

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Perry H. Gravely, Circuit Court Judge

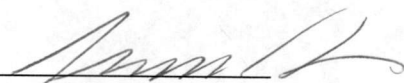
2019-CP-23-816

Anthony Lounds, Appellant,
v.
The State, Respondent.

NOTICE OF APPEAL

Anthony Lounds appeals the Honorable Perry H. Gravely's Order of Dismissal filed May 26, 2021, and Denial of Applicant's Motion to Alter or Amend filed June 9, 2021.

This 18 day of June, 2021.


Susannah Ross, Attorney at Law
330 E. Coffee St.
Greenville, SC 29601
(864) 242-0029
Attorney for Appellant

Other Counsel of Record:
Taylor Zane Smith, Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211
(803) 734-3970
Attorney for Respondent

RECEIVED
JUN 22 2021
S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

) IN THE COURT OF COMMON PLEAS
) IN THE THIRTEENTH JUDICIAL CIRCUIT
)
)
)

Anthony Maurice Lounds, #227456,
Applicant,

) Case No.: 2019-CP-23-816
)
)

v.

) **FINAL ORDER OF DISMISSAL**
)
)

State of South Carolina,
Respondent.

FILED-CLERK OF COURT
PAUL B. WICKENS
GREENVILLE, SC
2021 MAY 26 PM 1:55

This matter comes before this Court by way of an application for post-conviction relief filed by Anthony Maurice Lounds (“Applicant”) on February 18, 2019. The State (“Respondent”) filed its return on September 20, 2019, moving for the summarily dismissal of the application.¹ On September 23, 2019, this Court issued a conditional order of dismissal, conditionally dismissing the application and providing Applicant with twenty days upon the service of the order upon him to provide specific reasons that the application should not be summarily dismissed. Applicant was served with the conditional order of dismissal on September 23, 2019. On October 7, 2019, Applicant filed a response to the order. Applicant argues therein that his application should not be summarily dismissed because (1) trial counsel did not inform Applicant of a plea offer from the State and testified falsely at Applicant’s first PCR hearing that he talked with Assistant Solicitor Sloan Ellis about a plea offer, (2) an inaccurate or altered date on the face of the sentencing sheet and indictment indicate that there was an irregularity in the grand jury proceedings, and (3) the trial court did not have jurisdiction to sentence Applicant to imprisonment for life without the possibility

¹ Applicant attached a memorandum in support to his application, and the Court refers to both documents collectively as “the application”.

phg

of parole because the notice of intent to seek life without the possibility of parole references offenses for which Applicant was not indicted or convicted.

This Court has reviewed Applicant's response to the conditional order of dismissal and finds that Applicant has not shown a sufficient reason that the application should not be summarily dismissed. Accordingly, this Court denies and dismisses the application for post-conviction relief with prejudice.

PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Greenville County. The Greenville County Grand Jury indicted Applicant at the November 2010 term of General Sessions for armed robbery (2009-GS-23-10155, count 1) and possession of a weapon during commission of a violent crime (2009-GS-23-10155, count 2). Scott D. Robinson, Esquire (trial counsel), represented Applicant. George Campbell, Esquire, and Sloan Price Ellis, Esquire, prosecuted the case on behalf of the State. Applicant proceeded to a jury trial on July 12, 2011, with the Honorable C. Victor Pyle presiding. At the conclusion of trial, Applicant was found guilty as indicted and sentenced by Judge Pyle to life imprisonment without the possibility of parole for armed robbery and imprisonment for five years for possession of a weapon during the commission of a violent crime.

Trial counsel filed a timely notice of appeal. Susan B. Hackett, Esquire (appellate counsel), of Appellate Defense perfected the appeal. The South Carolina Court of Appeals affirmed Applicant's convictions and sentences. State v. Lounds, Op. No. 2013-UP-289 (S.C. Ct. App. filed June 26, 2013). The remittitur was issued on July 17, 2013.

2013-CP-23-4178

Applicant filed his first application for post-conviction relief on August 2, 2013, (2013-CP-

23-4178). Applicant raised the following issues:

1. Ineffective assistance of trial counsel:
 - a. Failed to function as the State's adversary.
 - b. Failed to call witnesses.
 - c. Failed to investigate.
 - d. Failed to offer defense to the court.
 - e. Failed to subject the prosecution's case to adversarial testing.

In a pro se "Amendment to PCR Application" filed on September 17, 2013, (and prior to appointment of PCR counsel), Applicant made the following additional allegations:

1. Ineffective assistance of trial counsel:
 - a. Failed to "communicate with the Applicant to adequately prepare for life without parole trial."
 - b. Failed to challenge Applicant's arrest.
 - c. "[N]ever intended to offer any defense to the court on my behalf."
 - d. Failed to "function as the governments adversary."
 - e. Failed to "conscientiously gather any information to protect my rights."
 - f. Failed to "conscientiously discharge his professional responsibilities."
 - g. Failed to "make proper arguement concerning the seating of jury 40 peremptory challenge."

An evidentiary hearing was convened on October 21, 2014, at the Greenville County Courthouse. R. Mills Ariail, Jr., Esquire, represented Applicant. At that hearing, Applicant additionally argued that trial counsel was constitutionally ineffective for failing to move to quash the indictment due to its being presented to the Greenville County Grand Jury more than thirteen months after the crime occurred. Lounds v. State, 13-CP-23-4178 (Greenville, S.C., Ct. Common Pleas, December 8, 2014). The Honorable Letitia H. Verdin denied and dismissed the PCR application by order filed on December 19, 2014. Applicant filed a timely notice of appeal (2015-000124). Wanda H. Carter, Esquire, of the South Carolina Commission on Indigent Defense, filed a petition for writ of certiorari on September 18, 2015, and Respondent filed a return to that petition on January 4, 2016. The Supreme Court of South Carolina denied the petition for a writ of certiorari on October 20, 2016. The remittitur was issued on November 7, 2016.

Applicant filed his second application for post-conviction relief on August 7, 2015. He raised the following issues:

1. Ineffective assistance of trial counsel:
 - a. "Trial counsel failed to object to alternate juror deliberating while jury considered verdict."
2. Newly discovered evidence
 - a. Transcript as incomplete

In a "Notice and Motion to Amendment to PCR Application" filed on October 13, 2015, Applicant made the following allegations:

1. After-discovered evidence
2. Ineffective assistance of appellate counsel
 - a. Failed "to check record, review record."

Respondent made its return on February 24, 2016, and moved therein for the summary dismissal of the action. On March 8, 2016, the Honorable Robin B. Stilwell issued a conditional order of dismissal, which provided that the Court would summarily dismiss the action unless Applicant provided the Court with specific reasons that the matter should not be dismissed. Applicant responded to the conditional order on or around March 7, 2016. In his response, Applicant alleged that his review of the complete trial transcript showed that the trial court had erred in failing to discharge an alternate juror and that trial counsel was ineffective for failing to object to the presence of an alternate juror. On September 7, 2016, this Court issued a final order, denying the application and dismissing the action with prejudice.

On October 4, 2016, Applicant filed a notice of appeal (2016-002094). On October 13, 2016, the Supreme Court of South Carolina issued a deficiency letter to Applicant advising him that he was required to file an explanation as to why this Court's determination that the second PCR action was barred as successive and/or untimely under the statute of limitations was improper, in accordance with Rule 243(c), SCACR. Applicant filed a pro se explanation with the Court on

October 24, 2016. On October 26, 2016, the Court dismissed the matter due to Applicant's failure to show that there was an arguable basis for the appeal. The remittitur was issued on November 15, 2016.

CURRENT APPLICATION

In his third and current PCR application, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. The State lacked subject-matter jurisdiction to convict Applicant because Applicant was not legally indicted;
2. The State lacked jurisdiction to sentence Applicant to life imprisonment because the State did not serve Applicant with a notice to seek life without parole; and
3. The State engaged in outrageous conduct by attempting to alter the date on Applicant's indictment.

Before this Court are the records of the Greenville County Clerk of Court regarding Applicant's convictions, Applicant's records from the South Carolina Department of Corrections, the records from Applicant's direct appeal, the records from Applicant's prior post-conviction relief actions and appeals, and the filings in this case.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the pleadings and all relevant supporting documents. Pursuant to S.C. Code Ann. § 17-27-70(b), this Court makes the following findings of fact and conclusions of law:

Statute of Limitations

This application shall be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160 (the Act). Specifically, the Act requires as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within

one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision on appeal, whichever is later.

S.C. Code Ann. § 17-27-45(A).

The South Carolina Supreme Court has held the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, Section 17-27-70(c) of the South Carolina Code authorizes the Court to “grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.” If an applicant alleges facts that would establish an exception to the statute of limitations or the prohibition against successive applications, and the facts are not conclusively refuted by the record, the applicant has raised a question of fact that can be resolved only through an evidentiary hearing. Robertson v. State, 418 S.C. 505, 519, 795 S.E.2d 29, 36 (2016) (finding the PCR court erred in summarily dismissing a successive PCR application when there was a genuine issue of fact as to whether the attorneys appointed to represent Robertson in a previous capital PCR action met the statutory qualifications required to represent him in the matter) (citing McCoy v. State, 401 S.C. 363, 737 S.E.2d 623 (2013) (finding the PCR court erred in summarily dismissing McCoy’s successive application for post-conviction relief because McCoy’s allegation that his application was not untimely due to the applicability of the discovery rule found in Section 17-27-45(C) was not conclusively refuted by the record, and a genuine issue of material fact existed when McCoy claimed he did not discover a juror’s misconduct until his first application as dismissed but the State argued the misconduct could have been discovered by McCoy before the first application was dismissed through the exercise of due diligence).

Applicant was convicted as indicted in July of 2011. The remittitur in Applicant's direct appeal was issued on July 17, 2013. The application for post-conviction relief was therefore due to be filed by July 17, 2014. As this application was filed on February 18, 2019, more than four-and-a-half years after the deadline imposed by the statute, Applicant has failed to file within the required period of time, and Applicant has not shown any reason in his reply that the statute of limitations should be tolled. Therefore, this Court summarily dismisses the application as barred by the statute of limitations.

Successiveness

The application shall be summarily dismissed because it is successive to Applicant's previous post-conviction relief applications. Courts disfavor successive applications and place the burden on applicants to establish that any new ground raised in a subsequent application could not have been raised in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Arnold v. State, 309 S.C. 157, 420 S.E.2d 834 (1992). Section 17-27-90 of the South Carolina Code states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental, or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily, and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental, or amended application.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can indicate a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." Id. at 450. If the applicant could have raised the allegations in a previous

application, then the applicant may not raise those grounds in successive applications. Id. An applicant bears the burden of showing the allegations could not have been previously raised. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980).

In his reply to the conditional order of dismissal, Applicant argues trial counsel was constitutionally ineffective for not informing Applicant is a plea offer made by the State. Applicant admits in his reply that he could have raised this issue in one of his previous PCR actions. Applicant argues he did not do so because trial counsel testified at the PCR hearing that one of the assistant solicitors who tried Applicant did not recall any plea offer being extended to Applicant, but Applicant alleges the same solicitor has since stated that he did not speak to trial counsel about a plea offer. By Applicant's own admission, though, he could have raised this issue in one of his previous cases. And Applicant testified at his PCR hearing that the lead solicitor at trial told Applicant that he had extended a plea offer, showing Applicant had enough information to dispute trial counsel's testimony at the time, if he chose to do so. PCR Tran. 23. Despite Applicant's connecting in his reply trial counsel's testimony with Applicant's not claiming in a previous PCR action that trial counsel was constitutionally ineffective for informing Applicant of a plea offer, Applicant did not raise the issue at all during that first PCR action. It is not as if Applicant argued the point but was thwarted by allegedly false testimony on the part of trial counsel; the matter was not in issue to begin with. Applicant's failure to raise an issue at any point in litigation cannot be excused by a couple of sentences of testimony given at the PCR hearing, especially when Applicant could have challenged that witness's credibility at that hearing.² At any rate, Applicant's own testimony at the PCR hearing was that, even if a plea offer had been extended and he had been

² This Court notes Applicant did accuse trial counsel at his PCR hearing before Judge Verdin of making false statements to the trial court. PCR Tran. 15.

informed of it, he did not know that he would have accepted it. PCR Tran. 24-25. This Court finds Applicant has failed to show that this ground avoids the procedural bar to successive applications.

Applicant argues there were irregularities in the grand jury procedure and errors on the face of the indictment indicating the dates listed thereupon are incorrect or have been altered. Applicant's reply explicitly notes that these issues are "apparent on the face of the indictment" With that being the case, there is no reason Applicant could not have raised these issues in a previous PCR action. In fact, during the hearing in Applicant's first PCR action, Applicant argued that trial counsel was constitutionally ineffective for failing to move to quash the indictment due to its being presented to the Greenville County Grand Jury more than thirteen months after the crime occurred, showing he had awareness of the indictment, of the procedures relating to its presentment, and the ability to challenge its sufficiency. He has provided no justification for his attempt in this successive PCR action to challenge the sufficiency of the indictment or to allege that it had been impermissibly altered. Not only did Applicant have the opportunity to challenge the indictment in previous actions, but he made use of that opportunity. In his first PCR action, Applicant testified as to issues related to the indictment and argued that trial should have moved to quash it. Judge Verdin addressed counsel's performance with respect to the indictment in her order of dismissal. This Court finds Applicant has not provided any reason this claim should survive the bar to successive applications.

Applicant claims he did not receive proper notice of the State's intent to seek a sentence of imprisonment for life without the possibility of parole. Applicant could have argued this issue in an earlier PCR action. For example, in his first PCR action, Applicant alleged in a pro se supplemental filing that Counsel was ineffective for failing to discuss with him the State's intention to seek life, although it appears that this issue was abandoned during the PCR hearing, based upon Judge

Verdin's findings in the order of dismissal. Furthermore, Applicant explicitly acknowledged at his PCR hearing that he was aware of the State's intention to seek a sentence of life imprisonment when he testified that he received the notice in March of 2011, which was almost four months before his trial. PCR Tran. 26. Trial counsel testified at the PCR hearing that Applicant would have received the notice "in early 2011." PCR Tran. 58.³ This Court finds Applicant has failed to show that this ground avoids the procedural bar to successive applications.

Applicant argues the trial court did not have jurisdiction to sentence Applicant to imprisonment for life without the possibility of parole because the notice of intent to seek life refers to offenses for which Applicant was not indicted or convicted. Applicant could have raised this issue in a previous PCR action. Applicant did, in fact, raise the issue at his PCR hearing before Judge Verdin through his testimony. PCR Tran. 27. At that hearing, Applicant testified that his "sentence was illegal." PCR Tran. 27. Ariail, who represented Applicant during that hearing, questioned Applicant about the matter, and Applicant affirmed he believed the notice of intent referred to indictments for which Applicant had not been convicted. PCR Tran. 27. This Court finds Applicant has failed to show that this ground avoids the procedural bar to successive applications.

Applicant has wholly failed to provide this Court with any reason it should not summarily dismiss his application for post-conviction relief. Those new arguments presented could have been raised during earlier PCR actions. Applicant has not shown a sufficient reason that they were not

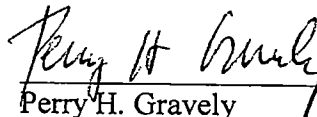
³ The Supreme Court of South Carolina noted in a similar case that there was no authority that would prevent the State from again seeking a sentence of life without the possibility of parole in the event that post-conviction relief was granted to the applicant in that case. See James v. State, 372 S.C. 287, 292, 641 S.E.2d 899, 902 (2007) (holding, among other things, that South Carolina Code Section 17-25-45(H) has been satisfied as long as a defendant and his defense attorney have notice at least ten days before trial that the State is seeking a sentence under South Carolina's recidivist statute).

plg

so raised. Therefore, Applicant has failed to meet the burden imposed upon him, and this Court summarily dismisses the application as successive to Applicant's previous post-conviction relief

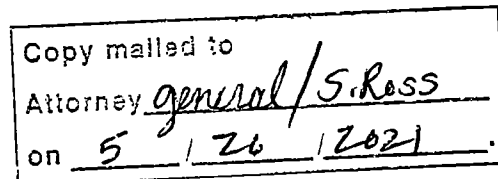
IT IS THEREFORE ORDERED that the application for post-conviction relief is hereby denied and dismissed with prejudice due to its successiveness and its untimeliness. This Court advises Applicant that he must file and serve a notice of appeal, through counsel, within thirty days of the service of this order upon him to secure appellate review. Rule 203, SCACR. Applicant's attention is directed to Rule 227, SCACR, for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this 20th day of May, 2021.



Perry H. Gravely
Chief Judge for Administrative Purposes
Thirteenth Judicial Circuit

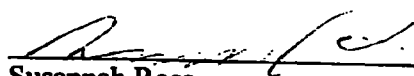
Greenville, South Carolina.



indictment number on the sentencing sheet and indictment indicate November 2009 while the grand jury convened on November 23, 2010. While this is apparent on the face of the indictment which arguably should have been brought up prior to trial under Gentry, it is indicative of an irregularity in the grand jury procedure in this case. State v. Gentry, 363 S.C. 93, 610 S.E.2d 494, (2005).

Lastly, the Applicant argues that his life sentence was illegal because he was not properly noticed under SC Code Ann. 17-25-45(H) and the court lacked subject matter jurisdiction to confer a life sentence. The written notice of intent to seek life without parole references unknown indictments noticing an intent to seek life without parole upon the conviction of the above-referenced indictments, 2010GS236028 and 2010GS2310156. See Ex. C. Mr. Lounds was never convicted for those indictments. Recognizing that a sentence exceeding the court's sentencing authority does not regularly involve a question of subject matter jurisdiction, here the life sentence was conferred for charges for which the applicant was not indicted and convicted. See State v. Johnson, 333 S.C. 459, 510 S.E. 2d 423 (1999). This, we respectfully argue suggests that the court lacked subject matter jurisdiction to sentence life without parole for the Mr. Lound's armed robbery conviction because he was, in effect, sentenced to life for charges for which he was not indicted. The undersigned on behalf of the Applicant requests that her PCR action proceed to a full hearing.

Respectfully submitted,


Susannah Ross
Attorney for the Applicant
330 E. Coffee St,
Greenville, SC 29601
(864) 242-0029

Greenville, South Carolina
This 7 day of October, 2019

WITNESSES

Alvin King

Greenville County Sheriff's Office

10/1/2009

ARREST WARRANT NUMBER

1843242 and 1843243

ACTION OF GRAND JURY

TRUE BILL

Ann Swerette

FOREMAN GRAND JURY

Forperson of Grand Jury

VERDICT

COUNT I: *guilty*

COUNT II: *guilty*

Ann Swerette 7/13/11

Forperson of Petit Jury Date

Exhibit A

DOCKET NO. 2009-GS-23-GAC

016155

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

November TERM 2009/10

THE STATE

vs.

@

ANTHONY MAURICE LOUNDS

Indictment for

0139 and 0549

ARMED ROBBERY and POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

VIOLATION § 16-11-0330 and 16-23-0480

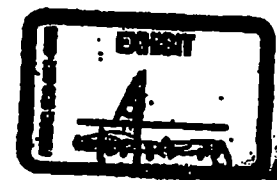


Exhibit B

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ARMED ROBBERY and POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on **NOV 23 2010** the Grand Jurors of Greenville
County present upon their oath:

COUNT I - ARMED ROBBERY

That ANTHONY MAURICE LOUNDS did in Greenville County, on or about the 5th day of September, 2009, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: U.S. currency and a checkbook from the person or presence of BRIAN WORKMAN. This is in violation of §16-11-330 of the South Carolina Code of Laws (1976) as amended.

COUNT II - POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That ANTHONY MAURICE LOUNDS did in Greenville County, on or about the 5th day of September, 2009, possess or visibly display a hand gun during the commission or attempted commission of a violent crime, to wit: ARMED ROBBERY. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Geo. Campbell
SOLICITOR

Exhibit C

2

3

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

The State)

-vs-)

Anthony Maurice Lounds,)
Defendant)

IN THE COURT OF GENERAL SESSIONS

Indictment Nos. 2010GS236028

2010GS2310156

NOTICE OF INTENT TO SEEK LIFE
WITHOUT PAROLE

FILED IN CLERK OF COURT
PAUL C. WICKER
GREENVILLE, SC
2011 MAR 24 AM 8:55

The State hereby notifies Anthony Maurice Lounds and his attorney, Scott Robinson, of its intention to seek sentencing of the Defendant under Section 17-25-45 for a sentence of life without the possibility of parole if the State obtains a conviction on the above-referenced indictments for Anthony Maurice Lounds.

The Defendant has been convicted of the following most serious offense: Voluntary Manslaughter.

George A. Campbell
George A. Campbell
Assistant Solicitor

Greenville, South Carolina
March 23, 2011

Car



1576

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

Anthony Maurice Louds

AKA:

Race: BLACK Sex: M Age: 39

DOB: 1-1972 SS#

Address: 500 Wenwood Rd Apt 1311

City, State, Zip: Greenville, SC 29607-4401

DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

TO: Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS2310155

A/W#: 1343242

Date of Offense: 9/5/2009

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lowd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Campbell, George Defendant; [Signature] SC Bar# Attorney for Defendant; [Signature] SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of life without parole days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered FTUP
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
 Set by SCDPPPS

Recipient: _____
Obtain GED
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

*Fees:		\$
§ 14-1-206 (Assessments 107.3%)		\$
§ 14-1-211(A)(1) (Conv. Surcharges)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharges)	\$100	\$100.00
§ 56-5-2993 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharges)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharges)	\$5	\$
3% to County (if paid in installments)		\$
TOTAL		\$

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: [Signature]
Court Reporter: [Signature]
SOCA/217 (03/2011)

Presiding Judge: [Signature]
Judge Code: 2010
Sentence Date: 7-13-2011

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

Anthony Maurice Lounds

AKA:

Race: BLACK Sex: M Age: 39

DOB: 1972 SS#

Address: 500 Wenwood Rd Apt 1511

City, State, Zip: Greenville, SC 29607-4401

DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes to the Defendant who was CONVICTED OF or PLEADS TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lowd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Prosecution to Grand Jury. (defendant's initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTORNEYS: Campbell, George (Campbell) Defendant; SC Bar# [redacted] Attorney for Defendant; SC Bar# [redacted]

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:
 RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
 Set by SCDPPPS

Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5%)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(I) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCIA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$

days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly parts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk
Court Reporter:
SCCA/217 (03/2011)

Paul B Widensami

Presiding Judge
Judge Code: 2070
Sentence Date: 7-13-2011

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

ANTHONY MAURICE LOUNDS,
APPLICANT.

v.

THE STATE OF SOUTH CAROLINA,
RESPONDENT.

) IN THE COURT OF COMMON PLEAS
) THIRTEENTH JUDICIAL CIRCUIT
)
)
)

) MOTION TO ALTER OR AMEND THE
) JUDGMENT
)

) ENTERED COMPUTER
)

) CASE # 2019-CP-23-816
)

21 JUN 4 PM 3:04
Paul Wickensner CDC SVL SC

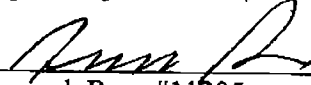
COMES NOW the Applicant and hereby moves pursuant to Rule 59(e), SCRCP, to alter or amend the judgment of this Court filed on May 26, 2020. The Final Order of Dismissal states that the allegation that counsel was unconstitutionally ineffective for failing to inform the Applicant of a plea offer is successive. The Applicant disputes this. The issue was not and could not have been effectively addressed at the prior hearing because rebuttal evidence was not yet discovered by the Applicant. Mr. Lounds filed his most recent application after learning that Assistant Solicitor Sloan Ellis told his family members that as second chair at the trial, he would not be in a position to know of prior plea offer as PCR witness, Scott Robinson testified.

Applicant admits that the allegation could have been raised at his prior PCR hearing. It is true and the allegation was, in fact, argued at Mr. Lounds' one prior PCR hearing before Judge Verdin. Mr. Lounds offered letters into evidence showing Assistant Solicitor George Campbell extended plea offers to Nihar Patel. Ex. 1. Mr. Patel was the Applicant's public defender and was relieved of representation when Scott Robinson was retained. Mr. Lounds testified that he did not receive any plea offer prior to his trial where he received a life sentence under § 17-25-45 and could not say whether he would have accepted the offer because he did not know what the plea offer was. PCR Ex. 2, Tran. 24-25. Scott Robinson testified that he did not recall any plea offer and neither did Sloan Ellis, a statement which could not at the time have been rebutted. PCR Ex.

3. Tran. 59-60. Appellate counsel argues the issue in his petition for cert, but cert was denied after the State argued that the allegation was not preserved because the 2014 Order of Dismissal fails to specifically address this allegation and there was no 59(3) motion to preserve the issue. Ex. 4 & 5. Mr. Lounds never had a fair bite at the apple with this allegation and the newly discovered evidence of Sloan Ellis position in the case strengthens the argument.

For the foregoing reasons, the Applicant requests this Court to alter its Order of Dismissal and grant Applicant relief.

Respectfully submitted,



Susannah Ross #11205
Attorney for the Applicant
330 E. Coffee St,
Greenville, SC 29601
(864) 242-0029

Greenville, South Carolina
This 4 day of June, 2021

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

SYLVESTER KING,)

Applicant,)

vs.)

THE STATE OF SOUTH CAROLINA,)

Respondent.)

IN THE COURT OF COMMON PLEAS

2018-CP-23-3013


AFFIDAVIT OF SERVICE
BY MAIL

FILED-CLERK OF COURT
PAUL B. BLACKBURN
GREENVILLE, SC 29601

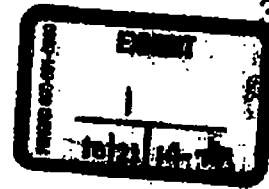
2021 JUN -4 PM 3: 58

1. I am the attorney for the Applicant in the above-captioned matter.
2. Regular communication by mail exists throughout the state of South Carolina and this is a proper circumstance of service by mail.
3. I have this day served a copy of the **59 (e) motion** on the above-captioned matter on the following person by depositing the same in the United States mail with proper postage affixed thereto:

Office of the Attorney General
PCR Division
P.O. Box 11549
Columbia, SC 29211


 Attorney for Defendant

This 4 day of June, 2019



Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11688
Columbia, South Carolina 29211-1688
Telephone: (803) 734-5330
Facsimile: (803) 734-5337

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

December 13, 2012

Mr. Nihar Patel
The Carolina Law Group
910 East Washington Street
Greenville, S.C. 29601

Re: State v. Anthony Lounds, our file no.: 11-423

Dear Mr. Patel:

I represent Anthony Lounds in his direct appeal. You represented Mr. Lounds concerning the charges. The judge relieved you prior to trial. On Mr. Lounds' behalf, I am requesting copies of all written communications between your office and the prosecutor in his case. I appreciate your cooperation in this matter. I look forward to receiving those materials soon.

If you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely,



Susan B. Hackett
Appellate Defender

SBH/

cc: Anthony Lounds





Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11669
Columbia, South Carolina 29211-1669
Telephone: (803) 734-4330
Facsimile: (803) 734-4337

Robert M. Duziek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

February 1, 2013

Mr. Anthony Lounds, #227456
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

Dear Mr. Lounds:

I spoke to Mr. George Campbell of the Greenville Solicitor's office today. He received my letter inquiring about plea offers in your case. He stated that he does not retain written copies of the plea offers, but did find in his computer system were offers were made on May 17, 2010 and January 26, 2011. He believes he made the offers to Nihar Patel.

I hope this information assists you in your endeavor.

Sincerely,

Susan B. Hackett
Appellate Defender

SBH/



SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11689
Columbia, South Carolina 29211-1688
Telephone: (803) 734-1330
Facsimile: (803) 734-1337

Robert M. Dudak, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

December 13, 2012

Mr. George Anthony Campbell, Jr.
Thirteenth Circuit Solicitor's Office
305 East North Street, Ste. 325
Greenville, S.C. 29601

Re: State v. Anthony Lounds, our file no.: 11-423

Dear Mr. Campbell:

I represent Anthony Lounds in his direct appeal. Mr. Lounds informed me that he met with you on December 5, 2012 at the Greenville County Courthouse. He further informed me that you indicated that you communicated a written plea offer to Nihar Patel, Mr. Lounds' trial attorney. Please provide me with a copy of the written plea offer. I look forward to receiving the plea offer soon. Thank you for your cooperation.

If you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely,

Susan B. Hackett
Appellate Defender

SBH/

cc: Anthony Lounds

1 saying Mr. Robinson did make a motion for a
2 mistrial when this information came to light? I
3 just want to be clear that I understand the
4 testimony. He made a motion for mistrial but not
5 a motion to have that juror excluded and the
6 alternate seated. Am I understanding?

7 **THE WITNESS:** He --

8 **MR. ARIAIL:** That's right.

9 **THE COURT:** Okay. I got you. Go ahead.

10 **BY MR. ARIAIL:**

11 **Q** Now, let me go through real quick. I want
12 to talk to you. You mentioned to me at no point did
13 you get any type of plea offer from Mr. Robinson or
14 Mr. Patel, correct?

15 **A** I came up here on December -- I came to
16 Greenville on December -- the exact -- (Pause.) I
17 came to, uh, court on -- in the month of -- December
18 the 5th, 2012. I spoke with Mr. Campbell. I asked Mr.
19 Campbell you didn't offer me no kind of plea or
20 anything. He was like we did offer you a plea. He
21 said we offered a plea. I said nobody told me nothing
22 about no plea. He said I offered a plea.

23 So when I got back, I notified my appellate
24 counsel. She said she would write George Campbell a
25 letter and find out about it. She wrote him a letter.

1 He responded back to her. I would like to submit
2 this.

3 THE COURT: All right. Give it to your
4 attorney.

5 THE WITNESS: Yes, ma'am. This is the
6 letter.

7 BY MR. ARIAIL:

8 Q This letter says there were plea offers
9 that were extended on May 17, 2010 and January 26,
10 2011. The offers were made to Mr. Patel, is that
11 correct?

12 A Uh-huh.

13 Q Okay.

14 A And she also wrote a letter to Mr. Patel as
15 well.

16 Q Okay. Were there any letters that you got
17 from SCCID regarding plea offers extended or showing
18 that Mr. Robinson had a plea offer for you?

19 A No, I did not.

20 Q Did Mr. Patel give you these plea offers?

21 A No, he did not. Mr. Patel wasn't my
22 attorney when those pleas were made. Those were
23 after. Mr. Patel was relieved on December 8th. Mr.
24 Robinson came aboard on December 31st. Mr. Robinson
25 failed to investigate or negotiate a sentence. That

1 plea was there then. He did not try to get it
2 established. Not saying that I would have accepted
3 it. But how can I? I don't know.

4 THE COURT: All right.

5 MR. ARIAIL: Your Honor, I'm going to move
6 these into evidence if I can as Exhibit 1.

7 THE COURT: Any objection?

8 MS. RATIGAN: No objection. Is it going to
9 be all one?

10 MR. ARIAIL: All one.

11 MS. RATIGAN: All right.

12 THE COURT: All right.

13 (WHEREUPON, Applicant's Exhibit 1 is marked for
14 identification and admitted into the record.)

15 BY MR. ARIAIL:

16 Q All right. Now, you said that Mr. Robinson
17 began representation of you sometime during, I guess
18 it would have been December 2010, correct?

19 A 2011. He came December 31, 2011. (Pause.)

20 I got a letter from Silvaggio on December
21 31, 2010 saying Scott Robinson will be representing
22 me. That was December 31, 2010.

23 Q Right. That is the first time you ever met
24 with Mr. Silvaggio?

25 A Yes.

1 Young, I mean, trying to portray this as a drug deal
2 versus a robbery in this kind of case, I don't know
3 if that would have been the best trial strategy.

4 Q Did Mr. Lounds tell you his version of what
5 happened that night? Do you recall?

6 A I don't recall exactly what he told me at
7 that time.

8 Q Did Mr. Lounds ever mention to you the
9 names of Anthony Watkins or Zeldric Vance that you
10 recall?

11 A Vance, no. Watkins was actually one of the
12 witnesses on our witness list that Judge Pyle read to
13 the jury and he was subpoenaed.

14 Q All right. And was Mr. Lounds served with
15 the LWOP notice?

16 A Yeah, that would have been some time in
17 early 2011.

18 Q So pretty soon after you came on the case,
19 he was served with the notice of intent to seek life
20 without parole?

21 A Yes.

22 Q Do you recall ever having received a plea
23 offer from the State while you represented Mr.
24 Lounds?

25 A I don't recall independently. I actually

1 took the precaution of calling Sloan Ellis. Sloan
2 Ellis did not recall any plea offer being made in
3 this matter.

4 Q Just for the record, Sloan Ellis is who?

5 A He was the assistant solicitor who
6 prosecuted the case with Mr. Campbell in this matter.
7 I don't believe -- I think Mr. Lounds -- whatever the
8 plea offer would have been, it would have been 15 or
9 so, approximately 15 charges that were outstanding at
10 that point. I can't imagine that plea offer would
11 have been something he would've taken.

12 Q But you don't have any independent
13 recollection that there was a plea offer?

14 A I don't. I don't believe there was.

15 Q As part of your general practice, what do
16 you do when you get a plea offer from the state?

17 A Take it to the client. That's why I think
18 that either myself or Mr. Silvaggio would have done
19 that. But I believe that -- if an offer actually did
20 take place, it would have been a very high, very
21 significant offer in this matter. I don't believe
22 Mr. Lounds would ever take it.

23 MS. RATIGAN: That's all I have, Your
24 Honor.

25 THE COURT: All right. Mr. Ariail?

Ex 4

QUESTION I

Trial counsel erred in failing to inquire into and communicate to petitioner the state's plea offers presented in the case.

Petitioner testified at the PCR hearing and explained that his trial attorney was not his only appointed counsel. Originally, Nihar Patel, Esquire, was assigned to petitioner's case, but he was relieved as counsel for petitioner on December 8, 2010. On December 31, 2010, trial counsel was assigned to petitioner's case. Petitioner's case was tried before a jury on July 12, 2011. App. 257, l. 10 – p. 260, l. 10. Petitioner testified that he later learned that plea offers were extended to him on May 17, 2010, when Patel was his attorney, and on January 26, 2011, while trial counsel represented him. Petitioner added that he might have accepted either of the offers had he known of them. App. 273, l. 11 – p. 276, l. 20. Note that two solicitors prosecuted petitioner: George Campbell and Sloan Ellis.

Trial counsel addressed this issue at the PCR hearing as follows:

Q. Do you recall ever having received a plea offer from the State while you represented Mr. Lounds?

A. I don't recall independently. I actually took the precaution of calling Sloan Ellis. Sloan Ellis did not recall any plea offer being made in this matter.

Q. Just for the Record, Sloan Ellis is who?

A. He was the assistant solicitor who prosecuted the case with Mr. Campbell in this matter. I don't believe – I think Mr. Lounds – whatever the plea offer would have been, it would have been 15 or so, approximately 15 charges that were outstanding at that point. I can't imagine that plea offer would have been something he would've taken.

Q. But you don't have any independent recollection that there was a plea offer?

A. I don't. I don't believe there was.

Q. As part of your general practice, what do you do when you get a plea offer from the state?

A. Take it to the client. That's why I think that either myself or Mr. Silvaggio would have done that. But I believe that – if any offer actually did take place, it would have been a very high, very significant offer in this matter. I don't believe Mr. Lounds would ever take it. App. 309, l. 22 – p. 310, l. 22.

Additionally, reprinted below from page three (3) of the supplemental appendix is a paragraph from a letter written by appellate counsel to petitioner during the direct appeal verifying the fact that plea offers were made in his (petitioner's) case. The letter confirms as follows:

"I [Direct Appeal Counsel] spoke to George Campbell of the Greenville Solicitor's office...[who] stated that ...[he] did find in his computer system.....offers made on May 17, 2010 and January 26, 2011."

Apparently, trial counsel contacted Solicitor Ellis regarding plea offers, but failed to contact Solicitor Campbell, who was also a prosecutor in the case, about plea offers. Also, counsel failed to contact former counsel Patel, who was previously assigned to represent petitioner, about plea offers. These omissions constituted error.

A defendant has a right to effective assistance of counsel during the plea bargaining process. In Judge v. State, 321 S.C. 554, 471 S.E.2d 146 (1996), the Court held that the Sixth Amendment regarding effective assistance of counsel applied to the plea bargaining process also. Judge was overruled on other grounds by Jackson v. State, 342 SC 95, 535 S.E. 2d 926 (2000), to the extent that a statement by a client that he was prejudiced by counsel's deficient performance at the plea bargaining process can satisfy the prejudice prong of the two-pronged test to be met in ineffective assistance of counsel cases. See Missouri v. Frye, 132 S.Ct. 1399 (2012), where counsel was found ineffective in failing to convey to the defendant the plea offer before it expired. See also Davis v.

State, 381 S.C. 601, 675 S.E.2d 416 (2009), where the Court held that counsel was ineffective in failing to communicate a plea offer to the defendant. In Davis, the Court held that counsel's failure to inform the defendant of a written plea offer that was substantially less than the sentence he received after pleading guilty constituted ineffective assistance of counsel because the defendant was unaware of the existence of the plea offer (due to counsel's error) until after the plea offer had expired, and that he would have accepted the plea offer had it been communicated to him. In Lafier v. Cooper, 132 S.Ct. 1376 (2012), the Supreme Court held that petitioner was prejudiced by counsel's deficient performance in advising petitioner to reject a plea offer and go to trial.

A guilty plea must represent a voluntary and intelligent choice among alternative courses of action open to the defendant. Hill v. Lockhart, 474 U.S. 52 (1985). Here, counsel's error regarding the failure to communicate to petitioner the state's two plea offers prior to trial violated petitioner's right to receive effective legal assistance in his criminal case by guarantee of the Sixth Amendment to the United States Constitution. See Hill v. Lockhart, supra. Petitioner was prejudiced by counsel's negligence because he stated at the PCR hearing that he would have considered and maybe accepted either of the plea offers had they been made know to him, and note that a reasonable probability existed that the outcome of his convictions and sentences might have been different but for counsel's error in this regard.

STANDARD OF REVIEW

The proper standard for review of a PCR evidentiary hearing is whether "any evidence of probative value" exists to sustain the post-conviction relief judge's findings. Cherry v. State, 300 S.C. 115, 119, 386 S.E.2d 624, 626 (1989). In a post-conviction relief proceeding, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

ARGUMENT

- I. **The issue of whether trial counsel was deficient in his inquiry into or conveyance of plea offers is not preserved for appellate review.**

Petitioner argues trial counsel was deficient because he failed to "inquire into and communicate" to him any plea offers from the State. This issue, however, is not preserved for appellate review because it was not addressed in the final order of dismissal. As such, it was not raised to and ruled upon by the PCR judge and is not preserved for review by this Court. See Staubes v. City of Folly Beach, 339 S.C. 406, 412, 529 S.E.2d 543, 546 (2000) ("It is well-settled that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial court to be preserved for appellate review."); see also Plyler v. State, 309 S.C. 408, 409, 424 S.E.2d 477, 478 (1992) (holding an issue is procedurally barred if it is not both raised to and ruled upon by the PCR judge) (citing Hyman v. State, 278 S.C. 501, 299 S.E.2d 330 (1983)). While there may have been some testimony about plea offers at the PCR hearing, Petitioner did not file a post-trial motion to alter or amend the order to include a ruling on this issue. In the absence of such a post-trial motion, this Court may not review

the issue on appeal. See Noisette v. Ismail, 304 S.C. 56, 58, 403 S.E.2d 122, 124 (1991) (holding that where a trial court does not explicitly rule on an argument raised, and appellant makes no Rule 59(e) motion to obtain a ruling, the appellate court may not address the issue).

II. The PCR judge did not err in finding Petitioner failed to meet his burden of proving trial counsel was deficient in not calling certain witnesses at trial.

Petitioner argues trial counsel was deficient in not calling Brigham Young and Zeldric Vance as defense witnesses at his trial because these witnesses would have testified the incident in this case was not an armed robbery. Petitioner's argument is without merit.

A.

At the PCR hearing, Petitioner stated he told trial counsel's investigator that the man in the Ingles video with him was someone he knew by his street name, Al Capone. (App.pp.261-62). Petitioner stated his family later "got his name" and told the investigator this person was Brigham Young. (App.p.261). Petitioner stated Young asked him for a ride to the motel, that they saw Anthony Watkins and Zeldric Vance there, and that Young spoke to someone about marijuana and received a checkbook. (App.p.263). Petitioner stated Watkins and Vance could have testified there was no robbery. (App.p.263). Petitioner stated his prior attorney had said Watkins and Vance would testify at his trial but that trial counsel did not call them. (App.pp.268-70). Petitioner also stated Young was not allowed to testify at his trial. (App.p.264).

Brigham Young stated he had known Petitioner for years. (App.p.287; pp.294-

STATE OF SOUTH CAROLINA
 COUNTY OF GREENVILLE
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2019CP2300816

Anthony Maurice Lounds

South Carolina State Of

21 JUN 9 PM 3:41
 Paul Wickens/med. COC BUL SC

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: Plaintiff Defendant
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order: (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This matter came before the Court upon Applicant's Motion to Alter or Amend the Final Order of Dismissal which was issued by this Court on May 26, 2021. The Court has reviewed Applicant's Motion and the record and denies Applicant's Motion. The Court does not feel that a hearing on the Motion is necessary.

This order ends does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Paul H. Wickens
 Circuit Court Judge

2755
 Judge code

6/9/2021

Date