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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

S. Bryan Doby, Circuit Court Judge

Case No. 2025-CP-10-1962

Zora Henderson,	Appellant,
v.	
State of South Carolina,	Respondent.

NOTICE OF APPEAL

Zora Henderson hereby appeals the denial and dismissal of her application for post conviction relief in this case. An evidentiary hearing in the matter was convened before the Honorable S. Bryan Doby. Following the hearing, Judge Doby issued a written order denying and dismissing the application with prejudice filed August 17, 2026. Undersigned counsel was emailed a written filed copy of said order on or about the same date

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September 16, 2026

s/ Denise Grainger. Swope
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Attorney for Respondent

) IN THE COURT OF COMMON PLEAS
) NINTH JUDICIAL CIRCUIT

) CASE NO. 2025-CP-10-01962

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Honorable S. Bryan Doby

Denise G. Swope, Esq.

Sydney N. Willingham, Esq.

Michael R. Loignon, Esq.

June 18, 2026

Kay H. Richardson

JULIE J. ARMSTRONG
CLERK, C.P. & G.S.

AUG 17 2026

THE

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 an active fifteen-year sentence. In November 2022, the Charleston County Grand Jury indicted Applicant for attempted armed robbery (2022-GS-10-6575). In May 2023, the Charleston County Grand Jury indicted Applicant for criminal conspiracy to commit armed robbery (2023-GS-10-2723). On December 18, 2023, Applicant appeared before the Honorable Jennifer B. McCoy and pled guilty as indicted pursuant to Alford.¹ Michael Loignon, Esquire, represented Applicant, and Assistant Solicitor Lemuel C. Zeigler represented the State. Judge McCoy sentenced Applicant to concurrent terms of twenty years for attempted armed robbery, suspended upon the service of fifteen years' imprisonment and five years' probation; and five years for criminal conspiracy. Applicant filed a direct appeal, which was dismissed due to Applicant's withdrawal. The remittitur was filed January 30, 2025.

CURRENT APPLICATION

On April 9, 2025, Applicant timely filed this PCR action alleging she is being held in custody unlawfully based on the following:

- 1) "Terms of the plea were not thoroughly explained"
 - a. "was not aware of the time I was facing;"
- 2) Failure to investigate
 - a. "didn't interview witness/check evidence;"
- 3) Failure to communicate
 - a. "spoke to attorney 3x out of a year period"

As relief, Applicant requests "my sentence to be reduce[d]. I would like a fair plea offer that is correctly and [explained in depth]."

¹ Alford v. North Carolina, 379 U.S. 952 (1965).

STANDARD OF REVIEW

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

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

S.C. Code Ann. § 17-27-20(A).

Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive effective assistance of counsel guaranteed by the Sixth Amendment. See generally S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right and raises a question of fact that can only be determined by an evidentiary hearing. Rogers v. State, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland to determine

²S.C. Code Ann. §§ 17-27-10 to -160.

whether counsel's conduct "was so [ineffective] as to require reversal" of the applicant's conviction. Strickland v. Washington, 466 U.S. 668 at 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. Id. at 687-88; Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. Strickland, 466 U.S. at 700; see also Bell v. Cone, 535 U.S. 685, 695 (2002) (explaining that "[without proof of both deficient performance and prejudice to the defense... it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable" (citation and internal quotation marks omitted)).

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

An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice to plead guilty was not "within the range of competence demanded of attorneys in criminal cases." Hill, 474 U.S. at 56. The second, or "prejudice" prong, however, "focuses on whether counsel's constitutionally ineffective performance affected the outcome of the

plea process." Id. at 58-59. Specifically, when an applicant claims counsel's deficient performance caused him to accept a plea, the applicant "must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." Id. at 59.

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

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

Applicant has alleged and elected to pursue various claims of ineffective assistance of counsel through the post-conviction relief action presently before this Court. In analyzing these claims, this Court has considered the legal arguments by counsel and thoroughly reviewed the record in its entirety. This Court additionally heard the testimony presented at the evidentiary hearing and was able to observe the witnesses, which allowed the Court to evaluate and scrutinize their credibility.

Upon conducting and completing its analysis, this Court finds that Applicant has failed to establish any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. See Rule 71.1(e), SCRPC (stating that in a post-conviction relief action, "[t]he applicant has the burden of establishing his entitlement to relief by a

preponderance of the evidence."); Lucero v. State, 414 S.C. 238, 244, 777 S.E.2d 409, 412 (Ct. App. 2015) ("In a PCR proceeding, the applicant bears the burden of establishing that he or she is entitled to relief."); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) ("The burden of proof is on the Applicant in post-conviction proceedings to prove the allegations in his application.").

Accordingly, set forth below are the relevant findings of fact and conclusions of law as required by § 17-27-80 of the South Carolina Code:

INITIAL FINDINGS

This Court finds applicable the strong presumption that at all stages of Plea Counsel's representation of Applicant, he rendered adequate assistance and exercised reasonable professional judgment in his representation. Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (citing Strickland, *supra*). The United States Supreme Court has cautioned that "every effort be made to eliminate the distorting effects of hindsight" and evaluate counsel's decisions at the time they were made. Strickland, 466 U.S. at 689; see Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992).

ALLEGATIONS OF INEFFECTIVE ASSISTANCE OF PLEA COUNSEL

Allegation 1: Failure to communicate.³

Applicant alleges Counsel's representation was constitutionally ineffective. Specifically, Applicant alleges that Counsel was ineffective for failing to thoroughly explain the terms of the plea, and failure to communicate for only meeting three times in a year period. This Court finds this allegation is without merit.

Federal case law holds that there is no constitutional minimum number of meetings

³ This section addresses allegation 1(a) and allegation 3(a) in Applicant's original application.

between attorneys and their clients to satisfy competency. Campbell v. Polk, 447 F.3d 270, 279 fn.2 (4th Cir. 2006). “Brevity of time spent in consultation, without more, does not establish that counsel was ineffective,” Easter v. Estelle, 609 F.2d 756, 759 (5th Cir. 1980) (holding that it is not enough to merely show that counsel only met with his client twice before trial as long as counsel devoted sufficient time to ensure an adequate defense and to become thoroughly familiar with the facts of the case and the law applicable to the case, and holding the record revealed that counsel was so prepared.).

PCR Evidentiary Hearing

At the PCR hearing, Plea Counsel testified he recalls meeting with Applicant approximately 8 times at the jail during his representation. Plea Counsel testified he kept Applicant reasonably informed about the status of her case and that he would also communicate with her by phone. Plea Counsel testified he explained the charges to Applicant and the option of pleading or proceeding to trial. Further, Plea Counsel testified Applicant chose to plea in hopes of receiving a better sentence.

Findings

This Court further finds Applicant has failed to meet her burden of showing Plea Counsel was constitutionally ineffective for failing to meet with Applicant a sufficient number of times. See Campbell v. Polk, 447 F.3d 270, 279 fn.2 (4th Cir. 2006) (no constitutional minimum number of meetings to satisfy competency); United States v. Olson, 846 F.2d 1103, 1108 (7th Cir. 1988) (reciting that there is no constitutional minimum number of meetings between attorney and client and observing that an experienced attorney may get more out of a single meeting than a neophyte); Easter v. Estelle, 609 F.2d 756, 759 (5th Cir. 1980) (“Brevity of time spent in consultation, without more, does not establish that counsel was ineffective.”). Plea Counsel’s *credible* testimony

indicates he met with Applicant and thoroughly informed Applicant of her charges, the elements of the crimes, and potential trial strategies and sentencing outcomes.

Applicant failed to present “any evidence of how additional preparation or communication would have resulted in a different outcome.” Smith v. State, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (Ct. App. 2012); see Jackson v. State, 329 S.C. 345, 353–54, 495 S.E.2d 768, 772 (1998) (explaining that, where an applicant failed to present any evidence of what counsel could have discovered or what other defenses he would have requested counsel pursue had counsel more fully prepared for the trial, applicant failed to show his counsel's lack of preparation prejudiced him); Harris v. State, 377 S.C. 66, 75, 659 S.E.2d 140, 145 (2008) (finding that, when there is evidence counsel met with a defendant in preparation for trial and there is no evidence additional preparation on the part of counsel would have affected the outcome at trial, counsel cannot be said to have been ineffective), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018).

Moreover, to whatever extent Applicant was not entirely satisfied with the amount of time spent in consultation with Plea Counsel, she was presented an opportunity to express her dissatisfaction to the plea court, and instead chose to proceed with her guilty plea. Further, Applicant has failed to show how had she met more frequently with Plea Counsel, that she would not have pled guilty and would have insisted on going to trial. See Hill, supra. Plea Counsel’s testimony shows Applicant was insistent on pleading and that she did not want to go to trial. Applicant has failed to prove deficiency or prejudice and thus this claim is **DENIED** and **DISMISSED**.

Allegation 2: Failure to investigate.

Applicant alleges Counsel's representation was constitutionally ineffective. Specifically, Applicant alleges that Counsel was ineffective for failing to investigate her case by failing to interview witnesses or review evidence. This Court finds this allegation is without merit.

In order to prevail upon a claim that counsel did not adequately prepare or investigate a case, an applicant must present evidence of what counsel could have discovered or what other defenses applicant could have requested counsel develop and present had counsel been more prepared. Harris v. State, 377 S.C. 66, 75–76, 659 S.E.2d 140, 145–46 (2008) (citing Jackson v. State, 329 S.C. 345, 353–54, 495 S.E.2d 768, 772 (1998)), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018). Likewise, in order to prevail on a claim that counsel did not review discovery with applicant, the applicant must demonstrate prejudice by showing what evidence could have been discovered or what other defenses could have been pursued. Id.

PCR Evidentiary Hearing

Plea Counsel testified he met with Applicant at least eight times during his representation. Plea Counsel testified she discussed the case at length with Applicant and the option of pleading or proceeding to trial.

Findings

Applicant failed to present “any evidence of how additional preparation or communication would have resulted in a different outcome.” Smith v. State, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (Ct. App. 2012); Applicant has not suggested any defenses, or any evidence or anything that should have been investigated further, resulting in mere speculation. Further, Applicant failed to present any witnesses at the evidentiary hearing to substantiate her claims. Plea Counsel *credibly* testified Applicant did not intend to go to trial in hopes of receiving a better sentence by pleading.

This Court finds Applicant's testimony on the matter *not credible*. Further, to whatever extent Applicant was not entirely satisfied with the amount of time to prepare and investigate the charges, she was presented an opportunity to express her dissatisfaction to the plea court and chose to proceed with her guilty plea. Applicant has failed to prove deficiency or prejudice, and thus this claim is **DENIED** and **DISMISSED**.

[CONCLUSION PAGE TO FOLLOW]

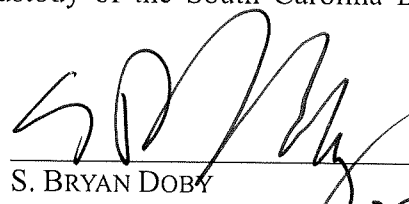
CONCLUSION

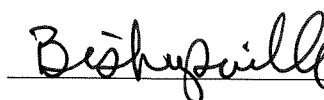
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant her application. Therefore, this application for post-conviction relief must be **DENIED and DISMISSED WITH PREJUDICE**.

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), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf if the Applicant wishes to seek appellate review. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

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


S. BRYAN DOBY
Presiding Judge
Ninth Judicial Circuit

, 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: Zora Henderson, #392869 v. State of South Carolina
Case No. 2025-CP-10-01962

Dear Ms. Armstrong:

Enclosed for filing, please find the original Order of Dismissal with Prejudice, 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,


Sydney W. Wingham
Assistant Attorney General

SW/vh
Enclosure

cc: Denise G. Swope, Esquire