

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
CAROLINA

Silvester Desmond Scott a/k/a Sylvester Desmond Scott v. Warden of
Kershaw Correctional Institution

C/A No. 9:25-cv-00758-BHH-MHC · No. 9:25-cv-00758-BHH-MHC · Decided December 8, 2025

SUMMARY

This Report and Recommendation addresses a state prisoner’s 28 U.S.C. § 2254 petition challenging his conviction based on ineffective assistance of trial counsel. The magistrate judge concludes that counsel adequately investigated and prepared the alibi witness and that the state post-conviction court reasonably applied Strickland v. Washington. The recommendation is that the respondent’s motion for summary judgment be granted and the petition dismissed with prejudice.

CASE DETAILS

COURT	United States District Court for the District of South Carolina
WRITING FOR THE COURT	Molly H. Cherry
JURISDICTION	United States District Court for the District of South Carolina
DECIDED	December 8, 2025
DOCKET	9:25-cv-00758-BHH-MHC
DISPOSITION	other
PROCEDURAL POSTURE	State prisoner petition for federal habeas relief under 28 U.S.C. § 2254; magistrate judge report and recommendation addressing Respondent's motion for summary judgment.
STANDARD OF REVIEW	Summary judgment is proper when there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. Federal habeas review of claims adjudicated on the merits in state court is governed by the deferential standards of 28 U.S.C. § 2254(d), with state factual findings presumed correct under § 2254(e)(1). Ineffective-assistance claims are evaluated under Strickland v. Washington and, in the guilty-plea context, Hill v. Lockhart, with doubly deferential review of a state court's Strickland determination.
PRECEDENTIAL VALUE	nonprecedential

PARTIES

Silvester Desmond Scott a/k/a Sylvester Desmond Scott v. Warden of Kershaw Correctional Institution

TOPICS

federal habeas corpus

ineffective assistance

post-conviction relief

summary judgment

right to counsel

PRACTICE AREAS

federal habeas corpus

criminal procedure

post-conviction relief

civil procedure

QUESTIONS PRESENTED

1. Whether the state PCR court's rejection of Scott's ineffective-assistance claim was contrary to, or an unreasonable application of, clearly established Supreme Court precedent under 28 U.S.C. § 2254(d).
2. Whether trial counsel performed deficiently by failing to prepare the alibi witness adequately for cross-examination.
3. Whether Scott demonstrated prejudice in connection with his Alford plea under Strickland and Hill.

HOLDINGS

1. The state PCR court reasonably concluded that counsel and the defense investigator investigated and prepared the alibi witness and that counsel's performance was not deficient under Strickland.
2. Federal habeas relief was unavailable because the PCR court's rejection of Scott's ineffective-assistance claim was neither contrary to nor an unreasonable application of clearly established federal law and was not based on an unreasonable determination of the facts.
3. Scott failed to establish the prejudice required for relief on his ineffective-assistance claim.

KEY QUOTATIONS

“The standards created by Strickland and § 2254(d) are both “highly deferential,” and when the two apply in tandem, review is “doubly” so.”

“The question is not whether counsel’s actions were reasonable. The question is whether there is any reasonable argument that counsel satisfied Strickland’s deferential standard.”

“Accordingly, “a federal court may grant relief only if every fairminded jurist would agree that every reasonable lawyer would have made a different decision.””

FACTUAL BACKGROUND

Scott was charged with armed robbery and possession of a weapon during the commission of a violent crime after an alleged bank robbery. At trial, his alibi witness testified that Scott was helping her with an overheated moped when the robbery occurred, but on cross-examination she indicated that the date had been supplied or written down by the defense investigator. The following day, while facing a possible life sentence without

parole, Scott entered an Alford plea and received concurrent sentences of twenty and five years. His later PCR claim alleged that trial counsel failed to investigate and adequately prepare the alibi witness.

PROCEDURAL HISTORY

Scott pleaded guilty under North Carolina v. Alford in the Charleston County Court of General Sessions after an alibi witness gave damaging testimony on cross-examination. He received concurrent sentences of twenty years for armed robbery and five years for possession of a weapon during the commission of a violent crime, and did not directly appeal. The state PCR court denied his ineffective-assistance claim, and the South Carolina Court of Appeals denied certiorari review. Scott then filed this § 2254 petition, and the magistrate judge recommended granting summary judgment for Respondent and dismissing the petition with prejudice.

DISPOSITION

other

CASES CITED

- Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975)
- North Carolina v. Alford, 400 U.S. 25 (1970)
- Houston v. Lack, 487 U.S. 266 (1988)
- Celotex Corp. v. Catrett, 477 U.S. 317 (1986)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986)
- Thompson v. Potomac Elec. Power Co., 312 F.3d 645 (4th Cir. 2002)
- Erickson v. Pardus, 551 U.S. 89 (2007)
- United States v. Wilson, 699 F.3d 789 (4th Cir. 2012)
- Weller v. Department of Social Services, 901 F.2d 387 (4th Cir. 1990)
- Breard v. Pruett, 134 F.3d 615 (4th Cir. 1998)
- Evans v. Smith, 220 F.3d 306 (4th Cir. 2000)
- Williams v. Taylor, 529 U.S. 362 (2000)
- Valentino v. Clarke, 972 F.3d 560 (4th Cir. 2020)
- Cullen v. Pinholster, 563 U.S. 170 (2011)
- Blakeley v. Rabon, 221 S.E.2d 767 (S.C. 1976)
- Bostick v. Stevenson, 589 F.3d 160 (4th Cir. 2009)
- Remedies in Criminal and Post-Conviction Relief Cases, 321 S.C. 563, 471 S.E.2d 454 (S.C. 1996)
- Smith v. Murray, 477 U.S. 527 (1986)
- Evans v. State, 611 S.E.2d 510 (S.C. 2005)
- Reed v. Ross, 468 U.S. 1 (1984)
- Matthews v. Evatt, 105 F.3d 907 (4th Cir. 1997)
- United States v. Barnette, 644 F.3d 192 (4th Cir. 2011)

- Coleman v. Thompson, 501 U.S. 722 (1991)
- Teague v. Lane, 489 U.S. 288 (1989)
- Granberry v. Greer, 481 U.S. 129 (1987)
- Lawrence v. Branker, 517 F.3d 700 (4th Cir. 2008)
- Murray v. Carrier, 477 U.S. 478 (1986)
- Turner v. Jabe, 58 F.3d 924 (4th Cir. 1995)
- Strickland v. Washington, 466 U.S. 668 (1984)
- Bowie v. Branker, 512 F.3d 112 (4th Cir. 2008)
- Hill v. Lockhart, 474 U.S. 52 (1985)
- Harrington v. Richter, 562 U.S. 86 (2011)
- Yarborough v. Alvarado, 541 U.S. 652 (2004)
- Dunn v. Reeves, 594 U.S. 731 (2021)
- State v. Earp, 571 A.2d 1227 (Md. 1990)
- Oken v. Corcoran, 220 F.3d 259 (4th Cir. 2000)
- Boseman v. Bazzle, 364 F. App'x 796 (4th Cir. 2010)
- Ward v. United States, 982 F.3d 906 (4th Cir. 2020)
- Merzbacher v. Shearin, 706 F.3d 356 (4th Cir. 2013)
- Diamond v. Colonial Life & Accident Insurance Co., 416 F.3d 310 (4th Cir. 2005)
- Thomas v. Arn, 474 U.S. 140 (1985)
- Wright v. Collins, 766 F.2d 841 (4th Cir. 1985)
- United States v. Schronce, 727 F.2d 91 (4th Cir. 1984)