

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

) CASE NO. 2024-CP-23-4707

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Presiding Judge:	Honorable Christopher D. Taylor
Applicant's Attorney:	William G. Yarborough, Esq.
Respondent's Attorney:	Sydney N. Willingham, Esq.
Plea Counsel:	David Seay, Esq.
Date of Hearing:	November 5, 2025
Court Reporter:	Hollie M. Jenkins

This matter comes before the Court pursuant to an application for post-conviction relief (“PCR”) filed by Jorge Luis Ramos Luna (“Applicant”), through counsel William G. Yarborough, III, Esq., on August 5, 2024. Respondent filed its Return, requesting that an evidentiary hearing be held on the allegations. On November 5, 2025, an evidentiary hearing was held at the Greenville County Courthouse before the Honorable Christopher D. Taylor. Applicant was present and represented by William G. Yarborough, III, Esquire. Assistant Attorney General Sydney N. Willingham represented Respondent. Applicant proceeded on the allegation in his application. This Court received testimony from Applicant and his plea counsel, David Seay, Esquire.

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 violations or deprivations entitling him to relief and, accordingly, **DENIES** and **DISMISSES** this action with prejudice.

FILED: 26AUG17 13:03
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PROCEDURAL HISTORY

Applicant is currently confined in the South Carolina Department of Corrections, Kershaw Correctional Institution, pursuant to orders of commitment from the Greenville County Clerk of Court. During the April 2024 term, the Greenville County Grand Jury indicted Applicant for Drugs / Trafficking in Cocaine, 10 grams or more, but less than 28 grams - 2nd offense (2024-GS-23-1465).

On April 24, 2024, Applicant pled guilty before the Honorable Patrick C. Fant, III to Trafficking Cocaine. Applicant was represented by David G. Seay, Jr., Esq., and Assistant Solicitor Sylvia Harrison, Esq., of the Thirteenth Circuit Solicitor's Office prosecuted the case. The solicitor presented the following recitation of facts:

On July 6th, 2023, here in Greenville County, law enforcement executed a lawful search warrant on the defendant's residence. Found in a safe that belonged to the defendant, was 16.09 grams of Fentanyl. On the same date, on July 6th, law enforcement executed a traffic stop on the vehicle the defendant was driving. After a lawful search, the defendant was found to be in possession of 27.09 grams of cocaine.

His prior record, 2009, driving without a license; 2011, conspiracy to traffic marijuana; 2018, trafficking cocaine. For which he received a five-year sentence. The recommendation is 12 years incarceration.

(Plea Tr. p. 6).

The State offered a 12-year recommendation. Judge Fant sentenced Applicant to 12 years and a \$50,000 fine, with credit for 291 days. Applicant did not appeal his conviction or sentence.

CURRENT APPLICATION

In his application for post-conviction relief, Applicant alleges he is entitled to relief based on the following:¹

- I. “Ineffective Assistance of Counsel.”
 - a. Counsel failed to adequately review discovery with Applicant and advise him;
 - b. Counsel failed to explain the nature of the charges as well as the consequences or implications that would result from the imposition of his plea and sentence;
 - c. Counsel failed to adequately investigate the facts of the case, potential defenses, and legal theories available to Applicant prior to advising him to plead guilty;
 - d. Counsel likewise failed to investigate several viable dispositive pre motions, trial strategies, and defenses available to Applicant;
 - e. Counsel likewise failed to undertake reasonable measures to engage in plea negotiation and bargaining opportunities with the State on this basis;
 - f. Counsel failed to sufficiently advise the Applicant on the trial rights waived by way of his guilty plea, specifically the waiver of the defendant’s right to present a defense to the charges, submit evidence in support thereof, call supporting witnesses to testify etc;
 - g. Counsel failed to adequately explain any plea offer's terms and the relative advantages and disadvantages of pleading guilty as opposed to proceeding to trial;
 - h. Prior to the plea hearing, Counsel misadvised Applicant on the terms of the plea offer and agreement, the sentencing range/recommendation in particular;
 - i. Counsel then failed to enforce those terms by challenging or objecting when the terms were changed during the plea hearing;
 - j. Counsel also did not move to withdraw Applicant's guilty plea on this basis;
 - k. Counsel also failed to make to the necessary arrangements to have a translator present at the plea hearing;
 - l. Counsel was ineffective for failing to investigate Applicant's background for mitigating circumstances and adequately present an argument for mitigation purposes at sentencing.

(PCR App. pp. 3-4).

Applicant asks this Court to grant a “new trial, or withdrawal of guilty plea with enforcement of prior plea offer/agreement, or resentencing.” (PCR App. p. 6).

¹ Applicant proceeded solely on allegations H and K at the evidentiary hearing.

Attached herewith and incorporated herein are the records of the Greenville County Clerk of Court regarding the subject convictions, the transcript from Applicant's plea proceeding, Applicant's records from SCDC, and the records of the current PCR action.

STANDARD OF REVIEW

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

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

S.C. Code Ann. § 17-27-20(A).

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

² S.C. Code Ann. §§ 17-27-10 to -160.

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

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 decision-making" and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. Lee v. United States, 582 U.S. 357, 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 FACTS 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.

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

INITIAL FINDINGS

This Court 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).

ALLEGATIONS OF INEFFECTIVE ASSISTANCE OF PLEA COUNSEL

Allegation 1: Prior to the plea hearing, Counsel misadvised Applicant on the terms of the plea offer and agreement, the sentencing range/recommendation in particular.

Applicant alleges Counsel's representation was constitutionally ineffective, specifically, Applicant alleges that Plea Counsel misadvised him on the terms of the plea offer and agreement, the sentencing range/recommendation in particular. This Court finds this allegation is without merit.

An applicant who enters a guilty 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 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). Applicant has presented no valid reason why he should be able to depart from the statements made during his guilty plea. See Crawford v. United States, 519 F.2d 347, 350 (4th Cir. 1975), overruled on other grounds by United States v. Whiteley, 759 F.2d 317 (4th Circ. 1985) (finding that the accuracy and truth of an accused's statements at a guilty plea proceeding are "conclusively" established unless he makes some reasonable allegation why this should not be so). "When considering an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing." Moorehead v. State, 329 S.C. 329, 333, 496 S.E.2d 415, 416 (1998) (citing Wolfe v. State, 326 S.C. 158, 485 S.E.2d 367 (1997)).

Plea Hearing

Judge Fant informed Applicant that he was indicted for Trafficking Cocaine, 10-28 grams, 2nd offense. (Plea Tr. p. 3). Applicant was advised of his constitutional right to a jury trial where the State must prove its case beyond a reasonable doubt, the right to confront all witnesses, examine all the evidence presented against him, and the right to remain silent. (Plea Tr. p. 4). Applicant confirmed that he understood that he was waiving these rights by entering a guilty plea. (Plea Tr. p. 4). Judge Fant informed Applicant that the offense of Trafficking Cocaine, 10-28 grams, 2nd offense, to which Applicant pled, carries a maximum of 30 years. (Plea Tr. p. 5). Solicitor Harrison informed the court that the recommendation is 12 years incarceration. (Plea Tr. p. 6, l. 24-25). Judge Fant informed Applicant that the offense is considered violent and most serious. (Plea Tr. p. 7). Applicant confirmed that he understood this information. (Plea Tr. p.7).

PCR Evidentiary Hearing

Plea Counsel testified on cross examination that it was clear the sentence was for a recommended 12 years, which is what was understood going into [the plea], not a negotiated 12. (PCR Tr. p. 28). Plea Counsel testified he explained the advantages and disadvantages of going to trial or pleading to Applicant, especially in light of the federal fentanyl trafficking charge Applicant was facing. (PCR Tr. p. 28). Plea Counsel testified he did not recall Applicant ever wanting to go to trial. (PCR Tr. p. 28).

Findings

This Court finds the colloquy at the plea hearing shows that Applicant's plea was knowingly and voluntarily entered. See Rayford v. State, 314 S.C. 46, 443 S.E.2d 805 (1994) ("finding a guilty plea voluntary where [Applicant] admitted committing the crimes, acknowledged the potential sentences, and stated that his plea had not been induced by promises").

This Court finds the plea colloquy shows that Applicant did not have any misconceptions regarding sentencing. Judge Fant informed Applicant that the offense of Trafficking Cocaine, 10-28 grams, 2nd offense, to which Applicant pled, carries a maximum of 30 years. (Plea Tr. p. 5). Applicant confirmed that he understood this information. (Plea Tr. p. 5). Applicant should be held to the assertions he made to the court. See generally Wolfe, 485 S.E.2d at 367 (“[Applicant’s] claim he understood from counsel that the trial judge’s questions at the guilty plea were only a ‘polite fiction’ was ‘not an invitation to answer untruthfully’”).

Applicant told the plea court that he had been fully satisfied with the services of his attorney and that he did not have any questions regarding his plea. (Plea. Tr. pp. 5-6). Moreover, to whatever extent Applicant was not entirely satisfied with Plea Counsel’s representation or investigations, he was presented an opportunity to express his dissatisfaction to the plea court, knowingly opted not to do so, and instead chose to avail himself of the benefit of his guilty plea.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation must be **DENIED** and **DISMISSED with PREJUDICE**.

Allegation 2: Counsel also failed to make to the necessary arrangements to have a translator present at the plea hearing.

Applicant alleges Counsel’s representation was constitutionally ineffective, specifically, Applicant alleges that Plea Counsel failed to make the necessary arrangements to have a translator present at the plea hearing. This Court finds this allegation is without merit.

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 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. See Roscoe v. State, 345 S.C.16, 20, 546 S.E.2d 417, 419 (2001); see also Richardson v. State, 310 S.C. 360, 362, 426 S.E.2d 795, 797 (1993). 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.").

To find a guilty plea has been voluntarily and knowingly entered, 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). Before a court can accept a guilty plea, the defendant must be advised of the constitutional rights he is waiving, the right to a jury trial, the right to confront one's accusers, and the privilege against self-incrimination. Boykin v. Alabama, 395 U.S. 238, 244 (1969). Additionally, the defendant "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999). The defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993).

PCR Evidentiary Hearing

At the outset of the evidentiary hearing, PCR counsel stated: "I would, also, alert the Court that the Applicant does speak fairly good English, but is — as he gets nervous, his English gets a

little challenged. So I did get him an interpreter who has been interpreting for him today.” (PCR Tr. p. 6). On direct examination of Applicant, PCR counsel again stated, “Okay. And it’s my understanding you understand English pretty well.” (PCR Tr. p. 30).

Findings

This Court finds the colloquy at the plea hearing shows that Applicant’s plea was knowingly and voluntarily entered. See Rayford v. State, 314 S.C. 46, 443 S.E.2d 805 (1994) (“finding a guilty plea voluntary where [Applicant] admitted committing the crimes, acknowledged the potential sentences, and stated that his plea had not been induced by promises”). Applicant’s allegation that he needed an interpreter or translator at his plea hearing is self-serving. This Court finds Applicant’s testimony on this matter *not credible* or *persuasive*. This Court finds Applicant’s answers to the plea court were intelligible and responsive to Judge Fant’s questions. Applicant never indicated to the plea court that he had difficulty communicating or understanding English, and he told the plea court that he understood what he was doing by pleading guilty. (Plea Tr. pp. 4-5). The plea court asked Applicant if he had any questions that he needed Plea Counsel to answer and Applicant answered in the negative. (Plea Tr. p. 6).

This Court finds Applicant appeared to have no trouble communicating with the plea court, and the plea court’s thorough plea colloquy demonstrates Applicant was aware of his charges and understood the consequences of entering a guilty plea. See Boykin v. Alabama, 395 U.S. 238, 243-44 (1969) (establishing that a defendant’s guilty plea is valid only if it was made voluntarily and knowingly, meaning the defendant had a full understanding of the consequences of his plea and the charges against him); see also Hill, 474 U.S. at 56 (“The longstanding test for determining the validity of a guilty plea is ‘whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant.’”) (quoting North Carolina v. Alford, 400

U.S. 25, 31 (1970)); Via v. Superintendent, Powhatan Corr. Ctr., 643 F.2d 167, 171 (4th Cir. 1981) (“Because a plea of guilty is a solemn, judicial admission of the truth of the charge, a prisoner's right to contest it is usually, but not invariably, foreclosed.”) (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Applicant has presented no valid reason why he should be able to depart from the statements made during his guilty plea as provided *supra*. See Crawford v. United States, 519 F.2d 347, 350 (4th Cir. 1975), overruled on other grounds by United States v. Whitley, 759 F.2d 327 (4th Cir. 1985) (finding that the accuracy and truth of an accused's statements at a guilty plea proceeding are "conclusively" established unless he makes some reasonable allegation why this should not be so).

Additionally, Applicant provided no testimony at the evidentiary hearing that an interpreter would have influenced his decision to go to trial as opposed to entering a plea. Plea Counsel *credibly* testified he explained the advantages and disadvantages of going to trial or pleading to Applicant, especially considering the federal trafficking fentanyl charge Applicant was facing. Further, Plea Counsel testified he did not recall Applicant ever wanting to go to trial. (PCR Tr. p. 28).

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation must be **DENIED** and **DISMISSED with PREJUDICE**.

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.

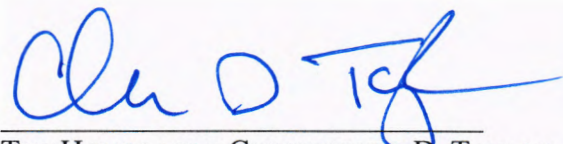
CONCLUSION

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

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf if the Applicant wishes to seek appellate review. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

A handwritten signature in blue ink, appearing to read 'Chris D. Taylor', is written over a horizontal line.

THE HONORABLE CHRISTOPHER D. TAYLOR
Presiding Judge
Thirteenth Judicial Circuit

August 11, 2026
Greenville, South Carolina