

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF YORK) FOR THE SIXTEENTH JUDICIAL CIRCUIT
)

Danielle Stormy Leann Moore,) Case No.: 2023-CP-46-02153
SCDC No. 388472,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

ORDER OF DISMISSAL

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This matter comes before the Court by way of an application for post-conviction relief (“PCR”) filed by Danielle Stormy Leann Moore (“Applicant”) on July 12, 2023, and amended on September 20, 2023. The Court convened an evidentiary hearing into the matter on February 13, 2025, at the Moss Justice Center in York, South Carolina. Applicant was present at the hearing and was represented by Lacey Thompson, Esquire. Assistant Attorney General Zachary W. Jones, of the South Carolina Attorney General’s Office, represented Respondent.

After reviewing all records and evidence before the Court, this Court finds Applicant has not met the requisite burden of proof to show she is entitled to post-conviction relief. Accordingly, the Court denies and dismisses this application with prejudice. The Court finds as follows:

I. PROCEDURAL HISTORY

Applicant is presently incarcerated in the South Carolina Department of Corrections. Applicant was indicted at the December 2021 term of the York County Grand Jury for trafficking methamphetamine over 10 grams, first offense, and possession of a weapon during the commission of a violent crime (2020-GS-46-07455 and -07455A); possession with intent to distribute (“PWID”) methamphetamine within proximity of a park or school (2020-GS-46-07458); and

trafficking methamphetamine over 400 grams (2020-GS-46-07459). Applicant also waived presentment of one count of trafficking methamphetamine (2022-GS-46-01723), two counts of PWID marijuana (2022-GS-46-01725 and -01728), and one count of PWID marijuana within proximity of a school (2022-GS-46-01726). Applicant was represented by David T. Bratton, Esquire ("Counsel"). Senior Solicitor Marina Hamilton, of the Sixteenth Circuit Solicitor's Office, prosecuted the case. On July 22, 2022, Applicant appeared before the Honorable Eugene C. Griffith, circuit court judge, and pled guilty as indicted to Indictments 2020-GS-46-07455, -07455A, and -07458; guilty to the lesser included offense of trafficking methamphetamine over 28 grams as to Indictment 2020-GS-46-07459; and guilty to Indictments 2022-GS-46-01723, -01725, -01726, and -01728. Pursuant to the plea agreement, the State agreed to dismiss three additional proximity charges and a PWID fentanyl charge. Following a thorough plea colloquy, Judge Gibbons sentenced Applicant in accordance with the plea agreement to a negotiated sentence of seventeen years on the charge of trafficking methamphetamine over 28 grams, with lesser sentences for the remaining charges to run concurrently. Applicant did not appeal her conviction or sentence.

Factual Summary

At Applicant's guilty plea proceeding, the solicitor summarized the facts of the case as follows:

In regards to the first incident, which would be the trafficking meth 400 grams or more, on November 23 of 2020, officers pulled over the defendant in her vehicle for driving too closely and driving 70 miles -- 75 miles per hour in a 70-mile-per hour zone. Officers did deploy the k9 upon stop after identifying Ms. Moore as the occupant of that vehicle. The K9 did sniff and alerted to the vehicle for the presence of illegal drugs. The defendant then at that time admitted that there was methamphetamine within her vehicle. She stated there's a book bag in the backseat floorboard. Officers located a pink book bag on that rear passenger seat floorboard, as the



defendant had stated. They opened that bag and observed a grocery bag with two sealed tan pouches within that. Officers opened the pouch and observed several Ziploc baggies containing methamphetamine. Total found in that vehicle was 17 clear plastic bags, each one containing approximately, on scene, 28 grams of methamphetamine. Total was 468.64 grams of methamphetamine in addition to \$434 of -- \$434.00, Your Honor.

At that point officers did gain a search warrant for the residence of Ms. Moore at 625 Hawthorne¹ Street within York County. This traffic stop -- this was following the traffic stop that also occurred in York County.

The defendant did state she had ten to fifteen blues, were in fact meth -- or fentanyl in a BUN at her residence. Upon search of that residence, officers located a digital scale that had methamphetamine residue on it, several boxes of Ziploc packaging materials. She had weighing cups with residue within them. She had \$1,800. Additionally, officers located 21 dose units clandestinely manufactured fentanyl pills, which means they were pressed to resemble Oxycodone, but it was in fact fentanyl. Those were on a dresser in a drawer. Officers also seized two bags of methamphetamine which totaled 13 grams from a shoe box on the top closet shelf. The defendant did admit that these were in fact her drugs. There was also a gun recovered, Your Honor, in which she had while in possession of that trafficking level of methamphetamine, which is a violent offense.

Officers did locate -- and that firearm was loaded, Honor. Officers did additionally locate correspondence from SCDC inmates in a surveillance modem at that time that kind of peaked their interest that she could be distributing drugs to SCDC. At that time they did a further investigation into her and began surveillance.

I forgot to state that this did actually occur, the search warrant, and her house was located within a half-mile of Northside Recreational Center, which is a park.

She was given -- as I stated, she was given her Miranda. She did admit that she had all of those and that she had forgotten about the methamphetamine that was found, but that it was hers.

Next incident occurred on September 20 or, sorry, the next incident occurred on March 31 of 2021. Again, officers were surveilling her due to the belief that she was distributing large amounts of methamphetamine to inmates at SCDC. They did execute a search warrant at her residence on that day at 625 Hawthorne Street within York County. Upon execution of that

¹ Although the transcript states "625 Hawthorne Street," the location of the search was actually "625 Cauthen Street."

search warrant officers located 41.8 grams of marijuana and approximately 35 grams of methamphetamine within the defendant's bedroom. They did also locate objects showing that she was distributing narcotics, such as, scales and residue was on those scales.

They did locate \$2,000 and several items of, again, mail correspondence within SCDC -- with SCDC inmates. They did get a statement from the defendant in which she stated that she had been trafficking large amounts of meth for inmates within SCDC. She began working with the inmates approximately three years ago by collecting narcotic payments for inmates. After approximately one year, she stated she began traveling out of the county to pick up drugs.

I will state that she was stopped coming back from Augusta on the initial case where she had 400 grams, so she was transporting back to this county at that time and the state to pick up, so that kind of confirmed her statement. She was delivering narcotics at the direction of these inmates in SCDC. She advised the amount of methamphetamine she had trafficked over the last two years was in excess of 12 kilograms.

On January 20 -- or, I'm sorry, on March 18, 2022, officers -- or, actually, in January of 2022, officers received from a source that the defendant was trafficking fentanyl pills at this time. So when they became aware of that information they got a search warrant because she was continuing to sell fentanyl and marijuana from her residence. They were able to gain a search warrant again for her residence on March 18, 2022. That search warrant was executed within York County. Officers collected 42 grams of marijuana from within Moore's bedroom, also packaging material inside that bedroom of hers. They did know it was her bedroom from prior incidents. She was arrested and this incident did occur within a half-mile of Northside Elementary School.

(Plea Tr. p.8, line 19--p.12, line 13).

II. CURRENT APPLICATION

In her initial PCR application, Applicant raised the following allegations of ineffective assistance of counsel:

1. Ineffective assistance of counsel due to counsel refusing to let me review the body camera videos and other videos from my case.
 - a. I asked to review the videos in my case because of legal questions I had about my charges. My attorney never let me review them with him or answer my questions that I had about what led to my arrest.

2. Ineffective assistance of counsel due to counsel only visiting me four (4) times before my plea.
 - a. My attorney only came to see me four (4) times. His first visit to me was within one week of my arrest, and he told me I had to take the deal of 17 years.
3. Ineffective Assistance of counsel due to my attorney telling me what answers I needed to give the judge during my plea.
 - a. I was very upset about my plea and with my attorney. He told me what answers to give the judge. I did not feel I could have a voice and was very confused with the process.

As relief, Applicant requests “a trial.”

On September 20, 2023, Applicant amended her application to raise the following additional grounds for relief:

1. Defense counsel was ineffective for failing to investigate the officers’ failure to state probable cause for the search warrants that led to the discovery of the evidence against Petitioner.
2. Defense counsel was ineffective for failing to make a motion to suppress the evidence that was obtained pursuant to each search warrant based on the lack of probable cause for each search warrant.
3. Defense counsel was ineffective for failing to check the distance from 625 Cauthen Street in Rock Hill to Northside Recreation Center or Northside Elementary School.

At the outset of the evidentiary hearing, Applicant clarified that she would be going forward on the following allegations of ineffective assistance of counsel:

1. Counsel did not ask for a suppression hearing or *Franks v. Delaware* hearing based on invalid search warrant affidavits obtained in November of 2020, March of 2021, and March of 2022;
2. Counsel only visited Applicant four times before her plea of 17 years;
3. Counsel told Applicant what answers to give to the judge during the plea hearing; and
4. Counsel failed to review the videos and discovery in the case.

Applicant expressly withdrew the third allegation raised in her amended application.

Following the evidentiary hearing, the Court requested a proposed order from Applicant and permitted the State to submit a memorandum in response.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, and weighed the testimony accordingly. Before the Court are

Applicant's records from the South Carolina Department of Corrections, the transcript of Applicant's plea proceeding, the records of the York County Clerk of Court regarding the subject convictions, the original and amended applications for post-conviction relief, Applicant's proposed order, and the State's memorandum in response. This Court has reviewed the records submitted to it by the parties, the legal arguments made by Applicant and the State, and the pleadings. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings based upon all of the probative evidence presented:

Ineffective Assistance of Counsel

Applicant alleges she is entitled to PCR on the ground that Counsel was ineffective for "failure to investigate or argue probable cause for the 2020, 2021, and 2022 search warrants." Applicant contends the search warrant affidavits were insufficient to support a finding of probable cause; therefore, Applicant argues there was a reasonable likelihood that the evidence obtained as a result of those search warrants would have been suppressed. Applicant claims Counsel's failure to more thoroughly investigate and challenge the sufficiency of the search warrant affidavits was deficient and rendered her guilty plea unintelligent and involuntary; but for Counsel's deficiency, she claims, she would have insisted on going to trial.

The Court finds that Applicant has failed to prove Counsel's performance was ineffective, for several reasons. First, the search warrants were not invalid, as each warrant was based on information sufficient to support a finding of probable cause. Second, even if the search warrants were technically invalid, the evidence obtained in those searches would have been admissible under the "good faith exception" to the exclusionary rule. Third, even if there had been a "reasonable likelihood" of suppression, Counsel's fear that Applicant would probably be convicted at trial and face a substantially higher sentence was rational, and his advice to accept the State's

guilty plea offer was appropriate. Finally, even if Counsel's advice had been mistaken, Applicant has failed to prove that her decision to plead guilty was not "knowing and intelligent" as those terms are used in the guilty plea context. For all of these reasons, the Court finds Applicant has not met her burden of proving that Counsel's performance was deficient or that she suffered prejudice as a result:

a) The search warrants were valid.

Applicant argues that all three search warrants at issue in this case were invalid because law enforcement did not articulate probable cause for any of them. This Court cannot agree.

Probable cause is a practical, nontechnical concept; it will be found wherever "the known facts and circumstances are sufficient to warrant a man of reasonable prudence in the belief that contraband or evidence of a crime will be found." *Ornelas v. United States*, 517 U.S. 690, 695–96 (1996). Probable cause "is not a high bar." *State v. Jones*, 435 S.C. 138, 145, 866 S.E.2d 558, 562 (2021) (quoting *Kaley v. United States*, 571 U.S. 320, 338 (2014)). It requires only a "fair probability" upon which "reasonable and prudent people" might act. *Id.*

"There is, of course, a presumption of validity with respect to the affidavit supporting the search warrant." *Franks v. Delaware*, 438 U.S. 154, 171 (1978). Moreover, the standard for review of a magistrate's probable cause determination is highly deferential, and a reviewing court must uphold the validity of the search warrant if there is any "substantial basis" for concluding that a search would uncover evidence of a crime. *Illinois v. Gates*, 462 U.S. 213, 236 (1983). Even where an affidavit's statement of probable cause is "doubtful or marginal," a reviewing court should resolve such cases in favor of the warrant. *Id.* at 237 n.10 (quoting *United States v. Ventresca*, 380 U.S. 102, 109 (1965)).

The evidence presented before this Court established that officers with the York County

Multijurisdictional Drug Enforcement Unit spent years investigating Applicant for her suspected role in a drug trafficking organization. During that investigation, officers obtained three separate search warrants for Applicant's residence at 625 Cauthen Street in Rock Hill, South Carolina. The first, issued on November 23, 2020, was based on Investigator Daniella Gatti's affidavit articulating the following grounds for probable cause: that officers learned Applicant resided at 625 Cauthen Street in Rock Hill, South Carolina, from Applicant's DMV records listing that location as her current address; that officers confirmed Applicant resided at that location through overnight surveillance; and that officers had obtained marijuana and torn plastic bags from the residence in the preceding 72 hours. The affidavit also states that "additional sworn oral testimony" would be provided to the issuing judge; at the PCR hearing, Investigator Gatti explained that this "additional sworn oral testimony" concerned the fact that officers obtained the marijuana and torn plastic bags by conducting a "trash pull" from the residence.

The affidavit for the second warrant, issued on March 24, 2021, was prepared by Investigator Sean Leary. The 2021 affidavit recites the same facts concerning the officers' identification of 625 Cauthen Street as Applicant's residence. The affidavit then explains that Applicant was arrested in December of 2020 with marijuana and a trafficking amount of methamphetamine. Finally, the affidavit states that officers had seized marijuana and torn plastic bags from the residence in the preceding 72 hours, with "additional sworn testimony" provided to the issuing judge. Investigator Leary also testified at the evidentiary hearing that the marijuana and torn plastic bags described in the affidavit were obtained from Applicant's trash.

The affidavit for the third search warrant, issued on March 16, 2022, was prepared by Investigator Joshua Englert. That affidavit likewise recited how investigators identified 625 Cauthen Street as Applicant's residence. It also recited Applicant's December 2020 arrest. The

affidavit then stated that, after Applicant's arrest in December of 2020, a confidential informant advised investigators that Applicant was still distributing illegal narcotics, and officers executed a search warrant on 625 Cauthen Street in March of 2021, finding a trafficking amount of methamphetamine. The 2022 affidavit went on to state that a different confidential informant told investigators that Applicant was again distributing illegal drugs in February of 2022. Finally, the affidavit stated that marijuana and torn plastic bags were seized from 625 Cauthen Street in the preceding 72 hours and that "additional sworn testimony" would be provided to the issuing judge. In his deposition,² Investigator Englert explained that he told the issuing judge about the marijuana being found in Applicant's trash.

The evidence before this Court clearly establishes that, for all three search warrants, the issuing judge was informed that marijuana and torn plastic bags were obtained from Applicant's residence pursuant to a "trash pull" conducted within 72 hours of preparing the search warrant affidavit. In addition, the 2021 and 2022 affidavits explain that Applicant had a prior arrest for possession of marijuana and trafficking methamphetamine in December of 2020, and the 2022 affidavit explains that a trafficking amount of methamphetamine was discovered during the 2021 search of the residence following a tip from a confidential informant. The 2022 affidavit also states that investigators were told by a different confidential informant that Applicant was still dealing drugs as recently as February of 2022. In each case, the issuing judge found probable cause existed to justify a search warrant. Nevertheless, Applicant now contends that *none* of the three warrants was adequately supported by probable cause.

Applicant presents three arguments in support of her position that the warrants in her case

² Investigator Englert did not testify at the evidentiary hearing, but Applicant and the State agreed to introduce a transcript of his earlier deposition in lieu of his testimony.

were not supported by probable cause; first, some of the language in the 2021 and 2022 search warrant affidavits was copied and pasted from previous affidavits; second, the substance found in Applicant's trash, which officers identified as marijuana, was never chemically tested; and finally, the informants mentioned in the 2021 and 2022 affidavits who supplied intelligence concerning Applicant's drug dealing activities were not shown to be reliable. The Court finds each of these arguments is without merit.

First, the mere fact that officers copied and pasted some of the language in their search warrant affidavits is not improper and does not render such language insufficient to support probable cause. Investigator Englert, who prepared the 2022 search warrant affidavit, explained that he would only copy portions of a previous affidavit if the same language would also apply to the new affidavit; if any pertinent information had changed, he would change the language of the affidavit accordingly:

Q: So if you are getting multiple search warrants for one case, is it common for the information that you believe establish probable cause in the affidavit, to be similar in each of those warrants, or the same in each of those warrants?

A: Similar, yes. Only *the pertinent information would change* if the circumstances surrounding the search warrant are the same. . . .

When I said pertinent information, I would—I was specifically talking about the way that the evidence was obtained, location, date, time, and those specifics. If we got the evidence in the same manner, then yes, it would read very similarly. Because otherwise you're just doing extra work for no reason to type it all back from memory.

Q: Okay. So whenever you obtain the materials in the same way, you would just copy and paste so that you weren't doing extra work?

A: Sure. *And then you would change the information relevant to that specific incident.*

(Englert Depo. pp.19–20) (emphasis added).

Q: In your search warrant affidavit, you stated "Additional sworn testimony provided to the issuing judge." That was the last line, correct?

A: Right.

Q: All right. And that language is in every search warrant affidavit that your department submits, correct?

A: *No.*

Q: No. So you would have only put that in a search warrant where you intended to get that information?

A: *Correct.*

Q: It is in the previous warrant from officer Leary as well, is that correct?

A: Yes.

Q: And did you speak with the judge when you submitted the search warrant affidavit in March of 2022?

A: Yes.

...

Q: Okay. And what exactly additional information did you give the judge that wasn't contained in your search warrant?

A: Only the means at which we obtained the evidence which was through the trash pull.

(Englert Depo. pp.41–42) (emphasis added). The fact that the officers appropriately took care to change relevant information is clear even from the face of the affidavits; the 2021 affidavit contains information that was not contained in the 2020 affidavit (relating to Applicant's arrest), and the 2022 affidavit contains information that was not contained in either previous affidavit (relating to the two different informants and the result of the 2021 search).

The evidence is clear that the three separate search warrants were obtained following three separate trash pulls, each conducted within 72 hours of preparing the subsequent affidavit and each uncovering evidence of marijuana and torn plastic bags in Applicant's trash. Investigator Gatti testified that she was present at all three trash pulls and that all three yielded marijuana. Applicant herself introduced photographs of the evidence bags from all three trash pulls at the PCR hearing. Those photographs depict the dates on which those trash pulls were conducted: 11/23/2020, 3/22/2021, and 3/14/2022—all within 72 hours of the respective search warrant affidavits.

Applicant does not contest the fact that each search warrant was independently based on evidence obtained from a trash pull within the preceding 72 hours. There is obviously nothing

improper about including accurate information in a search warrant affidavit. The mere fact that, to save time, busy officers occasionally convey accurate and up-to-date information using language copied-and-pasted from older affidavits (after ensuring that all pertinent information has been appropriately changed, where necessary) is perfectly reasonable and cannot possibly serve to defeat probable cause.³ See *Ventresca*, 380 U.S. at 108 (Search warrant affidavits should be reviewed “in a commonsense and realistic fashion,” and courts should make allowances for the fact that such affidavits “are normally drafted by nonlawyers in the midst and haste of a criminal investigation.”).

Applicant’s next argument is that the substance found in her trash was never proved to be

³ Applicant’s proposed order claims Investigator Englert made “the contradictory and confusing statement that, in his opinion, the trash pulls would not establish probable cause because it was information that was already available from a prior search warrant.” (Applicant’s Proposed Order p.8). The proposed order goes on to state, apparently on this basis, that “the officers gave contradictory testimony” and, therefore, their testimony “was not credible.” (Applicant’s Proposed Order p.10).

Applicant’s interpretation of Englert’s deposition testimony is simply inaccurate. In the portion cited by the proposed order, Applicant’s Counsel asked Investigator Englert to refer back to the 2021 search warrant affidavit. She then asked him whether the fact that the same language appeared in the 2021 affidavit would establish probable cause for his 2022 affidavit. He acknowledged, correctly, that it would not. (Englert Depo. p.29).

What he did *not* say is that the use of similar language in his own affidavit would not establish probable cause. He clearly and consistently testified that a trash pull was conducted on March 14, 2022—within 72 hours of his obtaining the search warrant dated March 16, 2022—that turned up marijuana and torn plastic baggies. He was clear that this trash pull was part of the evidence he presented to the magistrate to establish probable cause. The idea that Englert believed the March 14, 2022, trash pull would not establish probable cause, merely because the 2021 search warrant was also based on a trash pull, is plainly absurd.

Regardless, this supposed “contradiction” goes only to Investigator Englert’s view of probable cause, which is irrelevant. The pertinent question is whether the issuing judge had a substantial basis for finding probable cause. Nor could this purported “contradiction” support the proposed order’s conclusion that *all* the officers’ testimony “was not credible.” The testimony of Investigators Gatti, Leary, and Englert is thoroughly consistent on every material point.

marijuana by chemical analysis. Applicant acknowledges that there is no binding South Carolina precedent requiring that suspected drugs must be tested before they can be identified as contraband for purposes of establishing probable cause. However, she has marshalled a group of cases from other jurisdictions in which probable cause was evaluated after a chemical analysis *was* performed. None of these cases actually states that a chemical analysis is necessary for probable cause; nevertheless, Applicant argues by way of a negative inference that these cases tacitly endorse the proposition that probable cause *cannot* be found where the suspected drugs have *not* been tested.

It is telling that Applicant cannot cite a *single* case, from any of the far-flung jurisdictions she has explored, that expressly states the proposition she now asks this Court to adopt. However, the courts' silence on this point is not surprising: there simply *is no requirement* that the illegal nature of suspected drugs must first be confirmed, by chemical testing, before those drugs can be used to support probable cause. The probable cause standard "does not deal with hard certainties, but with probabilities." *Gates*, 462 U.S. at 231 (quoting *United States v. Cortez*, 449 U.S. 411, 418 (1981)). Law enforcement officers, like all practical people, are permitted to draw conclusions based on their own common sense. *Id.* at 231–32. "[P]robable cause is a fluid concept" for which "[r]igid legal rules are ill-suited." *Id.* at 232.

In this case, Investigator Gatti testified that she identified the substance found in Applicant's trash as marijuana based on her experience and training. Applicant suggests an officer's experience and training alone can never support probable cause for concluding that the substance was marijuana. This suggestion is meritless; on the contrary, the Supreme Court has directed that evidence presented in a search warrant affidavit "must be seen and weighed . . . as understood by those *versed in the field of law enforcement*." *Id.* (emphasis added). And officers are called on constantly to make probable cause determinations on the basis of their training and

experience alone.

Take, for example, an officer who, having stopped a vehicle for a traffic infraction, observes in plain view a baggie full of suspicious white powder in the driver's lap. Must the officer wait for a chemical analysis to confirm that the powder is contraband before he can establish probable cause to seize the baggie, arrest the driver, or search the car? Of course not; he is entitled to rely on the suspicious appearance of the substance, his own training and experience, and plain common sense to determine that the baggie *probably*—even if not *certainly*—contains illegal drugs.

In such a case, a chemical analysis would be not only unnecessary but impractical. The same is true in this case, as Investigator Leary testified:

Q: And before you went to get that search warrant, the marijuana was never tested; correct?

A: I don't know if it was ever submitted for testing. I can tell you if we had submitted it for testing, we would not have gotten analysis back within 72 hours, which is why we lean on training and experience.

(PCR Tr. pp.24–25). It makes no sense to require, on the one hand, that officers seek an affidavit within 72 hours of conducting a trash pull (to avoid basing the affidavit on “stale” evidence), while on the other hand insisting that officers first submit the evidence in question for chemical testing that will take *more than 72 hours* to deliver results. For purposes of establishing probable cause—which, again, “is not a high bar”—an officer's personal observation of the substance, interpreted through the lens of his or her training and experience, is manifestly sufficient.

There is another important reason why this Court declines to rely on Applicant's tenuous inference from her collection of out-of-state cases: South Carolina's own appellate courts have already spoken on the subject of probable cause based on trash pulls. In *State v. Rutledge*, 373 S.C. 312, 644 S.E.2d 789 (Ct. App. 2007), the South Carolina Court of Appeals upheld a search

warrant based solely on three facts: an informant's tip, the defendant's prior convictions for drug offenses, and marijuana found in a "trash pull" from the defendant's residence. Similarly, in *State v. Jones*, 435 S.C. 138, 866 S.E.2d 558 (2021), the South Carolina Supreme Court upheld a search warrant based solely on tips of "short-term traffic" at the defendant's home and a trash pull that uncovered torn plastic baggies, empty cigar tubes, and burnt remains of cigars containing marijuana. Neither of these cases stated, or even implied, that chemical analysis of the suspected marijuana was necessary to sustain the magistrate's finding of probable cause. *Rutledge* does not even mention whether the suspected marijuana was ever confirmed to be marijuana. Applicant has not identified any meaningful difference between the affidavits in *Rutledge* and *Jones* and the affidavits at issue in the present case. In fact, Applicant has failed to discuss *Rutledge* and *Jones* at all, despite the almost complete factual overlap between those cases and this one.

Finally, Applicant complains that the informant's tip articulated in the 2022 affidavit was not sufficient to establish probable cause. In her proposed order, Applicant complains that the tip supplied by the informant in early 2021 was "more than a year" old and, therefore, stale by the time of the 2022 affidavit. However, the proposed order completely fails to mention the fact that the 2022 affidavit expressly mentions a *second, different* informant in *February of 2022*, only a month before the affidavit was sworn on March 16, 2022.

Applicant also contends the informant was not corroborated or otherwise shown to be reliable. This argument is defeated by *Rutledge* and *Jones*. In *Rutledge*, the defendant claimed the affidavit failed to set forth "information supporting the credibility of the informant and the basis of his knowledge." *Rutledge*, 373 S.C at 317–18, 644 S.E.2d at 791. The court of appeals, however, held that such information was unnecessary in that case because the informant's credibility and veracity were substantially corroborated by the results of the trash pull. *Id.* at 318,

644 S.E.2d at 791–92. Similarly, in *Jones*, the supreme court held the tips of short-term traffic were consistent with, and corroborated by, the subsequent trash pull, which revealed not only marijuana residue but also evidence—in the form of torn plastic baggies—that was “indicative of narcotics resale.” *Jones*, 435 S.C. at 146, 866 S.E.2d at 562. The present case is no different. Here, acting on a tip that Applicant was once again selling drugs, officers conducted a trash pull that yielded not only marijuana but also torn plastic bags suggesting drug dealing activity. The informant’s tip was sufficiently corroborated by the result of the trash pull. *See Gates*, 462 U.S. at 244–45 (“It is enough, for purposes of assessing probable cause, that ‘corroboration through other sources of information reduced the chances of a reckless or prevaricating tale,’ thus providing ‘a substantial basis for crediting the hearsay.’”) (quoting *Jones v. United States*, 362 U.S. 257, 269–71 (1960)).

There was other information supporting probable cause, in addition to the trash pull and the informant’s corroborated tip. The 2021 and 2022 affidavit both mentioned the fact that Applicant was arrested in December of 2020 with marijuana and a trafficking amount of methamphetamine. The 2022 affidavit also states that a trafficking amount of methamphetamine was found at Applicant’s house during the 2021 search. Evidence that an individual has a history of drug trafficking can support probable cause, insofar as it tends to lend credibility to an informant’s tips, give context to otherwise ambiguous evidence, or suggest a criminal purpose behind what superficially appears to be innocent conduct. *See Rutledge*, 373 S.C. at 317–18, 644 S.E.2d at 791–92 (holding a defendant’s prior convictions for marijuana offenses served to substantiate the informant’s tip and was one the circumstances in the affidavit supplying a “substantial basis” for the magistrate’s finding of probable cause); *United States v. Carswell*, 996 F.3d 785, 792 (7th Cir. 2021) (upholding a search warrant based, in part, on the defendant’s prior

convictions: “Such prior convictions will not by themselves establish probable cause for a search. . . . But those prior convictions can be relevant and ‘retain some corroborative value.’”) (quoting *United States v. Olson*, 408 F.3d 366, 372 (7th Cir. 2005)); *United States v. McDuffy*, 636 F.3d 361, 364 (7th Cir. 2011) (holding a warrant was properly supported by probable cause in part because the defendant’s “many prior drug convictions cast doubt on any innocent explanations for the marijuana flake, the currency handoff, and the stream of visitors to his home”).

For all these reasons, the Court finds Applicant has failed to prove that the search warrants would have been found invalid, even if Counsel had more thoroughly investigated the suppression issue or made a motion to suppress.

b) The evidence was admissible because officers relied on the warrants in good faith.

As discussed above, each of the search warrants issued in this case was valid. However, even if all of the search warrants were invalid and the resulting searches illegal, that does not mean the evidence obtained pursuant to those warrants was necessarily inadmissible under the exclusionary rule. The law is clear that, even when evidence is the fruit of an illegal search, that evidence should not be suppressed when the officers involved had a good faith belief that their conduct was lawful.

The exclusionary rule “is a judicially created remedy designed to safeguard Fourth Amendment rights generally through its deterrent effect, rather than a personal constitutional right of the party aggrieved.” *U.S. v. Calandra*, 414 U.S. 338, 348 (1974). “The deterrent purpose of the exclusionary rule necessarily assumes that the police have engaged in willful, or at the very least negligent, conduct which has deprived the defendant of some right”; the purpose of the exclusionary rule is “to instill in those particular investigating officers, or in their future counterparts, a greater degree of care toward the rights of an accused.” *Michigan v. Tucker*, 417

U.S. 433, 447 (1974). “The rule’s sole purpose, we have repeatedly held, is to deter future Fourth Amendment violations.” *Davis v. U.S.*, 564 U.S. 229, 236–37 (2011). Therefore, the exclusionary should only be applied where the benefits of deterring future police misconduct outweigh the “heavy costs” of exclusion: namely, requiring courts “to ignore reliable, trustworthy evidence bearing on guilt or innocence”; to “suppress the truth”; and often to “set the criminal loose in the community without punishment.” *Id.*

The exclusionary rule is harsh medicine. The jury is charged with the duty of searching for the truth to determine the innocence or guilt of the accused, within the appropriate legal standard. Denial of probative evidence detracts from that search. Exclusion should be applied only where deterrence is clearly subverted.

State v. Sachs, 264 S.C. 541, 566, 216 S.E.2d 501, 514 (1975).

For this reason, the courts of South Carolina and the federal courts have long recognized a “good faith” exception to the exclusionary rule: “When police officers act with an objectively reasonable good-faith belief that their conduct is lawful, trial courts will not exclude evidence seized as a result of that conduct, even though it later turns out the conduct violated the constitution.” *State v. Carter*, 445 S.C. 157, 162, 912 S.E.2d 264, 267 (2025) (internal quotations omitted). “[W]hen the police act in good faith, ‘the deterrence rationale loses much of its force.’” *Id.* at 163, 912 S.E.2d at 267 (quoting *Davis*, 564 U.S. at 238). In such cases, the deterrent function of the exclusionary rule no longer justifies its heavy social costs, and trial courts should not suppress the evidence. *Id.* at 163, 912 S.E.2d at 267–68.

The rationale behind the good faith exception applies most forcefully when officers act pursuant to a facially valid search warrant issued by a magistrate:

It is the magistrate’s responsibility to determine whether the officer’s allegations establish probable cause . . . [A]n officer cannot be expected to question the magistrate’s probable-cause determination or his judgment that the form of the warrant is technically sufficient.

“[O]nce the warrant issues, there is literally nothing more the policeman can do in seeking to comply with the law.” . . . Penalizing the officer for the magistrate's error, rather than his own, cannot logically contribute to the deterrence of Fourth Amendment violations.

U.S. v. Leon, 468 U.S. 897, 921 (1984) (quoting *Stone v. Powell*, 428 U.S. 465, 498 (1976) (Burger, C.J., concurring)).

In this case, it is clear that the officers involved took pains to comply with the Constitution at every step. They preceded each search warrant with a trash pull to look for evidence that Applicant was dealing drugs—a practice expressly blessed by the United States Supreme Court as consistent with the Fourth Amendment. *See California v. Greenwood*, 486 U.S. 35 (1988). Each trash pull yielded evidence that the officers, based on their training and experience, identified as marijuana, as well as torn plastic baggies suggestive of drug dealing. Within 72 hours of each trash pull, the officers promptly prepared an affidavit reciting the evidence found in the trash pull and presented it to the issuing judge. That judge, and not the officers themselves, ultimately made the finding that the facts articulated in the search warrant affidavit and supplemented by the officers' sworn oral testimony sufficiently stated probable cause to justify issuing a search warrant. The officers, relying on the judge's finding, faithfully executed the search warrant; there is no indication, or even allegation, that any officer exceeded the scope of the warrant in any of the three cases. Even if a reviewing court somehow found those search warrants to be defective, it could not possibly have found that the officers acted with reckless or willful disregard for Applicant's Fourth Amendment rights.

Therefore, notwithstanding any purported defects in the search warrant affidavits in this case, the evidence obtained from those searches would almost certainly have come in under the good faith exception to the exclusionary rule.

c) Notwithstanding the suppression issue, Counsel's advice was reasonable.

For the reasons explained above, Applicant's contention that there was a "reasonable likelihood" of suppressing the evidence is incorrect. However, even if suppression were "reasonable likely," Counsel still had many compelling reasons to believe Applicant would probably be convicted at trial and receive a substantially higher sentence. Regardless of the suppression issue, therefore, the Court finds Counsel quite reasonably advised Applicant to plead guilty rather than go to trial.

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668 (1984). 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 or sentence. *Id.* at 687. First, the applicant must show that counsel's performance was deficient; and second, that the deficient performance prejudiced the applicant. *Id.* at 668.

In order to prove deficient performance, the applicant must show counsel's representation fell below an objective standard of "reasonableness under prevailing professional norms." *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). *Strickland*, however, "does not guarantee perfect representation[—]only a 'reasonably competent attorney.'" *Harrington v. Richter*, 562 U.S. 86, 110 (2011) (quoting *Strickland*, 466 U.S. at 687). Just as there is "no expectation that competent counsel will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be remote possibilities." *Id.*, see also *Yarborough v. Gentry*, 540 U.S. 1, 8 (2003) ("The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the

benefit of hindsight.”). Rather, Counsel’s performance, even if “far from exemplary,” will only be found deficient if “no competent lawyer” would have acted the same way. *Dunn v. Reeves*, 594 U.S. 731, 739 (2021).

“[S]trict adherence to the *Strickland* standard [is] all the more essential when reviewing the choices an attorney made at the plea bargain stage.” *Premo v. Moore*, 562 U.S. 115, 125 (2011). “Plea bargains are the result of complex negotiations suffused with uncertainty, and defense attorneys must make careful strategic choices in balancing opportunities and risks.” *Id.* at 124.

[T]he decision to plead guilty before the evidence is in frequently involves the making of difficult judgments. All the pertinent facts normally cannot be known unless witnesses are examined and cross-examined in court. Even then the truth will often be in dispute. In the face of unavoidable uncertainty, the defendant and his counsel must make their best judgment as to the weight of the State's case. Counsel must predict how the facts, as he understands them, would be viewed by a court. If proved, would those facts convince a judge or jury of the defendant's guilt? On those facts would evidence seized without a warrant be admissible? Would the trier of fact on those facts find a confession voluntary and admissible? Questions like these cannot be answered with certitude; yet a decision to plead guilty must necessarily rest upon counsel's answers, uncertain as they may be. *Waiving trial entails the inherent risk that the good-faith evaluations of a reasonably competent attorney will turn out to be mistaken either as to the facts or as to what a court's judgment might be on given facts.*

...
Courts continue to have serious differences among themselves on the admissibility of evidence, both with respect to the proper standard by which the facts are to be judged and with respect to the application of that standard to particular facts. That this Court might hold a defendant's confession inadmissible in evidence, possibly by a divided vote, hardly justifies a conclusion that the defendant's attorney was incompetent or ineffective when he thought the admissibility of the confession sufficiently probable to advise a plea of guilty.

McMann v. Richardson, 397 U.S. 759, 769–70 (1970) (emphasis added).

Even if this Court were to agree with Applicant’s position that the evidence was likely to

be suppressed, that finding alone would “hardly justif[y] a conclusion that [Counsel] was incompetent or ineffective.” *Id.*; see also *Parker v. North Carolina*, 397 U.S. 790, 797–98 (1970) (“[E]ven if Parker’s counsel was wrong in his assessment of Parker’s confession, . . . we think the advice he received was well within the range of competence required of attorneys representing defendants in criminal cases.”). Even if the evidence from the search warrants was highly likely to be suppressed, Counsel would still have been perfectly justified in his pessimistic appraisal of Applicant’s chances at trial and his recommendation to accept the State’s plea offer. Weighing the risks and benefits of pleading guilty, compared with going to trial and gambling on the success of a suppression motion, “is precisely the sort of calculated risk that lies at the heart of an advocate’s discretion.” *Yarborough*, 540 U.S. at 9.

Applicant was facing numerous charges arising out of several distinct incidents. One of the charges she faced—trafficking methamphetamine over 400 grams (Indictment No. 2020-GS-46-07459)—was not based on a search warrant at all, but on evidence discovered in Applicant’s car during a traffic stop *prior* to any of the three searches of Applicant’s house. No alleged defect in the search warrants could have kept that evidence from coming in. Moreover, that charge alone carried a mandatory minimum sentence of 25 years’ imprisonment, far higher than the negotiated aggregate sentence of 17 years offered by the State for *all* Applicant’s charges.⁴ In addition,

⁴ As issue 1 in her original PCR application and issue 4 in her proposed order, Applicant claims Counsel was ineffective for failing to review the videos from the traffic stop. Applicant speculates that, had Counsel more thoroughly investigated the traffic stop, he might have discovered some constitutional infirmity that would have rendered that evidence inadmissible also. However, Applicant failed to present any evidence at the evidentiary hearing to support this claim. To prove prejudice from counsel’s alleged failure to adequately investigate the case, a PCR applicant *must* introduce some evidence at the evidentiary hearing that would have been discovered by a more thorough investigation and show that it would have benefited the defense. See, e.g., *Martin v. State*, 427 S.C. 450, 455, 832 S.E.2d 277, 279–80 (2019) (holding a PCR applicant who claims trial counsel was ineffective for failing to call certain witnesses must produce those witnesses or

Counsel testified that the State could have held separate trials for each of the different incidents, giving the prosecution several “bites at the apple.” Any conviction would have permitted the State to enhance Applicant’s remaining charges to second or subsequent offenses, greatly increasing her potential sentencing exposure. The fact that Applicant’s charges covered many separate incidents also increased the risk that Applicant would receive consecutive sentences, as opposed to the concurrent sentences the State was offering in the plea deal.

Furthermore, Counsel explained his fear that Applicant’s co-defendants would testify against her. Counsel noted he was briefly appointed to defend another individual who, unbeknownst to him, was one of three co-defendants who planned to testify against Applicant.⁵

their testimony at the PCR hearing); *Taylor v. State*, 258 S.C. 369, 378, 188 S.E.2d 850, 854 (1972) (holding a PCR applicant’s allegation that his trial counsel failed to adequately investigate his case was unsupported where the applicant failed to point out any beneficial evidence which could have been discovered by further investigation). Therefore, the Court finds Applicant has not met her burden of proof as to this issue.

⁵ In her proposed order, Applicant claims Counsel had a “conflict of interest” as a result of this inadvertent contact with Applicant’s co-defendant. Applicant also attacks Counsel for violating the attorney-client privilege by revealing the information he learned from the co-defendant. These allegations were not made in Applicant’s initial PCR application or in her amended application. Neither the State nor Counsel were given notice that they would be called upon to respond to such allegations. Applicant appears to believe these allegations are “fair game” because she did not discover Counsel’s involvement with the co-defendant until Counsel testified at the PCR hearing; however, that does not justify raising those claims for the first time in a *proposed order*. These issues were not “tried by express or implied consent of the parties” as required for post-hearing amendments under Rule 15(b), SCRCP, and Applicant did not even file a motion to amend her application to conform to the evidence as required by that Rule. These allegations are, therefore, not properly before the Court.

Regardless, there is no evidence that Counsel’s ephemeral contact with Applicant’s co-defendant was in any way improper. As soon as Counsel discovered that individual’s connection to Applicant’s case and the plan to testify against her, he immediately terminated his relationship with that person to *prevent* a conflict of interest. Nor is there any evidence to support Applicant’s charge that Counsel violated the attorney-client privilege. There is no indication that the co-defendant’s plan to cooperate with the State against Applicant was intended to be confidential (surely, the co-defendant must have anticipated that the *State*, at the very least, would be told of

Counsel's knowledge that Applicant's co-defendants planned to cooperate with the State justified his belief that Applicant faced a substantial risk of being convicted at trial, regardless of any suppression motion.

In addition, Applicant had given inculpatory statements admitting her involvement in the drug trafficking organization. Applicant has not presented any reason why those statements could not have come in against her at trial. That evidence, too, justified caution in evaluating Applicant's chances of acquittal at trial.

Counsel's belief that Applicant faced a significant probability of being convicted at trial and receiving a much higher sentence than she faced under the State's plea agreement was objectively reasonable, even if there had been a chance of successfully suppressing the evidence collected from the search warrants. Therefore, Counsel's recommendation to accept the State's plea offer in this case was not deficient.⁶

his intentions). On the contrary, Counsel stated that there were *three* co-defendants who planned to testify, which suggests the plan was not a secret. The burden is Applicant to prove her allegations of Counsel's misconduct; for these allegations, she has presented nothing but speculation. Finally, even if Counsel did improperly betray the *co-defendant's* confidences, his conduct clearly did not prejudice *Applicant*. On the contrary, it worked to Applicant's benefit by providing her with information she otherwise might not have learned until it was too late.

⁶ Applicant also alleges, as issue 2 in both her original PCR application and her proposed order, that Counsel was deficient for only visiting her four times prior to her guilty plea. This allegation was not supported by the evidence presented at the evidentiary hearing. Moreover, the brevity of time spent by counsel in consultation with a defendant is not, by itself, indicative of inadequate preparation. *Collins v. State*, 422 S.C. 250, 258, 810 S.E.2d 871, 875 (2018) (holding counsel's performance was not deficient, even though he represented his client for only six weeks and met with him only twice prior to trial). In addition, to prove prejudice, the applicant must show a reasonable probability that additional time spent in preparation would have changed the outcome of his case. *Id.* at 259–60, 810 S.E.2d at 876 (citing *Jackson v. State*, 329 S.C. 345, 353–54, 495 S.E.2d 768, 772 (1998); *Skeen v. State*, 325 S.C. 210, 214–15, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how an alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. *Harris v. State*, 377 S.C. 66, 75–76, 659 S.E.2d 140, 145–46 (2008) (citing *Glover v. State*, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)), *abrogated on other*

d) Applicant's plea was not unknowing or unintelligent.

Even if—contrary to all of the above—the Court were to find that Counsel's advice was mistaken, that would not render Applicant's guilty plea invalid. The requirement that a guilty plea be "knowing and intelligent" simply means that the defendant must possess a *general* understanding of the nature of the charges and the consequences of pleading guilty. It does not mean that a defendant must have a correct, detailed understanding of every potential defense or strategy available in her case before she can validly enter a binding guilty plea.

To satisfy the second, or "prejudice," prong of *Strickland*, an applicant must demonstrate counsel's deficient performance prejudiced her such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625. A reasonable probability is a probability "sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. In the context of a guilty plea, the applicant must show that there is a reasonable probability that, but for counsel's alleged errors, she would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

Even if the Court were to accept Applicant's argument that Counsel failed to properly advise her about the viability of a suppression motion, that would not be sufficient to render her guilty plea involuntary. When a defendant pleads guilty, "he assumes the risk of ordinary error in either his or his attorney's assessment of the law and facts." *McMann*, 397 U.S. at 774. "A defendant who accepts a plea bargain on counsel's advice does not necessarily suffer prejudice when his counsel fails to seek suppression of evidence, even if it would be reversible error for the

grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018). Accordingly, the Court finds Applicant has not met her burden of proof as to this allegation.

court to admit that evidence.” *Premo*, 562 U.S. at 129.

To the contrary, this Court has found that the Constitution, in respect to a defendant's awareness of relevant circumstances, does not require complete knowledge of the relevant circumstances, but permits a court to accept a guilty plea, with its accompanying waiver of various constitutional rights, despite various forms of misapprehension under which a defendant might labor. *See Brady v. United States*, 397 U.S., at 757, 90 S.Ct. 1463 (defendant “misapprehended the quality of the State's case”); *ibid.* (defendant misapprehended “the likely penalties”); *ibid.* (defendant failed to “anticipate” a change in the law regarding relevant “punishments”); *McMann v. Richardson*, 397 U.S. 759, 770, 90 S.Ct. 1441, 25 L.Ed.2d 763 (1970) (counsel “misjudged the admissibility” of a “confession”); *United States v. Broce*, 488 U.S. 563, 573, 109 S.Ct. 757, 102 L.Ed.2d 927 (1989) (counsel failed to point out a potential defense); *Tollett v. Henderson*, 411 U.S. 258, 267, 93 S.Ct. 1602, 36 L.Ed.2d 235 (1973) (counsel failed to find a potential constitutional infirmity in grand jury proceedings).

United States v. Ruiz, 536 U.S. 622, 630–31 (2002). Applicant’s claim that she was unaware of the possibility of suppressing the evidence against her “does not impugn the truth or reliability of [her] plea.” *Brady v. United States*, 397 U.S. 742, 757 (1970). “We find no requirement in the Constitution that a defendant must be permitted to disown his solemn admissions in open court that he committed the act with which he is charged simply because it later develops that the State would have had a weaker case than the defendant had thought.” *Id.*

Applicant herself made such “solemn admissions” in her plea colloquy. Her responses to the plea court’s questions establish that she possessed a general understanding of the nature of the charges against her, the sentences she was facing, and the rights she would be giving up by pleading guilty. She clearly indicated her decision to plead guilty was voluntary. The plea court found that her guilty plea was free, knowing and intelligent. (Plea Tr. p.17).⁷

⁷ As issue 3 in Applicant’s original PCR application and in her proposed order, Applicant claims Counsel told her what responses she should give to the plea judge’s questions. However, Applicant

Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. *See Blackledge v. Allison*, 431 U.S. 63, 74 (1977) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible."). "Indeed, where a thorough colloquy is conducted, courts must exercise caution in setting aside the guilty plea." *Garren v. State*, 423 S.C. 1, 12, 813 S.E.2d 704, 712 (2018); *see Jamison v. State*, 410 S.C. 456, 469–71, 765 S.E.2d 123, 129–30 (2014) (observing that "guilty plea[s] must be treated as final in the vast majority of cases" and instructing that caution must be exercised so as not to "undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea"). Statements made during a guilty plea should be considered conclusive unless an applicant presents valid reasons why she should be allowed to depart from the truth of her statements. *Dalton v. State*, 376 S.C. 130, 137–38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

Applicant now claims she would not have pled guilty if she had known there was a viable

has not alleged—much less proved—that her responses were not truthful. Accordingly, the Court finds Applicant has not met her burden of proving she is entitled to post-conviction relief on this ground. *See, e.g., Moorehead v. State*, 329 S.C. 329, 333, 496 S.E.2d 415, 417 (1998) (holding an applicant's claim that he answered the plea judge's questions affirmatively based on counsel's alleged advice that the questions were meaningless does not support granting PCR); *Wolfe v. State*, 326 S.C. 158, 165, 485 S.E.2d 367, 370–71 (1997) (holding counsel's alleged statement that the plea judge's questions were "routine" was not an invitation for applicant to answer them untruthfully or to believe they meant nothing); *see also Edmonds v. Lewis*, 546 F.2d 566, 568 (4th Cir. 1976) (dismissing claim that habeas petitioner gave false answers during plea colloquy where petitioner "[did] not allege that his attorney instructed him to answer the trial court's inquiries falsely nor . . . claim his attorney made a threat intended to induce him to perjure himself.").

chance of suppressing the evidence against her. This is not a “valid reason” to allow her to depart from the truth of her sworn statements at the guilty plea hearing. The subsequent discovery “that the State would have had a weaker case than [Applicant] had thought” does not mean her plea was unknowing or unintelligent when made. *Brady*, 397 U.S. at 757. Nor does it, in any way, “impugn the truth or reliability of [her] plea.” *Id.* An otherwise voluntary and intelligent guilty plea may not be vacated merely because the defendant was not advised of every conceivable defense she might have to the charge. *Tollett v. Henderson*, 411 U.S. 258, 267 (1973). The requirement that a guilty plea be “knowing and intelligent” is *not* a requirement that a defendant consciously waive each potential defense foreclosed by a plea of guilty. *United States v. Broce*, 488 U.S. 563, 573 (1989).

Therefore, even if Counsel failed to correctly advise Applicant about the likelihood of suppressing the evidence against her, that failure would not render Applicant’s guilty plea unknowing or unintelligent. The Court finds Applicant entered her guilty plea of her own free will with a general understanding of the nature of the charges and the consequences of her plea. That is all that is required for her guilty plea to be knowing, intelligent, and voluntary. Accordingly, the Court finds Applicant has not met her burden of proof as to this issue.

IV. CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not met her burden of proof as to any of her allegations. Therefore, the Court finds that this PCR application must be denied and dismissed with prejudice.

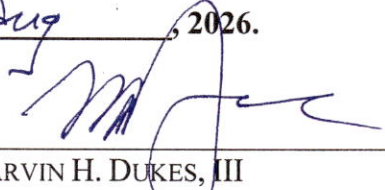
This Court notifies the Applicant that she must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453,

409 S.E.2d 395 (1991), 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 if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant's attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 10 day of Aug, 2026.


MARVIN H. DUKES, III
Presiding Judge
Sixteenth Judicial Circuit

Brandon, South Carolina