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**NOTICE OF APPEAL FROM A PCR DENIAL BY THE COURT OF
COMMON PLEAS**
S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In Supreme Court of SC

APPEAL FROM WILLIAMSBURG COUNTY
Court of Common Pleas

Heath P. Taylor, Circuit Court Judge

Case #2023-CP-45-00065

The State,

Respondent,

v.

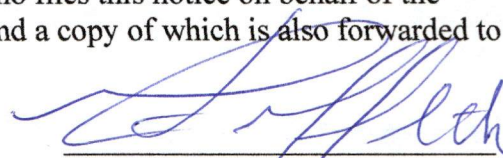
Ronald Brown Jr.

Appellant.

NOTICE OF APPEAL

Ronald Brown Jr., appeals the decision of the Court, in the order dated June 29, 2026, received by counsel on July 7, 2026, where Mr. Brown was denied his request for Post-Conviction Relief. Mr. Brown 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 7/9/26



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STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

Ronald Brown Jr., 381581,

Applicant,

v.

State Of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Case No.: 2023-CP-45-00065

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ORDER OF DISMISSAL

S.C. SUPREME COURT

This matter is before the Court by way of an application for post-conviction relief (PCR) filed by Ronald Brown Jr. on February 24, 2023. On January 28, 2026, an evidentiary hearing was convened before the Honorable Heath P. Taylor. Applicant was present and represented by Timothy L. Griffith, Esquire. Assistant Attorney General T. Cruise Mitchell represented The State. At the evidentiary hearing testimony was taken from Applicant and trial counsel, Grant B. Smaldone, Esquire. After hearing the testimony at the PCR hearing and upon full review of the record, this Court finds all of Applicant's allegations are without merit. For the reasons discussed below, this Court denies and dismisses this application with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Williamsburg County Clerk of Court. During its January 2018 term, the Williamsburg County Grand Jury indicted Applicant for murder, possession of a weapon during the commission of a violent crime, accessory before the fact to murder, and accessory after the fact to murder (2018-GS-45-00021, counts 1 – 4). Applicant was represented by Grant Smaldone, esquire. The case was prosecuted by Assistant Solicitor Warren Anderson and Solicitor Ernest Finney, III.

SCANNED

On September 30, 2019, Applicant proceeded to trial before the Honorable R. Ferrell Cothran Jr., and a jury. The jury acquitted Applicant of murder and accessory charges, while finding him guilty of voluntary manslaughter and possession of a weapon during the commission of a violent crime.

On October 3, 2019, Judge Cothran Jr. sentenced Applicant to eighteen (18) years' imprisonment for voluntary manslaughter and a consecutive five (5) years imprisonment for the weapons charge. Applicant filed a timely notice of appeal. The appeal was perfected by Appellate Defender Joanna K. Delany. On June 1, 2022, the South Carolina Court of Appeals affirmed Applicant's conviction and the Remittitur was issued on September 29, 2022. *State v. Ronald Brown*, Op. No. 2022-UP-234 (Ct. App. Filed June 1, 2022).

CURRENT APPLICATION

In his *pro se* application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on the following:

1. Ineffective Assistance of Counsel

- a. "Failure to investigate and utilize evidence and witnesses for the defense."
- b. "Failure to make pre-trial and contemporaneous motions and/or objections."
- c. "Failure to obtain credit for time spent on ankle monitor."

On October 2, 2023, Applicant filed an amended application, through his prior PCR counsel, Michael Lifsey, raising the following additional allegations:

1. Ineffective Assistance of Counsel:

- a. "Failing to adequately prepare for trial, having only been appointed a short time prior to the trial date and having not met with Applicant a sufficient number of times to prepare for trial."
- b. "Failing to request an immunity hearing pursuant to the Protection of Persons and Property Act (SC Code Section 16-11-410 *et seq.*) and failing to adequately advise Applicant of the benefits of such a hearing before having him waive his right to it."
- c. "Failing to seek a mistrial after an incident where a juror saw Applicant in the bathroom while shackled."
- d. "Failing to call Akelia McFadden as a witness at trial, despite the fact that she would have offered testimony favorable to the Applicant and her being willing and available to testify."

- e. "Failing to object to improper arguments made by the Solicitor in the Solicitor's closing argument."
- f. "Failing to present any meaningful mitigation on Applicant's behalf after conviction, despite there being witnesses available who would have offered favorable testimony."
- g. "Failing to ask that Applicant be given any credit for time spent on monitored house arrest pursuant to SC Code of Laws Section 24-13-40."

Before this Court are the Williamsburg County Clerk of Court records regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's records from his direct appeal, and the records of the current PCR action.

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 at the PCR hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. After a careful review based on the *Strickland* standard set forth below, this Court finds Applicant has failed to carry his burden of proof. Below are this Court's findings of facts and conclusions of law as required by section 17-27-80 of the South Carolina Code (2017).

Ineffective Assistance of Counsel, Generally

In a PCR action, Applicant bears the burden of proving the allegations in his application by a preponderance of the evidence. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985); Rule 71.1(e), SCRPC. Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "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.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel's

performance was deficient. *Strickland*, 466 U.S. at 687; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Id.* (citing *Strickland*, 466 U.S. at 690). "When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109–10 (2011). "[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight." *Yarborough*, 540 U.S. at 6; *see also* *Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) ("[C]ounsel's performance need not be optimal to be reasonable.").

Second, counsel's deficient performance must have prejudiced Applicant such 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, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 694). "This does not require a showing that counsel's actions 'more likely than not altered the outcome,' but the difference between *Strickland*'s prejudice standard and a more-probable-than-not standard is slight and matters 'only in the rarest case.'" *Harrington*, 562 U.S. at 111–12 (quoting *Strickland*, 466 U.S. at 697). "The likelihood of a different result must be

substantial, not just conceivable.” *Id.* at 112.

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. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696–97.

Counsel’s failure to adequately prepare for trial, having only been appointed a short time prior to the trial date and having not met with Applicant a sufficient number of times to prepare for trial

Applicant alleges Counsel was ineffective for failing to adequately prepare for trial and meet with him prior to trial. This Court finds this allegation is without merit. There is no established “minimum number of meetings between counsel and client prior to trial necessary to prepare an attorney to provide effective assistance of counsel.” *United States v. Olson*, 846 F.2d 1103, 1108 (7th Cir.1988) (there is no constitutional minimum number of meetings between attorney and client and observes that an experienced attorney may get more out of a single meeting than a neophyte); *Moody v. Polk*, 408 F.3d 141, 148 (4th Cir. 2005); *Campbell v. Polk*, 447 F.3d 270, 279, n.2 (4th Cir. 2006) (“we cannot conclude that the fact that Campbell’s counsel only met with him five times before trial made them ineffective.”). “[B]revity of consultation time between a defendant and his counsel, alone, ‘cannot support a claim of ineffective assistance of counsel.’” *Davis v. State*, 44 So. 3d 1118, 1130 (Ala. Crim. App. 2009) (quoting *Murray v. Maggio*, 736 F.2d 279, 282 (5th Cir. 1984)); *White v. Godinez*, 301 F.3d 796, 800 (7th Cir. 2002) (“A brief consultation does not by itself establish that counsel’s performance was inadequate.”); *Chavez v. Pulley*, 623 F. Supp. 672, 685 (E.D. Cal. 1985) (“brevity of consultation time between a defendant

and his counsel alone cannot support a claim of ineffective assistance of counsel,” especially where the defendant “fails to allege what purpose further consultation with his attorney would have served and fails to demonstrate how further consultation with his attorney would have produced a different result”).

At the evidentiary hearing, Applicant testified he was initially represented by Charles Barr. Applicant testified that, after Mr. Barr was relieved, he did not meet with Counsel until the day of his trial. Applicant claimed he only had 30 minutes to speak with him after a jury was selected. Applicant asserted Counsel never reviewed discovery with him. On cross examination, Applicant testified he did not remember Counsel informing the court that he spoke with Applicant last week and Applicant affirmed to the trial court this was correct.

Counsel testified he was appointed to represent Applicant at least a year prior to his trial. Counsel testified he met with Applicant at least on the day of jury selection, which was the day before trial. Counsel testified he had lengthy phone conversations with Applicant around two weeks prior to trial. Counsel credibly testified he felt prepared for trial.

This Court finds the record and Counsel’s credible testimony establish that Counsel adequately consulted with Applicant and was prepared for trial. Applicant’s assertion that he met with Counsel only on the day of his trial is refuted by both the record and Counsel’s credible testimony. At Applicant’s trial the following exchange occurred:

Mr. Smaldone: And, Your Honor, I’m back with my client. I’ve talked to him. *I talked to him last week about it.* And I’m talking to him just now to make sure he understands that we’re on the same page, wish to waive any Duncan issue. And I believe it’s more of a self-defense than a Castle Doctrine or a Duncan issue. And I’ve talked to my client about that and he agrees.

The Court: Is that right, M[r]. Brown?

Mr. Brown: Yes.

(Trial Tr. p. 63) (emphasis added).

Counsel clearly represented to the Court that he had spoken with Applicant the week prior to trial, and Applicant confirmed that representation on the record. This exchange corroborates Counsel's credible testimony he met with Applicant prior to the trial. Based on the foregoing, this Court finds Applicant's testimony that he met with Counsel only on the day of trial not credible. Therefore, this Court finds Counsel was not deficient in his consultations with Applicant or in his preparation for trial.

Furthermore, Applicant has failed to present any evidence how additional meetings with Counsel would have affected the outcome of his trial. Applicant further failed to specify what Counsel did not disclose to him from materials provided in discovery, or what, if anything, could have been achieved had Counsel spent more time with him in consultation regarding the contents of his discovery. *See Smith v. State*, 404 S.C. 493, 500–01, 745 S.E.2d 378, 382 (Ct. App. 2012) (noting that an applicant must present evidence to show how additional time spent in consultation regarding discovery would have resulted in a different outcome; mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief). Thus, Applicant has failed to meet his burden establishing prejudice as to this allegation.

Accordingly, this Court finds this allegation is DENIED.

Counsel's Failure to Request an Immunity Hearing

Applicant alleges Counsel was ineffective for failing to request an immunity hearing pursuant to the Protection of Persons and Property Act (SC Code Section 16-11-410 *et seq.*) and failing to adequately advise Applicant of the benefits of such a hearing before having him waive his right to it. Based on the record and Counsel's credible testimony, this Court finds this allegation is without merit.

At the evidentiary hearing, Applicant testified that he believed he had a good claim of self-defense. Applicant asserts he argued with Counsel regarding a stand your ground hearing prior to trial. Applicant claims he got tired of arguing with Counsel and agreed to proceed with self-defense at trial.

Counsel testified that his strategy at trial was self-defense. Counsel explained the biggest obstacle in the case was Applicant's return to the scene. Counsel testified he argued that Applicant's children were still at the scene, which necessitated his return. Counsel testified that a judge was not going to grant immunity based on the facts in this case. Counsel explained it was important for Applicant to testify at trial, and he did not wish to "show his cards" at an immunity hearing by having Applicant testify prior to trial, especially when there was no chance of succeeding at the immunity hearing.

At Applicant's trial, the court engaged in the following colloquy regarding Applicant's waiver of his right to a stand your ground hearing:

Mr. Smaldone: And, Your Honor, pursuant to a bench conference or somewhat of a status conference, I've, obviously, gone over the case. I believe for trial strategy purposes that a Duncan hearing would not be appropriate in this case and I believe it's more of a self-defense than a Castle Doctrine or Duncan case. So I'm waiving that and taking it to the jury.

The Court: Okay.

...

The Court: I'm going to confirm that with him on the record.

Mr. Smaldone: Okay.

The Court: Because there may be a hearing one day when you're testifying against him.

Mr. Smaldone: And I've gone over it with him briefly but not today. So I probably

...

The Court: Okay. And if you need to talk to him a minute, that's fine. I just want to be sure he understands that.

Mr. Smaldone: Right. Okay.

...

The Court: Okay. All right.

Mr. Smaldone: And, Your Honor, I'm back with my client. I've talked to him. I talked to him last week about it. And I'm talking to him just now to make sure he understands that we're on the same page, wish to waive any Duncan issue. And I believe it's more of a self-defense than a Castle Doctrine or a Duncan issue. And I've talked to my client about that and he agrees.

The Court: Is that right, Mr. Brown.

Mr. Brown: Yes.

The Court: Okay. You had an opportunity to talk to your lawyer and so he says the trial, for strategy purposes, he's not gonna request a Duncan hearing or "stand your ground" hearing, that he's gonna, he feels like you acted in self-defense, do you understand that?

Mr. Brown: Yes.

The Court: And is that how you want to proceed?

Mr. Brown: Yes.

(Trial Tr. p. 62-63).

Based on the above colloquy and Counsel's credible testimony, this Court finds Applicant has failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in the case." *Ard v. Catoe*, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (citing *Strickland*). "[W]hen Counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel." *Smith v. State*, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010). This Court finds Applicant knowingly and voluntarily waived his right to an immunity hearing based upon reasonable advice of Counsel. As part of his trial strategy, Counsel explained he did

not request an immunity hearing in order to avoid requiring Applicant to testify prior to trial and thereby provide the State with a preview of the defense, especially where the likelihood of succeeding at an immunity hearing was exceedingly low under the facts of this case. This Court finds this is a valid reason for not requesting an immunity hearing. Therefore, this Court finds Counsel was not deficient for failing to request an immunity hearing pursuant to the protections of persons and property act.

Furthermore, Applicant has failed to prove he was prejudiced by Counsel's alleged failure to request an immunity hearing. This Court finds Applicant has failed to prove a reasonable probability he would have been granted immunity had a hearing been requested. The evidence presented at trial demonstrates Applicant would not have prevailed at an immunity hearing. Traditionally, four elements are required to establish a case of self-defense: (1) the defendant must have been without fault in bringing on the difficulty; (2) the defendant must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or actually have been in such imminent danger; (3) a reasonably prudent man of ordinary firmness and courage would have entertained the same belief or circumstances were such as would warrant a man of ordinary prudence, firmness, and courage to strike fatal blow in order to save himself from serious bodily harm or losing his own life; and (4) the defendant had no other probable means of avoiding danger of losing his own life or sustaining serious bodily injury than to act as he did in the particular instance. *See, e.g., State v. Curry*, 406 S.C. 364, 752 S.E.2d 263 (2013). Subsection 16-11-440(C) of the South Carolina Code provides in pertinent part:

A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be . . . 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

“A claim of immunity under the Act requires a pretrial determination using a preponderance of the evidence standard” *State v. Curry*, 406 S.C. 364, 370, 752 S.E.2d 263, 266 (2013).

At the evidentiary hearing, Applicant failed to present any new testimony, evidence, or argument that could have been presented at an immunity hearing had one been convened. Thus, for the purpose of analyzing prejudice, this Court is left only with the evidence and testimony introduced at trial, which, after full consideration, resulted in a jury verdict of guilty beyond a reasonable doubt. Based on that evidence, Applicant cannot demonstrate a reasonable probability he would have succeeded at an immunity hearing, where he would have borne the burden of proving self-defense by a preponderance of the evidence, especially considering the jury rejected that same defense at trial under the more stringent reasonable doubt standard where the State bore the burden of proof.

At Applicant’s trial, multiple eyewitnesses testified they did not observe the victim with a gun. (Trial Tr. p. 144; p. 148; p. 169; p. 191). Those witnesses further testified that, upon returning to the scene, Applicant immediately exited the vehicle armed with a gun and began firing. (Trial Tr. pp. 130–132; pp. 164–165; pp. 187–188). No witness testified that the victim threatened or otherwise engaged with Applicant after he returned to the scene. The absence of primer gunshot residue on the victim’s hands further undermines Applicant’s claim that the victim was firing at him. (Trial Tr. p. 274).

This Court finds Applicant’s claim he acted in self-defense is contradicted by the actual sequence of events. After the initial altercation, Applicant left the scene, only to return armed and reinitiate the confrontation. Witnesses described Applicant as the aggressor, advancing with a gun and firing multiple shots at the victim, who was unarmed and attempting to flee. Applicant’s testimony at trial is clearly not supported by the other evidence in the record. Applicant claimed

to have returned solely to retrieve his children, yet he left the scene without them after the shooting. (Trial Tr. p. 136; p. 181; p. 188). His own behavior following the shooting was completely inconsistent with his alleged motivation for returning to the scene.

Based on the foregoing evidence, this Court finds Applicant has failed to prove, by a preponderance of the evidence, the elements necessary entitling him to immunity. *See, e.g., State v. Curry*, 406 S.C. 364, 752 S.E.2d 263 (2013). Therefore, this Court finds Applicant has failed to demonstrate prejudice by Counsel's alleged failure to request an immunity hearing.

Accordingly, this Court finds this allegation is DENIED.

Counsel's Failure to Request a Mistrial

Applicant alleges Counsel was ineffective for failing to seek a mistrial following an incident where a juror saw Applicant in the bathroom while shackled. This Court finds Applicant has presented no credible evidence substantiating this claim.

Applicant testified at the evidentiary hearing that he was in the bathroom when a juror saw him in handcuffs and shackles. Applicant asserts this should have necessitated a mistrial. This Court finds Applicant's testimony not credible. Nothing in the record supports Applicant's allegation, and Applicant presented no evidence of the alleged incident beyond his own self-serving testimony. In contrast, Counsel testified he had no recollection of such an incident occurring and no recollection of Applicant ever informing him of it. Counsel credibly testified that had Applicant informed him of this incident he would have brought it to the trial court's attention. Accordingly, this Court finds Counsel was not deficient for failing to request a mistrial based on an incident of which he was unaware and which Applicant failed to prove actually occurred. Likewise, Applicant has failed to demonstrate prejudice from Counsel's failure to seek a mistrial for the same reason.

Accordingly, this Court finds this allegation is DENIED.

Counsel's Failure to Call Akelia McFadden as a Witness

Applicant alleges Counsel was ineffective for failing to call Akelia McFadden as a witness at trial, despite the fact that she would have offered testimony favorable to the Applicant and her being willing and available to testify. This Court finds this allegation is without merit.

Applicant failed to present any evidence or testimony regarding this allegation at the evidentiary hearing. Therefore, this Court finds Applicant wholly failed to meet his burden establishing deficiency or prejudice. Specifically, Applicant failed to call Ms. McFadden as a witness at the evidentiary hearing; therefore, he cannot demonstrate prejudice. *See Bannister v. State*, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998) ("This Court has repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial").

Accordingly, this Court finds this allegation is DENIED.

Counsel's Failure to Adequately Present Mitigation at Sentencing

Applicant alleges Counsel was ineffective for failing to present any meaningful mitigation on Applicant's behalf after conviction, despite there being witnesses available who would have offered favorable testimony. This Court finds this allegation is without merit.

At the evidentiary hearing, Applicant testified members of his family were present in the courtroom and he thought Counsel would call them during mitigation. Applicant explained Counsel should have presented evidence of his character, job, and church. Counsel testified that he has no recollection of Applicant informing him he wished to have his family members testify

during mitigation. Counsel explained that, generally, if a client requested to have a family member testify during mitigation he would have allowed them to speak.

During Applicant's mitigation presentation, Counsel presented the following:

Thank you, Your Honor. May it please, The Court? Obviously, Your Honor, the jury has spoken. I'll say that I've represented Mr. Brown for a while and my dealings with him, he's been pleasant. Looking over his past, he has no considerable prior record. He's 48 years old. He is a father. He has mother that he cares for. He has a family. Judge, I'd ask that you consider his age. I ask you to consider the facts of the case. I ask you to consider that there was no offer so I had to try this, judge. And I believe Mr. Brown is remorseful for what happened. And I'd ask Your Honor to be as lenient as possible.

(Trial Tr. p. 440).

This Court finds Counsel was not deficient in his mitigation presentation. Counsel argued Applicant's age, lack of substantial prior record, close relationship with his family, and remorsefulness as mitigating factors at sentencing. Following Counsel's mitigation presentation, the trial court sentenced Applicant to only an aggregate 23 years' imprisonment for voluntary manslaughter and possession of a weapon during the commission of a violent crime—12 years less than the maximum sentence. The sentence imposed reflects that Counsel effectively presented mitigation on Applicant's behalf. Thus, this Court finds Counsel was not deficient.

Notwithstanding lack of deficiency, Applicant has failed to prove prejudice. At the evidentiary hearing, Applicant failed to present any meaningful additional evidence Counsel should have presented in mitigation beyond his mere assertion that Counsel should have called family members to discuss his character, job, and church. Critically, Applicant failed to present testimony from any such witnesses at the evidentiary hearing. *See e.g., Bannister, supra*. Additionally, as discussed above, Applicant received a sentence

substantially below the statutory maximum. Under these circumstances, this Court finds Applicant has failed to prove he would have received a lesser sentence had Counsel performed in the manner Applicant contends. Therefore, Applicant has failed to prove prejudice.

Accordingly, this allegation is DENIED.

Counsel's Failure to Request Time Served Credit for House Arrest

Applicant alleges Counsel was ineffective for failing to ask that Applicant be given any credit for time spent on monitored house arrest pursuant to SC Code of Laws Section 24-13-40. This Court finds this allegation is without merit.

At the evidentiary hearing, Applicant testified he was on house arrest for two years and never received any time served credit for this time.

This Court finds Applicant has failed to prove he was prejudiced by Counsel's failure to request time served credit for the time spent on monitored house arrest. This Court finds Applicant has failed to demonstrate a reasonable probability he would have been granted this discretionary time served credit had Counsel requested it. Pursuant to S.C. Code Ann. § 24-13-40, "full credit against the sentence...may be given for any time spent under monitored house arrest." Because this time served credit is entirely within the discretion of the sentencing judge and considering Applicant was sentenced to consecutive terms, this Court finds Applicant has failed to demonstrate prejudice.

Accordingly, this Court finds this allegation is DENIED.

Failure to Object to Solicitor's Closing Argument

In his amended application, Applicant alleges Counsel was ineffective for failing to object to improper arguments made by the Solicitor in the Solicitor's closing argument. Applicant failed

to present any testimony or evidence of this allegation at the evidentiary hearing. Applicant has failed to demonstrate what specific statement he found objectionable and how it prejudiced him. Thus, this Court finds Applicant has failed to meet his burden establishing either deficiency or prejudice as to this allegation.

Accordingly, this Court finds this allegation is DENIED.

CONCLUSION

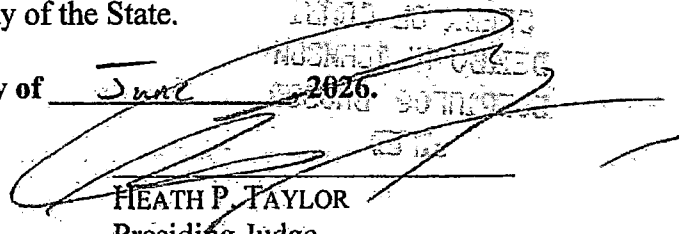
Based on the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant relief. Thus, this application is denied and dismissed with prejudice.

Should Applicant wish to secure appellate review, he must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. See Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an applicant has the right to an appellate counsel's assistance in seeking review of the denial of PCR. Pursuant to Rule 71.1(g), SCRCP, if an applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on applicant's behalf. Attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. This application for PCR is denied and dismissed with prejudice; and
2. Applicant must remain in the custody of the State.

AND IT IS SO ORDERED THIS 29th **day of** June **2026.**


HEATH P. TAYLOR
Presiding Judge
Third Judicial Circuit

Columbia, South Carolina