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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Walton J. McLeod, IV, Circuit Court Judge

2025-CP-42-01296

David O. Rudicill..... Appellant,
v.
The State, Respondent.

NOTICE OF APPEAL

David O. Rudicill appeals the Honorable Walton J. McLeod, IV's Order of Dismissal with Prejudice filed July 29, 2026.

This 1st day of August, 2026.

s/Susannah Ross

Susannah Ross, Attorney at Law

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Attorney for Appellant

Other Counsel of Record:

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Columbia, SC 29211

(803) 734-3970

Attorney for Respondent

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

David O. Rudicill, #229258,

Applicant,

v.

State of South Carolina,

Respondent.

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

) CASE NO. 2025-CP-42-01296
)

**ORDER OF DISMISSAL
WITH PREJUDICE**

Presiding Judge: Hon. Walton J. McLeod, IV
Applicant's Attorney: Susannah C. Ross, Esq.
Respondent's Attorney: MacKinnon Westraad, Esq.
Plea Counsel: E. Joshua Schultz, Esq.
Date of Hearing: March 3, 2026

This matter comes before this Court by way of David O. Rudicill's (Applicant) application for Post-Conviction Relief (PCR) commenced March 24, 2025. Respondent, the State of South Carolina, filed its Return on January 30, 2026, requesting an evidentiary hearing.

On March 3, 2026, an evidentiary hearing was held at the Spartanburg County Courthouse before the Honorable Walton J. McLeod, IV. Applicant was present at the hearing and represented by Susannah C. Ross, Esquire. Assistant Attorney General MacKinnon Westraad appeared on behalf of Respondent. Applicant proceeded on the allegations within his original PCR application in addition to a claim that his counsel failed to file an appeal. In support of these claims, Applicant testified on his own behalf. Respondent called E. Joshua Schultz, 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 in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. During its July 2023 Term, the Spartanburg County Grand Jury indicted Applicant for trafficking methamphetamine between 28 and 100 grams, and possession of a weapon during the commission of a violent crime (2023-GS-42-3468, Counts 1 and 2), and failure to stop for blue lights, 2nd offense (2023-GS-42-3469). During its October 2024 Term, the Spartanburg County Grand Jury indicted Applicant for trafficking methamphetamine, more than 400 grams, and possession of a weapon during the commission of a violent crime (2024-GS-42-4596, Counts 1 and 2).

On November 7, 2024, Applicant appeared before the Honorable Mark J. Hayes, II. Applicant pled guilty as indicted for failure to stop for blue lights, 2nd offense (2023-GS-42-3469). Applicant also pled guilty to the lesser-included offense of trafficking methamphetamine, 10 to 28 grams, 2nd offense, and pled guilty as indicted to possession of a weapon during a violent crime (2024-GS-42-4596). Applicant was present and represented by Plea Counsel. Assistant Solicitor Lindsay H. Overby prosecuted the case.

Applicant's guilty plea was made pursuant to plea negotiations with a negotiated range of 15 to 20 years' incarceration, a mandatory \$50,000 fine for the trafficking methamphetamine conviction, and concurrent five-year sentences for the failure to stop for blue lights and weapon convictions. The State additionally provided a gun prohibition order and gun forfeiture order for Applicant, and informed the Court that they were dismissing the additional counts Applicant was indicted for, including trafficking methamphetamine 28 to 100 grams, 3rd offense, possession of a

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weapon during the commission of a violent crime, unlawful carry, and possession of a weapon by a felon.

Judge Hayes sentenced Applicant to 20 years' incarceration for trafficking methamphetamine, 10 to 28 grams, 2nd offense, to run concurrently with five-year sentences for possession of a weapon during a violent crime and failure to stop for blue lights. Applicant was ordered to pay a \$50,000 fine for trafficking methamphetamine and was given credit for 556 days' time served.

On November 14, 2024, Plea Counsel filed a motion for reconsideration of sentence on Applicant's behalf, which was ultimately denied by order filed March 14, 2025.

Applicant did not pursue a direct appeal of his convictions or sentences.

CURRENT ACTION BEFORE THIS COURT

In his PCR application filed on March 24, 2025, Applicant alleges he is detained unlawfully for the following reasons:¹

- I. Ineffective Assistance of Counsel
 - a. Involuntary Guilty Plea
 - i. Guilty plea was not voluntarily or intelligently made.
 - ii. "As argued ... I further argue that my guilty plea 'was not' voluntarily or intelligently made where I did not at my plea understand the true facts surrounding my cases nor the necessary elements .."
 - b. Failure to properly research and investigate the laws.
 - i. Counsel had a duty to conduct a reasonable investigation into my facts and the state's alleged facts surrounding my cases.
 - c. Plea Counsel refused to talk to me on "any kind of – defence leveles [sic]"
 - d. Failure to fully review discovery.
 - e. "Counsel Schultz was late for 2 court hearings and when judge ask him about it he said he was in his office with my family, but my family was in courtroom."

¹ At the outset of the evidentiary hearing, Respondent stated that PCR Counsel informed them Applicant was amending his application to include that Plea Counsel failed to file an appeal on his behalf. However, Applicant withdrew this allegation at the conclusion of his hearing. 67-11101 E3 TFC 2025

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- f. "Counsel Schultz stated that he could take me in front of Judge Hayes because I been before him in the past. He stated to me that I would get a lesser sentence and he could make it happen to carry me before another judge."
- g. "Counsel Schultz just flat out lied to me during our visits and then he also took me in front of the Judge he already said he couldn't, the [sic] the Judge stated that we have history together and counsel J. Schultz still let it proceed."

As relief, Applicant requests, "new trial and any other relief I may be entitled to and or the court deem just and fair."

Before this Court are Applicant's records from the Spartanburg County Clerk of Court, Applicant's SCDC records, the plea transcript, and the current PCR application.

STANDARD OF REVIEW

The Uniform Post-Conviction Procedure Act² provides that any person who has been convicted of a crime may seek post-conviction relief based on the following types of allegations:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy[.]

S.C. Code Ann. § 17-27-20(A).

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. Strickland v.

² S.C. Code Ann. §§ 17-27-10 to -160.

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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 Beil 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 926, 931 (1996).

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, 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

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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), SCRPC (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 (2013).

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 facts and conclusions of law as required by § 17-27-80 of the South Carolina Code:

INITIAL FINDINGS

This Court finds at all stages of Plea Counsel's representation of Applicant that he rendered adequate assistance and exercised reasonable professional judgment in his 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 agreed he wished to enter a plea on his charges (Plea Tr. p. 9); 2. Applicant understood the potential sentences for his charges and wished to go forward with the plea (Plea Tr. pp. 11-12); 3. Applicant indicated he was satisfied with Plea Counsel (Plea Tr. p. 4); 4. Applicant understood his right to a jury trial and heard the Court describe those rights (Plea Tr. p. 5); 5. Applicant agreed the facts as recited by the Solicitor were substantially correct (Plea Tr. p. 11); 6. Applicant indicated no promises or threats were made to him to plead guilty (Plea Tr. p. 4); 7. Applicant indicated he was not under the influence of substances that would adversely affect his ability to understand what was happening at time of plea (Plea Tr. p. 3); 8. Applicant indicated all of his answers were truthful and honest (Plea Tr. p. 13).

INEFFECTIVE ASSISTANCE OF PLEA COUNSEL ALLEGATIONS ON THE MERITS

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Allegation I(a):	Involuntary Guilty Plea
Allegation I(b):	Failure to properly research and investigate the laws.
Allegation I(c):	Plea Counsel refused to talk to me on “any kind of – defence leveles [sic]”
Allegation I(d):	Failure to fully review discovery.

Applicant alleges that Plea Counsel's representation was constitutionally ineffective for failing to properly research and investigate the laws, failing to review discovery, and failing to talk to Applicant about his defense. Additionally, Applicant alleges his plea was involuntary because he did not understand the facts or the necessary elements surrounding his case before he entered his plea. 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 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 consequences. 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 the 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 counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors,

the applicant 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.

In order to prevail upon a claim that counsel did not adequately prepare, investigate, 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

At the evidentiary hearing on direct examination, Applicant testified he felt Plea Counsel was ineffective because he did not research or investigate the difference between amphetamines and methamphetamines. Applicant testified that he had amphetamines, but it field-tested as methamphetamine because there was a mixture. Applicant testified he would not have pleaded guilty if he knew the difference between those drugs. Applicant also testified he felt like Plea Counsel was pressuring him to take the plea because he still owed Plea Counsel money. Applicant

conceded and testified that Plea Counsel met with him and reviewed discovery.

On cross-examination, Applicant testified that the difference between meth and amphetamines is that it was "fake dope." Applicant testified that even though he knew the judge could not give him less than fifteen years, he still decided to plead guilty because if he went to trial, he was facing life without parole.

On direct examination, Plea Counsel testified that he met with Applicant between five and eight times. Plea Counsel testified he investigated the facts and fully reviewed discovery, both independently and with Applicant. Plea Counsel testified he also sent the discovery to Applicant. Plea Counsel testified that this was a case of a "reverse buy" where law enforcement officers delivered meth to Applicant and he paid for and accepted the drugs. Plea Counsel testified that he discussed the "meth vs. amphetamines" difference at length with Applicant. Plea Counsel testified Applicant seemed to understand everything Plea Counsel explained to him.

On cross-examination, Plea Counsel testified that entrapment could have been a defense if Applicant had no prior criminal record, but he would have raised it at trial regardless. Plea Counsel testified he could not remember specifically what the lab report said, but he believed it said the meth in the mixture cleared the trafficking threshold of over 28 grams.

Findings

This Court finds from the combination of the record and Plea Counsel's testimony that Applicant has failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [his] case." *Ard v. Catoe, supra*. This Court 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*.

Both Applicant and Plea Counsel testified Plea Counsel met with Applicant and reviewed discovery. Plea Counsel credibly testified that he discussed the difference between methamphetamines and amphetamines with Applicant. Additionally, the record before this Court shows that Applicant's guilty plea to trafficking methamphetamine was for indictment 2024-GS-42-4596 relating to the controlled buy where he took possession of 400 grams, and he pleaded guilty to the lesser-included offense of trafficking methamphetamines, 28 to 100 grams – 2nd offense. Thus, the testing of the mixture that was found on his person after the controlled buy is not relevant to his guilty plea, since that charge was dismissed.³ While Applicant presented this as his main argument for the plea being involuntary, the record reflects that Applicant otherwise pleaded guilty knowingly and voluntarily.

Applicant is unable to prove that he suffered prejudice. Applicant himself testified that he was facing life without parole, and testified that it was why he still decided to plead guilty. Therefore, this Court finds Applicant received the benefit of a lesser sentence because he received a reduced sentence despite being served with an LWOP notice. 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 I(e): “Counsel Schultz was late for 2 court hearings and when judge ask him about it he said he was in his office with my family, but my family was in courtroom.”

Applicant alleges Plea Counsel's representation was constitutionally ineffective for being late to court hearings. This Court finds this allegation is without merit.

³ Plea Tr. p. 9.

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PCR Evidentiary Hearing

On direct examination, Applicant testified that Plea Counsel was late and said he did not know the court was taking place at that time.

On direct examination, Plea Counsel testified that it was not his intention to make Applicant feel as though he was not taking care of Applicant's case when he was late, but that sometimes lawyers, judges, and other officials were late to court hearings because they were stuck in another hearing. Plea Counsel testified he did not recall the judge ever asking him about it. Plea Counsel testified he negotiated with the solicitor on this case extensively, that the solicitor was familiar with Applicant from other cases, and that the best offer the solicitor would make was 15-20 years.

Findings

This Court finds from the combination of the record and Plea Counsel's testimony that Applicant has failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [his] case." Ard v. Catoe, supra. This Court 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.

Plea Counsel credibly testified he did not recall the judge making a comment about Plea Counsel being late. Additionally, Applicant presented no evidence on how Plea Counsel possibly being late prejudiced his case. Applicant pleaded guilty pursuant to a negotiated 15-20-year sentence offered by the solicitor, and his sentence fell within that range. Applicant did not present evidence that this offer was affected by tardiness to court.

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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(f): "Counsel Schultz stated that he could take me in front of Judge Hayes because I been before him in the past. He stated to me that I would get a lesser sentence and he could make it happen to carry me before another judge."
Allegation 1(g): "Counsel Schultz just flat out lied to me during our visits and then he also took me in front of the Judge he already said he couldn't, the [sic] the Judge stated that we have history together and counsel J. Schultz still let it proceed."

Applicant alleges Plea Counsel's representation was constitutionally ineffective for allowing his case to proceed before Judge Hayes despite Applicant's history with Judge Hayes. This Court finds these allegations are without merit.

Plea Hearing

At Applicant's plea hearing, Judge Hayes stated the following during sentencing:

THE COURT: You and I have had a history with each other, haven't we?
MR. RUDICILL: Yes, sir.
THE COURT: I remembered you when you were standing up here when we were qualifying you that we had been together before. What I do for a living, I don't have a magic wand. I don't get an education in projecting what's going to happen to people, but I generally try to see the best in people and try to craft a sentence pushing them in a direction. Mr. Rudicill, I apparently have not done a good job with you because you haven't listened and you haven't taken what me and the Solicitors and your lawyers and probation have all been trying to get you to do. I just pause and wanted to say that, Mr. Rudicill, because it's quite evident from the information your lawyer has given me and what you shared with me not only now but in the other proceedings that we've done, that there's some great value to yourself. A lot of people see value and worth in you as a human being that's not represented by what we do in this courtroom. There comes a time when I don't have a choice really. I think the facts have been laid out

for me. I think the Solicitor has made -- you've asked for mercy. Your lawyer asked for mercy. I think your lawyer has done an excellent job of getting the Solicitor to go ahead and extend that mercy to you and not going forward with the life without possibility of parole.

(Plea Tr. pp. 22-23).

PCR Evidentiary Hearing

On direct examination, Applicant testified that Plea Counsel told Applicant he had to plead or he would have a jury trial in two weeks. Applicant testified he intended to plead to fifteen years and request a split sentence, but Plea Counsel did not seek that during the plea. Applicant testified that he would not have pleaded guilty before Judge Hayes if he had known it would be him. Applicant testified he told Plea Counsel he did not want to go before Judge Hayes. Applicant testified he thought Judge Hayes's history with Applicant in previous cases prejudiced him because Judge Hayes mentioned knowing Applicant when sentencing him. Applicant testified he was hoping to get the fifteen years, but he thought Judge Hayes affected this.

On direct examination, Plea Counsel testified that he felt Judge Hayes could potentially be a problem, but he also thought Judge Hayes, in particular, would have mercy on Applicant within the 15-20 year range given his age and medical issues, which Plea Counsel raised in his motion for reconsideration. Plea Counsel testified it was possible a different judge could have given Applicant a better sentence, but that any judge would have been told of Applicant's prior record, so that would have been considered regardless. Plea Counsel testified that at that point, there was no alternative to Judge Hayes but a trial before Judge Cole in two weeks, where Applicant would face LWOP.

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Findings

This Court finds from the combination of the record and Plea Counsel's testimony that Applicant has failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [his] case." Ard v. Catoe, *supra*. This Court 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.

The record reflects that Applicant knew Judge Hayes could not sentence below 15 years and still wished to proceed with the plea of 15-20 years.⁴ Applicant testified he decided to plead guilty because he was otherwise facing LWOP, which was ultimately his decision and not one for which Plea Counsel can be found deficient. See Lee, 582 U.S. at 369 (Applicant's contemporaneous decision-making is the proper focus of reviewing courts).

Furthermore, Applicant cannot show that he suffered prejudice. Plea Counsel's testimony was correct that any other judge would have Applicant's prior history before them. In support of his allegations, Applicant merely offered speculation that he was prejudiced because Applicant previously appeared before Judge Hayes, rather than because of Applicant's extensive and persistent criminal record as indicated by Judge Hayes *supra* during sentencing.

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.

⁴ Plea Tr. p. 21.

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CONCLUSION

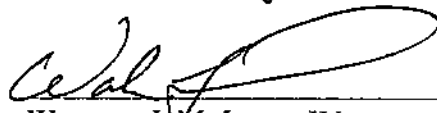
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be **DENIED** and **DISMISSED WITH PREJUDICE**.

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 21 day of July, 2026.


WALTON J. MCLEOD, IV
Presiding Judge
Seventh Judicial Circuit

Spartanburg, South Carolina

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SPARTANBURG COUNTY
JUL 29 2026