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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT
APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas
HONORABLE GRACE G. KNIE
2025-CP-23-7442

LILLIAN M. BATES, SCDC# 389553

APPELLANT,

vs.

STATE OF SOUTH CAROLINA,

RESPONDENT.

NOTICE OF APPEAL

Lillian M. Bates appeals the denial of his Post-Conviction Relief. The Post Conviction Relief Action was heard and denied by the Honorable Grace G. Knie, Circuit Judge on June 23, 2026 an Order issued on August 14, 2026 and filed on August 21, 2026 . The Appellant received notice of the judgment on August 24, 2026.

s/Rodney Richey

Rodney Richey, Esquire
Attorney for the Appellant
33 Market Point Drive
Post Office Box 10916
Greenville, SC 29603
(864) 467-0503
(864) 467-0646 fax

Other Counsel of Record:
Kylee Kanealey, Esquire
Office of Attorney General State of SC
Post Office Box 11549
Columbia, SC 29211-1549

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Lillian M. Bates, #389553,

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS
) FOR THE THIRTEENTH JUDICIAL CIRCUIT
)
) CASE NO. 2025-CP-23-7442
)

) **ORDER OF DISMISSAL**
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CLERK OF COURT
GREENVILLE, SC

This matter comes before the Court by way of Lillian Bates' application for post-conviction relief (PCR) filed on November 10, 2025. Respondent filed its Return requesting an evidentiary hearing. On June 23, 2026, an evidentiary hearing was held at the Greenville County Courthouse before the Honorable Grace G. Knie. Applicant was present and represented by Rodney Richey, Esquire. Assistant Attorney General Kylee Kanealey represented Respondent. Applicant proceeded forward on the allegations in her application. Applicant testified on her own behalf and presented the testimony of Rachel A. Kepley, Esquire (Plea 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 violations or deprivations entitling her to relief and, accordingly, denies and dismisses this action with prejudice.

PROCEDURAL HISTORY

Applicant is currently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. During the May 2021 term, the Greenville County Grand Jury indicted Applicant for Trafficking in Illegal Drugs (2021-GS-23-1478A). On November 9, 2022, Applicant pled guilty before the Honorable Letitia H. Verdin.

Applicant was represented by Rachel A. Kepley, Esq. and Clark L. Grounsell, Esq. prosecuted the case for the State. Judge Verdin sentenced Applicant to ten (10) years for Trafficking in Illegal Drugs, with credit for time served. On March 17, 2023, Applicant appeared before the Honorable Edward W. Miller for a hearing on her “Motion to Vacate the Guilty Plea.” Judge Miller denied Applicant’s requested and issued an “Order Denying Defendant’s Motion to Vacate Guilty Plea” on March 22, 2023.

Applicant filed a notice of appeal. Appellate Defender Jessica M. Saxon of the South Carolina Commission on Indigent Defense perfected the appeal raising the following issue:

“Whether the circuit court erred in denying Appellant’s motion to vacate her guilty plea where the plea court lacked subject matter jurisdiction to hear the case because the State did not allege a valid criminal offense?”

After final briefs were submitted on the issue, Appellant filed a “Motion for Appeal Bond” on November 21, 2024. Respondent filed its Return to the motion on December 2, 2024. Thereafter, the case was transferred to the South Carolina Supreme Court on March 12, 2025. The “Motion for Appeal Bond” was denied by Order on April 3, 2025. In a memorandum opinion, the South Carolina Supreme Court affirmed Applicant’s conviction and sentence pursuant to Rule 220(b)(1), SCACR and the recent decision in State v. Sweet, Op. No. 28297 (S.C. Sup. Ct. filed Aug. 20, 2025). See State v. Bates, Op. No. 2025-MO-040 (filed August 27, 2025). The Remittitur was issued on September 15, 2025.

FACTS GIVING RISE TO THE CONVICTION

The underlying facts of the crime for which Applicant is incarcerated were articulated by the State during the plea proceedings as follows:

[O]n or about November 13, 2020, in Greenville County, the Defendant delivered five kilograms of a powder substance to an undercover officer. The bricks were

delivered in an open top bag. And the bricks were easily visible. Four of the bricks came back as Tramadol with a weight of 3,969 grams. The other brick came back as 995 grams of Fentanyl. It is common for drug traffickers to assume the narcotic and cutting agent separate so that the other person can cut the drug how they want.

There are, also, text messages between this Defendant and a supplier where it is clear this Defendant has done this before. The Defendant agreed quickly to transport these drugs. The Defendant threatened the supplier that if it doesn't happen on a coming day, she is not wanting him to do the job anymore. Multiple times she states that she has changed around her plans to do this because she needs the money. She confirmed she is getting paid in cash. She says that this better be legit. And the supplier asked if she is comfortable doing this at night. And she says, yes. And she will get it done.

The Defendant attempted to tell law enforcement that she was raped by the supplier and was forced to do this deal. From her text messages, that, certainly, doesn't appear to be the case and was a willing participant.

(Plea Tr. pp. 8-9).

CURRENT ACTION

Applicant timely commenced this post-conviction relief action on November 10, 2025, raising the following allegations:

1. Involuntary guilty plea
 - a. "Counsel advised me to plead guilty despite the existence of orders from other circuit court judges holding that fentanyl could not be prosecuted under 44-53-370(e)(3) and had I known about those orders I would not have pled guilty but would have gone to trial."
2. Ineffective assistance of counsel
 - a. "For failing to fully research and challenge whether fentanyl was a substance that could be prosecuted under 44-53-370(e)(3) prior to advising me to pled guilty. Had counsel properly researched the matter and determined that fentanyl was not legally included in 44-53-370(e)(3) I would not have pled guilty but would have gone to trial."
3. Ineffective assistance of appellate counsel
 - a. "For failing to raise that the judge abused his discretion by not allowing me to withdraw my guilty plea."
4. Ineffective assistance of appellate counsel
 - a. "For failing to raise that the circuit court judge abused his discretion by not ruling on the substantive merits of subject matter jurisdiction."

Applicant requests relief in the form of “my conviction reversed and remanded for a new trial.”

STANDARD OF REVIEW

The Uniform Post-Conviction Procedure Act¹ (“the Act”) provides that any person who has been convicted of a crime may seek post-conviction relief based 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 other conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint;
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).

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

¹ S.C. Code Ann. 17-27-10 to -160 *et seq.*

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 "[without proof of both deficient performance and prejudice to the defense... it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable" (citation and internal quotation marks omitted)).

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea. Hill v. Lockhart, 474 U.S. 52 (1985), extended the two-part Strickland test to challenge guilty pleas based on ineffective assistance of counsel. See Padilla v. Kentucky, 559 U.S. 356, 373 (2010) (recognizing that the guilty plea process is a "critical phase of litigation" for purposes of the Sixth Amendment right to effective assistance of counsel). The analysis of counsel's performance under the first prong of Strickland remains unchanged, the applicant must show that counsel's representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases. Hill, 474 U.S. at 58-59; accord Thompson v. State, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000).

An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice to plead guilty was not "within the range of competence demanded of

attorneys in criminal cases.” Hill, 474 U.S. at 56. The second, or “prejudice” prong, however, “focuses on whether counsel’s constitutionally ineffective performance affected the outcome of the plea process.” Id. at 58-59. Specifically, when an applicant claims counsel’s deficient performance caused him to accept a plea, the applicant “must show that there is a reasonable probability that, but for [plea] counsel’s [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial.” Id. at 59.

This inquiry “focuses on a defendant’s decisionmaking” and does not turn on the outcome of a defendant’s actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. Lee v. United States, 582 U.S. 357, 367 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—**not** whether counsel would have still advised him or him to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999) (emphasis added).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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 plea 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 based on the Strickland standard set forth below, this Court finds Applicant has failed to carry his burden of proof. Below are the Court’s findings of fact and conclusions of law as required by section 17-27-80 of the South Carolina Code

(2017).

Ineffective Assistance of Counsel

In a PCR action, an applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). To prove ineffective assistance of counsel, the applicant must show counsel was deficient, and the deficiency prejudice applicant. Strickland v. Washington, 466 U.S. 668 (1984). When evaluating deficiency, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C at 117, 386 S.E. 2d at 635 (quoting Strickland, 366 U.S. at 690). "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Butler, 286 S.C. at 442, 334 S.E.2d at 814 (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. To prove prejudice, an applicant must prove counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. Id. at 117-18, 386 S.E.2d at 625.

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, 362 426 S.E.2d 795, 797 (1993).

Failure to Challenge Statute²

Applicant alleged counsel was ineffective for failing to research and challenge whether fentanyl was a substance that could be prosecuted under 44-53-370(e)(3), and for advising Applicant to plead guilty despite the existence of orders from other circuit court judges holding that fentanyl could not be prosecuted under this statute. This Court finds these allegations are without merit.

Counsel testified that she did discuss the trafficking statute with Applicant. Counsel testified that in exchange for the plea, two other charges were dismissed. Counsel testified that the order Applicant was referring to did not have precedent. Counsel testified that there was no precedent at this time supporting the argument that fentanyl could not be charged under this statute.

Applicant has failed to present any evidence or controlling case law to support her contention that she could not be prosecuted under this statute at the time of her plea. Applicant has therefore failed to prove Counsel was deficient. Further, the plea transcript reflects Applicant told the plea court she had discussed the charges with counsel (Plea Tr. p. 5). Applicant told the plea court she was happy with what her lawyer had done for her. (Plea Tr. p. 6). Applicant has presented no valid reason why she should be able to depart from the statements made during her 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 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).

Applicant has also failed to prove prejudice. Applicant was alleged to have trafficked 995 grams of illegal drugs. Applicant received a benefit of pleading guilty to a lesser included offense

² This section addresses allegations 1 & 2 from the application.

and greatly reducing her sentencing exposure. Applicant has failed to prove she would have insisted on going to trial and not pled guilty, and thus failed to prove prejudice.

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Plea Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or omissions to prove the second prong of Strickland as laid out in Hill—that but for Plea Counsel’s deficient performance, Applicant would have gone to trial and not pled guilty. Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation is denied.

Ineffective Assistance of Appellate Counsel³

Applicant alleged appellate counsel was ineffective for failing to raise that the judge abused his discretion by not allowing her to withdraw her guilty plea and for failing to raise that the circuit court abused his discretion by not ruling on the substantive merits of subject matter jurisdiction. This Court finds these allegations are without merit.

The argument appellate counsel raised on appeal was that “the circuit court erred in denying [Applicant’s] motion to vacate her guilty plea where the plea court lacked subject matter jurisdiction to hear the case because the State alleged that [Applicant] violated a non-existence criminal offense.” Applicant’s conviction was affirmed on the merits finding the issue mirrored the issue raised in their recent decision in State v. Sweet, Op. No. 28297 (S.C. Sup. Ct. filed Aug. 20, 2025). State v. Bates, Op. No. 2025-MO-040 (filed August 27, 2025). See State v. Sweet, 446 S.C. 356, 367–68, 919 S.E.2d 909, 915–16 (2025) (finding the argument does not implicate the circuit

³ This section addresses allegations 3 & 4.

court's subject matter jurisdiction to accept defendant's guilty plea). Therefore, the issues Applicant alleged Appellate Counsel failed to raise, is exactly what was addressed on appeal. Applicant has therefore failed to prove deficiency and prejudice and therefore, her claim is denied.

CONCLUSION

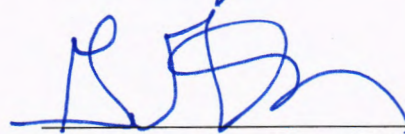
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant her application. Therefore, this application for post-conviction relief is **DENIED and DISMISSED WITH PREJUDICE**.

Should Applicant wish to secure appellate review, she must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. 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), SCRCR, 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. Attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

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

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



THE HONORABLE GRACE G. KNIE
Presiding Judge

Thirteenth Judicial Circuit

Spasenberg, South Carolina