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THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT
APPEAL FROM GREENVILLE COUNTY

S.C. SUPREME COURT

Court of Common Pleas

HONORABLE DEADRA L. JEFFERSON

2025-CP-23-00860

OLANDIO RAY WORKMAN, SCDC# 273352

APPELLANT,

vs.

STATE OF SOUTH CAROLINA,

RESPONDENT.

NOTICE OF APPEAL

Olandio Ray Workman appeals the denial of his Post Conviction Relief. The Post Conviction Relief Action was heard and denied by the Honorable Deadra L. Jefferson, Circuit Judge on April 21, 2026 an Order issued on July 23, 2026 and filed on August 6, 2026. The Appellant received notice of the judgment on August 16, 2026.

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Olandio Ray Workman, #273352,

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS
) THIRTEENTH JUDICIAL CIRCUIT
)

) CASE NO. 2025-CP-23-00860
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**ORDER OF DISMISSAL
WITH PREJUDICE**

FILED: 26AUG6P42:10
COC JAY GRESHAM GVL SC

Presiding Judge:	Deadra L. Jefferson
Applicant's Attorney:	Rodney W. Richey, Esq.
Respondent's Attorney:	Sydney N. Willingham, Esq.
Trial Counsel:	Frank L. Eppes, Esq.
Date of Hearing:	April 21, 2026
Court Reporter:	Hollie M. Jenkins

This matter comes before the Court on April 21, 2026, pursuant to an application for post-conviction relief ("PCR") filed by Olandio Ray Workman ("Applicant") on February 12, 2025. Respondent filed its Return and Motion for Clarification on January 8, 2026, and requested that an evidentiary hearing be held on the allegations. Applicant was present and represented by Rodney W. Richey, Esq. Appearing for the Respondent was Assistant Attorney General Sydney N. Willingham, Esq. Applicant proceeded on the allegations in his application. In support of his claims, Applicant testified on his own behalf and presented the testimony of Tammy Green,¹ Jessica Tyner, Frank L. Eppes, Esq. ("Trial Counsel"), and Cassandra Parks Gorton, Esq. ("Former Counsel").

Following a thorough review of the record, along with the testimony and evidence presented at the hearing, this Court finds Applicant has failed to establish any constitutional

¹ The witness testified that her name was Tammy Nicole Workman. She is the Applicant's sister.

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violations or deprivations entitling him to relief. Accordingly, relief is Denied, and the application is Dismissed with Prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections ("SCDC"), Lee Correctional Institution, pursuant to orders of commitment from the Greenville County Clerk of Court. On February 21, 2017, the Greenville County Grand Jury indicted Applicant for Domestic Violence of a High and Aggravated Nature ("DVHAN") (Indictment No. 2016-GS-23-10112), Kidnapping, and Possession of a Weapon During the Commission of a Violent Crime ("PWDCVC") (Indictment No. 2016-GS-23-10113). Applicant was initially represented by Dorothy Manigault, Esq. and then Cassandra Gorton, Esq., prior to trial.

On September 17-20, 2018, Applicant proceeded to a jury trial with the Honorable Alex Kinlaw, Jr. presiding. Applicant was represented by Frank L. Eppes, Esq. Derek R. Polsinello, Esq. of the Thirteenth Circuit Solicitor's Office prosecuted the case. The jury found Applicant guilty as indicted. Judge Kinlaw sentenced Applicant to fifteen (15) years for Kidnapping,² twelve (12) years for DVHAN,³ and five (5) years for PWDCVC,⁴ all to run concurrently. Judge Kinlaw gave the Applicant credit for time served pursuant to S.C. Code Ann. § 24-13-40 to be calculated and applied by SCDC.

Direct Appeal

On September 26, 2018, Applicant served a timely notice of appeal. Appellate Defender Kathrine H. Hudgins of the Office of Indigent Defense perfected the appeal and raised the

² The offense of kidnapping, a violent and most serious offense, is punishable by a term of imprisonment not more than thirty (30) years. S.C. Code Ann. § 16-03-0910.

³ The offense of domestic violence of a high and aggravated nature, a violent and serious offense, is punishable by a term of not more than twenty (20) years. S.C. Code Ann. § 16-25-65.

⁴ The offense of possession of a weapon during the commission of a violent crime is punishable by a mandatory term of imprisonment of five (5) years, in addition to the punishment provided for the principal crime. S.C. Code Ann. § 6-23-490(A).

following issue: When instructing the jury on the law, did the trial judge err by refusing to properly define the lesser included offense of domestic violence first degree? Initial Brief of Appellant at 1, *State v. Workman*, No. 2018-001769 (S.C. Ct. App. filed Sept. 27, 2019).

The South Carolina Court of Appeals reversed and remanded Applicant's conviction for Domestic Violence of a High and Aggravated Nature finding the trial court erred in its jury charge on first-degree CDV. See *State v. Workman*, Op. No. 5922 (S.C. Ct. App. filed July 13, 2022). Respondent filed a Petition for Rehearing on July 28, 2022. The South Carolina Court of Appeals denied the petition on August 12, 2022.

On September 12, 2022, Respondent filed a Petition for Writ of Certiorari to the Court of Appeals raising the following issue:

A trial court should not instruct the jury on irrelevant matters. In this DVHAN case, the jury was instructed on DV 1st as a lesser included offense. Defense counsel requested the court to define DV 2nd because it may form an element of DV 1st in some circumstances, but it was not the pertinent aggravating circumstance here. Did the trial court err by refusing to define DV 2nd?

Pet. For Writ of Cert. State v. Workman, Op. No. 28227 (filed Sept. 12, 2022). After briefing and oral argument, the South Carolina Supreme Court affirmed in part and reversed in part. Applicant's DVHAN conviction was reinstated. See *State v. Workman*, Op. No. 28227 (filed August 7, 2024). The Remittitur was issued on August 26, 2024.

CURRENT APPLICATION

In his *pro se* application for post-conviction relief, Applicant raises the following claims interpreted by Respondent as follows:⁵

1. Ineffective Assistance of Counsel

⁵ Several allegations in Applicant's *pro se*, handwritten, one-hundred and forty-five (145) page application appear to be made against Applicant's prior counsel, Dorothy Manigault, Esq. and Cassandra Gorton, Esq. An "Order to Vacate PD Appointment & Attorney Appointment Pursuant to Rule 608" was filed on March 1, 2017, and an "Order Relieving Counsel" was filed on October 13, 2017, prior to trial.

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- a. Counsel failed to object to the Solicitor's statements to the Court regarding the 911 call. (ROA p. 115, l. 1-9).
- b. Counsel failed to object to the jury instruction. (Trial Tr. p. 514, l. 18-25).
- c. Counsel failed to file pre-trial motions and failed to investigate.
- d. Counsel failed to review discovery with Applicant or give Applicant a copy of his discovery.
- e. Counsel failed to negotiate pleas or relay any plea offers prior to trial.
- f. Counsel failed to communicate with Applicant.
- g. Counsel failed to interview or present the following witnesses at trial: Tammy Green, Marrion Alewine, Jean Adams, Teresa Drummond, Jessica Tiner, and Devillan Workman.
- h. Counsel failed to present mitigating evidence.
- i. Counsel failed to file a Motion to Suppress "all evidence."
- j. Counsel failed to object to Solicitor's statements, hearsay, burden shifting statements, jury instruction, etc.
- k. Counsel threatened or coerced Applicant to testify against Kyle Reeves.
2. Prosecutorial Misconduct
 - a. Prosecutor made statements that Applicant was a convicted felon.
 - b. Brady Violation
 - c. Prosecutor made improper "racial references."
3. Conflict of Interest
4. Lack of Subject Matter Jurisdiction
5. Double Jeopardy
6. Actual Innocence
7. Due Process Violations
8. "Violation of Grand Jury Proceedings"/Insufficiency of Indictments
9. Incompetent to Stand Trial
 - a. "Involuntary administration of antipsychotic debilitating drugs before trial."
10. Trial Court Error
 - a. Trial Court erred by failing to inquire if Applicant was competent to stand trial.⁶
 - b. Trial Court erred by denying continuance on the basis Applicant did not have a subpoena for Charter phone bill or attorney, Cassandra Gorton, Esq., present at trial. (ROA pp. 371-386).
 - c. Improper Jury Charge
 - d. Trial Court "exceeded its discretion" during jury deliberations.
 - e. Confrontation Clause violation
11. Judicial Misconduct
12. "Abuse of Discretion"
 - a. Failure of court to "motion for mistrial" when a member of the jury was sleeping.
13. "Trial judge violated [Applicant's] right to trial by jury when he answered 'no' to response to jury question that was determinative of the defendant innocent[sic]."
14. "[Applicant] was denied a fair and impartial trial when jury member was sleeping during trial the whole day of trial and was aloud[sic] to cast his vote for guilty."
15. Disparity in Jury Selection
16. Denial of Right to a Speedy Trial

⁶ A "Blair Competency Evaluation Order" was filed August 14, 2017.

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17. Insufficient Evidence

Applicant requests the following relief: "Case dismissed set aside release from prison."

(PCR App. at 6).

STANDARD OF REVIEW

The Uniform Post-Conviction Procedure Act⁷ (the Act) provides that any person who has been convicted of a crime may seek post-conviction relief based upon 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. 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

⁷ S.C. Code Ann. §§ 17-27-10 to -160.

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question of fact that can only be determined by an evidentiary hearing. Rogers v. State, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland v. Washington to determine whether counsel's conduct “was so [ineffective] as to require reversal” of the applicant’s conviction. 466 U.S. 668, 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel’s performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel’s deficient performance. Id. at 687–88; accord. Cherry v. State, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. Strickland, 466 U.S. at 700; see also Bell v. Cone, 535 U.S. 685, 695 (2002) (explaining that “[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable” (citation and internal quotation marks omitted)).

Regarding the deficiency prong of the Strickland analysis, the proper measure of performance is whether counsel provided representation within the reasonable range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. 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.

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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).

Further, 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, 386 S.E.2d at 625; see Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) ("To establish a claim of ineffective assistance of trial counsel, a PCR applicant has the burden of proving counsel's representation fell below an objective standard of reasonableness and, but for counsel's errors, there is a reasonable probability the result at trial would have been different."). Importantly, "[t]he likelihood of a different result must be

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substantial, not just conceivable.” Richter, 562 U.S.at 112.

Finally, the Strickland standard must be applied with scrupulous care, lest “intrusive post-trial inquiry” threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689–90. Courts must be wary of second-guessing counsel’s trial 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. Representation is constitutionally ineffective only if counsel’s conduct “so undermined the proper functioning of the adversarial process” that the defendant was denied a fair proceeding. Id. at 686; see Nix v. Whiteside, 475 U.S. 157, 175 (1986) (noting that under Strickland, the “benchmark” of the right to counsel is the “fairness of the adversary proceeding”); cf. United States v. Morrow, 977 F.2d 222, 229 (6th Cir. 1992) (“[T]he threshold issue is not whether [the applicant’s] attorney was inadequate; rather, it is whether he was so *manifestly* ineffective that defeat was snatched from the hands of probable victory.”).

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.

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This Court has had the opportunity to review the records before it, including the Greenville County Clerk of Court records of the underlying conviction, Applicant's records from the South Carolina Department of Corrections, the trial transcript, and the records from this PCR action. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. After a careful review, this Court finds Applicant has failed to carry his burden of proof. Moreover, 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), SCRCPP (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."). Below are the Court's findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80.

INITIAL FINDINGS

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

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ALLEGATIONS OF INEFFECTIVE ASSISTANCE OF COUNSEL

Allegation 1: Trial Counsel's Failure to Object to the Jury Instruction

Applicant alleges Trial Counsel's representation was constitutionally ineffective for failing to object to the jury instruction. (Trial Tr. p. 514, l. 18-25). Specifically, Applicant testified at the hearing that Trial Counsel should have objected because the jury instruction shifted the burden to him. This Court finds this allegation is without merit.

"In reviewing jury charges for error, this Court must consider the circuit court's jury charge as a whole in light of the evidence and issues presented at trial." State v. Simmons, 384 S.C. 145, 178, 682 S.E.2d 19, 36 (Ct. App. 2009). The purpose of a trial judge's jury instructions is "to enlighten the jury and to aid it in arriving at a correct verdict." State v. Leonard, 292 S.C. 133, 137, 355 S.E.2d 270, 273 (1987). When instructing a jury on the law, a trial judge must charge on the current and correct law of South Carolina. State v. Taylor, 356 S.C. 227, 231, 589 S.E.2d 1, 2 (2003). In doing so, a trial judge is only required to instruct the jury on the substance of the law and does not have to use any particular verbiage. State v. Burkhardt, 350 S.C. 252, 261, 565 S.E.2d 298, 302 (2002). A trial judge's jury charge is appropriate if it is substantially correct and adequately covers the law applicable to the case. State v. Foust, 325 S.C. 12, 16, 479 S.E.2d 50, 52 (1996); see State v. Adkins, 353 S.C. 312, 318, 577 S.E.2d 460, 464 (Ct. App. 2003) ("A jury charge is correct if, when the charge is read as a whole, it contains the correct definition and adequately covers the law.").

Trial counsel can be held ineffective for failure to object to improper burden shifting in charges. See Taylor v. State, 312 S.C. 179, 439 S.E.2d 820 (1993) (Trial counsel was ineffective for failing to object to jury instruction that there was a rebuttable presumption of guilt of possession with intent to distribute created by possession of more than one gram of crack cocaine and that the

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defendant only had to overcome inferences State established); Tate v. State, 351 S.C. 418, 570 S.E.2d 522 (2002) (Failure to object to erroneous burden shifting malice charge where applicant was tried for murder and ABIK and jury was instructed on lesser-included charge of ABHAN was ineffective assistance as to ABIK charge because evidence of malice was not overwhelming); Lowry v. State, 376 S.C. 499, 657 S.E.2d 760 (2008) (Trial counsel was ineffective in failing to object to the trial judge's felony murder charge because it unconstitutionally shifted the burden of proof for malice. The charge required that the jury *must* find defendant guilty of murder if it found the killing occurred during the course of the armed robbery.).

Findings

This Court finds Applicant has failed to overcome the “strong presumption that counsel rendered adequate assistance of counsel and exercised reasonable professional judgment in making all significant decisions in [his] case.” Ard v. Catoe, *supra*. This Court finds there was no legal basis for an objection to the jury instruction on the basis of burden shifting as Applicant alleges. The record reflects Judge Kinlaw charged the jury with the following:

So the burden is put squarely on the shoulders of the State to prove the Defendant's guilty beyond a reasonable doubt. And he can only be convicted if all 12 of you agree that the State has proven each and every element of the charge beyond a reasonable doubt. This Defendant is presumed innocent. And that presumption of innocence is not some legal technicality. It's a fundamental right that every person enjoys ...

(Trial Tr. 514:18-25). Therefore, any objection would have been non-meritorious. See Miller v. Keeney, 882 F.2d 1428, 1434 (9th Cir. 1989) (noting that if a petitioner challenges a futile objection, he fails both Strickland prongs); U.S. ex rel. Link v. Lane, 811 F.2d 1166, 1170 (7th Cir. 1987) (finding there is no prejudice from the failure to object unless there is a legally supportable argument for exclusion of the evidence).

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Based on the foregoing, this Court finds Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Trial Counsel failed to render reasonable, effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Trial Counsel’s performance. Accordingly, this allegation is Denied and Dismissed with Prejudice.

Allegation 2: Trial Counsel’s Failure to File Pre-Trial Motions and Failure to Investigate.

Applicant alleges Trial Counsel’s representation was constitutionally ineffective for failing to file pre-trial motions and failing to investigate. Specifically, Applicant testified that Trial Counsel should have subpoenaed his boss to testify that Applicant was working at the time of the crime. Applicant further testified Trial Counsel should have further investigated the victim’s work records. Trial Counsel testified on direct examination that the Solicitor conceded that Applicant was working, therefore, that was not an issue in the case. Cassandra P. Gorton, Esq. testified she recalled requesting the victim’s work records, she gave Trial Counsel the entire case file when Trial Counsel took over the case, and the two discussed it at length. This Court finds this allegation is without merit.

Our Supreme Court has cautioned reviewing courts not to lose sight of the reasonableness standard regarding counsel’s duty to investigate. See Ard, 372 S.C. at 331, 642 S.E.2d at 597 (“Without a doubt, [a] criminal defense attorney has a duty to investigate, but this duty is limited to reasonable investigation.”). “[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; see id. (“In

other words, counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.”). Thus, in applying the Strickland standard to a claim of failure to investigate, counsel’s decision not to undertake a particular investigation must be evaluated with heavy deference to counsel’s judgment. Bagwell v. State, 410 S.C. 259, 265, 763 S.E.2d 630, 63 (Ct. App. 2014). “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.

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)). Additionally, 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)).

Findings

This Court finds Applicant has failed to overcome the “strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all

significant decisions in [his] case.” Ard v. Catoe, *supra*. This Court additionally finds that Applicant has failed to overcome his burden in proving Trial Counsel’s representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, *supra*. Applicant failed to present any evidence to show how any further investigation would have resulted in a different outcome and his allegations of failure to investigate are supported only by mere speculation. See Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998) (failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result). Trial Counsel credibly testified that Applicant’s work history was conceded by the Solicitor. Further, Cassandra Gorton, Esq. credibly testified that she requested the victim’s work records while she was Applicant’s attorney, and once she got relieved from the case, she turned over the entire file to Trial Counsel. Thus, Applicant failed in his burden of proving deficiency or prejudice. See Glover, *supra*.

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 Trial Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Trial Counsel’s performance. Accordingly, this allegation is Denied and Dismissed with prejudice.

Allegation 3: Trial Counsel’s Failure to Review Discovery with Applicant or Give Applicant a Copy of his Discovery

Applicant alleges Trial Counsel’s representation was constitutionally ineffective for failing to review discovery with Applicant or give Applicant a copy of his discovery. This Court finds this allegation is without merit.

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In order to prevail upon a claim that counsel was ineffective in failing to provide a copy of the discovery materials, an applicant must show how the outcome of the trial would have been different had counsel provided such a copy; the applicant must show what evidence could have been discovered or what other defense could have been 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). Likewise, in order to prevail on a claim that counsel did not review discovery with applicant, the applicant must demonstrate prejudice by showing what evidence could have been discovered or what other defenses could have been pursued. Id.

Findings

This Court finds 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 additionally finds that Applicant has failed to overcome his burden in proving Trial Counsel’s representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, *supra*. This Court finds that Trial Counsel credibly testified that he received discovery and reviewed it with Applicant. Further, Cassandra Gorton, Esq. credibly testified that once she got relieved from Applicant’s case, she turned over the entire file to Trial Counsel. 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). Applicant failed in his burden where he did not suggest any defenses, or present any competent evidence, or anything that should have been investigated further, resulting in mere speculation. Thus, Applicant failed in his burden of proving deficiency or prejudice. See Glover, *supra*.

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Based on the foregoing, this Court finds Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Trial Counsel failed to render reasonable effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Trial Counsel’s performance. Accordingly, this allegation is Denied and Dismissed with Prejudice.

Allegation 4: Trial Counsel’s Failure to Negotiate Pleas or Relay Any Plea Offers

Applicant alleges Trial Counsel’s representation was constitutionally ineffective for failing to negotiate or relay any plea offers. This Court finds this allegation is without merit.

A defendant has the right to effective assistance of counsel during the plea bargaining process. Davie v. State, 381 S.C. 601, 675 S.E.2d 416 (2009) (abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018)). “The United States Supreme Court has held that ‘defense counsel has the duty to communicate formal offers from the prosecution to accept a plea on terms and conditions that may be favorable to the accused.’” Collins v. State, 422 S.C. 250, 261, 810 S.E.2d 871, 876 (2018) (quoting Missouri v. Frye, 566 U.S. 134, 145 (2012)); see also Lafler v. Cooper, 566 U.S. 156, 169-70 (2012) (rejecting proposition that a fair trial wipes clean any deficient performance by defense counsel during plea bargaining). Generally, defense counsel provides deficient performance when he or she does not communicate such an offer to the defendant. Frye, 566 U.S. at 145.

To show prejudice, an applicant for post-conviction relief “must demonstrate a reasonable probability that: (1) he [or she] ‘would have accepted the earlier plea offer had [he or she] been afforded effective assistance of counsel;’ (2) ‘the plea would have been entered without the prosecution canceling it or the trial court refusing to accept it;’ and (3) ‘the end result of the

criminal process would have been more favorable by reason of a plea to a lesser charge or a sentence of less prison time.’’ Collins, 422 S.C. at 262, 810 S.E.2d at 877 (quoting Frye, 566 U.S. at 147; citing Lafler v. Cooper, 566 U.S. 156, 164 (2012)). An applicant must show actual prejudice, but depending on the facts of the case, an applicant’s self-serving statement *may* be sufficient to establish actual prejudice. Davie, 381 S.C. at 613, 675 S.E.2d at 422.

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Applicant testified Trial Counsel did not inform him of any plea offers. Trial Counsel testified there were plea negotiations in the case, and he relayed all plea offers to Applicant. Trial Counsel testified there was an offer for three (3) years prior to trial, however, Applicant did not want to enter the plea, and he was adamant in his desire for a jury trial. Trial Counsel testified Applicant asked him about the plea again once the jury was deliberating. Trial Counsel testified he asked the Solicitor again during jury deliberations about the plea but at that point the Solicitor had withdrawn the offer.

Findings

This Court finds 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 additionally finds that Applicant has failed to overcome his burden in proving Trial Counsel’s representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, *supra*. This Court finds that Trial Counsel *credibly* testified he communicated plea offers made by the Solicitor to Applicant. Trial Counsel testified that Applicant was adamant about going to trial, which corroborated Applicant’s own testimony that he wanted to go to trial. Thus, Applicant failed in his burden of proving deficiency or prejudice. See Glover, *supra*.

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Based on the foregoing, this Court finds Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Trial Counsel failed to render reasonable effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Trial Counsel’s performance. Accordingly, this allegation is Denied and Dismissed with Prejudice.

Allegation 5: Trial Counsel’s Failure to Communicate with Applicant.

Applicant alleges Trial Counsel’s representation was constitutionally ineffective for failing to communicate. Specifically, Applicant testified that Trial Counsel did not discuss the case with him “at all.” Trial Counsel testified he would visit Applicant at the jail to discuss his case. Trial Counsel testified he reviewed discovery with Applicant and relayed plea offers to him. This Court finds this allegation is without merit.

South Carolina case law has established that even if Counsel only met with his client very briefly, that alone does not establish that he was unprepared or ineffective at trial. See Harris v. State, 377 S.C. 66, 75, 659 S.E.2d 140, 145 (2008) (citing Easter) (finding “Even if the meetings were brief, this fact alone is not indicative of inadequate trial preparation.”), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018).

Additionally, “brevity of time spent in consultation with a defendant alone is not indicative of inadequate trial preparation.” Smith v. State, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (2012). Applicant must show evidence indicating “how additional preparation or communication would have resulted in a different outcome.” Id.; see Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998) (where application failed to show ineffective assistance of counsel based on lack of preparation by neglecting to show evidence of what counsel failed to discover or what defenses

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counsel could have pursued had he more fully prepared for the case); Skeen v. State, 325 S.C. 210, 214-15, 481 S.E.2d 129, 132 (1997) (where applicant failed to show ineffective assistance of counsel when he did not present evidence showing how additional preparation would have impacted the trial).

Findings

This Court finds 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 additionally finds that Applicant has failed to overcome his burden in proving Trial Counsel’s representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, *supra*. This Court finds Applicant’s testimony on this matter *not credible* or *persuasive*. Applicant testified that Trial Counsel did not communicate with him at all about the case. Whereas Trial Counsel *credibly* testified to multiple discussions and methods of communication with Applicant in regard to the case. Trial Counsel also testified credibly that he discussed all facets of the case and trial strategy with the Applicant. Thus, Applicant failed in his burden of proving deficiency or prejudice. See Glover, *supra*.

Based on the foregoing, this Court finds Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Trial Counsel failed to render reasonable effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Trial Counsel’s performance. Accordingly, this allegation is Denied and Dismissed with Prejudice.

Allegation 6: Trial Counsel’s Failure to Interview or Present Potential Witnesses

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Applicant alleges Trial Counsel's representation was constitutionally ineffective for failing to interview or present potential witnesses. Specifically, Applicant alleges Trial Counsel should have interviewed and/or presented at trial, Tammy Green (Applicant's sister) and Jessica Tyner (Applicant's girlfriend) as alibi witnesses to testify he was not at the family residence he shared with the victim during the time of the crime. This Court finds this allegation is without merit.

"A criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State." McKnight v. State, 378 S.C. 33, 46, 661 S.E.2d 354, 360 (2008). "[W]hile the scope of a reasonable investigation depends upon a number of issues, at a minimum, counsel has the duty to interview potential witnesses and to make an independent investigation of the facts and circumstances of the case." Ard, 372 S.C. at 331-32, 642 S.E.2d at 597 (internal quotation marks omitted) (emphasis omitted). However, counsel need only interview potential witnesses "when it is reasonable to do so." Edwards v. State, 392 S.C. 449, 457, 710 S.E.2d 60, 65 (2011); see id. at 457, 710 S.E.2d at 64-65 ("While our case law does provide that defense counsel must, at a minimum, interview potential witnesses, a strict adherence to that rule loses sight of the controlling standard for counsel's duty to investigate: reasonableness. Indeed, it would be an absurdity to require criminal defense lawyers to interview *every* potential witness when they can articulate reasonable grounds not to. When counsel makes such a reasonable decision, he will have fulfilled the duty he owes to his client.").

Counsel must, at a minimum, make some effort to interview potential witnesses identified by the defendant and make an independent investigation of the facts and circumstances of the case. Edwards, 392 S.C. at 456, 710 S.E.2d at 64; Walker v. State, 407 S.C. 400, 405, 756 S.E.2d 144, 147 (2014). To support a claim that counsel was ineffective for failing to interview a potential

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witness, a PCR applicant must produce the witnesses at the PCR hearing or otherwise introduce the witnesses' testimony in a manner consistent with the rules of evidence. Glover, 318 S.C. at 498-99, 458 S.E.2d at 540. The applicant's mere speculation about what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice. Id.

Through an alibi, an accused attempts "to show that because he was not at the scene of the crime at the time of its commission, having been at another place at the time, he could not have committed the crime." State v. Robbins, 275 S.C. 373, 375, 271 S.E.2d 319, 320 (1980) (quoting 21 Am. Jur. 2d Criminal Law § 136). To do so, the accused must show "he was at a place so distant that his participation in the crime was impossible." Id. Furthermore, the alibi must account for the entire time during which these crimes were committed. Id. "[S]ince an alibi derives its potency as a defense from the fact that it involves the physical impossibility of the accused's guilt, a purported alibi which leaves it possible for the accused to be the guilty person is no alibi at all." State v. Glover, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (citing Robbins, 275 S.C. 373, 271 S.E.2d 319).

PCR Evidentiary Hearing

On direct examination, Applicant testified that his boss was subpoenaed to testify at trial, but Trial Counsel told him to leave. Applicant testified that he wanted his former boss to testify as a witness to show he was at work during the time of the crime. Applicant testified that his Trial Counsel advised him not to testify.

Trial Counsel testified he does not have any memory of telling any witness(es) to leave during the trial. Trial Counsel testified it was not at issue that Applicant had gone to work, and the State conceded that. Trial Counsel testified he did not recall the potential witnesses, Tammy Green or Jessica Tyner. Trial Counsel further testified he would have, prior to trial, attempted to interview

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them had Applicant asked him to do so. Trial Counsel testified as a matter of strategy he wanted to preserve last argument at trial.

Applicant presented the testimony of Tammy Green. Tammy Green testified she is Applicant's sister. Tammy Green testified that her mother called her to check on her brother on or around the date of the incident. Tammy Green testified she saw the victim after she came out of the home, and she did not see Applicant. Tammy Green testified she had no knowledge of what was going on inside the home of Applicant and the victim.

Applicant presented the testimony of Jessica Tyner. Jessica Tyner testified she was an "on and off" sexual friend of Applicant. Jessica Tyner testified she had no personal knowledge of the incident and heard about the incident with Applicant's family.

Findings

This Court finds 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, supra. This Court additionally finds that Applicant has failed to overcome his burden in proving Trial Counsel's representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, supra. As an initial matter, the record reflects that the alleged crimes took place for over forty-eight hours. See State v. Workman, Op. No. 28227 (filed August 7, 2024). This Court further finds that neither Tammy Green nor Jessica Tyner's testimony could establish a legitimate alibi defense to account for the entire time during which these crimes were committed. Trial Counsel credibly testified as a matter of strategy he waived presenting evidence to preserve the last argument. This Court finds that it was a valid strategic decision to preserve the last argument and not present the witnesses. Further, Applicant failed to prove the substance of their testimony would have had a reasonable probability of

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changing the outcome of trial. Thus, Applicant failed in his burden of proving deficiency or prejudice. See Glover, supra.

Based on the foregoing, this Court finds Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Trial Counsel failed to render reasonable effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Trial Counsel’s performance. Accordingly, this allegation is Denied and Dismissed with Prejudice.

Allegation 7: Trial Counsel Threatened or Coerced Applicant to Testify Against Kyle Reeves

Applicant alleges Trial Counsel’s representation was constitutionally ineffective for threatening or coercing him to testify against an individual named Kyle Reeves. This Court finds this allegation is without merit. Applicant testified that Trial Counsel told him he would not help him with his case if he did not testify against Kyle Reeves. Trial Counsel testified he does not recall asking Applicant to testify against this individual. Trial Counsel further testified had he asked Applicant to testify against Mr. Reeves it would have been to benefit Applicant’s case.

Findings

This Court finds 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, supra. This Court finds Applicant’s testimony on this matter not credible. Applicant has provided no compelling evidence to support this allegation. Trial Counsel credibly testified that he would only have asked Applicant to testify in another case if it would be beneficial to Applicant’s case.

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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 Trial Counsel failed to render adequately effective assistance of counsel under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Trial Counsel's performance. Accordingly, this allegation is Denied and Dismissed with Prejudice.

ADDITIONAL ALLEGATIONS RAISED AT THE HEARING

Allegation 8: Trial Counsel Advising Applicant Not to Testify at Trial.

Applicant alleged at the evidentiary hearing Trial Counsel advised him not to testify and was therefore ineffective. Trial Counsel testified he wanted to preserve the last argument and therefore waived presenting evidence. This Court finds this allegation is without merit.

“The decision to testify or not is a perilous one. If a defendant does not testify, he foregoes the opportunity to tell the jury his version of events. On the other hand, if a defendant chooses to testify, he subjects himself to cross-examination...” Brown v. State, 340 S.C. 590, 594, 533 S.E.2d 308, 310 (2000). “If a defendant chooses not to take the stand in his own defense, the trial judge must, if requested, instruct the jury that the defendant’s failure to testify cannot be held against him or considered by the jury in any manner during its deliberations.” Id. “A defendant’s decision to testify or not must be made with knowledge of the consequences of either choice.” Id.

“A criminal defendant is guaranteed the right to effective assistance of counsel under the Sixth Amendment to the United States Constitution.” Taylor v. State, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). “In order to establish a claim for ineffective assistance of counsel, the applicant must show that: (1) counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) counsel’s deficient performance prejudiced the applicant’s

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case.” Speaks v. State, 377 S.C. at 399, 660 S.E.2d at 514 (2008). Deficiency “is measured by an objective standard of reasonableness.” Taylor, 404 S.C. at 359, 745 S.E.2d at 102.

To establish prejudice, an applicant must show that “but for counsel’s error, there is a reasonable probability the result of the proceedings would have been different.” Id. “Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim.” Strickland, 466 U.S. at 700. “Accordingly, when counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel.” Weldon v. State, 436 S.C. 69, 81, 870 S.E.2d 183, 189 (Ct. App. 2021). Where counsel articulates a valid strategic reason for his action or inaction, counsel’s performance should not be found ineffective. Roseboro v. State, 317 S.C. 292, 454 S.E.2d 312 (1996); Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992). Courts must be wary of second-guessing counsel’s trial 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) (citing Smith v. State, 386 S.C. 562, 689 S.E.2d 629 (2010)). “[W]here trial counsel admits the testimony of a certain witness *may have made the difference in obtaining an acquittal*, the Court may find ineffective assistance.” Pauling v. State, 331 S.C. 606, 503 S.E.2d 468 (1998) (emphasis added).

Findings

This Court finds 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 Applicant’s testimony on this matter not credible. Trial Counsel credibly testified that he wanted to preserve the last argument. Importantly, Trial Counsel testified that he probably advised Applicant against

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testifying as it presented too many opportunities for the State to impeach and make points against him. Further, Applicant testified to his version of events to the PCR court and this court finds his testimony not credible. Applicant contradicted himself multiple times throughout his version of events and contradicted the physical evidence presented at trial. This Court finds that Trial Counsel's decision to preserve the last argument was a valid strategic decision. Additionally, the record shows that Applicant freely and voluntarily waived his right to testify after the trial court conducted a thorough colloquy. (Trial Tr., 431-435).

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 Trial Counsel failed to render adequately effective assistance of counsel under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Trial Counsel's performance. Accordingly, this allegation is Denied and Dismissed with Prejudice.

Allegation 8: Insufficiency of Indictments

Applicant alleged the indictment(s) contained improper statements. "The indictment is a notice document. A challenge to the indictment on the ground of insufficiency must be made before the jury is sworn as provided by § 17-19-90." State v. Gentry, 363 S.C. 93, 102, 610 S.E.2d 494, 500 (2005). An indictment that cites the applicable general criminal statute is sufficient to fulfill the required notice and jurisdictional functions, where the body of the indictment indicates the particular crime of which the defendant is accused. See Carter v. State, 329 S.C. 355, 495 S.E.2d 773 (1998). Non-jurisdictional defects apparent on the face of the indictment must be timely raised as required by S.C. Code Ann. § 17-19-90 (2003), or they are waived. Hooks v. State, 353 S.C. 48, 577 S.E.2d 211 (2003), *overruled on other grounds by* State v. Gentry, 363 S.C. 93, 610 S.E.2d

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494 (2005); State v. Young, 243 S.C. 187, 133 S.E.2d 210 (1963). This Court finds Applicant has failed to present any compelling evidence that the indictments were insufficient. Accordingly, this allegation is Denied and Dismissed with Prejudice.

Allegation 9: Jury Questions During Deliberations

Applicant alleges Trial Counsel should not have answered the trial court's question or in the alternative should have answered "no," in response to one of the jury's questions during deliberations. (Trial Tr., 567:6). Applicant also alleges his constitutional rights were violated because the trial court failed to answer the jury's question, "how did she flee from the state in what vehicle?" (ROA, 570, Ex. 4).

Trial

The following colloquy occurred in response to one of the jury's questions during deliberations:

THE COURT: I have another question from the jury. It says, domestic violence high and aggravated, if one point is met, can you not look at domestic violence first degree?

....
MR. POLSINELLO: I would interpret that as if domestic violence high and aggravated nature has been met, can you, also, find him guilty of domestic violence first degree? That's what it sounds like.

THE COURT: Yeah. That's what it sounds like.

MR. EPPES: I'll take the opposite. I would say if one factor is met, can you still consider domestic violence first degree? If they found one factor there, they could find in both places.

THE COURT: So the answer is "yes" or "no"?

MR. EPPES: I think the answer is yes.

THE COURT: I think the answer is yes. Are both sides in agreement?

....
MR. POLSINELLO: I would agree, Your Honor.

(Trial Tr. 566-567).

Findings

This Court finds 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 Applicant’s testimony on this matter *not credible*. The record reflects that Trial Counsel was engaged in a colloquy with the trial court in response to one of the jury’s questions during deliberations and there would have been no basis to answer “no,” as Applicant alleges. (Trial Tr. 566-567). As to the allegation regarding Exhibit 4, this was a factual question presented by the jury. This Court nor the trial court can answer questions of fact. Therefore, this Court finds no detriment to Applicant in how Trial Counsel or the trial court handled either of these questions.

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 Trial Counsel failed to render adequately effective assistance of counsel under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Trial Counsel's performance. Accordingly, this allegation is Denied and Dismissed with Prejudice.

ALLEGATIONS NOT ADDRESSED AT HEARING DEEMED ABANDONED

Applicant failed to present any evidence, testimony, or legal authority regarding the remaining allegations at the evidentiary hearing. “When a party provides no legal authority regarding a particular argument, the argument is abandoned, and the court will not address the merits of the issue.” Palmer v. State, 427 S.C. 36, 47, 829 S.E.2d 255, 261 (Ct. App. 2019) (citing State v. Lindsey, 394 S.C. 354, 363, 714 S.E.2d 554, 558 (Ct. App. 2011)). Therefore, the Court deems the remaining allegations abandoned.

CONCLUSION

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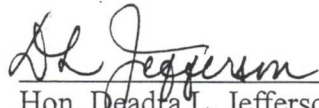
Based on the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be Denied and Dismissed with Prejudice.

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. Based on the foregoing,

IT IS ORDERED, ADJUDGED, AND DECREED that the Application for Post-Conviction Relief must be Denied and Dismissed with Prejudice.

IT IS FURTHER ORDERED, ADJUGED, AND DECREED that the Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED.

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Hon. Deadra L. Jefferson
Presiding Judge
Thirteenth Judicial Circuit

Charleston, South Carolina
At Chambers
July 23, 2026