

SUPREME COURT OF SOUTH CAROLINA

Bayan Aleksey v. State of South Carolina

Op. No. 28333 (S.C. May 20, 2026) · No. 2024-000140 · Decided May 20, 2026

SUMMARY

The South Carolina Supreme Court affirmed the denial of Bayan Aleksey’s second post-conviction relief application, holding that he failed to prove intellectual disability that would bar his execution under *Atkins v. Virginia*. The court upheld the exclusion of an unavailable social worker’s affidavit addressing adaptive functioning and deferred to the PCR court’s credibility findings concerning the competing expert evidence. The court concluded that Aleksey’s developmental-period IQ scores, adaptive-functioning evidence, and developmental history did not establish the required elements of intellectual disability.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Justice Verdin; Chief Justice Kittredge; Justice James; Justice Hill; Acting Justice Matthew Price Turner
JURISDICTION	South Carolina Supreme Court
DECIDED	May 20, 2026
DOCKET	2024-000140
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for writ of certiorari seeking review of a post-conviction relief court's determination that Aleksey failed to prove intellectual disability and its exclusion of an affidavit concerning adaptive functioning.
STANDARD OF REVIEW	An <i>Atkins</i> determination is upheld if supported by the evidence and not against the preponderance. In criminal cases, the court reviews errors of law only and is bound by factual findings unless an abuse of discretion is shown. Evidentiary rulings in PCR proceedings are reviewed for abuse of discretion resulting in prejudice.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Bayan Aleksey v. State of South Carolina

TOPICS

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QUESTIONS PRESENTED

1. Whether the PCR court erred in finding that Aleksey failed to prove significantly subaverage intellectual functioning by a preponderance of the evidence.
2. Whether the PCR court erred in finding that Aleksey failed to prove significant adaptive-functioning deficits.
3. Whether the PCR court erred in finding that Aleksey failed to prove onset of intellectual disability during the developmental period.
4. Whether the PCR court abused its discretion by excluding the Hammock affidavit.
5. Whether the appellate court should rely on the State's alternate ground that the PCR action was untimely and successive.

HOLDINGS

1. The PCR court properly found that Aleksey failed to prove significantly subaverage intellectual functioning by a preponderance of the evidence. His developmental-period IQ scores of 96, 82, and 90, together with the credited testimony regarding later scores and testing reliability, supported the finding.
2. The PCR court properly found that Aleksey failed to prove significant limitations in adaptive functioning.
3. The PCR court properly found that Aleksey failed to prove that intellectual disability manifested during the developmental period.
4. The PCR court did not abuse its discretion by excluding the Hammock affidavit.

KEY QUOTATIONS

“Thus, we hold the PCR court's finding that Aleksey failed to prove significantly subaverage intellectual functioning is supported by the evidence and is not against its preponderance.”

“Given the contested nature of adaptive functioning, we cannot say the PCR court abused its discretion in excluding the affidavit.”

“The PCR court's decision is therefore AFFIRMED.”

FACTUAL BACKGROUND

Aleksey shot and killed South Carolina Highway Patrol Sergeant Franklin Lingard during a 1997 traffic stop. He was convicted of murder and sentenced to death. In his second PCR proceeding, he presented evidence

concerning seven IQ tests, adaptive functioning, and developmental history, including expert testimony from Dr. Alicia Hall and Dr. David Price and an affidavit from social worker Marjorie Hammock. The PCR court credited Dr. Hall, excluded the Hammock affidavit because Hammock was unavailable for cross-examination and credibility assessment, and found that Aleksey failed to prove intellectual disability.

PROCEDURAL HISTORY

Aleksey was convicted of murder and sentenced to death in 1998, and the Supreme Court of South Carolina affirmed his conviction and sentence on direct appeal. His first PCR application was denied, and the Supreme Court of South Carolina denied certiorari in 2014; the Supreme Court of the United States denied review the following year. Aleksey filed a second PCR application in 2015 asserting that *Atkins v. Virginia* barred his execution because he is intellectually disabled. The PCR court excluded the Hammock affidavit, found that Aleksey failed to prove all three prongs of intellectual disability by a preponderance of the evidence, denied PCR relief, and denied his Rule 59(e) motion. The Supreme Court of South Carolina granted certiorari and affirmed.

DISPOSITION

affirmed

CASES CITED

- *Atkins v. Virginia*, 536 U.S. 304 (2002)
- *Ford v. Wainwright*, 477 U.S. 399 (1986)
- *Franklin v. Maynard*, 356 S.C. 276, 588 S.E.2d 604 (2003)
- *State v. Aleksey*, 343 S.C. 20, 538 S.E.2d 248 (2000)
- *State v. Blackwell*, 420 S.C. 127, 801 S.E.2d 713 (2017)
- *State v. Stanko*, 402 S.C. 252, 741 S.E.2d 708 (2013)
- *State v. Burdette*, 427 S.C. 490, 832 S.E.2d 575 (2019)
- *Moore v. Texas*, 581 U.S. 1 (2017)
- *Hall v. Florida*, *Hall v. Florida*, 572 U.S. 701 (2014)
- *Brumfield v. Cain*, 576 U.S. 305 (2015)
- *Black v. Carpenter*, 866 F.3d 734 (6th Cir. 2017)
- *State v. Morrison*, 236 So. 3d 204 (Fla. 2017)
- *Green v. Johnson*, 515 F.3d 290 (4th Cir. 2008)
- *United States v. Candelario-Santana*, 916 F. Supp. 2d 191 (D.P.R. 2013)
- *Simpson v. Moore*, 367 S.C. 587, 627 S.E.2d 701 (2006)
- *McKnight v. State*, 378 S.C. 33, 661 S.E.2d 354 (2008)
- *Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 518 S.E.2d 591 (1999)
- *I'On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 526 S.E.2d 716 (2000)
- *State v. Laney*, 367 S.C. 639, 627 S.E.2d 726 (2006)

- Ex parte S.C. Department of Disabilities & Special Needs v. Linkhorn, 420 S.C. 1, 800 S.E.2d 777 (2017)

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