

**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 SUMTER COUNTY
Court of Common Pleas

Heath P. Taylor, Circuit Court Judge

RECEIVED

JUL 27 2026

S.C. SUPREME COURT

Case #2024-CP-43-01830

The State,

Respondent,

v.

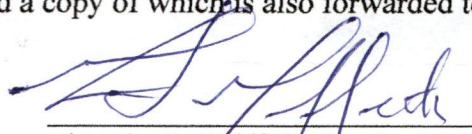
Joshua Bolden

Appellant.

NOTICE OF APPEAL

Joshua Bolden, appeals the decision of the Court, in the order dated May 21, 2026, received by counsel on July 17, 2026, where Mr. Bolden was denied his request for Post-Conviction Relief. Mr. Bolden 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 7/21/26



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:
Jordan B. Killough, Esquire
Assistant Attorney General
South Carolina Attorney General's Office
P.O. Box 11549, Columbia, S.C. 29211

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

Joshua L. Bolden, #365018,

Applicant,

v.

State of South Carolina,

Respondent.

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

) CASE NO. 2024-CP-43-01830

) **ORDER OF DISMISSAL**
) **WITH PREJUDICE**

RECORDED
2026 MAY 21 PM 3:47
JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

Presiding Judge: Hon. Heath P. Taylor
Applicant's Attorney: Timothy L. Griffith, Esq.
Respondent's Attorney: Jordan B. Killough, Esq.
Counsel: Kasha Timmons, Esq.
Date of Hearing: January 28, 2026

This matter comes before the Court by way of Joshua L. Bolden's (Applicant) application for post-conviction relief (PCR) filed on October 21, 2024. Respondent, the State of South Carolina, filed its Return on September 8, 2025.

On January 28, 2026, an evidentiary hearing was held at the Sumter County Courthouse before the Honorable Heath P. Taylor. Assistant Attorney General Jordan B. Killough represented Respondent. Applicant was present and represented by Timothy L. Griffith, Esquire. At the hearing, Applicant proceeded on the claims in his PCR application. In support of these claims, Applicant testified on his own behalf. Respondent presented testimony from Kasha Timmons, Esquire.

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 relief and, accordingly, denies and dismisses this action with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections (SCDC). On September 12, 2023, Applicant pleaded guilty as indicted before the Honorable Kristi F. Curtis. Applicant also waived presentment to the Grand Jury on the indictments for Larceny / Petit or Simple Larceny – \$2,000 or less (Enhancement per 16-1-57) (2023-GS-43-00960), Shoplifting / Enhancement for 3rd or sub. offense. Value \$2,000 or less (see 16-01-0057) (2023-GS-43-00961, Count 1), and Drugs / Possession of Methamphetamine (2023-GS-43-00961, Count 2). The case was prosecuted by Deputy Solicitor Bronwyn McElveen of the Third Circuit Solicitor's Office. Applicant was represented by Kasha Timmons, Esquire (Counsel).

Judge Curtis sentenced Applicant to three (3) years' imprisonment suspended to five (5) years' probation for possession of methamphetamine, ten (10) years' imprisonment suspended to five (5) years' probation for enhanced shoplifting, and ten (10) years' imprisonment suspended to five (5) years' probation for petit larceny, all to run concurrently and with credit for time served. Judge Curtis also ordered Applicant to complete in-patient drug treatment at Turning Point in Greenville, South Carolina.

On April 12, 2024, Applicant appeared before the Honorable George M. McFaddin, Jr., who revoked Applicant's probation in full after finding that sufficient evidence existed that Applicant did not willingly comply and did willfully violate his probation.

On May 14, 2024, Applicant appeared before the Honorable Paul A. Burch and pleaded guilty. Applicant waived presentment to the Grand Jury on the indictment for Shoplifting / Enhancement for 3rd or sub. offense. Value \$2,000 or less (see 16-01-0057) (2024-GS-43-0475). Judge Burch sentenced Applicant to time served for forty-nine (49) days' imprisonment, with that sentence to run concurrent to his ten-year revocation.

Applicant did not file a direct appeal.

FACTS GIVING RISE TO THE CONVICTIONS AND PROBATION REVOCATION

The facts for Applicant's first set of indictments are taken from the September 12, 2023, guilty plea transcript as articulated by the State:

THE STATE: Yes, Your Honor. This, in regards to the shoplifting and the possession of methamphetamine, Your Honor, on June 14th, 2023, at Murphy's Gas Station here in the City of Sumter, Mr. Holden took and carried away three cellphone chargers and one cellphone block valued at \$83 with the intent of depriving the merchant of the possession of the merchandise without paying for it. The manager had asked the defendant to leave when he came into the store due to previous incidents at the location. At that point the defendant started sniffing -- stuffing his pockets with cellphone chargers and exited the business passing the last point of sale. Officers located the defendant a short time later at which point he was arrested. Video surveillance was -- was collected and, also, officers did locate on him less than 1-gram of suspect methamphetamine on his person and with a search incident to arrest. It weighed in at .72 of a gram of methamphetamine. Your Honor, if you can please go over with the defendant that he knew it or believed it to be methamphetamine, it would be waiver of the analysis.

THE COURT: Mr. Bolden, the State has not had an opportunity to test the substance to confirm that it's methamphetamine. You understand after you plead guilty they're not going to go back and test it and confirm that it's methamphetamine; but of course, you're in the best position to know what it was.

APPLICANT: Yes, ma'am, it was methamphetamine.

THE COURT: Okay. I just want to make sure we're clear on that. And again, I'm sorry, the facts on the other case?

THE STATE: Yes, Your Honor. As to the petit larceny, on July 17th, 2023, at Rainbow Fashions on Broad Street here in the City of Sumter, Mr. Bolden did take a 20-dollar -- take away a 20-dollar bill belonging to the business. He was seen on surveillance cameras standing to the right of the cash register; and as an employee was attending to a customer, the defendant reaches over the counter and took a 20-dollar bill. The defendant was located at the business next door with the 20-dollar bill inside of his boxers.

(Sept. 2023 Plea Tr. pp. 6-8).

The facts relating to Applicant's probation revocation are taken from the April 12, 2024, probation revocation hearing as articulated by the probation officer:

Your Honor, I please the Court. This is a case for Mr. Joshua Lashawn Bolden. Mr. Bolden was sentenced to a probation hearing in Sumter County on September the 12th of 2023 by Judge Kristi Curtis on indictment number 23-GS-43-00960 for the offense of petty larceny. Mr. Bolden received a 10 year sentence suspended to 5 years of probation. He was ordered to complete inpatient treatment at Turning Point. He was also sentenced on indictment number 23-GS-43-00961 for the offense of shoplifting enhancement. He also received a sentence of 10 years suspended to 5 years of probation. He was also sentenced under that same indictment for possession of less than one gram of methamphetamine. Your Honor, we are here today to address the matter. He was ordered back in September the 12th of 2023 to complete Turning Point. He was discharged within a week or maybe longer for not keeping employment. He was also taking some admin hearing, hearing Officer Phillips ordered him to continue on probation, complete substance abuse counseling and continue mental health counseling. Mr. Bolden has failed to complete substance abuse counseling. He was ordered to go to mental health, he still did not follow up with the referral. He continued to use drugs, he tested positive for methamphetamine, amphetamines. He is not paying his money, he didn't follow up. He went to mental health to do initial assessment, didn't follow up after that to continue with mental health treatment. He is violating, he also was arrested for shoplifting. He just won't do what he is suppose to do on probation.

(Prob. Revoc. Tr. pp. 2-3).

The facts for Applicant's second set of indictments are taken from the May 14, 2024, guilty plea hearing as articulated by the State:

Yes, Your Honor. On February 21, 2024, at the Gates Station here in downtown Sumter, this defendant did take and carry away Little Debbie cakes valued at \$6.66. He took them without intention of paying the retail value. He was captured on video surveillance footage and positively identified by officers.

(May 2024 Plea Tr. p. 6).

CURRENT ACTION BEFORE THIS COURT

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

1. Ineffective Assistance of Counsel

a. "Counsel ineffective SEE 'Memo Attached'"¹

At the evidentiary hearing, Applicant raised a general allegation of ineffective assistance of counsel in that he alleges Counsel did not effectively represent him.

Before this Court is the Sumter County Clerk of Court records regarding the subject convictions and sentences, Applicant's SCDC records, Applicant's guilty plea transcripts, Applicant's revocation hearing transcript, 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).

Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive effective assistance of counsel guaranteed by the Sixth Amendment. See generally S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right and raises

¹ No memo was attached the application Respondent received.

² S.C. Code Ann. §§ 17-27-10 to -160.

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), 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 to determine whether counsel's conduct "was so [ineffective] as to require reversal" of the applicant's conviction. Strickland v. Washington, 466 U.S. 668 at 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. Id. at 687–88; Cherry v. State, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. Strickland, 466 U.S. at 700; see also Bell v. Cone, 535 U.S. 685, 695 (2002) (explaining that "[without proof of both deficient performance and prejudice to the defense . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable" (citation and internal quotation marks omitted)).

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, Hill v. Lockhart, 474 U.S. 52 (1985), extended the two-part Strickland test to challenge guilty pleas based on ineffective assistance of counsel. See Padilla v. Kentucky, 559 U.S. 356, 373 (2010) (recognizing that the guilty plea process is a "critical phase of litigation" for purposes of the Sixth Amendment right to effective assistance of counsel). The analysis of counsel's performance under the first prong of Strickland remains unchanged, the applicant must show that counsel's representation fell below an objective standard of reasonableness demanded of attorneys

in criminal cases. Hill, 474 U.S. at 58–59; accord Thompson v. State, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000).

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

This inquiry "focuses on a defendant's decisionmaking" and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. Lee v. United States, 582 U.S. 357, 367 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—not whether counsel would have still advised him or her to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999) (emphasis added).

Additionally, the Supreme Court has held that a probationer has a due process right to counsel and that the same Strickland analysis, as articulated above, applies in probation revocation proceedings. See Turner v. State, 384 S.C. 451, 455, 682 S.E.2d 792, 794 (2009) ("We now hold that because a probationer has a right to counsel, albeit not a Sixth Amendment right, the same

analysis for ineffectiveness that applies in other PCR proceedings involving claims against counsel should, by analogy, apply in PCR proceedings involving claims against probation counsel.").

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

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

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

INITIAL FINDINGS

This Court further finds applicable the strong presumption that at all stages of 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). 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.").

INEFFECTIVE ASSISTANCE OF COUNSEL ALLEGATION

Applicant alleges Counsel was constitutionally ineffective for failing to effectively represent him. In support of this claim, Applicant merely asserts that Counsel did not put enough effort into her representation of him. This Court finds this allegation is without merit.

Guilty Plea Hearing

At the guilty plea hearing on September 12, 2023, Applicant informed the plea court that he was satisfied with what Counsel had done for him. (Sept. 2023 Plea Tr. p. 4). At the guilty plea hearing on May 14, 2024, Applicant informed the plea court that he was satisfied with Counsel's help. (May 2024 Plea Tr. p. 4).

PCR Evidentiary Hearing

On direct examination, Applicant testified that he did not have enough time. Applicant testified that he did not receive any letters and that he only talked to Counsel when they were in the courtroom. Applicant testified that Counsel did not put enough effort into her representation.

Applicant testified that he thought that his plea was negotiated. Applicant testified that he had no money and stole some food and that he was working with mental health counselors.

On direct examination, Counsel testified that she had been practicing law for 12 years, all of which was in criminal law. Counsel testified that the posture in Applicant's case was always a guilty plea. Counsel testified that the solicitor recommended prison time and that they negotiated ten years. Counsel testified that the conditions of probation included in-patient treatment. Counsel testified that she met with Applicant several times prior to the guilty plea and that she went over discovery with him. Counsel testified that Applicant pleaded guilty and shortly afterwards was arrested again. Counsel testified that she did not think she could have done anymore with respect to the probation revocation.

Findings

This Court finds Applicant 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, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (citing Strickland). This Court finds Counsel's testimony credible and Applicant's testimony not credible. Applicant failed to present any evidence whatsoever of Counsel's alleged deficiency at either his guilty plea hearings or his probation revocation proceeding. A vague assertion that Counsel did not put in enough effort is not sufficient to show deficiency. Counsel credibly testified that she met with Applicant several times prior to the guilty plea and reviewed discovery with him. Counsel also credibly testified that she could not have done anymore with respect to the probation revocation. Notably, Applicant told the plea courts at both of his guilty plea hearings that he was satisfied with Counsel's representation. Therefore, this Court finds that Counsel was not deficient in her representation of Applicant.

Furthermore, this Court finds that Applicant failed to show how any alleged deficiencies prejudiced his case. Specifically, Applicant failed to show what Counsel could have done differently to change the outcome of his case. Applicant failed to present "any evidence of how additional preparation or communication would have resulted in a different outcome." Smith v. State, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (Ct. App. 2012). This Court further finds that no prejudice resulted from any alleged deficiencies at either Applicant's guilty plea hearings or his probation revocation proceeding.

This Court finds through the combination of the record, and Counsel's credible testimony that Applicant has failed to meet the burden of showing Counsel was constitutionally ineffective. Accordingly, this Court finds Applicant has failed to establish any deficiency by Counsel or any prejudice flowing therefrom. Thus, this allegation must be **DENIED** and **DISMISSED**.

|CONCLUSION PAGE FOLLOWS|

CONCLUSION

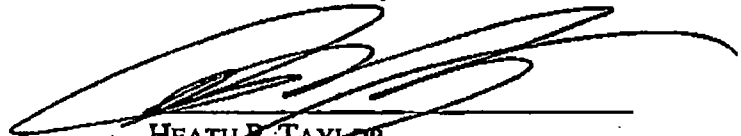
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be **DENIED** and **DISMISSED WITH PREJUDICE**.

This Court notifies 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 Applicant's behalf if 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. Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 14th day of May, 2026.



HEATH P. TAYLOR
Presiding Judge
Third Judicial Circuit

Columbia, South Carolina