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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT
APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas
The Honorable Frank Addy, PCR Action Judge
2024-CP-32-02930

STEVEN LOAN, #39106,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

NOTICE OF APPEAL

Steven Loan appeals the denial of his post-conviction relief application. The post-conviction relief action was heard and denied by the Honorable Frank Addy, circuit court judge, on May 13, 2025, and was denied by written order issued filed on October 22, 2026. Applicant received notice of the judgement on October 22, 2026.

/s Chelsey F. Marto
Chelsey F. Marto, Esquire
Attorney for the Applicant
The Law Office of Chelsey F. Marto, LLC
P.O. Box 8795
Columbia, SC, 29201
(864)-404-5583

Other Counsel of Record:
Donald Zelenka, Esquire
Office of the Attorney General, State of SC
P.O. Box 11549
Columbia, SC, 29211-1549

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

FILED

2025 OCT 22

IN THE COURT OF COMMON PLEAS
FOR THE ELEVENTH JUDICIAL CIRCUIT
AK ID: 20

Steven Loan, #393106,

Applicant,

LISA COOPER, Clerk
Case No.: 2024-CP-32-02930
CLERK OF COURT
LEXINGTON, SC

v.

ORDER OF DISMISSAL

State of South Carolina,

Respondent.

This matter comes before this Court by way of Applicant's post-conviction relief application filed July 11th, 2024. An evidentiary hearing was held on May 13th, 2025, at Lexington County Courthouse. Chelsey Marto, Esquire, represented Applicant. Deputy Attorney General Donald Zelenka represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Counsel James V. Holladay III, Assistant Solicitor Jordan Cox, Esquires, also testified. After reviewing all records and evidence before this Court, this Court finds Applicant cannot meet his requisite burden of proof of establishing he is entitled to post-conviction relief and denies and dismisses this application with prejudice. Findings of fact and conclusions of law are set forth below.

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lexington County Clerk of Court. In January 2024, the Lexington County Grand Jury indicted Applicant for trafficking in amphetamine, ten to twenty-eight grams (2024-GS-32-04691). James Holladay, Esquire, represented Applicant. Jordan Cox prosecuted the case. On January 25, 2024, Applicant pled guilty subject to a negotiated fifteen-year sentence before the Honorable William Keesley. Applicant was sentenced in accordance with the negotiations, and probation from a 2022 incident was terminated. Applicant did not



appeal his guilty plea or sentence.

Summary of Relevant Facts

On August 10, 2023, investigators were surveilling an apartment as part of an investigation into Applicant's co-defendant, Justin Goff, for controlled buys of fentanyl. (Plea Tr. 5). Applicant was in the apartment and investigators confirmed that he had an active warrant for a probation violation. (Plea Tr. 5-6). Investigators confirmed that Applicant was living in the apartment for several weeks, and the Applicant later stated post-Miranda that he was staying in the living room. (Plea Tr. 6). Next to where Applicant admitted to sleeping, there was a dollhouse containing several electronics, twelve grams of methamphetamine in a case, a digital scale, and multiple pipes used for smoking methamphetamine. (Plea Tr. 6). Applicant claimed the electronics but not the methamphetamine, but he admitted he knew that methamphetamine was in the apartment and stated that he did not deal but offered to buy methamphetamine. (Plea Tr. 7).

Current Action Before this Court

In his current PCR application, Applicant alleges he is being held in custody unlawfully because of ineffective assistance of counsel in that:

1. Ineffective assistance of counsel for:
 - a. Failure to investigate and prepare an adequate defense for trial.
 - b. Failure to obtain discovery, including body camera footage.
 - c. Failure to communicate.
 - i. Had counsel done his job, Applicant would not have pled but would have went to trial and beaten the charge.
 - d. Failure to advise Applicant that he could appeal.
 - i. Failure to return communication during the time span in which an appeal could have been filed.

At the PCR hearing, Applicant proceeded forward on the following allegations:

1. Ineffective assistance of counsel for:
 - a. Failure to prepare a trial defense.



- b. Failure to show Applicant video discovery.
 - c. Failure to properly communicate with Applicant.
 - d. Failure to file an appeal.
 - e. Failure to notify Applicant of his preliminary hearing and/or failure to have a preliminary hearing in this case.
 - f. Failure to investigate mental health issues.
 - g. For erroneously telling Applicant he would be parole eligible.
2. Applicant's plea is invalid because:
- a. He was coerced into pleading because he was told that he would receive a thirty-year sentence if he did not plead.
 - b. Applicant did not know he was pleading to a negotiated fifteen-year sentence.

All other allegations raised in his initial application and amendments are deemed waived and abandoned and, accordingly, will not be addressed in this order.

Findings of Fact and Conclusions of Law

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. Before this Court are the Lexington County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the plea transcript, and this PCR action's records. This Court has further had the opportunity to observe each witness who testified at the hearing and closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by South Carolina Code Annotated Section 17-27-80 (2003).

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v.*



Washington.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. *See also* Rule 71.1(e), SCRCP ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."). Reasonableness is determined by the "variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant," and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny of counsel's performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually "countless" ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel's deficient performance must have prejudiced the applicant so 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. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Realistically, this matters "only in the rarest case" because "[t]he likelihood of a different result must be substantial, not just conceivable." *Harrington v. Richter*, 562 U.S. 86, 111-12 (2011)



(quoting *Strickland*, 466 U.S. at 697).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

In the context of a guilty plea, the applicant must show there is a reasonable probability that, but for ineffective assistance of counsel, he or she would not have pled guilty but, instead, would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Applicant's right to contest the validity of a plea is usually, but not invariably, foreclosed because of the inherent solemnity and truthfulness included in the guilty plea process. See *Blackledge v. Allison*, 431 U.S. 63, 73-74 (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."). Absent valid reasons why the applicant is entitled to depart from previous judicial admissions made at the plea hearing, statements made during the original proceeding remain conclusive. *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)).

For a plea to be valid, the applicant must have been aware of the nature and crucial elements of the offense, the maximum and minimum penalties, and the rights he is waiving by accepting the plea. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Roddy v. State*, 339 S.C. 29 (2000). A plea is not knowing or voluntary if a defendant "lacks knowledge of material evidence in the



prosecution's possession." *Gibson v. State*, 334 S.C. 515, 523, 514 S.E.2d 320, 324 (1999).

A 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 the court and defendant, between the court and defendant's counsel, or both." *Roddy v. State*, 339 S.C. at 34, 528 S.E.2d at 421 (citing *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). "[T]he 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." *Dalton*, 376 S.C. at 138, 654 S.E.2d at 874 (quoting *Harres v. Leeke*, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984)). Further, "guilty pleas, freely and voluntarily entered, act as a waiver of all non-jurisdictional defects and defenses, including claims of a violation of a constitutional right prior to the plea." *Whetsell v. State*, 276 S.C. 295, 297, 277 S.E.2d 891, 892 (1981).

Failure to Prepare a Defense

Applicant claims Counsel was ineffective for failure to prepare a trial defense. Applicant waived his right to assert a defense at trial, call witnesses, and ability to challenge the State's evidence at his plea hearing. (Plea Tr. 3-4). The plea transcript clearly reflects that the Applicant waived this right at his plea and cannot reassert it now. Nevertheless, Counsel did credibly testify that the obvious defense at trial, had Applicant elected not to plead, was that the drugs belonged to Applicant's co-defendant, not Applicant himself. The decision to forgo this defense was Applicant's and he did this to his own betterment given the two difficult choices before him: (1) plead and get fifteen years or (2) go to trial and get up to thirty. Thus, this Court finds Applicant did not meet his burden of proof and relief is denied accordingly.



Failure to File an Appeal

Applicant claims Counsel was ineffective for failing to file an appeal. Counsel is required to make certain the defendant is made fully aware of the right to appeal following a trial. *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974). However, absent extraordinary circumstances, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea. *Weathers v. State*, 319 S.C. 59, 459 S.E.2d 838 (1995). The bare assertion that a defendant was not advised of appellate rights is insufficient to grant relief. *Id.* Instead, there must be proof that extraordinary circumstances exist such that the defendant should have been advised of the right to appeal. *Id.* Extraordinary circumstances may exist when there is reason to think that a rational defendant would want an appeal, such as when non-frivolous grounds for an appeal exist, or when the defendant reasonably demonstrates an interest in appealing. *Id.*; *Roe v. Flores-Ortega*, 528 U.S. 470 (2000).

Here, Counsel testified that he did not recall Applicant asking for an appeal and no notation exists in the file indicating that Applicant or his family asked for an appeal. This Court finds Counsel credible in that assertion and that Applicant did not request an appeal. Additionally, based upon a review of the plea colloquy, no grounds exist for an appeal if requested. Accordingly, relief is denied on this ground.

Failure to Properly Communicate with Applicant, Review Discovery

Applicant claims Counsel was constitutionally ineffective for failure to properly communicate with Applicant and review the discovery with him. “[B]revity 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).

This Court finds that Counsel met with Applicant and reviewed the evidence with him sufficiently. Though Applicant was not shown body camera footage, Counsel did review them and described the contents to Applicant. Counsel was effective in brokering the plea deal ultimately extended despite the State's tough stance on the case because the drugs were found in children's dollhouse accessible to a child in the home. This Court also finds that Counsel communicated with Applicant sufficiently by phone four or five times and in person two or three times and the plea transcript reflects that Applicant was satisfied with the number of times he met with Counsel. (Plea Tr. 8). Applicant has failed to show what other discovery should have been shown to him, or topics discussed with him, that would have affected his decision to plead. Prejudice is not established, and relief is denied accordingly.

Preliminary Hearing

Applicant also claims Counsel was ineffective for "failure to notify Applicant of his preliminary hearing and/or failure to have a preliminary hearing in this case." In South Carolina, there is no constitutionally protected right to a preliminary hearing. *State v. Keenan*, 278 S.C. 361, 296 S.E.2d 676 (1982). Additionally, a preliminary hearing is not held if the defendant is indicted by a grand jury or waives presentment before the preliminary hearing occurs. Rule 2(b) SCRCrimP. Further, a preliminary hearing can be waived through "[p]lea negotiations and



silence before the trial court regarding the desire for a preliminary hearing when entering a guilty plea. *O'Neil v. State*, 277 S.C. 230, 231, 285 S.E.2d 352, 353 (1981) (citing *Bonnettee v. State*, 277 S.C. 17, 18, 282 S.E.2d 597, 598 (1981)).

Though the record is unclear as to whether a preliminary hearing was held, Applicant testified that Counsel told him that the hearing already occurred upon inquiry. Regardless, to the extent that Applicant was not present for his preliminary hearing, or to the extent that one was not held, there is no showing of prejudice. The Solicitor would have likely pursued a direct indictment in this case even if the magistrate court dismissed the warrants. Thus, relief is denied on this ground.

Failure to Investigate Mental Health Issues

Applicant claims Counsel was ineffective for failure to investigate mental health issues. "Due process prohibits the conviction of an incompetent defendant, and this right may not be waived by a guilty plea." *Matthews v. State*, 358 S.C. 456, 458, 596 S.E.2d 49, 50 (2004) (citing *Jeter v. State*, 308 S.C. 230, 232, 417 S.E.2d 594, 595-96 (1992)). "In a PCR action, the petitioner must prove by a preponderance of the evidence that he was incompetent when he entered his guilty plea." *Id.* at 458-59, 596 S.E.2d at 50. "In order to find that petitioner's trial counsel was ineffective for refusing to request a *Blair* hearing on petitioner's competency to stand trial, petitioner must show that counsel was deficient and that the deficiency prejudiced the outcome of petitioner's proceedings." *Id.* at 459, 596 S.E.2d 50-51. Prejudice is found when the petitioner shows a "'reasonable probability' that he was either insane at the time [the crime was committed] or incompetent at the time of the plea." *Id.* (citing *Jeter v. State*, 308 S.C. 230, 233, 417 S.E.2d 594, 596 (1992)).

Specifically, he stated that he was assaulted at the jail and as a result suffered from PTSD



and that he had “no business” entering a plea because of his condition. Counsel credibly testified that he was aware of the assault and severity of Applicant’s injuries but did not see any indication that Applicant was suffering from a mental illness which affected his ability to assist Counsel or enter his plea. Applicant also testified at his plea that he did not have physical or mental problems affecting his understanding of the plea. (Plea Tr. 3). Applicant did not present any testimony or exhibits at the PCR hearing indicating he had a major mental health issue that would have impacted competency or culpability. Additionally, this Court finds his testimony lucid, coherent, and non-evident of appreciable mental limitations. Thus, Applicant has failed to meet his burden of proof, and relief is denied accordingly.

Parole Eligibility

Applicant claims he was erroneously advised by Counsel that the offense he pled to made him eligible for parole. This is refuted by the record. (Plea Tr. 5). Applicant was explicitly advised that he was pleading to a no-parole offense and that he would have to serve at least eighty-five percent of his sentence and when released would be on community supervision probation. (Plea Tr. 5). Applicant’s claim is not credible, and relief is denied.

Coerced Plea – Trial Sentencing Exposure

Applicant claims he was coerced into pleading because he was told if he went to trial, he would receive a thirty-year sentence. Counsel was credible in disputing this assertion. Though the possibility of a thirty-year sentence existed, it was not certain. Applicant was advised that he was facing five to thirty years at trial and stated that he understood at the plea. (Plea Tr. 4). Applicant’s allegation is refuted by the record and Counsel’s testimony and relief is denied.

Negotiated Sentence

Applicant asserts that the plea was not voluntarily, knowingly, intelligently, or freely

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entered because he did not know he was pleading to a negotiated fifteen-year sentence. The plea colloquy clearly shows that Applicant knew he was pleading to a negotiated fifteen-year sentence and Applicant asserted that no other bargains or promises were made beyond the fifteen-year sentence. (Plea Tr. 7). This allegation is refuted by the record and relief is denied.

Conclusion

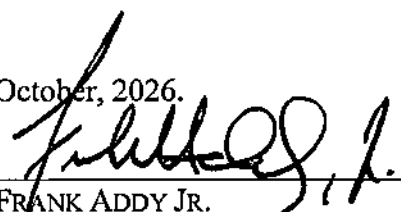
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty days of receipt by counsel of the judgment entry's written notice to secure 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 appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRPC provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate appellate procedures.

IT IS THEREFORE ORDERED:

1. The PCR application be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 16th day of October, 2026.


FRANK ADDY JR.
Presiding Judge
Eleventh Judicial Circuit

Greenwood, South Carolina.