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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
In the Supreme Court

CERTIORARI TO Horry County
Court of Common Pleas
Honorable Frank Addy, Sr., PCR Judge
Appellate Case No. 2025-001743

LA'QUANDIAN J. BROMELL,

Petitioner,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

**RETURN TO PETITION FOR
WRIT OF CERTIORARI**

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RESPONDENT'S ISSUES PRESENTED

- I. The PCR properly found that Counsel was not ineffective for not requesting a voluntary manslaughter jury instruction.**
- II. The PCR court properly found that Counsel was not ineffective for not challenging the search warrant for Petitioner's mom's house and the cellphone.**

STANDARD OF REVIEW

The standard of review for post-conviction relief matters depends on the specific issues before the appellate court. Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018). On appellate review, courts give great deference to a post-conviction relief court's findings of fact and will uphold them if there is **any** evidence in the record to support them. Id. at 179, 810 S.E.2d at 839-40 (citing Sellner v. State, 416 S.C. 606, 610, 787 S.E.2d 525, 527 (2016); Jordan v. State, 406 S.C. 443, 448, 752 S.E.2d 538, 540 (2013); Caprood v. State, 338 S.C. 103, 109, 525 S.E.2d 514, 517 (2000)). However, pure questions of law will be reviewed *de novo* without deference to the lower court. Id. Appellate courts will reverse the decision of the post-conviction relief court when it is controlled by an error of law. Goins v. State, 397 S.C. 568, 573, 726 S.E.2d 1, 3 (2012).

STATEMENT OF THE CASE

Petitioner is presently confined to the South Carolina Department of Corrections (“SCDC”), serving a thirty-five (35) year sentence. In its October 2021 term, the Horry County Grand Jury indicted Petitioner for murder (2021-GS-26-04475) and possession of a weapon during the commission of a violent crime (2021-GS-26-04476). On April 11-14, 2022, Petitioner proceeded to a jury trial before the Honorable Kristi Curtis. Deputy Solicitor Nancy R. Livesay and Assistant Solicitor Christopher D. Helms prosecuted the case. Petitioner was represented by Thurmond Brooker, Esquire (“Counsel”).

Petitioner was convicted as indicted. Judge Curtis sentenced Petitioner to thirty (30) years for murder and a consecutive five (5) years for possession of a weapon during a violent crime: totaling thirty-five (35) years.

On April 22, 2022, a notice of appeal was filed on Petitioner’s behalf by Counsel. On November 7, 2022, the Court of Appeals dismissed the appeal for failure to order the transcript as required by Rule 207, SCACR. State v. Bromell, S.C. Ct. App. Order filed Nov. 7, 2022. The Remittitur was sent on January 10, 2023.

Petitioner timely filed a PCR application on April 14, 2023. The evidentiary hearing occurred on July 16, 2025, before the Honorable Frank Addy, Circuit Court Judge. The Court issued an order of dismissal, denying Petitioner’s PCR application and remanding him to the custody of South Carolina Department of Corrections on August 25, 2025. Petitioner filed a Petition for Writ of Certiorari on April 11, 2026. This return follows.

RELEVANT FACTS

At trial, Officer Paul Hamm testified that on June 23, 2020, around 4:00 am, he responded to a residential area and found a body lying on the ground, face down, in a puddle of blood. (App. 123). The body was identified as Heiden Goodman (“Victim”). (App. 126). Officer Jonathan Kelly testified that officers obtained video surveillance from a residence (Veronica Jackson’s house) next to a club; upon review of the video, law enforcement were able to determine persons of interest. (App. 139-40). The video was reviewed around 6:00 am, shortly after the murder. (App. 142). In the video, Victim is observed walking out of the nearby club around 4:00 am and walked towards the house (Veronica’s house). (App. 143). There were two cars nearby: a white Charger and a red Hyundai. (App. 143). The white Charger drove off, and there was a person standing near the red Hyundai. (App. 143). It was determined from people from and familiar with the area that the person in the video had a street name of “Juicy” or “Juicy Fruit.” (App. 144). Officer Kelly testified that the person and vehicle were believed to be the last passed by Victim before he was killed. (App. 172).

Veronia Jackson, a resident, testified to video surveillance from her house and identified the person that got out of the red car as “Juice.” (App. 191). Jackson identified Victim and Winfred Sherman in the video. (App. 192). Jackson identified Petitioner in the courtroom as “Juice.” (App. 196). Winfred Sherman testified that Petitioner was driving the red car, and Sherman did not have ill will towards Victim and did not shoot and kill Victim. (App. 210-11).

Latreka Green testified that she knows Petitioner and he was called “Juice” or “Juicy Fruit.” (App. 215-16). Green testified that she was in the area on the morning of the incident and saw Victim walking and talking on the phone. (App. 217-18). Green testified that she was sitting in the area and heard gunshots. (App. 218-19). Green testified that Victim was the only person walking up and down the dirt road. (App. 219). Cortisha Hemingway, who was also in the area, testified

that she saw Victim walk past, heard gunshots, and saw someone standing over Victim: the person was not tall and was wearing a jacket with white stripes down the sleeves. (App. 260-62; 263).

Officer Rebecca Phillips responded to the scene and recovered .40 caliber shell casings and fired projectiles near Victim's body. (App. 288-94). Phillips searched Victim's pockets and did not find any weapons. (App. 295). Suzanne Cromer of SLED, qualified as an expert in ballistics and firearm analyzation, testified that she examined the .40 caliber shell casings and fired projectiles and determined that the seven (7) fired projectiles were fired by one firearm. (App. 334-340; 341).

Investigator Kenneth Marcus testified that he had the opportunity to interview Petitioner and conducted a post-*Miranda* interview. (App. 350). Marcus read Petitioner his Miranda rights, did not promise Petitioner anything or threaten him in any way. (App. 353). Petitioner admitted to being present and admitted to seeing Victim that night. (App. 355-56). Marcus testified that on a video from the day prior to the killing, Petitioner and Victim were seen outside of the club: Petitioner walked by, said something to Victim, and Victim's demeanor changed. (App. 356). Petitioner admitted that he was the person in the picture of the video, admitted that his name was "Juice," and admitted to driving the red car observed. (App. 359).

Pursuant to search warrants, Officers searched Petitioner's residence, including a particular room belonging to Petitioner, and cell phone. (App. 379-90). Cellphone records of Petitioner's Google search history from the day of the murder (June 23, 2020 at 11:55 pm) revealed searches of "does Clorox get rid of blood." (App. 427-28).

ARGUMENT

I. The PCR properly found that Counsel was not ineffective for not requesting a voluntary manslaughter jury instruction.

Petitioner contends that the PCR court erred finding that trial counsel was not effective when they failed to request a voluntary manslaughter jury instruction. Specifically, that there was evidence to support a jury finding that he committed voluntary manslaughter, as opposed to murder, and that Counsel failed to articulate a valid reason for failing to request the charge, and the results at trial likely would have been different and more favorable to Petitioner had the charge been given. The PCR Court found Petitioner's allegation was without merit as Petitioner did not meet his burden of proof concerning that allegation.

To prove counsel was ineffective, a PCR Petitioner must show counsel's performance was deficient and the Petitioner was prejudiced by the deficient performance. Strickland v. Washington, 466 U.S. 668, 687, 104 S.Ct. 2052, 2064 (1984). Counsel's performance will be deemed deficient if it falls "outside the wide range of professionally competent assistance." Id. The Petitioner is prejudiced by the deficient performance if "there is a reasonable probability that but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 694. "When a defendant challenges a conviction, the question is whether there is a reasonable probability that, absent the errors, the factfinder would have had a reasonable doubt respecting guilt." Id. at 695. "A fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time." Id. at 689. "Judicial scrutiny of counsel's performance must be highly deferential." Id., at 689. To prove a claim of ineffectiveness, "the defendant must overcome the presumption that, under the circumstances, the challenged action 'might be considered sound trial strategy.'" Id. "[T]he

existence of detailed guidelines for representation could distract counsel from the overriding mission of vigorous advocacy of the defendant's cause." Id. at 689.

Trial counsel's articulation of valid trial strategy defeats a claim of ineffective assistance of counsel. Roseboro v. State, 317 S.C. 292, 454 S.E.2d 312 (1995); 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). Strickland requires extreme deference to counsel's strategic judgments that are adequately investigated; as Strickland explains: "[S]trategic choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable. . . ." Strickland, 466 U.S. at 690-91.

The question is whether an attorney's representation amounted to incompetence under "prevailing professional norms," not whether it deviated from best practices or most common custom. Strickland, 466 U.S. at 690. "Under Strickland, counsel's representation must be only objectively reasonable, not flawless or to the highest degree of skill." Strickland, 466 U.S. at 688-89. Moreover, counsel's tactical decisions at trial, such as refraining from cross-examining a particular witness or from asking a particular line of questions, are given great deference and must similarly meet only objectively reasonable standards. Dows v. Wood, 211 F.3d 480, 487 (9th Cir. 2000); Dunn v. Reeves, 141 S.Ct. 2405, 2410 (2021) ("[E]ven if there is reason to think that counsel's conduct was far from exemplary, a court still may not grant relief if the record does not reveal that counsel took an approach that no competent lawyer would have chosen.") (citation and internal quotation marks omitted).

A trial judge's determination of what law should be charged is made from the evidence

presented. State v. Funchess, 267 S.C. 427, 229 S.E.2d 331 (1976). “To justify charging the lesser crime, the evidence presented must allow a rational inference the defendant was guilty only of the lesser offense.” State v. Geiger, 370 S.C. 600, 607, 635 S.E.2d 669, 673 (2006). The trial court should refuse to charge the lesser included offense where there has been no evidence tending to show the defendant may have committed solely the lesser offense.” Id. “Voluntary manslaughter is the unlawful killing of a human being in the sudden heat of passion upon sufficient legal provocation.” State v. Cooley, 342 S.C. 63, 67, 536 S.E.2d 666, 668 (2000). “Both heat of passion and sufficient legal provocation must be present at the time of the killing.” Id. “The provocation must be such as to render the mind of an ordinary person incapable of cool reflection and produce an uncontrollable impulse to do violence.” Id. “[B]oth heat of passion and sufficient legal provocation must be present at the time of the killing.” State v. Starnes, 388 S.C. 590, 596, 698 S.E.2d 604, 608 (2010).

Petitioner argues that there were sufficient facts presented to the jury about the alleged altercation that would have supported a voluntary manslaughter charge. He points to the fact that “the record is well settled that multiple people knew both Petitioner and the victim, that they saw them both outside by the club that night, that there was no pre-existent knowledge by anyone of between the two men, that no one identified the shooter, and the shooting only happened after a brief interaction between the two men on a dark, isolated road outside the club.” (Petition for Writ of Certiorari pg. 10). However, at the PCR hearing Counsel testified that their defense was that Petitioner he was not involved in the shooting and that was based on the fact that no one could identify the shooter. (App. 612-613). When asked why he didn’t request a voluntary manslaughter charge, Counsel stated:

Well, yeah. Generally the judge has to instruct based upon the evidence that’s presented at his trial, and of course it was Mr. Bromell’s position that he had

absolutely nothing to do with the murder. In order for us to ask the judge to charge the jury with voluntary manslaughter, there would have to be evidence in the record at trial that would justify that charge, and of course, we did not at trial consented to or even suggest there was a confrontation between Mr. Bromell and the victim, so there was no testimony, I think, that there was a confrontation between Mr. Bromell, and again, the victim, right before the shooting, you know, because, obviously, involuntary manslaughter, you know, it's kind of like a heat of the passion type of killing in which someone is driven by their emotion on the spur of the moment, you know, engage in conduct that results in someone's death. There was absolutely no testimony that would have justified an involuntary manslaughter charge. (sic)

(App. 621-622). The PCR court properly found Counsel's testimony that Petitioner's defense was that he had nothing to do with the murder and that there would have had to have been evidence to support the charge and they did not present any evidence at trial that there was an altercation between Petitioner and Victim. (App. 643-644). The PCR court properly found that Counsel articulated a reasonable and valid strategy. (App. 643-644). Further, the PCR court properly found that Petitioner failed to prove prejudice because, based on a review of the trial record and evidence presented at trial, that there was no evidence that the killing was done in a sudden heat of passion which would have supported the voluntary manslaughter charge. (App. 643-644). Therefore, certiorari should be denied.

II. The PCR court properly found that Counsel was not ineffective for not challenging the search warrant for Petitioner's mom's house and the cellphone.

Petitioner argues that the PCR court erred in denying relief on Petitioner's claim that trial counsel was ineffective for failing to challenge the searches of the home and the cellphone. Specifically, that officers entered and searched Petitioner's mothers' residence without a search warrant and without her consent. Further, that Counsel admitted he did not know whether a warrant existed for the search of the phone itself when, if properly investigated and litigated, would have provided a basis to suppress critical evidence and created a reasonable probability of a different

outcome at trial. Officers went to Petitioner's mother's home pursuant to an arrest and search warrant and discovered a cellphone. (App. 379-390). Petitioner argues that he testified at the PCR hearing that he did not live at the residence and his mother testified that he did not consistently or permanently return to or reside in the residence, but that is not true. Petitioner cites to pages 589-590, but nothing on those pages refers to Petitioner testifying that he did not live at the residence. (App. 589-590). Petitioner also cites to page 603 of the Appendix and while Petitioner refers to the residence as his "mother's home" there is no testimony that he did not live there. (App. 603). Lastly, Petitioner cites to page 631, where Petitioner's mother testifies. While she does state that he was not permanently living with her, she also states that he did partially live there. (App. 631).

Further, at the PCR hearing Counsel testified that it was his belief that Petitioner was living with his mother at the time the warrant was executed. (App. 623). When asked if Petitioner told him that he did not live there, Counsel stated "it was my understanding that he did live there." (App. 623). The PCR court found that Counsel's testimony was credible that they had a valid search warrant and that Petitioner resided there. (App. 639-640). Further, the PCR court found his testimony credible that he did not believe there was anything to challenge regarding the search warrant because the warrant gave officers legal authorization to enter the home. (App. 639-640). The PCR court also found that Petitioner failed to prove prejudice by failing to prove a reasonable probability that the result of the trial would have been different if Counsel had challenged the search warrant.

Regarding the cell phone records, Petitioner argues that Counsel was ineffective for failure to object to a warrantless search of the phone itself, not just the third-party cell phone records that the State did issue a warrant for. Petitioner argues that had Counsel objected on this basis, the items seized off the phone would have been suppressed and the results at trial would have been

different. Petitioner argues that Counsel should have objected to entry of items not seized as party of the cell phone records request, but items seized off the phone itself, that there had been no establishment that a warrant existed to obtain those records off the phone itself. The PCR court found that the record reflected that Counsel challenged the cell phone extraction, arguing the search warrant issued was insufficient because it was beyond the scope of the magistrates jurisdiction. (App. 393-396). On April 13, 2022, during Petitioner's trial, the Supreme Court issued a ruling in State v. Warner, 436 S.C. 395, 872 S.E.2d 638 (2022) (holding that a warrant is required for cellphone location data, a magistrate may issue a warrant to obtain cellphone records that are stored out of state, and an affidavit to support such warrant requires probable cause). The trial court applied the Warner precedent and denied the motion to suppress. (App. 399-406). The PCR court properly found that Counsel was ineffective for not challenging the search of the phone because he did challenge it. Further, the PCR court properly found that Petitioner failed to prove he was prejudiced by Counsel's performance in challenging the cellphone records since the court applied precedent in denying the motion to suppress. Therefore certiorari should be denied.

CONCLUSION

For the foregoing reasons, this Court should deny this Petition for a Writ of Certiorari. Should this Court grant the petition, Respondent seeks permission to more fully brief the issues herein.

Respectfully submitted,

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