

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

) Case No.: 2019-CP-30-00026

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**Aug 18 2026**

S.C. SUPREME COURT

On July 17, 2026, Applicant filed a motion to alter or amend the Court's order pursuant to SCRCp 59(e). After careful consideration of the record and evidence presented before the Court, this motion is denied.

asking Respondent  
of requesting prop  
Carolina Supreme C  
ecting claim that

the other parties are apprised of the request and are given an opportunity to respond to the proposed findings and conclusions.”). This practice does not violate the constitutional separation of powers doctrine because the Court is not “delegating” its judicial function. On the contrary, the Court retains the ultimate authority over the final order; depending on the congruence between the Court’s own findings and those presented in the proposed order, the Court has the power to adopt some, all, or none of the language appearing in the proposed order. Of course, in cases where the Court has already ruled in favor of one party, there will rarely be any reason for the Court to depart from the language of the proposed order; in such cases there will be no meaningful difference between the Court’s own findings and those proposed by the prevailing party. This is such a case. Accordingly, there is nothing constitutionally improper about the Court’s decision to adopt the State’s proposed order in this matter.

(2) Applicant next argues that this Court improperly failed to address Judge Doby’s denial of Applicant’s motion for funding to obtain an expert in ballistics and gunshot residue. However, this Court cannot revisit a motion that another judge has already denied in the same action. *See* Rule 43(1), SCRPC (“If any motion be made to any judge and be denied, in whole or in part, or be granted conditionally, no subsequent motion upon the same state of facts shall be made to any other judge in that action.”). Judge Doby heard Applicant’s motion for funding and considered it carefully. Indeed, he initially decided to grant it, but he reversed his decision upon the filing of a motion to reconsider by the South Carolina Commission on Indigent Defense. Applicant then filed a motion to alter or amend Judge Doby’s order, which he denied on November 24, 2025. It would be absurd—and contrary to the Rules of Civil Procedure—for Applicant to be allowed to revisit his previously denied funding motion every time there is a change in the presiding judge during the pendency of this PCR action.

(3) Applicant next argues that this Court's Order of Dismissal failed to take into account the fact that Judge Doby's denial of his motion for expert funding prevented Applicant from being able to prove his allegations that Trial Counsel was ineffective for failing to present expert testimony during Applicant's trial. The burden of proof is on Applicant to show that he was actually prejudiced by Counsel's conduct, and this burden does not shift to the State merely because Applicant alleges that he cannot afford to hire an expert witness to substantiate his claims. The general rule is that "[a]n indigent petitioner is not entitled to funds to hire experts to assist his investigation and presentation of claims in postconviction proceedings." 21A Am. Jur. 2d *Criminal Law* § 1165. Much less is Applicant entitled to flip the burden of proof on its head, merely because the South Carolina Commission on Indigent Defense has declined to pay for an expert witness for him.

(4) Applicant next argues that the Court misunderstood his allegations regarding Counsel's motion for a continuance prior to trial. Applicant clarifies that his allegation concerned the *timeliness* of Counsel's motion, rather than the *grounds* for the motion. This Court, however, specifically found that Applicant had failed to prove he was prejudiced by Counsel's alleged "failure to adequately prepare for trial" because Applicant failed to present any evidence that could have been discovered with additional time for preparation; the Court found that Applicant did not present any GSR evidence or ballistic evidence at the PCR hearing to show that additional preparation before trial would have been beneficial to his case. This finding necessarily also defeats Applicant's claim that he was prejudiced by Counsel's alleged failure to make a timely motion for a continuance. Even if a more timely motion would have been granted, Applicant has still failed to prove that it would have materially helped his defense.

Applicant also complains that Counsel failed to preserve for appellate review the prejudice

resulting from the trial court's denial of the continuance motion, by failing to make an adequate record of her efforts to obtain expert testimony to rebut the State's GSR and ballistics evidence. This complaint is meritless.

Reversals of the refusal of a continuance are about as "rare as the proverbial hens' teeth." *State v. Lytchfield*, 230 S.C. 405, 409, 95 S.E.2d 857, 859 (1957). Where there is no showing that any other evidence on behalf of the appellant could have been produced, or that any other points could have been raised had more time been granted for the purpose of preparing the case for trial, the denial of a motion for continuance is not an abuse of discretion.

*State v. Williams*, 321 S.C. 455, 459, 469 S.E.2d 49, 51–52 (1996). To her credit, in the proceedings before the trial court, Counsel clearly and extensively detailed her efforts to obtain expert testimony and to rebut the State's GSR and ballistic evidence. However, these details did not suffice to show that the trial court abused its discretion in denying her continuance motion, because there was "no showing that any other evidence on behalf of the appellant could have been produced, or that any other points could have been raised had more time been granted." *Id.* In fact, there has *still* been no such showing, despite the passage of over ten years since the conclusion of Applicant's trial. Again, Applicant's purported inability to pay for his own expert witnesses in this PCR action does not exempt him from the burden of proving that, but for Counsel's allegedly deficient conduct, there is a reasonable likelihood that he would have been acquitted at trial.

(5) Finally, Applicant makes a purely conclusory assertion that this Court's Order of Dismissal failed to adequately address the cross-examination of Kelly Ball regarding inconsistencies in her testimony. Applicant does not even attempt to articulate what these supposed inconsistencies were, nor does he offer any argument that further efforts by Trial Counsel to attack the credibility of Kelly Ball would have had any effect on the jury's verdict, where Applicant was indisputably found at the scene of the crime and where responding officers

themselves heard the victim identify Applicant as the shooter.

The Court devoted several pages of its Order to discussing Counsel's cross-examination of Ball, including discussing the purported "inconsistencies" mentioned by Ms. Zmroczek at the PCR hearing. There is no ground for this Court to alter or amend its order in this respect, especially where Applicant himself has failed to specify which other "inconsistencies" he believes this Court should have addressed.

### CONCLUSION

For these reasons, the Court finds Applicant has not articulated any grounds that would justify altering or amending this Court's Order of Dismissal. Accordingly, the motion is denied.

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



WILLIAM H. SEALS, JR.  
Presiding Judge  
Eighth Judicial Circuit



, South Carolina