether a guilty plea was taken in accordance with constitutional standards, the reviewing judge must analyze and consider the entire record, including the transcript of the plea and the evidence presented at the Evidentiary hearing. Harres v. State, 282 S.C. at 134, 318 S.E.2d at 361 (1984).

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 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.

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 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. See, e.g., State v. Mercer, 381 S.C. 149, 166, 672 S.E.2d 556, 565 (2009) ("In this post-trial setting, our jurisprudence recognizes the gatekeeping role of the trial court in making a credibility assessment."); Clemons v. Mississippi, 494 U.S. 738, 766 (1990) (Blackmun, J., concurring in part and dissenting in part) ("The trial judge who hears the witnesses live, observes

their demeanor and in general smells the smoke of the battle is by his very position far better equipped to make findings of fact which will have the reliability that we need and desire.").

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, 286 S.C. at 442 ("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, she rendered adequate assistance and exercised reasonable professional judgment in her 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).

This Court makes the following findings from the record: 1. Applicant understood the charges and sentences he faced at his plea hearing (Plea Tr. pp. 4-6); 2. Applicant confirmed no one promised him anything or used threats, force, pressure, or intimidation to get him to plead

guilty (Plea Tr. pp. 7-8); 3. Applicant clearly indicated he was satisfied with his attorney and had a chance to discuss everything with her (Plea Tr. p. 7); 4. Applicant understood his right to a jury trial and heard the Court describe those rights and indicated he still wished to go forward with the plea (Plea Tr. pp. 6-7); 5. Applicant's decision to enter the plea was free and voluntary (Plea Tr. p. 8); 6. Applicant agreed he murdered the victim (Plea Tr. p. 14); and 7. Applicant indicated that he was not under the influence of any medication, drugs, or alcohol at the time of his plea (Plea Tr. p. 4).

INEFFECTIVE ASSISTANCE OF PLEA COUNSEL ALLEGATIONS ON THE MERITS

Allegation 1(b): **Ineffective assistance of counsel for failing to move to have the case dismissed pursuant to the protection of person and property act.**

Allegation 1(c): **Ineffective assistance of counsel for failing to do an adequate pretrial investigation.**

Applicant alleges Plea Counsel's representation was constitutionally ineffective for failing to move to have the case dismissed pursuant to the Protection of Persons and Property Act. Specifically, Applicant alleges that Plea Counsel was ineffective for failing to investigate the crime scene and co-defendants, as the evidence would have established that he was acting in self-defense. This Court finds these allegations to be without merit.

The Protection of Persons and Property Act states the following:

(A) It is the intent of the General Assembly to codify the common law Castle Doctrine which recognizes that a person's home is his castle and to extend the doctrine to include an occupied vehicle and the person's place of business.
(B) The General Assembly finds that it is proper for law-abiding citizens to protect themselves, their families, and others from intruders and attackers without fear of prosecution or civil action for acting in defense of themselves and others.
(C) The General Assembly finds that Section 20, Article I of the South Carolina Constitution guarantees the right of the people to bear arms, and this right shall not be infringed.

> (D) The General Assembly finds that persons residing in or visiting this State have a right to expect to remain unmolested and safe within their homes, businesses, and vehicles.
> (E) The General Assembly finds that no person or victim of crime should be required to surrender his personal safety to a criminal, nor should a person or victim be required to needlessly retreat in the face of intrusion or attack.

SC Code § 16-11-420 (2006).

Our Supreme Court has made clear that immunity under the Act should be addressed in pretrial motions, and the defendant has the burden of establishing immunity by the greater weight of the evidence. State v. Duncan, 392 S.C. 404, 709 S.E.2d 662 (2011). The elements of immunity must be established as follows:

> A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60.

SC Code § 16-11-440(C) (2024).

"A criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State." McKnight v. State, 378 S.C. 33, 46, 661 S.E.2d 354, 360 (2008). "[W]hile the scope of a reasonable investigation depends [on] a number of issues, at a minimum, counsel has the duty to interview potential witnesses and to make an independent investigation of the facts and circumstances of the case." Ard v. Catoe, 372 S.C. 318, 331–32, 642 S.E.2d 590, 597 (2007) (internal quotation marks omitted) (emphasis omitted). However, counsel need only interview potential witnesses "when it is reasonable to do so." Edwards v. State, 392 S.C. 449, 457, 710 S.E.2d 60, 65 (2011). "In other words, counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." Strickland, 466 U.S. at 691.

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)). Furthermore, an applicant must also present evidence to show how the discoverable matters or defenses would have resulted in a different outcome. Id. (citing Davis v. State, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); Skeen v. State, 325 S.C 210, 214, 481 S.E.2d 129, 132 (1997). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. Id., 377 S.C. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

Our Supreme Court has cautioned reviewing courts not to lose sight of the reasonableness standard regarding counsel's duty to investigate. Ard, 372 S.C. at 331, 642 S.E.2d at 597 ("this duty is limited to [a] reasonable investigation"). The United States Supreme Court also instructed reviewing courts to "keep in mind that counsel's function, as elaborated in prevailing professional norms, is to make the adversarial testing process work in the particular case." Strickland, 466 U.S. Thus, in applying the Strickland standard to a claim of failure to investigate, counsel's decision not to undertake a particular investigation must be evaluated with heavy deference to counsel's judgment. Bagwell v. State, 410 S.C. 259, 265, 763 S.E.2d 630, 633 (Ct. App. 2014).

Additionally, 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.

PCR Evidentiary Hearing

On direct examination, Applicant testified that Plea Counsel never investigated the case. Applicant testified that Plea Counsel never interviewed anyone or went to the crime scene. Applicant testified that Plea Counsel should have interviewed his co-defendants because they could have been exonerating witnesses. Applicant testified that Plea Counsel did not have a trial strategy, and Applicant raised this with her because he felt the co-defendants' testimony should be the strategy. Applicant testified that he told Plea Counsel he wanted to move to dismiss the case, but he could not remember her response, and she did not file a motion to dismiss. Applicant testified that his stand-your-ground theory was that there was a tussle over a gun, and it discharged, which was self-defense. Applicant testified that Plea Counsel did not go over stand-your-ground or the lack of malice with Applicant.

On redirect examination, Applicant testified that Plea Counsel did not file any motions for him. Applicant testified that anytime there is a struggle over a weapon and it discharges, it was not murder; it would be self-defense.

On recross-examination, Applicant testified he recalled agreeing with the facts, stating that the victim was sitting, eating a plate of food, when Applicant walked up with a gun and confronted the victim and his friend.

On direct examination, Plea Counsel testified she had practiced criminal law for thirty-two years. Plea Counsel testified that she met with Applicant several times, and a coworker of hers also met with him several times. Plea Counsel testified that she investigated the case

but could not speak with the co-defendants because they had counsel. Plea Counsel testified that she reached out to the surviving witness who was with the victim, but the case just had really bad facts that Plea Counsel could not get around. Plea Counsel testified that she discussed self-defense with Applicant and that it did not apply in this case. Plea Counsel testified she would have gone down that road at trial, but she did not think it was a good argument because he was at fault, could have retreated, and committed battery by hitting the plate of food out of the victim's hand. Plea Counsel testified that she usually goes to the crime scene or sends her investigator to take photographs, but she could not remember whether that was done in this case because it was usually a week or so before trial, and the goal here was to get a plea offer.

On cross-examination, Plea Counsel testified that they tried to get an offer of manslaughter because she asks for plea deals regardless of whether she thinks that's the best version of the facts, because she always tries to get the best deal for her client. Plea Counsel testified that she would try to get a manslaughter plea offer in every single murder case, regardless of the facts of the case. Plea Counsel testified that she discussed self-defense with Applicant many times, and she would have tried that strategy if they went to trial, but she did not think it would be successful since Applicant shot an unarmed man five times after confronting him twice. Plea Counsel testified that sending an investigator to the crime scene would not have made a difference in this case, since the scene was just a park bench.

On redirect examination, Plea Counsel testified that the co-defendants were set to testify against Applicant that he was the shooter, and the surviving witness was set to testify about everything she saw and the conflicts earlier in the day, which all went into her strategy as to why self-defense would not work, and they should try to get a plea.

Findings

This Court finds through the combination of the record and 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 finds that Applicant has failed to overcome his burden in proving Plea Counsel's representation was deficient or any resulting prejudice from that alleged deficiency. Plea Counsel **credibly** testified that she went over self-defense with Applicant, and that she would have argued self-defense if they had gone to trial, but Applicant wanted to plead guilty. Additionally, Plea Counsel was correct that Applicant could not succeed on a self-defense or stand-your-ground claim because he was at fault for approaching the victim and engaging in an unlawful activity, and he presented no evidence that he used deadly force pursuant to the justifications provided by statute. See SC Code § 16-11-440(C) (2024) ("A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60.") In fact, Applicant testified that the gun was accidentally discharged, which is a different defense than self-defense. Thus, Plea Counsel was not ineffective for failing to move to dismiss the case pursuant to The Protection of Persons and Property Act.

Further, Plea Counsel **credibly** testified that she investigated the co-defendants, but she could not speak with them because they were represented by counsel and were set to testify that Applicant was the shooter.[3] This Court finds Plea Counsel not deficient for failing to investigate

[3] According to the solicitor at Applicant's plea hearing, one of the co-defendants was also going

witnesses where she *did* investigate the available witnesses to the extent she was able. Plea Counsel was also not deficient for failing to investigate the crime scene, where she was attempting to get a plea offer, and did not believe the crime scene made a difference in this case. See Strickland, 466 U.S. at 691 ("In other words, counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.").

Furthermore, Applicant is unable to prove that he suffered any resulting prejudice. Applicant failed to show how having an immunity hearing would have changed his desire to plead guilty. Goins v. State, 397 S.C. 568, 726 S.E.2d 1 (2012) (Applicant failed to prove prejudice where he did not show that erroneous advice about the likelihood of success in a suppression hearing was the applicant's reason for electing not to go to trial). Applicant also failed to show how further investigation of the witnesses would have changed his decision to plead guilty, where the co-defendants would have testified against him, and he did not show how the lack of investigation into the crime scene made a difference in his decision to plead guilty.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel, or any prejudice flowing therefrom. Thus, these allegations must be **DENIED AND DISMISSED WITH PREJUDICE**.

Allegation 1(a): Involuntary Guilty Plea

Applicant alleges his guilty plea was involuntary because Plea Counsel told him he would face the death penalty if he went to trial. This Court finds this allegation is without merit.

To find a guilty plea is voluntarily and knowingly entered into, the record must establish Applicant had a complete understanding of the consequences of the plea and the charges against

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to testify that he overheard Applicant say "On my kids, before the end of the day I'm going to kill him" in reference to the victim. (Plea Tr. p. 9).

him or her. Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991); see also Boykin v. Alabama, 395 U.S. 238, 244 (1969) (Courts must make sure defendants have "a full understanding of what the plea connotes and of its consequence. When the judge discharges that function, he leaves a record adequate for any review that may be later sought and forestalls the spin-off of collateral proceedings that seek to probe murky memories."). 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.").

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. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001); Richardson v. State, 310 S.C. 360, 363, 362 426 S.E.2d 795, 797 (1993). Given Applicant's burden of proof and the analysis to be applied to this claim, Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it will be treated as such.

PCR Evidentiary Hearing

On direct examination, Applicant testified that he initially told Plea Counsel he wanted a bench trial because not everyone understands reasonable doubt, but Plea Counsel told him the judge would understand "hand of one, hand of all," so he decided to plead guilty. Applicant testified that he went forward that Monday because he was under pressure from

Plea Counsel because she told him he would get the death penalty if he did not plead guilty. Applicant testified he felt like Plea Counsel was trying to get him out of the way.

On cross-examination, Applicant testified that he never asked Plea Counsel to obtain a plea deal for him.

On direct examination, Plea Counsel testified Applicant sent her a letter on May 8, 2022, asking her to get him a plea offer. Plea Counsel testified that the case was on the trial roster before she was Applicant's attorney, so it was constantly on the roster after she became the attorney, but she was able to buy some time by moving for a continuance. Plea Counsel testified that every time it was up for trial, either she or her coworker would go meet with Applicant to discuss plea options. Plea Counsel testified that the State kept giving deadlines to accept pleas, and they did withdraw a plea that was not accepted in time, but then Plea Counsel managed to get that offer back. Plea Counsel testified that they did not like the State's offer, and she was ready to go to trial, but it was Applicant's decision to plead guilty. Plea Counsel testified that she discussed the elements of the charges and what the state had to prove with Applicant. Plea Counsel testified that Applicant wanted to plead guilty because he was, in fact, guilty.

On cross-examination, Plea Counsel testified that she did not tell Applicant he would get the death penalty at trial because Florence County does not typically seek the death penalty.

Findings

This Court finds through the combination of the record and testimonies 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 finds that Applicant has failed to overcome his burden in proving Plea Counsel's representation was deficient or any resulting prejudice from that alleged deficiency. While Applicant testified that he never asked Plea Counsel to obtain a plea offer, Plea Counsel **credibly** testified that Applicant sent her a letter requesting a manslaughter plea offer. Plea Counsel **credibly** testified that she never told Applicant he would get the death penalty.

Furthermore, this Court finds the combination of the record and Plea Counsel's **credible** testimony at the evidentiary hearing provides Applicant knew the nature of the charges against him, the terms of the plea agreement, and the consequences of pleading guilty pursuant to the requirements of Boykin v. Alabama, 395 U.S. 238 (1969) and Roddy v. State, 339 S.C. 29 (2000). Applicant also told the plea court that he was satisfied with counsel, had no complaints about her, and that no one exerted pressure to get him to plead guilty. (Plea Tr. pp. 7-8). Applicant has presented no valid reason why he should be able to depart from the statements made during his guilty plea as provided *supra*. See Crawford v. United States, 519 F.2d 347, 350 (4th Cir. 1975), overruled on other grounds by United States v. Whitley, 759 F.2d 327 (4th Cir. 1985) (finding that the accuracy and truth of an accused's statements at a guilty plea proceeding are "conclusively" established unless he makes some reasonable allegation why this should not be so).

Notably, Applicant faced a potential exposure of life without parole at trial, and received the minimum sentence for murder with his negotiated plea, in addition to his other charges being dropped. Applicant reaped the benefit when he chose to plead. Thus, based on the evidence presented at the plea proceeding and the evidentiary hearing, this Court finds Applicant freely, knowingly, and voluntarily pleaded guilty.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel, or any prejudice flowing therefrom. Thus, these allegations must be **DENIED AND DISMISSED WITH PREJUDICE**.

Allegation 1(d): Ineffective Assistance of Plea Counsel for failing to provide a complete copy of discovery and failing to review discovery with Applicant.

Applicant alleges Plea Counsel's representation was constitutionally ineffective for failing to provide a complete copy of discovery and failing to review discovery with Applicant. This Court finds this allegation is without merit.

In order to prevail upon a claim that counsel did not adequately prepare or review discovery in a case, an applicant must present evidence to show how additional time spent in consultation regarding discovery would have resulted in a different outcome 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). The applicant must further present evidence demonstrating how the discoverable matters or defenses would have resulted in a different outcome. Id. Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. Id. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

PCR Evidentiary Hearing

On direct examination, Applicant testified that Plea Counsel met with him only two or three times, but later testified that it was no more than four times. Applicant testified that additional meetings would have enabled them to develop a trial strategy. Applicant testified that he did not

go over discovery with Plea Counsel, and she did not send him the discovery until after his plea. However, Applicant later testified that Plea Counsel went over discovery with him on Thursday before his guilty plea. Applicant testified that he did not know he was going to trial on Monday, but he felt he did not have enough time to review the discovery and that it hindered his case.

On direct examination, Plea Counsel testified that she and her coworker met with Applicant several times. Plea Counsel testified that she went over discovery with Applicant per her standard practice. Plea Counsel testified that Applicant's previous attorney had given Applicant a copy of the discovery. Plea Counsel testified that the discovery was a major issue for Applicant and that he brought it up with her in discussions and letters multiple times throughout her representation. Plea Counsel testified that Applicant sent her a letter in 2022, several months before his guilty plea, thanking her for coming to see him and speaking with him about everything, and then bringing up issues he had with the discovery. Plea Counsel testified that Applicant talked about the gunpowder testing, victim injuries, SLED report, and more, in the letter he sent. Plea Counsel testified that on May 8, 2022, Applicant sent a letter detailing the autopsy report, which showed he clearly had discovery from both her and his previous attorney. Plea Counsel testified that Applicant sent her a letter after his guilty plea asking for a copy of his discovery.

Findings

This Court finds through the combination of the record and 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 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*.

Plea Counsel **credibly** testified that she went over the discovery with Applicant. Plea Counsel **credibly** testified that Applicant sent her multiple letters discussing the discovery he had in his possession. Applicant inconsistently testified that Plea Counsel did not review discovery with Applicant, but also that Plea Counsel went over discovery with him on Thursday before he pleaded guilty. Applicant presented no evidence as to how more time reviewing discovery or meeting with Plea Counsel would have changed his choice to plead guilty. See Smith v. State, 404 S.C. 493, 500-01, 745 S.E.2d 378, 382 (Ct. App. 2012) (citing Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998) (mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief).

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 WITH PREJUDICE**.

Allegation 1(e): Ineffective Assistance of Plea Counsel for failing to file a notice of appeal.

Applicant alleges Plea Counsel's representation was constitutionally ineffective for failing to file a notice of appeal. This Court finds this allegation is without merit.

Though counsel is required to make certain that a defendant is made fully aware of his or her right to appeal after a *trial*, a different standard applies to a guilty plea:

> Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea.

Turner v. State, 380 S.C. 223, 224-25, 670 S.E.2d 373, 374 (2008) (citations omitted); see also Roe v. Flores-Ortega, 528 U.S. 470, 480 (2000) (imposing the duty to consult when there is reason to think either that a rational defendant would want to appeal or that the particular defendant

reasonably demonstrated interest in doing so); contra Frazer v. South Carolina, 430 F.3d 696 (4th Cir. 2005) (reading Flores-Ortega to mean counsel generally has a duty to consult with his client regarding whether to pursue an appeal). Therefore, in a collateral action attacking a guilty plea, the "bare assertion that a defendant was not advised of appellate rights is insufficient to grant relief." Jones v. State, 382 S.C. 589, 598, 677 S.E.2d 20, 23-24 (2009) (quoting Weathers v. State, 319 S.C. 59, 61, 459 S.E.2d 838, 839 (1995)).

Where an Applicant reasonably demonstrates an interest in appealing, or where there is a reason to think a rational defendant would want to appeal, and where Counsel fails to either initiate that appeal or comply with Anders procedure, "White permits consideration of the full trial record on [an] issue in conjunction with appellate review of the PCR proceeding under an exception to the prohibition against appellate courts considering appeals in the absence of notice of direct appeal given and timely served." Smith v. State, 309 S.C. 413, 415, 424 S.E.2d 480, 481 (1992) (citing Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986)).

PCR Evidentiary Hearing

On cross-examination, Applicant testified that he was unsure whether he had asked Plea Counsel for an appeal.

On direct examination, Plea Counsel testified that Applicant did not ask her to appeal the case. Plea Counsel testified that Applicant contacted her after his guilty plea, requesting a copy of his discovery, but he did not mention an appeal at that time.

Findings

This Court finds through the combination of the record and 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 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*. Plea Counsel **credibly** testified that Applicant did not ask for an appeal. Applicant testified he was not sure if he had asked her for an appeal. This Court finds Applicant did not demonstrate to Plea Counsel an interest in appealing, nor did this case involve any extraordinary circumstances that would warrant an appeal.

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 WITH PREJUDICE**.

CONCLUSION

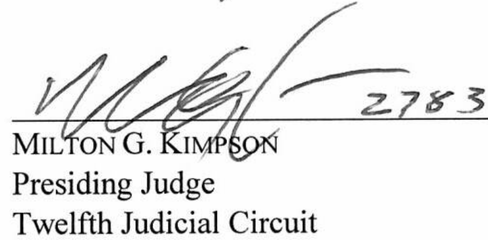
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be **DENIED AND DISMISSED WITH PREJUDICE**.

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.

AND IT IS SO ORDERED this 12 day of May, 2026.



MILTON G. KIMPSON
Presiding Judge
Twelfth Judicial Circuit

Florence, South Carolina

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2024CP2100536

Jarmaine Mcleod		South Carolina State Of	
PLAINTIFF(S)		DEFENDANT(S)	

Submitted by:	Attorney for: ☐ Plaintiff ☐ Defendant ☐ 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), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: ____________

☐ **ACTION STRICKEN (*CHECK REASON*):** ☐ Rule 40(j) SCRCP; ☐ 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.

FILED
2026 MAY 21 P 4:4
DORIS POULOS O'HARA
CCCP & GS
FLORENCE COUNTY SC

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

ORDER INFORMATION

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.

Circuit Court Judge	Judge Code	5/21/2026 Date

For Clerk of Court Office Use Only

This judgment was entered on **May 21, 2026**, and a copy mailed first class or placed in the appropriate attorney's box on **May 22, 2026**, to attorneys of record or to parties (when appearing pro se) as follows:

Steven Willard Fowler 730 Main Street Unit # 237 North Myrtle Beach, SC 29582

ATTORNEY(S) FOR THE PLAINTIFF(S)

D. Russell Barlow II PO Box 11549 Columbia, SC 29211

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Doris P. O'Hara

Doris Poulos O'Hara - 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.

Fowler Law Firm
730 Main Street #237
North Myrtle Beach, SC
29582

GREENSBORO NC 270
PIEDMONT TRIAD AREA
30 MAY 2026 PM 3

Clerk Brenda F. Shealy
SC Supreme Court
Clerk of Court
PO Box 11330
Columbia, SC
29211

RECEIVED
JUN 01 2026
S.C. SUPREME COURT

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