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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-42-01214

JaMarous D. Rogers..... Appellant,
v.
The State, Respondent.

NOTICE OF APPEAL

JaMarous D. Rogers. 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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Attorney for Respondent

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	FOR THE SEVENTH JUDICIAL CIRCUIT
	)	
JaMarous D. Rogers, #346813,	)	
	)	Case No. 2025-CP-42-01214
Applicant,	)	
v.	)	ORDER OF DISMISSAL
	)	WITH PREJUDICE
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

Presiding Judge:	Hon. Walton J. McLeod, IV
Applicant's Attorney:	Susannah C. Ross, Esq.
Respondent's Attorney:	O. McConnell Harison, Esq.
Plea Counsel:	Ricky H. Harris, Esq.
Solicitors:	James E. Hunter, Esq.
	Maressa M. Cuenca, Esq.
Date of Hearing:	March 3, 2026

This matter comes before the Court by way of JaMarous D. Rogers' (Applicant) application for post-conviction relief (PCR) filed on March 18, 2025. On January 30, 2026, Respondent filed its Return and Partial Motion to Dismiss. Applicant subsequently amended his application to add an additional claim of ineffective assistance of counsel.

On March 3, 2026, an evidentiary hearing was held at the Spartanburg County Courthouse before the Honorable Walton J. McLeod, IV. Applicant was present and represented by Susannah C. Ross, Esquire. Assistant Attorney General O. McConnell Harison prosecuted the case. At the hearing, Applicant proceeded on the claims in his PCR application and amended application. In support of these claims, Applicant testified on his own behalf. Respondent presented testimony from Ricky H. Harris, Esquire (Plea Counsel).

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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 within the South Carolina Department of Corrections (SCDC) pursuant to orders of the Spartanburg County Clerk of Court. During its July 2022 Term, the Spartanburg County Grand Jury indicted Applicant for murder (2022-GS-42-3949) and possession of a weapon during a violent crime (2022-GS-42-3949A). Applicant was also indicted for two counts of possession of a weapon by a convicted violent felon (2022-GS-42-3945, -3948), possession of body armor by a violent felon (2022-GS-42-3946), and arson, 3rd degree (2022-GS-42-3947).

On April 22, 2024, Applicant appeared before the Honorable J. Mark Hayes, II, at the Spartanburg County Courthouse. Applicant was represented by Ricky H. Harris, Esquire. James E. Hunter and Maressa M. Cuenca of the Seventh Circuit Solicitor's Office prosecuted the case. Applicant pled guilty as indicted to all above-referenced charges and was sentenced according to plea negotiations with the State. Judge Hayes sentenced Applicant to thirty years' incarceration for murder (2022-GS-42-3949), fifteen years' incarceration for arson, 3rd degree (2022-GS-42-3947), five years' incarceration for possession of a weapon by a convicted violent felon (2022-GS-42-3945), five years' incarceration for each conviction of possession of a weapon during a violent crime (2022-GS-42-3949A; -3948), and five years' incarceration for the possession of body armor by a violent felon (2022-GS-42-3946). All of Applicant's sentences were run concurrently, and he was given credit for 884 days' time served.

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

FACTS GIVING RISE TO CONVICTION

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The following facts were stated by the solicitor at Applicant's guilty plea hearing as follows:

Your Honor, this incident alleged to have occurred on November 13, 2021, here in Spartanburg County. The State would of presented evidence at trial this week that the defendant shot and killed Lamar Douglas Jones. Your Honor, on 11/13/21 at 311 Blachard Road, the Halfords, who live at that residence, called 9-1-1 shortly before midnight that a white Jaguar had wrecked in front of their house and that all the occupants had fled because there was nobody in the car. Fire department shows up, and on the way to the white Jaquar wreck, they come in contact with a Ford Fusion that appears to be on fire. They stop at the Ford Fusion, put out the fire, which was minor on, on the hood, and realized that the deceased, Lamar Douglas Jones, was in the backseat with a gunshot wound. Police arrive, start collecting evidence. They then talk to Lamar Douglas Jones girlfied at the time, Laquesha Brewton. She tells them that there's two people they need to talk to. That'd be Joseph English and Jaylen Whiteside. They interview them multiple times over the course of a few days giving multiple stories. But, ultimately, in the end, they identify Mr. Rogers as the person who shot and killed Mr. Jones in that vehicle. There was a tequila bottle, bottle found in the Jaguar, Casamigos bottle. Fingerprint analysis showed Mr. Rogers fingerprint on that vehicle. The DNA ana – there was also multiple guns located in the vehicles. DNA analysis was done on a .40 caliber weapon. Firearm analysis was also done. The firearm's analysis would of concluded that the .40 caliber found in the Jaguar was the weapon that fired these shots because of shell casings located in the Fusion that were located. DNA of all the people present were taken and I, I believe the DNA evidence, as testified to, would show that the gun – Mr. Rogers DNA would of been on the gun. Further, cell site records were located, call detail records. FBI Special Agent Matt Wild would of testified that the number belonged to this defendant would of placed him in proximity of these vehicles at the time of the, the dumping of the body on Blachard Road. Further, it also places him next to the phone of Keisha – Keisha Dewberry. That was his girlfriend at the time. She would of testified that, on the night of this incident, she actually received a call from Mr. Rogers to come pick him up along with some friends at Canaan Point Apartments, which is where they ran to after dumping the body, Your Honor. She would of testified that she actually drove him to Anderson to spend the night and then to Atlanta the next day. Further, Your Honor, the phones of this defendant and Ms. Newberry were recovered in search warrants. The phone on this defendant actually has him holding a .40 caliber weapon that appears to match the weapon found in the Jaguar as well as phone calls to and from Ms. Dewberry that appeared to have been deleted. Those same phone calls were found on Ms. Dewberry's phone. They'd also been deleted off her phone, Your Honor. So, one thing about the arson, the Ford Fusion, it was found on fire, it was fire on the inside and fire on the outside, Your Honor. There was a gas can located in the Jaguar. Testimony would of shown that they attempted to burn the vehicle up after the shooting to get rid of evidence. Your Honor, he does have a burglary second violent. So, possession of the weapon on 11/13 would have been against the law. Search warrant at his house on the day of his arrest also recovered other weapons. So that's the second count of possession of weapon by a violent felon. Search warrant that day also recovered the body armor, Your Honor. As he is a violent offender, that was also illegal.

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(Plea Tr. pp. 9 – 12).

CURRENT ACTION BEFORE THIS COURT

In his PCR application, Applicant alleged that he is being held in custody unlawfully on the following grounds:

- I. Ineffective Assistance of Counsel
 - a. Involuntary Guilty Plea
 - i. Plea was induced by inadequate investigation.
 - b. Failure to Investigate

Applicant subsequently amended his PCR application through PCR counsel to incorporate the following claim:

- I. Ineffective Assistance of Counsel
 - a. Failure to advise applicant of 85% Rule regarding sentencing.

Before this Court are the Spartanburg County Clerk of Court records regarding the subject convictions and sentences, Applicant's records from the South Carolina Department of Corrections, Applicant's guilty plea transcript, and the records of the current PCR action.

STANDARD OF REVIEW

The Uniform Post-Conviction Procedure Act¹ (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[.]

¹ S.C. Code Ann. §§ 17-27-10 to -160.

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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 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 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).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Applicant has alleged and elected to pursue various claims of ineffective assistance of counsel and a claim of involuntary guilty plea 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. This Court additionally heard the testimony presented at the evidentiary hearing and was able to observe the witnesses, which allowed the Court to evaluate 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 Plea Counsel's representation of Applicant, 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); 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.").

This Court makes the following findings from the record: Applicant indicated he intended to enter guilty pleas to the charges announced by the solicitor (Plea Tr. p. 5); Applicant indicated he had not consumed any type of substance that would adversely or negatively affect his ability to understand the plea process (Plea Tr. pp. 6 – 7); Applicant indicated he had not received treatment for substance abuse in the past (Plea Tr. p. 7); Applicant indicated that he was satisfied with the work his attorney has done for him and indicated that he had enough time to speak with his attorney about the cases and facts of the cases (Plea Tr. p. 7); Applicant indicated that nobody has threatened him or made any promises to him in exchange for his guilty pleas (Plea Tr. p. 7); Applicant indicated that the decision to enter the pleas was a free and voluntary decision (Plea Tr. p. 7); Applicant indicated that he understood his right to a jury trial, and further indicated that he did not wish to have a jury trial on the charges (Plea Tr. pp. 7 – 8); Applicant indicated that he understood all of the rights he was waiving by pleading guilty, and further indicated that he wished to give up all of these rights and go forward with the guilty pleas (Plea Tr. pp. 8 – 9); Applicant indicated that he did not agree with the solicitor's recitation of the facts concerning a fingerprint found on a vehicle (Plea Tr. p. 12); Applicant indicated that he agreed with Plea Counsel's clarification regarding the fingerprint's location being on the tequila bottle, not the vehicle (Plea Tr. pp. 12 -13); Applicant indicated that with the clarification, he agreed the solicitor's recitation of the facts were substantially correct (Plea Tr. p. 13); Applicant indicated that he understood the judge would be bound by sentencing negotiations, and further indicated that he wished the judge to accept the guilty pleas (Plea Tr. p. 13); Applicant indicated that he understood the murder charge was classified as violent and most serious, and further indicated that he had spoken to his attorney as to the ramifications and consequences of entering a

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plea to a charge with that classification (Plea Tr. p. 13); Applicant indicated that understanding the classifications, he still wished to enter his guilty plea (Plea Tr. p. 14); Applicant indicated that he was in fact guilty of each charge against him (Plea Tr. pp. 14 – 15); and Applicant indicated that all of his answers to the plea court were truthful and honest (Plea Tr. p. 15).

INEFFECTIVE ASSISTANCE OF PLEA COUNSEL ALLEGATIONS

Allegation: Failure to Investigate

Allegation: Involuntary Guilty Plea Due to Inadequate Investigation

Applicant alleges that Plea Counsel was constitutionally ineffective for failing to investigate. Specifically, Applicant contends that his guilty plea was not voluntarily entered due to Plea Counsel's inadequate investigation of the case. This Court finds this allegation to be without merit.

"[S]trategic choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable; and strategic choices made after less than complete investigation are reasonable precisely to the extent that reasonable professional judgments support the limitations on investigation." Strickland, 466 U.S. at 690–91. "In other words, counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." Id. at 691. "In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments." Id. "The reasonableness of counsel's actions may be determined or substantially influenced by the defendant's own statements or actions." Id. "Counsel's actions are usually based, quite properly, on informed strategic choices made by the defendant and on information supplied by the defendant." Id. "In particular, what investigation decisions are reasonable depends critically on such information." Id.

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In order to prevail upon a claim that counsel did not adequately prepare or investigate a case, an applicant must present evidence of what counsel could have discovered or what other defenses applicant could have requested counsel develop and present had counsel been more prepared. Harris v. State, 377 S.C. 66, 75–76, 659 S.E.2d 140, 145–46 (2008) (citing Jackson v. State, 329 S.C. 345, 353–54, 495 S.E.2d 768, 772 (1998)). Furthermore, an applicant must also present evidence to show how the discoverable matters or defenses would have resulted in a different outcome. Id. (citing Davis v. State, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); Skeen v. State, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. Id., 377 S.C. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

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 consequence. When the judge discharges that function, he leaves a record adequate for any review that may be later sought and forestalls the spin-off of collateral proceedings that seek to probe murky memories."). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. See Harres v. Leeke, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984) (finding the voluntariness of a guilty plea "is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing").

An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an objective

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standard of reasonableness and that there is a reasonable probability that, but for trial counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial instead. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001); Richardson v. State, 310 S.C. 360, 363, 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.

Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. See Blackledge v. Allison, 431 U.S. 63, 73–74 (1977). Statements made during a guilty plea should be considered conclusively unless an Applicant presents valid reasons why he should be allowed to depart from the truth of his statements. See Crawford v. U.S., 519 F.2d 347, 350 (4th Cir. 1975) (overruled on other grounds by U.S. v. Whitley, 759 F.2d 327 (4th Cir. 1985)).

Guilty Plea Hearing

The following colloquy occurred between the plea court and Applicant at his guilty plea hearing:

THE COURT:	Within the last 24 hours, have you consumed any type of substance that is adversely or negatively affecting your ability to understand what we're doing today?
APPLICANT:	No, sir.
THE COURT:	In the past, have you ever received any substance abuse treatment for a drug or alcohol problem?
APPLICANT:	No, sir.
THE COURT:	Are you satisfied with the work that your lawyer has done for you?
APPLICANT:	Yes, sir.
THE COURT:	Feel like you had enough time to talk to him about these cases and the facts behind them?
APPLICANT:	Yes, sir.
THE COURT:	Mr. Rogers, has anybody perhaps come to you and threatened you in any way or have they made you any promises in order to get you to make the decision to enter these pleas today?
APPLICANT:	No, sir.

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THE COURT: Am I correct to conclude that your decision to enter these pleas today, that is a free and voluntarily decision by you?

APPLICANT: Yes, sir.

THE COURT: Mr. Rogers, I, I need for you to understand that, under the law, you are presumed innocent of all these charges and you do have a right to a jury trial on any or all these charges. At any jury trial that would take place, it would be the State that has the burden of proof and the State would have to convince all 12 members of a jury that you are, in fact, guilty beyond a reasonable doubt of these charges. Do you understand that you have a right to that jury trial?

APPLICANT: Yes, sir.

THE COURT: Do you wish to have a jury trial on any of these charges?

APPLICANT: No, sir.

THE COURT: Sir, I need for you to understand that there are other very important constitutional rights that you are entitled to but that you have to give up in order to enter these pleas. You have the right to cross-examine the State's witnesses. You also have to give up your right to present evidence which you or your lawyer might feel would establish a defense and you have to give up your right of subpoena as well as your right to remain silent. Now, Mr. Rogers, do you understand all of those rights?

APPLICANT: Yes, sir.

THE COURT: And you wish to give them up and go forward with these pleas?

APPLICANT: Yes, sir.

(Plea Tr. pp. 6 – 9).

Further, Plea Counsel informed the plea court that he had been representing Applicant for about a year at that point. Plea Counsel stated that they did anticipate a jury trial that morning, but that the plea negotiations occurred from a meeting with the solicitors that same date as well as several separate meetings that occurred prior. Plea Counsel informed the plea court that Applicant had agreed to the plea because he believed it to be in his best interest. When the plea court asked Applicant if he agreed to the statements made by Plea Counsel, Applicant answered affirmatively. When asked if there was anything else Applicant would like the plea court to consider, Applicant answered negatively (Plea Tr. pp. 16 – 17).

PCR Evidentiary Hearing

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On direct examination, Applicant testified that Plea Counsel never sat down with him to review the facts of his case, nor did Plea Counsel ever discuss entering a guilty plea to the charges. Applicant testified that Plea Counsel met with him the day of Applicant's set trial and advised him that pleading guilty would be in his best interest since two co-defendants were present to testify against Applicant. Applicant stated that he was aware during Plea Counsel's representation that these co-defendants would likely testify against him at trial should he proceed. Applicant testified that the co-defendants gave multiple prior inconsistent statements before Applicant entered his guilty plea.

When asked why he pleaded guilty, Applicant answered that it did not matter anyway, as his side would not have been heard, since it looked like he had committed the crime. Applicant testified that a 30-year sentence and a life sentence are both lose-lose scenarios. Applicant testified that Plea Counsel never discussed his rights that he was waiving by entering a guilty plea, and that Plea Counsel never went over any discovery with him. Applicant testified that Plea Counsel informed him he might be able to have a search warrant thrown out of the case, and that a suppression hearing on the matter was ultimately unsuccessful. Applicant testified that Plea Counsel never discussed the consequences of losing the suppression hearing with him.

When asked what Plea Counsel should have done differently to more adequately prepare his case, Applicant testified that Plea Counsel should have followed more leads. Applicant testified that Plea Counsel only met with him once, a few days before his set trial. When asked for his opinion on the evidence against him, Applicant testified that it was insufficient to support a murder conviction. Applicant testified that he believed there would be sufficient evidence of Applicant being at the murder scene and assisting with it. Applicant testified that Plea Counsel informed him that he could plead guilty and raise issues with the suppression hearing later. Applicant testified that Plea Counsel did not inform him of the

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rights he was waiving by pleading guilty, but rather told Applicant that he could raise them in a subsequent PCR action.

On direct examination, Plea Counsel testified that he represented Applicant for approximately one year before his trial was set, and prior to this, Applicant was represented by a public defender. Plea Counsel testified that he received a large discovery file for Applicant's case containing voluminous material. Plea Counsel testified that the discovery he received included witness statements, investigative reports, forensic reports, and reports surrounding law enforcement's initial investigation, including movements of vehicles that were alleged to have been at the scene. Plea Counsel testified that he reviewed the discovery with Applicant, but they did not go over every single page together, considering Applicant was already represented by the public defender's office for quite some time, and primarily because Applicant told Plea Counsel that he was already familiar with the discovery in his case.

Plea Counsel testified that during the weeks leading up to Applicant's trial date, the primary discussions in their meetings were surrounding DNA evidence that purported to link Applicant to a tequila bottle that was allegedly thrown into the victim's car to set fire and cover up the murder. Plea Counsel testified that this evidence was relatively new and would not have been available when the public defender was representing Applicant, so they reviewed it extensively in their meetings. Plea Counsel testified that while he could not remember if Applicant got a copy of the DNA discovery specifically, but he did recall Applicant being provided with much of his discovery.

Plea Counsel testified that he noted he met with Applicant three separate times leading up to his trial date and testified that he is certain they met prior to those meetings because he had multiple applications for reconsideration in Applicant's case file. When asked whether he thought Applicant understood everything they discussed in their meetings, Plea Counsel testified that he believed Applicant understood everything, but he knew Applicant was not happy with the situation. Plea Counsel testified

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that he has case file memoranda stating that he met with Applicant twice in jail, during which they discussed the co-defendants' potential testimony and an outstanding plea offer.

Plea Counsel testified that his notes show he met with Applicant on April 18, 2024, for trial preparation at the county jail. Plea Counsel testified that he and Applicant met for approximately two hours and discussed all aspects of the case for the upcoming trial. Plea Counsel testified that on the day of trial, he saw the two co-defendants, spoke with their attorneys, and was provided with proffer sheets outlining their deals with the State. Plea Counsel testified that he then spoke to Applicant and had a series of meetings that ultimately culminated in a plea. Plea Counsel testified that he met with Applicant again on April 19, 2024, and discussed DNA evidence against him and a statement given to the police in January of 2024.

Plea Counsel testified that he asked Applicant if there was anything he wanted to discuss or pursue in more detail, and that Applicant told Plea Counsel there was nothing else and he was ready for trial. Plea Counsel testified that Applicant consistently told him throughout his representation that his co-defendants would never testify against him or testify for the State, and that he met with Applicant the day of trial to inform him that the co-defendants were present, got deals with the State, and were going to testify against Applicant in his trial. Plea Counsel testified that Applicant told him things looked stacked against him at this point, and Plea Counsel told him that he would be facing thirty years to life if the jury convicts him.

When asked what evidence the State had against Applicant, Plea Counsel testified that he and Applicant discussed the two co-defendants cooperating with the State and planning to testify against Applicant at trial. Plea Counsel testified that he informed Applicant that, despite vigorous cross-examination at trial, a conviction was a substantial likelihood if the jury believed the co-defendants' testimony when combined with the DNA evidence that would be admissible at trial and the potential of testimony against Applicant from acquaintances of his that aided Applicant's escape. Plea Counsel

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testified that the two co-defendants would incriminate themselves for portions of the incident, but that their testimony would incriminate Applicant for the murder of the victim, which would be paired with the direct evidence supporting that Applicant committed the murder.

Plea Counsel testified that he did an extensive amount of preparation for Applicant's case by attempting to verify the timeline of events that the State's investigators had established, which included camera surveillance evidence from roadways and businesses in the area. Plea Counsel stated that this investigation into the timeline of events did not help their side but rather verified what the State was alleging regarding the movement of vehicles involved. When asked whether Applicant provided any leads he wanted Plea Counsel to follow up on, Plea Counsel said he asked Applicant directly at least two times whether there was anything Applicant wanted Plea Counsel to know about his case, and that Applicant said no and never provided any additional leads. Plea Counsel testified that the reason he asked Applicant about additional leads was due to Applicant's belief that the co-defendants were giving false information about him. Plea Counsel testified that he asked Applicant what exactly happened to create a trial defense, but Applicant could not ever tell Plea Counsel the details of the incident.

Plea Counsel testified that if Applicant wanted to proceed with trial, much of the trial strategy would have been to attack the credibility of the co-defendants, as well as question the DNA analysis that linked Applicant to the tequila bottle in the victim's car. Plea Counsel testified that pre-trial matters would have been centered around Bruton² issues and would have raised a motion for severance of the gun charges. Plea Counsel testified that he would also have picked at the State's timeline of events as much as possible to attempt to demonstrate the events did not occur in that manner, but that attacking the co-defendants' credibility would have been the crux of his defense at trial.

² Bruton v. United States, 391 U.S. 123, 88 S.Ct. 1620 (1968).

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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 additionally finds that Applicant has failed to overcome her burden in proving Trial Counsel's representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, supra. Based upon the record before this Court, it is undoubtedly clear that Trial Counsel was prepared and provided representation that satisfies the Strickland deferential standard. See Mazzell v. Evatt, 88 F.3d 263, 269 (4th Cir. 1996) (declining "to allow an ineffective assistance of counsel claim to create a situation where post-conviction attorneys stroll in with the full benefit of hindsight to second-guess trial lawyers who professionally discharge their duties to their clients under the manifold pressures of a state trial").

As an initial matter, this Court finds from a combination of the record and testimony presented that Applicant's guilty plea was knowingly, intelligently, and voluntarily entered with a complete understanding of the charges and consequences of the plea. This Court further finds that Applicant was fully aware of the minimum and maximum sentencing ranges on all charges that he pleaded guilty to. Applicant testified that his incentive was to avoid a life sentence, which he did by accepting the offer and entering a guilty plea to murder for a negotiated thirty-year sentence. This acceptance of the plea offer occurred after multiple negotiations, and when Applicant was certain that his co-defendants would testify against him. Plea Counsel credibly testified that once Applicant realized the weight of the evidence against him, on the day of trial, Applicant requested that Plea Counsel do further negotiations with the State. While Applicant may have desired a negotiated sentence with lesser time, the offers extended by the State were ultimately out of Plea Counsel's control. The combination of these shows that Applicant sought out a plea offer the day of his trial, Plea Counsel negotiated a beneficial plea offer for Applicant

that morning, and Applicant then accepted the negotiated thirty-year sentence to avoid the possibility of life in prison.

Regarding Applicant's allegation that his guilty plea was involuntary due to ineffective assistance of counsel, this Court finds that Applicant has not met his burden of proof in establishing that Plea Counsel failed to pursue an adequate investigation of Applicant's case. Plea Counsel's credible testimony shows that he did ample investigation into Applicant's case and was actively attempting to create a successful defense should Applicant have proceeded with trial. Plea Counsel's testimony also highlights the difficulty he had in attempting to craft Applicant's defense, as he requested more information regarding the incident from Applicant multiple times and was given nothing. Despite this, Plea Counsel testified to what his strategies would have been at Applicant's trial, including attacking the credibility of the co-defendants and attempting to poke holes in the DNA analysis and State's timeline of events. At the same time, Plea Counsel was negotiating with the State to secure the best possible outcome for Applicant by avoiding a life sentence. Therefore, Applicant cannot establish that Plea Counsel was constitutionally ineffective for failing to conduct an inadequate investigation and cannot show that he would have proceeded with trial but for this alleged deficiency.

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

This Court finds through the combination of the record and Plea Counsel's testimony that Applicant has failed to meet the burden of showing Plea Counsel was constitutionally ineffective. This Court further finds that Applicant's guilty plea was knowingly, intelligently, and voluntarily entered.

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**.

Allegation: Failure to Advise of 85% Rule

Applicant alleges that Plea Counsel was constitutionally ineffective for failing to advise him as to sentencing consequences from entering his guilty plea. Specifically, Applicant alleges that Plea Counsel did not inform him that he would have to serve 85% of his sentence due to the classification of the charge he was convicted of. This Court finds this allegation to be without merit.

Some crimes are classified as violent crimes. See S.C. Code 16-1-60 & 70. Classification of a crime as violent or non-violent is also a collateral consequence of sentencing, and counsel is not ineffective for failing to inform a defendant of the consequences of a violent-crime conviction. Smith v. State, 329 S.C. 280, 494 S.E.2d 626 (1977). Parole eligibility has been held to be a collateral consequence of sentencing, of which a defendant need not be specifically advised before entering a guilty plea. Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983).

However, if the defendant's attorney undertakes to advise the defendant about parole eligibility and gives erroneous advice, then the plea may be collaterally attacked. See Hinson v. State, 297 S.C. 456, 377 S.E.2d 338 (1989). Likewise, if the judge misinforms the defendant about parole eligibility, then the defendant is entitled to a new trial. See Brown v. State, 306 S.C. 381, 412 S.E.2d 399 (1991). In reaching its holding in Brown, the Court stated, "The imposition of a sentence may have a number of collateral consequences, however, and a plea of guilty is not rendered involuntary in a constitutional sense if the defendant is *not* informed of the collateral consequences. Parole eligibility typically is a collateral consequence of sentencing about which a defendant need not be specifically advised before entering a guilty plea. This is because parole eligibility is not a matter within the jurisdiction of the trial court, but

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falls within the province of the Board of Probation, Parole, and Pardon Services. Brown, 306 S.C. at 382-83, 412 S.E.2d at 400-01 (emphasis in original) (internal citations omitted).

Guilty Plea Hearing

The following colloquy occurred between the plea court and Applicant at his guilty plea hearing:

THE COURT: And, sir, do you understand that these pleas are being presented to me as negotiated pleas. Therefore, if I accept the pleas, I will be bound by the negotiations and will have to impose the sentences that were announced by the solicitor?

APPLICANT: Yes, sir.

THE COURT: And you -- that is what you wish for me to do is accept the plea?

APPLICANT: Yes, sir.

THE COURT: And sir, do you understand that the murder charge that you're pleading to today that it is classified as both a violent and also as a most serious offense under the law?

APPLICANT: Yes, sir.

THE COURT: And you've been able to talk to your lawyer as to the consequences and ramifications of that offense being classified as both violent and most serious?

APPLICANT: Yes, sir.

THE COURT: And you still wish to enter that plea as well?

APPLICANT: Yes, sir.

(Plea Tr. pp. 13 – 14).

PCR Evidentiary Hearing

On direct examination, Applicant testified that Plea Counsel told him that he would serve twenty-two years in prison. Applicant testified that he found out upon arrival at SCDC that he would have to serve his sentence day-for-day. Applicant testified that the information did influence his decision to plead guilty.

On direct examination, Plea Counsel testified that following informing Applicant that the co-defendants were present and ready to testify against him at trial, Applicant requested that Plea Counsel negotiate a plea offer of thirty years suspended to twenty years, which Plea Counsel explained was not possible with a murder conviction. Plea Counsel testified that Applicant did not agree with him, Plea Counsel testified that he explained to Applicant that if he wanted a sentence with a structure like the one

Applicant was describing, he would have to be offered to plead guilty to manslaughter. Plea Counsel testified that he further explained to Applicant that the solicitor outright rejected a potential guilty plea to manslaughter, and informed Applicant that the only available offer was the previous thirty-to-forty-year range offered for the murder conviction. Plea Counsel testified that Applicant still believed they could give him a suspended sentence for murder, and that Plea Counsel repeatedly advised him this was not an option and the standing available offer was thirty to forty years for a murder conviction. Plea Counsel testified that he informed Applicant that he could not tell Applicant exactly what the judge would sentence him to within the negotiated range, but it would be within the range of thirty to forty years and would follow Applicant's incentive of avoiding a potential life sentence.

Plea Counsel testified that he then again attempted to negotiate a plea of thirty years for manslaughter, and Applicant asked Plea Counsel what the benefit of pursuing a manslaughter plea would be. Plea Counsel testified that he explained to Applicant that manslaughter would not have parole as an option but that they generally calculate a sentence as such at 85%, which would benefit the Applicant considering the substantial time served credit he accumulated from pre-trial detention. Plea Counsel testified that Applicant ultimately requested Plea Counsel to propose the counteroffer of thirty years for manslaughter, which ultimately resulted in a negotiated thirty-year sentence for the charge of murder. Plea Counsel testified that Applicant agreed to take the thirty-year plea for murder.

On cross-examination, Plea Counsel testified that he does not recall telling Applicant that his sentence would be "day-for-day" specifically, but he does recall informing Applicant that the sentence was thirty years. Plea Counsel testified that the discussion with Applicant surrounding 85% of his sentence occurred specifically for manslaughter when they were attempting negotiations with the State. Plea Counsel testified that they did not expect to enter a guilty plea that day, and he doesn't believe Applicant expected to either, but they were confronted with the co-defendants being there prepared to testify against

Applicant. Plea Counsel testified that they did not have the luxury of time in this instance because jurors were sitting and waiting for trial to proceed, and the State had just rejected their counteroffer of thirty years for manslaughter. Plea Counsel testified that when the counteroffer was turned down, he went to Applicant and told him his choices were to go forward with trial or accept the thirty-year negotiated plea for murder to avoid a life sentence. When asked if he recalls telling Applicant that he can take up issues on direct appeal or in PCR, Plea Counsel testified that he does not remember anything like that occurring.

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).

The record and Plea Counsel's credible testimony shows that Applicant was advised about the elements of the offenses he was charged with, the severity of the offenses, and about his potential sentences he was facing at trial compared to the potential sentence with accepting a plea offer. At the plea hearing, Applicant answered affirmatively when asked if he understood the consequences of pleading guilty to a violent and most serious offense under the law. Applicant also answered affirmatively when asked if he had enough time to speak with his attorney about the ramifications of doing so. Understanding all of this, Applicant still made the decision to enter a guilty plea to the offer extended so he could avoid a potential life sentence.

Plea Counsel's testimony highlights the extensive plea negotiations he went through with the State, and the numerous discussions with Applicant following these negotiations. Applicant was informed as to the plea offers and accompanying sentence ranges, as well as informed of the potential life sentence he was facing should he go to trial. While Plea Counsel did testify that he cannot recall if he used the phrasing, "day for day", with Applicant when referring to his murder conviction, Plea Counsel credibly testified

that he informed Applicant that the sentence was thirty years in prison. Therefore, Applicant cannot establish that Plea Counsel misadvised him as to the collateral consequences of his plea and cannot establish that he would have proceeded with trial but for this alleged constitutional deficiency.

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

This Court finds through the combination of the record and Plea Counsel's testimony that Applicant has failed to meet the burden of showing Plea Counsel was constitutionally ineffective. 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**.

[CONCLUSION AND SIGNATURE PAGE FOLLOWS]

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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 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), SCRPC, 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 21 day of July, 2026.


WALTON J. MCLEOD, IV
Presiding Judge
Seventh Judicial Circuit

Breville, South Carolina.

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