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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT
APPEAL FROM FLORENCE COUNTY
Court of Common Pleas
The Honorable George McFaddin, PCR Action Judge
2025-CP-21-02353

DUNCAN ROBINSON, # 395783,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

NOTICE OF APPEAL

Duncan Robinson appeals the denial of his post-conviction relief application. The post-conviction relief action was heard and denied by the Honorable George McFaddin, circuit court judge, on September 2, 2026, and was denied by written order issued filed on September 14, 2026. Applicant received notice of the judgement on September 16, 2026.

/s Chelsey F. Marto
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STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

Duncan A. Robinson, Jr., SCDC #395783,

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS
) TWELFTH JUDICIAL CIRCUIT

) CASE NO. 2025-CP-21-02353

**ORDER OF DISMISSAL
WITH PREJUDICE**

CERTIFIED: A TRUE COPY

Donna Paula Offner
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

Presiding Judge: Honorable George M. McFaddin, Jr.
Applicant's Attorney: Chelsey F. Marto, Esq.
Respondent's Attorney: Sydney N. Willingham, Esq.
Plea Counsel: W. Vickery Meetze, Esq.
Date of Hearing: September 2, 2026
Court Reporter: Krystal J. Smith

FILED
2025 SEP 14 P 4:33
JENNIFER POULOS O'HARA
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, SC

In this PCR case, as the fact-finder I do not find that Petitioner proved to this court by a preponderance of the evidence that he is entitled to a new trial. Stated bluntly, his version of the events and the alleged failings of his trial counsel find no home of credibility with this court. Petitioner, despite the efforts of competent PCR counsel, clearly wanted to tell his “side of the story” about what happened that led to the crimes charged. I heard from plea counsel. Petitioner cannot expect conclusory allegations to support his claims. And contradicting allegations weakened his credibility with this court. For example, Petitioner testified he did not want to see crime scene photos, yet he then asserted he did not get to see the same photos. I do not find that plea counsel was ineffective thereby prejudicing Petitioner.

This matter comes before the Court pursuant to an application for post-conviction relief (“PCR”) filed by Duncan A. Robinson, Jr. (“Applicant”) on September 4, 2025. Respondent filed its Return, requesting that an evidentiary hearing be held on the allegations. On September 2, 2026,

an evidentiary hearing was held at the Florence County Courthouse before the Honorable George M. McFaddin, Jr. Applicant was present and represented by Chelsey F. Marto, Esquire. Assistant Attorney General Sydney N. Willingham represented Respondent. Applicant proceeded on the allegations in his amended application. This Court received testimony from Applicant and his plea counsel, W. Vickery Meetze, Esquire.

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 pursuant to orders of commitment from the Florence County Clerk of Court. In September 2022, the Florence County Grand Jury indicted Applicant for murder (2022-GS-21-02135), first degree burglary (2022-GS-21-02136), and possession of a weapon during a violent crime (2022-GS-21-02137).

On November 19, 2024, Applicant appeared before the Honorable H. Steven DeBerry, IV. Twelfth Circuit Assistant Solicitor Todd Tucker, Esquire, prosecuted the case. W. Vickery Meetze, Esquire, represented Applicant. Applicant pleaded guilty as indicted without recommendation or negotiation. Judge Griffin sentenced Applicant to life imprisonment for murder, life imprisonment for first degree burglary, to be served consecutively, and five years' imprisonment for possession of a weapon during a violent crime, to run concurrently.

Applicant did not appeal his conviction or sentence.¹

FACTS GIVING RISE TO THE PLEA

At Applicant's plea hearing, Assistant Solicitor Todd Tucker articulated the facts giving rise to the plea as follows:

SOLICITOR TUCKER: Your Honor, this incident occurred on January the 23rd, 2022, at or around 2:30 a.m. The incident location is 944 Rice Planters Lane, which is in the City of Florence, in Florence County. The incident location is the home of Taylor McFadden Robinson, who is the estranged wife of the defendant, Duncan Allen Robinson, Jr. How this matter was brought to law enforcement's attention, Your Honor, Mr. Robinson's father, Duncan Robinson, Sr. was getting ready for church with his wife at his residence on the east side of Florence. It was around 8:30, 9:00, but at any rate, there was a knock at the door. When he opened the door, his two grandsons, who are the biological children of both Duncan Allen Robinson, Jr. and the victim in this case, Taylor McFadden Robinson. They were eight and six years old. But anyway, they indicated to the grandfather that they had been dropped off at the residence and when he inquired as to how they got there, by their father who was driving their mother's vehicle, a 2016 Cadillac Escalade. That caused some concern for Duncan Sr. He knew and -- and conveyed to law enforcement later that it was highly unlikely that Ms. Rob -- Robinson would have let Mr. Robinson drive the vehicle much less be around the kids unsupervised. But at any rate, he began to try to call the victim in this case, but when he got no response and she didn't call back as was her usual practice, the - the - when he left a message. He called his two daughters and asked them to meet him over at the victim's house. When they got there, they tried to get the victim to the front door, but when they couldn't, they continued to try to call and when they got no answer, Duncan Sr. went around to the back of the residence and climbed over a fence and approached the back of the residence. As he approached the back glass door, he noticed that it appeared to have been shattered and it had been broken in. He made entry inside, of course, again, concerned for his daughter-in-law's wellbeing. And when he went inside he found the victim in this case who was twenty-nine year-old at the time of the murder, Taylor McFadden Robinson, lying with what appeared to be gunshot wounds in a - - in a pool of blood. At that moment, he got out of the residence and he and his daughters called 9-1-1 and the Florence Police Department responded in a very timely fashion. When they got there, of course, they cordoned everything off and, you know, kind of set the perimeter of the crime scene and started processing the inside of the house. When they cleared it, Mr. Robinson and his two daughters were still on scene. Law enforcement was able to speak with them and he was able to convey to them what his concerns were, particularly as it related to his son. And so,

¹ In his PCR application, Applicant claims he tried to file an appeal on his own, but there is no record of any appeal. Applicant states "they" provided him information to file a petition. He states he asked them for a PCR form, which was sent to him.

they kind of focused on Mr. Robinson as a suspect right away, particularly given what the two children had to say. When they spoke to law enforcement a short time thereafter, they indicated that they were home. It was about 2:30 or 2:20 in the morning. They heard the noise and they heard a loud bang and the oldest son, who is ten years-old now, Damari, indicated that he heard what he described as almost a body hitting the floor. But at any rate, he indicated that he heard his father yell for them and they came downstairs and they saw their father standing behind the mother, who was lying on the floor. The father, Duncan Robinson, Jr., got the two kids and put them in the victim's 2016 Cadillac Escalade and then went back inside. Damari will testify that he heard another bang and then a -- a clanging sound, which he described that -- that sounded a -- a shell casing kind of bouncing off the hardwood floor. But at any rate, Duncan Jr. come -- came out of the residence, got into the driver's side and -- and started using profanities, but backed out and then drove away. From what law enforcement was able to gather, of course, again, the victim and the defendant in this case have been married for a number of years. They have the two children together. They were estranged going on for about three years prior to this incident. In fact, the victim had a final divorce hearing that was scheduled for two weeks when she was murdered in her home.

At any rate, Your Honor, law enforcement put out a BOLO for the 2016 Cadillac Escalade as well as for the defendant. They were able to kind of ascertain his cellphone number and started pinging the cellphone to kind of get a general idea as to where he might be in Florence County. He was ultimately found about 5:00 that afternoon over in the Liberty Chapel area, just on the east side of Florence. But at any rate, Captain Bob Drool [phonetic] was kind of noticing [Inaudible -- muffled/muted] was driving down a kind of like a dirt road, saw an individual that matched Mr. Robinson's description. He kind of went past him and then turned and then as he turned, he saw what he believed to be was the Escalade on the BOLO, the 2016 Escalade, a short distance away. He turned around and he got behind Mr. Robinson and as Mr. Robinson was walking, he indicated he would call for backup, given what had happened and what Mr. Robinson stood accused of, he believed him to be armed and dangerous and wanted backup there before he tried to effect arrest. He indicated that as he was driving behind Mr. Robinson ultimately turned around and looked at him. He got out of the vehicle at that point, and obviously drew his service weapon and asked Mr. Robinson to identify himself, to which Mr. Robinson responded I'm Duncan Robinson, and I'm the one you're looking for.

Backup arrived shortly thereafter. They took Mr. Robinson into custody. A search incident to arrest revealed a .9 mm Smith and Wesson firearm on his person. Ultimately that firearm, through SLED ballistics, would be the one that they concluded fired the shell casings that they were able to match with the striker marks on the -- markings of the particular firearm that -- that firearm that was taken off him. There were projectiles taken too. The projectiles were too misshapen to make a positive ballistics match, but the projectiles were consistent with the ammunition used -- and the caliber used in this particular case. The handgun itself also was processed for DNA. SLED was able to determine that there was what turned out to

be the victim's DNA at the -- on -- on the barrel of the weapon. And in the autopsy the results concluded that apparently the weapon was pressed right against Ms. Rob -- Robinson's forehead when the final shot was fired, and that, of course, was what killed her. At any rate, Your Honor, you heard yesterday's statement that Mr. McFadden -- or Mr. Robinson gave when he was arrested and taken to the Florence Police Department after being Mirandized. He essentially stated that he went over there that morning, threw a dumbbell through the back of the door, shattering the glass, went inside and started firing, shot her, and then got the two kids, and left in her vehicle.

(Plea Tr. pp. 12–18).

CURRENT APPLICATION

In his application for post-conviction relief,² Applicant alleges he is being held in custody unlawfully based on the following reasons [excerpts verbatim]:

1. There was things showing in the system that said I was suppose to be release
 - a. CO's told me that my time was up and that they been told them to come and get me.
 - b. I am a up and coming star but they delay my release.
 - c. Even the system said I was suppose to be release at Kirkland Correctional Institution

On September 29, 2025, by Order of Merger, Applicant's application was amended with identical claims, to include the following additional claim:

1. "I wanted to go up for a appeal but my public defender didn't file for one."³

Applicant requests relief in the form of "I am looking forward to be set free from my sentencing. To be release."

² Applicant filed two applications for post-conviction relief on the same day with substantially similar allegations. An Order of Merger was issued on September 29, 2025, incorporating the second application as an amended application.

³ Respondent interprets this allegation as a White claim. White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).

On August 10, 2026, Applicant, through counsel, amended his application to include the following allegations:

1. Ineffective Assistance of Counsel for:
 - a. Failure to file an appeal.
 - b. Failure to communicate and review discovery with enough.
 - c. For telling Applicant to plead and using his kids respect for him as leverage.
 - d. Failure to stress the volatility of the relationship with the victim.
 - e. Failure to adequately discuss the self-defense defense.
 - f. Forced to challenge the State's position that he was not permitted to enter the residence.
 - g. Failure to present a valid trial defense based on lack of premeditation and malice.
2. Invalid plea:
 - a. Applicant was coerced into pleading due to ineffective assistance of counsel.
 - b. Applicant was told his charges were serious, not most serious.

Applicant requests relief in the form of: "vacate the convictions, and remand the case to the court of general sessions for a new trial."

STANDARD OF REVIEW

The Uniform Post-Conviction Procedure Act⁴ (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[.]

⁴S.C. Code Ann. §§ 17-27-10 to -160.

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 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), SCRCP (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(a): Failure to file an appeal.

Applicant alleges Counsel’s representation was constitutionally ineffective for failing to file an appeal. Based upon its review of the records, this Court finds Applicant is not entitled to a belated appeal.

In the context of guilty pleas, “counsel has a constitutionally imposed duty to consult with the defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal), or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing” Roe v. Flores-Ortega, 528 U.S. 470, 120 S.Ct. 1029 (2000); Weathers v. State, 319 S.C. 59, 459 S.E.2d 838 (1995). “In making this determination, courts must take into account all the information counsel knew or should have known.” Id. “Although not determinative, a highly relevant factor in this inquiry will be whether the conviction follows a trial or a guilty plea, both because a guilty plea reduces the scope of potentially appealable issues and because such a plea may indicate that the defendant seeks an end to judicial proceedings.” Id.

This Court finds and the record reflects that Judge DeBerry informed Applicant that he had ten days to appeal the decision in writing. (Plea Tr. 10). Here, Applicant alleges that he wrote Plea Counsel to ask for an appeal but could not contact Plea Counsel within the time frame to file an appeal. Plea Counsel testified he does not typically file appeals for guilty pleas. Plea Counsel *credibly* testified that Applicant did not mention appealing the plea at the time of plea or right after.

Plea Counsel *credibly* testified he did receive a letter indicating that Applicant wanted to appeal, however, he received that letter outside of the 10-day time frame and was unaware that Applicant wanted an appeal until he received it. This Court finds Applicant has failed to meet his burden to show there are nonfrivolous grounds for appeal or that he reasonably demonstrated to counsel that he was interested in appealing pursuant to Roe v. Flores-Ortega, *supra*.

Allegation 1(b): Failure to communicate and review discovery with enough.

Applicant alleges Counsel's representation was constitutionally ineffective for failing to communicate and review discovery with Applicant enough. This Court finds these allegations are without merit.

Federal case law holds that there is no constitutional minimum number of meetings between attorneys and their clients to satisfy competency. 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). "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.).

South Carolina case law has established that even if Counsel only met with his client very briefly, that alone does not establish that he was unprepared or ineffective at trial. See Harris v. State, 377 S.C. 66, 75, 659 S.E.2d 140, 145 (2008) (citing Easter) (finding "Even if the meetings

were brief, this fact alone is not indicative of inadequate trial preparation.”), abrogated on other grounds by *Smalls v. State*, 422 S.C. 174, 810 S.E.2d 836 (2018).

Additionally, “brevity of time spent in consultation with a defendant alone is not indicative of inadequate trial preparation.” *Smith v. State*, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (2012). Applicant must show evidence indicating “how additional preparation or communication would have resulted in a different outcome.” *Id.*; see *Jackson v. State*, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998) (where application failed to show ineffective assistance of counsel based on lack of preparation by neglecting to show evidence of what counsel failed to discover or what defenses counsel could have pursued had he more fully prepared for the case); *Skeen v. State*, 325 S.C. 210, 214-15, 481 S.E.2d 129, 132 (1997) (where applicant failed to show ineffective assistance of counsel when he did not present evidence showing how additional preparation would have impacted the trial).

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

Applicant testified on direct examination Plea Counsel came to visit him in county jail with pictures but that he did not want to see the pictures [from his discovery].

Plea Counsel testified on direct examination that he met with Applicant plenty of times to discuss the case and evidence with Applicant. Plea Counsel testified there were no issues with being ready for trial or the plea. Plea Counsel testified that the evidence in the case showed Applicant walked approximately 10 miles in the middle of the night with a backpack on containing a 15-pound dumbbell and that Applicant threw the dumbbell in the Victim's window to enter the home.

Findings

This Court finds Applicant has failed to meet his burden of showing Plea Counsel was constitutionally ineffective for failing to communicate and review discovery enough with Applicant. 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 his 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, he was presented an opportunity to express his dissatisfaction to the plea court and instead chose to proceed with his guilty plea. Further, Applicant has failed to show how had he met more frequently with Plea Counsel, that he would not have pled guilty and would have insisted on going to trial. See Hill, supra. Applicant has failed to prove deficiency or prejudice and thus this claim is **DENIED** and **DISMISSED**.

Allegation 1(c), 2(a), & 2(b): Involuntary Guilty Plea

Applicant alleges Counsel's representation was constitutionally ineffective for telling Applicant to plead and using his kids respect for him as leverage. Applicant also alleges his plea should be rendered invalid because he was coerced into pleading due to ineffective assistance of counsel. Applicant also alleges he was told his charges were serious, not most serious. This Court finds these allegations are without merit.

An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for trial counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial instead. See Roscoe v. State, 345 S.C.16, 20, 546 S.E.2d 417, 419 (2001); see also Richardson v. State, 310 S.C. 360, 362, 426 S.E.2d 795, 797 (1993). In determining guilty plea issues, it is

proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. See Harres v. Leeke, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984) (finding the voluntariness of a guilty plea “is not determined by an examination of the specific inquiry made by the sentencing judge alone but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing.”).

To find a guilty plea has been voluntarily and knowingly entered, the record must establish Applicant had a complete understanding of the consequences of the plea and the charges against him or her. Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). Before a court can accept a guilty plea, the defendant must be advised of the constitutional rights he is waiving, the right to a jury trial, the right to confront one’s accusers, and the privilege against self-incrimination. Boykin v. Alabama, 395 U.S. 238, 244 (1969). Additionally, the defendant “must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived.” Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999). The defendant’s knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and “may be accomplished by colloquy between court and defendant, between court and defendant’s counsel, or both.” State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993).

Plea Colloquy

In the instant case, the colloquy at the guilty plea shows that Applicant’s plea was knowingly and voluntarily entered. See Rayford v. State, 314 S.C. 46, 443 S.E.2d 805 (1994) (“finding a guilty plea voluntary where [Applicant] admitted committing the crimes, acknowledged the potential sentences, and stated that his plea had not been induced by promises”). The colloquy establishes that Applicant had no misconceptions regarding sentencing. Judge

DeBerry informed Applicant that he was entering a guilty plea for murder, burglary, 1st degree, and possession of a weapon during the commission of a violent crime. (Plea Tr. p. 6). Applicant was advised of his constitutional right to a jury trial where the State must prove its case beyond a reasonable doubt, the right to confront all witnesses, examine all the evidence presented against him, and the right to remain silent. (Plea Tr. pp. 6-7). Applicant confirmed that he understood he was waiving these rights by pleading guilty. (Plea Tr. pp. 8-10). Applicant confirmed he was pleading guilty freely and voluntarily of his own free will. (Plea Tr. p. 10). Moreover, Applicant did not contest the State's recitation of facts. (Plea Tr. p. 19). Applicant should be held to the assertions he made to the court. See generally Wolfe, 485 S.E.2d at 367 (“[Applicant’s] claim he understood from counsel that the trial judge’s questions at the guilty plea were only a ‘polite fiction’ was ‘not an invitation to answer untruthfully’”).

Findings

As an initial matter, this Court finds the record supports that Applicant informed the plea court that he was pleading freely and voluntarily. (Plea Tr. pp. 8-10). This Court finds from the record that Applicant understood the charges, the weight of the evidence, and the proceedings against him. Further, this Court finds Plea Counsel’s testimony *credible* and Applicant’s testimony on this topic *not credible*. Plea Counsel testified that he discussed the option of proceeding to trial or pleading with Applicant, and that Applicant chose to enter a plea so that he could tell the court his version of events. Plea Counsel *credibly* testified that he discussed with Applicant that his charges were considered most serious. Further, Judge DeBerry advised Applicant of his constitutional right to a jury trial where the State must prove its case beyond a reasonable doubt, the right to confront all witnesses, examine all the evidence presented against him, and the right to remain silent. (Plea Tr. pp. 6-7). Applicant confirmed that he understood he was waiving these

rights by pleading guilty. (Plea Tr. pp. 8-10). Moreover, to whatever extent Applicant was not entirely satisfied with the plea, he was presented an opportunity to express his dissatisfaction with the plea court, knowingly opted not to do so, and instead chose to proceed with his guilty plea so that he would not have to proceed to trial.

Based on the foregoing, this Court finds Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Plea Counsel failed to render reasonable, effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Plea Counsel’s performance.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation is **DENIED** and **DISMISSED**.

Allegation 1(d),(e), (f), & (g): Failure to present defense(s).

Applicant alleges Counsel’s representation was constitutionally ineffective for failing to stress the volatility of the relationship with the victim, failing to adequately discuss the self-defense defense, failing to challenge the State’s position that Applicant was not permitted to enter the residence, and failing to present a valid trial defense based on lack of premeditation and malice. This Court finds these allegations are 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). Mere speculation as to how the alleged lack of

preparation prejudiced an applicant is not sufficient to support a grant of relief. Id., 377 S.C. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

Findings

As an initial matter, this Court finds the record refutes Applicant's allegations and reflects that Applicant was aware he was waiving his right to a jury trial, the right to confront all witnesses, examine all the evidence presented against him, and the right to remain silent. (Plea Tr. pp. 6-7). Applicant confirmed that he understood he was waiving these rights by pleading guilty. (Plea Tr. pp. 8-10). 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 failed to present any evidence at the evidentiary hearing to substantiate his claims.

Through the Applicant's own admission, he was evicted from the victim's home and told by police not to enter. Therefore, Applicant has failed to present any credible evidence to support his allegation that Plea Counsel failed to challenge the State's position that he was not permitted to enter the residence. Plea Counsel *credibly* testified he did discuss self-defense with Applicant and that he did not believe it applied to the facts. Plea Counsel *credibly* testified the evidence showed Applicant was evicted from the victim's home, walked over ten miles to get to the victim's home, broke the victim's window to enter the home, and shot the victim. This Court finds Applicant has failed to suggest how a defense based on lack of premeditation and malice would have been viable and would have resulted in him deciding to go to trial instead of entering a plea, resulting in mere speculation. Further, Applicant failed to present any evidence or witnesses at the evidentiary hearing to substantiate his claims.

Furthermore, this Court finds the combination of the record and Plea Counsel's *credible* testimony at the evidentiary hearing provides Applicant knew the consequences of pleading guilty pursuant to the requirements of Boykin v. Alabama, 395 U.S. 238 (1969) and Roddy v. State, 339 S.C. 29 (2000). To whatever extent Applicant was not entirely satisfied with the amount of time to prepare and investigate the charges, he was presented an opportunity to express his dissatisfaction to the plea court and chose to proceed with his guilty plea. Applicant has failed to prove deficiency or prejudice, and thus this claim is **DENIED** and **DISMISSED**.

[CONCLUSION PAGE TO FOLLOW]

CONCLUSION

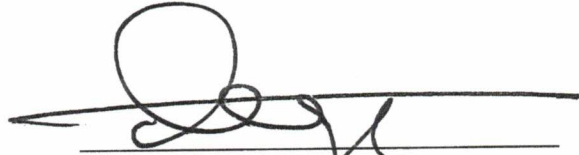
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be **DENIED and DISMISSED WITH PREJUDICE**.

This Court notifies the Applicant that he 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 the 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.



GEORGE M. MCFADDIN, JR.
Presiding Judge
Twelfth Judicial Circuit

Sumter, South Carolina
September 11, 2026