RECEIVED

Nov 02 2026

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT
APPEAL FROM BERKELEY COUNTY
Court of Common Pleas
The Honorable Carmen Mullen, PCR Action Judge
2021-CP-08-01224

KENNETH CAMPBELL, # 365925,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

NOTICE OF APPEAL

Kenneth Campbell appeals the denial of his post-conviction relief application. The post-conviction relief action was heard and denied by the Honorable Carmen Mullen, circuit court judge, on May 27, 2025, and was denied by written order issued filed on October 30, 2026. Applicant received notice of the judgement on November 2, 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:
Danielle Dixon, Esquire
Office of the Attorney General, State of SC
P.O. Box 11549
Columbia, SC, 29211-1549

STATE OF SOUTH CAROLINA COUNTY OF BERKELEY	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT
Kenneth Campbell, #365925, Applicant, v. State of South Carolina, Respondent.	)	CASE NO. 2021-CP-08-01224 **ORDER OF DISMISSAL**

FILED
2026 OCT 30 PM 4:25
LEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

This matter is before the Court by way of an application for post-conviction relief (PCR) filed by Kenneth Campbell, Jr. (Applicant) on June 15, 2021. Respondent filed a return requesting an evidentiary hearing. On May 27, 2025, an evidentiary hearing convened before the Honorable Carmen Mullen. Applicant was present at represented by Chelsey Marto, Esquire. At the hearing, Applicant testified on his behalf. Additionally, this Court heard testimony from Myshawanna Dingle and Mark Archer, Esquire. Following a thorough review of the records and evidence presented at the evidentiary hearing, this Court finds Applicant did not meet his burden of proof. Thus, this Court denies and dismisses this application with prejudice.

PROCEDURAL HISTORY

Applicant is currently incarcerated in the South Carolina Department of Corrections serving a life sentence. In April 2017, a Berkeley County Grand Jury indicted Applicant for murder (2017-GS-08-767), attempted murder (-769), first-degree burglary (-766), two counts of armed robbery (-765, -768), two counts of kidnapping (-770, -771), and possession of a weapon during the commission of a violent crime (-772).

On August 27-31, 2018, Applicant and three co-defendants proceeded to a jury trial before the Honorable Deadra J. Jeferson. Mark L. Archer, Esquire, represented Applicant, and Assistant

Solicitors Bryan A. Alfaro and Wilson McNeely prosecuted the case. The jury convicted Applicant of both counts of kidnapping and armed robbery, and the weapon charge. The jury acquitted Applicant of murder, attempted murder, and first-degree burglary.[1] Judge Jefferson imposed concurrent sentences of life for the kidnapping and armed robbery charges, and five years for the weapon charge.

Applicant filed a timely notice of appeal, which was perfected by Appellate Defender David Alexander through a brief pursuant to *Anders v. California*, 368 U.S. 738 (1967). The Court of Appeals dismissed pursuant to *Anders*, and the remittitur was sent May 18, 2021.

BRIEF SUMMARY OF TRIAL TESTIMONY

At trial, Krystal Snipe testified she and her boyfriend Kadeem Johnson were returning home around 2:00 a.m.; as they were getting out the car, five masked-men approached armed with guns and forced Snipe and Johnson inside their home. (Tr. 242, 244). Three of the men went inside while two remained outside. Once inside, Snipe and Johnson were forced at gunpoint to their bedroom, where their hands were taped. Snipe stated one of the men stayed in the bedroom holding two guns on them while the other two men took items—including a red Hello Kitty bag—from their home. (Tr. 247, 250-53). Snipe testified one of the men removed his mask, and the men began "arguing about they saw our faces, they saw our face. And at that point, he shot Kadeem and he fell in front of me. And then he shot me, and he ran out the door." (Tr. 282). The men left in the victims' white Crown Victoria and gray Crown Victoria; after they left, Snipe called 911. (Tr. 202-03, 292). She later identified co-defendant Mouzon as the shooter. (Tr. 284).

Deputy Corinthian Green was dispatched to the shooting. On her way, she received a

[1] Co-defendant Jacob Mouzon was convicted of all charges, and co-defendant Sherrod Palmer was acquitted of all charges. Co-defendant Drake Campbell, like Applicant, was convicted of two counts of kidnapping and armed robbery, and the weapon charge.

BOLO for a white Crown Victoria. As she heard the BOLO, a white Crown Victoria and a truck passed her "going around that curve probably about 80 miles per hour. (Tr. 357, 359-60). She turned around to pursue the vehicles, and the Crown Victoria stopped in the road. As Deputy Green approached, she saw "a black male in the middle of the highway" and surmised he came from the car. (Tr. 362-63). Deputy Green testified the man ran into the woods. She observed a red bandana from the ground near the car. (Tr. 372).

Law enforcement established a perimeter around the abandoned vehicle and began searching. Deputy Timothy Ham observed a black hoody and an AK-47 rifle on Yellow Jacket Road—a forestry road directly through the woods from where the Crown Victoria was abandoned. (Tr. 388, 390-93).

Brittany Bordeaux testified she saw three men walking in the road near Eccles Church and "stopped them because they were in an unusual area for that time of morning." (Tr. 490-93). She allowed them to use her phone and overheard one of the men ask for a ride. (Tr. 493-94). Bordeaux stated the men didn't know where they were, and she provided directions to the nearest highway. (Tr. 494). After learning about the shooting, Bordeaux notified police about the encounter. (Tr. 495-96, 499-500).

Kenny Hooffa testified he saw three men walking down a dirt road about two miles from Eccles Church. (Tr. 553-54). He was in the area a short time later and saw the three men "going through the front yard of the church, and they took off running into the woods behind the church." (Tr. 554). Hoffa contacted police; he later identified Mouzon from a lineup. (Tr. 556, 558-59).

Deputy Ham responded to Eccles Church and found a red Hello Kitty bag in the wooded area by the church. (Tr. 397-400). Bloodhound Tracker Richard Hunton had his dog track the area where the men ran into the woods; he subsequently located and apprehended Drake Campbell and

Mouzon—who both ran from him as he approached. Bloodhound Tracker Jamar Bennett located Applicant in a different area lying under brush on a dirt road. (Tr. 613-14).

Law enforcement recovered Darius Hamilton's fingerprint on tape found in the gray Crown Victoria. (Tr. 974-75). They determined that four cartridges recovered from the bedroom were fired by the same weapon. (Tr. 993-94). A DNA analyst testified Drake Campbell was a major contributor to a mixture of at least three people recovered from the red bandana, and Mouzon was a major contributor to a mixture of DNA on the black hoody. (Tr. 1062).

Co-Defendant Darius Hamilton testified about the events surrounding the shooting and implicated Applicant, Drake Campbell, Mouzon, and Palmer. He testified they all met near a two-story building in a wooded area, and Applicant gave Drake, Mouzon, Palmer, and Hamilton pistols while Applicant carried a rifle. (Tr. 732-34). Hamilton testified they approached a trailer and waited two to three hours. (Tr. 735). He stated a car pulled up, and a man and a woman got out. Applicant and Mouzon ran toward them, and Drake, Palmer, and Hamilton walked up to them. (Tr. 740). Hamilton testified he, Applicant, and Mouzon went inside, while Drake remained outside and Palmer stood in the doorway. (Tr. 742). According to Hamilton, he taped their hands while Mouzon held them at gunpoint and Applicant searched the house for drugs. (Tr. 743-44).

CURRENT APPLICATION

On June 15, 2021, Applicant timely filed this PCR application alleging:

Ineffective assistance of counsel:

a. Failing to call witness;
b. Failing to request for a severance;
c. Failing to advise Applicant that he had the right to testify after waiving his right thereto due to the surprised testimony of co-defendant.

On May 22, 2025, Applicant served on Respondent an amended application alleging:

Ineffective assistance of counsel:

a. Failure to call witness Myshawanna Dingle;
b. Failure to effectively move to sequester the trials;
c. Failure to investigate cell phones;
d. Failure to prepare Applicant to testify and discuss the decision to testify after his co-defendant elected to testify;
e. Failure to move to exclude Hamilton's testimony for dishonesty and cross-examine Hamilton regarding inconsistencies.

At the PCR hearing, he proceeded on the allegations of his amended application and additionally alleged counsel was ineffective for (1) not providing Applicant with discovery and (2) not objecting to an erroneous jury instruction.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the records before it, including the Berkeley County Clerk of Court records of the underlying convictions, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's appellate records, and the records from this PCR action. This Court has further had the opportunity to observe the witnesses, closely pass upon their credibility, and weigh their testimony accordingly. After a careful review based on the Strickland standard set forth below, this Court finds Applicant has failed to carry his burden of proof. Below are this Court's findings of fact and conclusions of law as required by section 17-27-80 of the South Carolina Code (2017).

Ineffective Assistance of Counsel

In a PCR action, an applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). To prove ineffective assistance of counsel, the applicant must show counsel was deficient, and the deficiency prejudiced applicant. Strickland v. Washington, 466 U.S. 668 (1984).

When evaluating deficiency, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. "A fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time." Id. at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Butler, 286 S.C. at 442, 334 S.E.2d at 814 (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

To prove prejudice, an applicant must prove counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

Failed to call Myshawanna Dingle as a witness

Applicant first contends counsel was ineffective for not calling Myshawanna Dingle as an alibi witness. At the PCR hearing, Dingle testified she met Applicant online and communicated with him for about two to three months before the murder. She stated she made the two-and-a-half hour drive from her home to see Applicant on the night of the murder; they met up around 10:00 p.m., sat under a bridge, and discussed their future. Dingle stated she drove Applicant back to a party around 2:00 or 3:00 a.m., she met his brother[2], and she left around 3:09 or 3:10 a.m. Dingle stated she was surprised she never heard from Applicant again after that night but did not investigate or pursue it. She lost contact with him but ran into a mutual contact about a month before the PCR hearing and asked about Applicant; at that time she learned about his convictions.

Applicant testified he was with a young lady the night of the murder, and he wanted Dingle

[2] Co-defendant Drake Campbell is Applicant's brother.

to testify at his trial. However, he candidly admitted he never told counsel about Dingle. Likewise, trial counsel testified he did not recall Applicant mentioning Dingle.

Based on Applicant's candid admission that he did not discuss Dingle with trial counsel, this Court finds counsel was not deficient for not calling Dingle as an alibi witness. This Court further finds her testimony would not have changed the outcome of trial. Notably, Dingle's testimony (if believed) established that when she dropped Applicant off at the party, she met his brother. Applicant's brother, Drake Cambpell, was also convicted of charges arising from this home invasion. Additionally, Applicant's attempt to now assert he wasn't present at the home invasion is not credible in light of the fact law enforcement tracked him in the woods—in a remote area—hiding in shrubbery after police were dispatched to investigate this home invasion. Because Applicant admitted he did not mention Dingle to counsel, counsel was not deficient. Further, because her testimony would not reasonably change the outcome of trial, Applicant did not prove prejudice. This claim is thus denied.

Failed to request severance

Applicant contends counsel was ineffective for failing to request a severance. Respondent moved for summary judgment on the basis counsel did, in fact, move for a severance. Thereafter, Applicant amended his allegation to contend counsel's argument related to a severance was not effective. Applicant did not prove this ground.

"Criminal defendants who are jointly tried are not entitled to separate trials as a matter of right." *Hughes v. State,* 346 S.C. 554, 558, 552 S.E.2d 315,317 (2001). "A defendant who alleges he was improperly tried jointly must show prejudice before this Court will reverse his conviction." *Id.* at 558-59, 552 S.E.2d at 317. "The general rule allowing joint trials applies with equal force when a defendant's severance motion is based upon the likelihood he and a co-defendant will

present mutually antagonistic defenses, i.e., accuse one another of committing the crime." *Id.* at 559, 552 S.E.2d at 317 (emphasis added). "The rule allowing joint trials is not impugned simply because the codefendants may present evidence accusing each other of the crime." *State v. Walker,* 366 S.C. 643, 657, 623 S.E.2d 122, 129 (Ct. App. 2005) "A severance should be granted only when there is a serious risk that a joint trial would compromise a specific trial right of a codefendant or prevent the jury from making a reliable judgment about a codefendant's guilt." *State v. Halcomb,* 382 S.C. 432, 440, 676 S.E.2d 149, 153 (Ct. App. 2009). "A proper cautionary instruction may help protect the individual rights of each defendant and ensure that no prejudice results from a joint trial." *Hughes,* 346 S.C. at 559, 552 S.E.2d at 317.

Initially, counsel *did* move to sever, arguing Applicant wanted to call co-defendant Drake, who he averred would testify Applicant was not at the scene, but he believed Drake would assert the Fifth Amendment. (Tr. 50-60). Co-defendant Drake also moved for a severance, arguing there could be antagonistic defenses that would violate due process. (Tr. 60-65). After hearing from the State, the court denied this motion. (Tr.68-69). This Court finds counsel's argument supporting the motion to sever was reasonable under prevailing professional norms and not deficient. Further, when asked about this allegation at the PCR hearing, Applicant merely stated counsel should have "fought harder." Applicant failed to set forth any additional argument at the PCR hearing that counsel could have made regarding the severance motion that would have had a reasonable likelihood of changing the outcome and thus did not prove deficiency or prejudice. Therefore, this claim is denied.

Failed to investigate cell phones

Applicant contends counsel was ineffective for failing to investigate cell phones. Applicant did not prove this ground. At the PCR hearing, Applicant testified he wanted counsel to investigate

the cell phones because it would show he didn't have anything to do with the home invasion. Counsel testified he did not recall discussing cell phones with Applicant. He averred there was nothing more he should have done differently. This Court finds Applicant has not overcome the presumption that counsel's investigation was reasonable under prevailing professional norms and thus did not prove deficiency. Specifically, Applicant did not specify what, if anything, in the phones should have been further investigated or would have been helpful to his case. Although Applicant averred an investigation would have changed the outcome, he did not explain *how* or offer any evidence of what the phone records would show. In the absence of something more, this Court would be merely speculating about whether the records would have aided Applicant's defense. Applicant thus did not prove deficiency or prejudice.

Failed to prepare Applicant to testify or discuss decision after co-defendant testified

Applicant asserts counsel was ineffective in not preparing him to testify or discussing his decision to testify again after his co-defendant testified. Applicant did not prove this ground. At the PCR hearing, Applicant testified he didn't testify because he didn't want the State to use his past against him. Counsel testified he discussed with Applicant his right to testify, but Applicant did not want to testify. This Court finds the foregoing testimony credible, and finds Applicant voluntarily waived his right to testify—after being advised of that right by the trial judge—based on his concern that the State would use prior charges against him. (Tr. 870-74). Additionally, Applicant did not prove counsel's advice regarding his decision to testify was deficient. Finally, this Court finds Applicant's testimony that he was not at the scene that night to be not credible, especially when police (using a k-9 unit) found him hiding in shrubbery in a national forest near Eccles Church—the same area that police found co-defendants Drake and Mouzon and a Hello Kitty bag that was stolen from the victims. (Tr. 247, 399-400, 404-06, 533-34, 537, 545-46, 611-

14, 631-36). Thus, there is no reasonable probability Applicant's testimony would have changed the outcome. Applicant did not prove deficiency or prejudice, and this claim is denied.

Failed to move to exclude Hamilton's testimony or cross-examine Hamilton

Applicant contends counsel was ineffective for not moving to exclude Hamilton's testimony based on dishonesty.[3] He additionally avers counsel was ineffective for not cross-examining Hamilton on inconsistencies. At the PCR hearing, Applicant testified Hamilton should not have been permitted to testify because he provided inconsistent statements. He further averred Hamilton lied about the proffer agreement and said he never had a deal. Applicant did not prove this ground.

This Court finds Applicant did not set forth a basis for excluding the entirety of Hamilton's testimony. Rather, the remedy from inconsistent witness statements is to impeach the witness through cross-examination. Here, counsel cross-examined Hamilton about the proffer agreement, and during that cross-examination, Hamilton admitted he had lied in prior statements. (Tr. 778-80, 796-97). Counsel also cross-examined Hamilton about inconsistencies in his statements, whether he received a bond after entering the proffer agreement with the State, and whether he had any other agreements with the State. (Tr. 798-807). Counsel's performance was reasonable under prevailing professional norms and not deficient. Further, Hamilton admitted on direct that he provided inconsistent statements, and he was additionally cross-examined by the other co-defendants about inconsistencies in his statements. Thus, the issue of Hamilton's inconsistent statements was clearly before the jury, and Applicant did not prove deficiency or prejudice related to counsel's cross-examination. Finally, Applicant did not present any credible evidence that

[3] Hamilton was also charged with offenses related to the home invasion and testified against Applicant and the other co-defendants at trial. (Tr. 730-54).

Hamilton lied about the proffer agreement or that Hamilton had a deal with the State. Applicant thus did not prove deficiency or prejudice in this regard, and this claim is denied.

Discovery

At the PCR hearing, Applicant alleged counsel was ineffective for not providing him a copy of discovery or reviewing discovery with him. However, he acknowledged he met with counsel five times and discussed the case with him. He additionally acknowledged he received the discovery from a co-defendant. Although counsel acknowledged he probably did not provide Applicant a paper copy of discovery, this Court does not find credible Applicant's testimony that counsel (who had nearly sixty years of criminal defense experience) did not review discovery with him at all. Further—and critically—Applicant failed to specify what discovery was not reviewed with him or how obtaining a copy of the discovery would have changed the outcome of trial. Applicant thus did not meet his burden of proof, and this claim is denied.

Jury Charge

At the PCR hearing, Applicant alleged counsel was ineffective for not objecting to the charge that the jury could infer malice from a deadly weapon. (Tr. 1278-79). For support, he specifically cited to *Gibson*[4] and *Burdette*.[5]

Initially, Applicant's reliance on *Burdette* is misplaced because *Burdette* was decided *after* Applicant's trial. Under *Belcher*,[6] which was the controlling law at the time of trial, the charge was

[4] *Gibson v. State*, 416 S.C. 260, 786 S.E.2d 121 (2016) (finding counsel ineffective for not objecting to the court's failure to use the "permissive inference" language as part of its inferred malice charge).

[5] *State v. Burdette*, 427 S.C. 490, 832 S.E.2d 575 (2019) (holding courts shall no longer charge that malice can be inferred from the use of a deadly weapon).

[6] *State v. Belcher*, 385 S.C. 597, 685 S.E.2d 892 (2009) (providing instruction that malice can be inferred from the use of a deadly weapon is improper when "evidence is presented that would reduce, mitigate, excuse or justify the killing").

proper because no evidence was presented that would reduce, mitigate, excuse, or justify the killing.[7] Because the charge was proper under *Belcher*, counsel was not deficient for not objecting. *See Pantovich v. State*, 427 S.C. 555, 562–63, 832 S.E.2d 596, 600 (2019) (noting a *Strickland* analysis "seeks to determine whether counsel was ineffective *at the time of the alleged error*" and courts "do not require attorneys to be clairvoyant in anticipating changes to the law" (emphasis in original)).

Likewise, Applicant's reliance on *Gibson* is misplaced. In *Gibson,* the South Carolina Supreme Court found counsel was ineffective for not objecting to the trial court's failure to charge the following "permissive inference" language as part of its inferred malice charge:

> The law says if one intentionally kills another with a deadly weapon, the implication of malice may arise. If facts, [sic] are proved beyond a reasonable doubt, sufficient to raise an inference of malice to your satisfaction, this inference would be simply an evidentiary fact to be taken into consideration by you, the jury, along with other evidence in the case, and you may give it such weight as you determine it should receive.

416 S.C. at 264-65, 786 S.E.2d at 123-24. Here, however, the trial court *did* charge the foregoing permissive inference language. (Tr. 1278-79). Under the law at the time of trial, the implied malice charge was proper; counsel thus was not deficient. Applicant has not shown anything else about the charge that was objectionable and thus failed to prove deficiency or prejudice.

CONCLUSION

Based on the foregoing, this Court concludes Applicant has not established any constitutional violations that would require this Court to grant relief. Thus, this application is denied and dismissed with prejudice. Should Applicant wish to appeal, he must file and serve a

[7] According to the surviving victim, five men armed with guns approached the victims outside their home and forced them inside; three of the men entered the home, taped the victims' hands, and robbed them. (Tr. 244-52).

notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. See Rule 203, SCACR. Applicant has the right to an appellate counsel's assistance in seeking review of the denial of PCR. Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). If Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on applicant's behalf. Rule 71.1(g), SCRCP. Attention is directed to Rule 243, SCACR, for appellate procedures.

IT IS THEREFORE ORDERED:

1. This application for PCR is denied and dismissed with prejudice; and

2. Applicant shall be remanded to and remain in the custody of the State.

AND IT IS SO ORDERED THIS 20 day of October, 2026.

CARMEN MULLEN
Presiding Judge
Ninth Judicial Circuit

Beaufort, South Carolina

ALAN WILSON
ATTORNEY GENERAL

October 28, 2026

The Honorable Leah Guerry Dupree
Berkeley County Clerk of Court
Post Office Box 219
Moncks Corner, South Carolina 29461-0219

Re: **Kenneth Campbell, Jr., #365925 v. State of South Carolina**
Case No. 2021-CP-08-01224

Dear Ms. Dupree:

Enclosed please find the original Order of Dismissal signed by the Honorable Carmen T. Mullen, in the above-captioned case, for filing in your office. In addition, please forward a time-stamped copy back to our office for our file.

Sincerely,

Danielle Dixon
Assistant Attorney General

DD/vh

cc: Chelsey F. Marto, Esquire