RECEIVED
Sep 02 2026
S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY
Common Pleas

The Honorable S. Bryan Doby, Circuit Court Judge

Case No.: 2024-CP-10-4926

Bryon L. Rivers (#380415) ..... Appellant

v.

State of South Carolina ..... Respondent

NOTICE OF APPEAL

Bryon L. Rivers appeals the order of the Honorable S. Bryan Doby, filed August 17, 2026, and served on his counsel August 17, 2026, that dismisses the PCR action. The Defendant/Appellant requests that the order be reversed, and he be granted a new trial. Defendant/Appellant received proper notice of the entry of the written order on August 17, 2026.

September 2, 2026

/s/Christopher L. Murphy
Christopher L. Murphy
Post Office Box 80547
Charleston, SC 29416
Phone: 843-926-0146
Email:chris@chrismurphylaw.com

GS
SOL
AT
AG

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT
Byron L. Rivers, #380415, Applicant, v. State of South Carolina, Respondent.	)	CASE NO. 2024-CP-10-04926 **ORDER OF DISMISSAL**

FILED
AUG 17 2026
JULIE J. ARMSTRONG
CLERK, C.P. & G.S.

This matter comes before the Court by way of Byron L. Rivers' (Applicant's) application for post-conviction relief (PCR) filed on October 2, 2024. On June 17, 2026, an evidentiary hearing was held at the Charleston County Courthouse before the Honorable S. Bryan Doby. Applicant was present and represented by Christopher L. Murphy, Esquire. Assistant Attorney General Kylee Kanealey represented Respondent. At the hearing, Applicant proceeded solely on the issue from his application that the defense was contradictory of the case and damaging to the defense, and raised the additional allegation at the hearing that counsel was ineffective for opening the door and failing to object and preserve for appeal the issue of a detective testifying about the results of gunshot residue test from the co-defendant in violation of the confrontation clause.

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.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a life sentence. In April 2017, the Charleston County Grand jury indicted Applicant for murder

(2017-GS-10-02104), two counts of attempted murder (2017-GS-10-02106; -02107), and possession of a weapon during the commission of a violent crime (2017-GS-10-02108) In April 2019, the Charleston County Grand Jury indicted Applicant for first degree burglary (2019-GS-10-02143) and three counts of armed robbery (2019-GS-10-01891; -01893; -01894). On June 10, 2019, Applicant proceeded to a jury trial before the Honorable Jennifer B. McCoy. Applicant was represented by Benjamin A. Mack, Esquire and Theresa Norris, Esquire. Assistant Solicitors Christopher Lietzow and David Osborne prosecuted the case. The jury found Applicant guilty as indicted. Judge McCoy sentenced Applicant to concurrent terms of life without parole for murder, life without parole for first degree burglary, thirty years for attempted murder, thirty years for attempted murder, thirty years for each armed robbery and five years for the weapons charge.

Applicant timely filed a notice of appeal. Appellate Defender Katherine H. Hudgins perfected Applicant's appeal by raising the following issue:

> 1. Did the trial court err in finding that defense counsel opened the door to allowing a detective to testify about the results of a gunshot residue test from the co-defendant in violation of [Applicant's] right to confront witnesses?

On November 10, 2021, the South Carolina Court of Appeals affirmed Applicant's conviction on the merits. State v. Rivers, Op. No. 2021-UP-395 (S.C. Ct. App. filed November 10, 2021). Applicant filed a petition for rehearing, which was denied on December 16, 2021. Applicant filed a petition for certiorari review, which was granted. On October 11, 2023, the South Carolina Supreme Court dismissed the writ as improvidently granted. State v. Rivers, No. 2023-MO-013 (S.C. October 11, 2023). The remittitur was sent on October 11, 2023.

CURRENT PCR APPLICATION

On October 2, 2024, Applicant timely filed this PCR action alleging:

1. Ineffective assistance of appellate counsel:
   a. Argument was not supported with authority;
   b. Had counsel cited authority applicable to state prisoners, granted certiorari would have reversed conviction.
2. Ineffective assistance of trial counsel:
   a. For failing to object to the hand of one jury instruction;
   b. The defense was contradictory of the case and damaging to the defense;
   c. For failing to investigate the case;
   d. Failing to call co-defendant as witness.
3. Cumulative ineffective assistance of counsel:
   a. Rule 403 SCRE violation;
   b. Defense strategy;
   c. Failed to obtain information;
   d. Both attorneys same defense;
   e. Attempted murder not recognized in South Carolina.

As relief, Applicant request the court "reverse and remand to perfect appeal, reverse conviction and sentence, reverse conviction for a new trial [and] motion for discovery 17-27-150 in post-conviction relief".

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the records before it, including the Charleston County Clerk of Court records of the underlying conviction, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's appellate records, 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.

Failure to Present a Valid Defense

Applicant alleged Counsel was ineffective because the defense was contradictory of the case and damaging to the defense. This Court finds this allegation is without merit.

At the evidentiary hearing, Applicant testified that his defense was that he went to buy cocaine, someone else robbed the place, and that he did not shoot any guns or anyone. Applicant testified that he discussed with Counsel prior to trial the defense theory that it was a drug deal gone bad. At the evidentiary hearing, Counsel testified that the defense theory was that it was a drug deal gone wrong and that Applicant's co-defendant was the only shooter. Counsel testified that there were multiple eyewitnesses, and the DNA of Applicant was on the weapon. Counsel testified that the State had a good case because of the DNA evidence and he tried to encourage Applicant to plead guilty. This Court finds Counsel's testimony credible.

Trial Counsel testified that he discussed the evidence and defense strategy with Applicant. Applicant did not provide what further Counsel should have done in presenting his defense, or what alternate defense theory should have been pursued. Applicant has failed to overcome the presumption that Trial Counsel "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). Therefore, Applicant has failed to prove Counsel was deficient.

Further, Applicant has failed to prove prejudice. The record reflects there was overwhelming evidence including multiple eyewitnesses and Applicant's DNA found on the weapon used. See Smalls v. State, 422 S.C. 174, 191, 810 S.E.2d 836, 845 (2018) (finding that for the evidence to be "overwhelming" such that it categorically precludes a finding of prejudice the evidence must include something conclusive, such as a confession, DNA evidence demonstrating guilt, or a combination of physical and corroborating evidence so strong that the Strickland standard cannot possibly be met).

Applicant has failed to meet his burden in proving deficiency and prejudice and therefore, this claim is denied.

Failure to Preserve Appellate Issue

Applicant alleged counsel was ineffective for opening the door and failing to object and preserve for appeal the issue of a detective testifying about the results of a gunshot residue test from the co-defendant in violation of the confrontation clause. This Court finds this allegation is without merit.

"...[T]here is no reason for a court deciding an ineffective assistance claim to approach the inquiry in the same order or even to address both components of the inquiry if the defendant makes

an insufficient showing on one. In particular, a court need not determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. The object of an ineffectiveness claim is not to grade counsel's performance. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, which we expect will often be so, that course should be followed." Strickland v. Washington, 466 U.S. 668, 697, 104 S. Ct. 2052, 2069, 80 L. Ed. 2d 674 (1984).

This Court finds Applicant has failed to prove prejudice. In the event that Counsel did not open the door, objected, and was able to keep out the fact that there was no GSR found on Applicant's co-defendant, this would not have had a reasonable probability of changing the outcome of the trial. As an initial matter, the jury was instructed on accomplice liability and thus, the co-defendant's negative GSR test did not have a reasonable probability of changing the outcome of his trial had it been kept out when there was a mountain of evidence presented that Applicant and his co-defendant robbed the victims together. More importantly, without that GSR evidence it would have still remained that the weapon that matched all of the shell casings found at the scene had the DNA on the trigger grip that was a 1 in a 32 billion chance of it not belonging to the Applicant. The record reflects there was overwhelming evidence presented including multiple eyewitnesses and Applicant's DNA found on the weapon used and thus, Applicant has failed to meet his burden of proving prejudice. See Smalls v. State, 422 S.C. 174, 191, 810 S.E.2d 836, 845 (2018) (finding that for the evidence to be "overwhelming" such that it categorically precludes a finding of prejudice the evidence must include something conclusive, such as a confession, DNA evidence demonstrating guilt, or a combination of physical and corroborating evidence so strong that the Strickland standard cannot possibly be met).

Lastly, had this issue been preserved for appeal, Applicant failed to prove a reasonable probability the appellate court would have reversed. The "harmless error doctrine is essential to preserve the 'principle that the central purpose of a criminal trial is to decide the factual question of the defendant's guilt or innocence, and promotes public respect for the criminal process by focusing on the underlying fairness of the trial rather than the virtually inevitable presence of immaterial error.'" State v. Rivera, 402 S.C. 225, 246, 741 S.E.2d 694, 705 (2013), quoting, Delaware v. VanArsdall, 475 U.S. 673, 681, 106 S.Ct. 1431, 89 L.Ed.2d 674 (1986). As discussed *supra*, the record reflects there was overwhelming evidence presented to the jury of Applicant's guilt. Applicant has failed to meet his burden of proving had this been preserved for appellate review, that the Court of Appeals would have reversed and thus, has failed to prove prejudice. Therefore, this 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 his application. Therefore, this application for post–conviction relief is **DENIED and DISMISSED WITH PREJUDICE**.

Should Applicant wish to secure appellate review, he 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), 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. 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 3 **day of** August, **2026.**

S. BRYAN DOBY
Presiding Judge 2784
Ninth Judicial Circuit

Bishopville, South Carolina

ALAN WILSON
ATTORNEY GENERAL

August 11, 2026

The Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street, Suite 106
Charleston, South Carolina 29401

Re: **Byron Labron Rivers, #380415 v. State of South Carolina**
Case No. 2024-CP-10-04926

Dear Ms. Armstrong:

Enclosed for filing, please find the original Order of Dismissal, signed by the Honorable S. Bryan Doby, for the above-captioned case. Please forward a time-stamped copy back to our office for our file.

Sincerely,

Kylee Kanealey
Assistant Attorney General

KK/vh
Enclosure

cc: Christopher L. Murphy, Esquire