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JAMES C. CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.

ALAN WILSON  
ATTORNEY GENERAL

December 3, 2020

The Honorable James C. Campbell  
Clerk of Court, Sumter County  
215 North Harvin Street  
Sumter, South Carolina 29150

**Re: Ronald Donald Dingle, #200958 v. State of South Carolina**  
**2018-CP-43-1070**

Dear Mr. Campbell:

Enclosed please find the original **Conditional Order of Dismissal**, signed by the Honorable Kristi F. Curtis, in the above-captioned case for filing in your office. Please forward a **time stamped copy** back to our office for our file.

Sincerely,

s/ Brianna L. Schill

Brianna L. Schill  
Assistant Attorney General

BLS/ks  
Enclosure(s)

cc: Ronald Donald Dingle, #200958

STATE OF SOUTH CAROLINA  
COUNTY OF SUMTER  
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IN THE COURT OF COMMON PLEAS  
FOR THE THIRD JUDICIAL CIRCUIT

Ronald Dingle, #200958  
Applicant,  
v.  
State of South Carolina,  
Respondent.

JAMES C. CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.

Case No.: 2018-CP-43-1070

**CONDITIONAL ORDER OF  
DISMISSAL**

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed by Ronald Dingle (Applicant) on June 8, 2018. Respondent made its Return, requesting the application be summarily dismissed.

**PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections. Applicant was indicted for (1) assault and battery with intent to kill, (2) possession of a weapon during a violent crime, (3) possession of a sawed-off shotgun, (4) first-degree burglary, (5) kidnapping, (6) pointing a firearm, (7) murder, (8) possession of a weapon during violent crime, and (9) possession of sawed-off shotgun. (1993-GS-43-0312).<sup>1</sup> A notice of intent to seek the death penalty was entered. Applicant was represented by James Stoddard, Esquire; James Bell, Esquire; and Dwight Moore, Esquire. On April 17, 1995, Applicant entered a guilty plea. Applicant was sentenced to consecutive terms of: life imprisonment for murder, life imprisonment for first degree burglary, twenty years for assault and battery with intent to kill, five years for each count of possession of a weapon during the commission of a violent crime, ten years for each count of possession of a sawed-off shotgun, and five years for possessing a firearm. Applicant did not appeal conviction or sentence.

<sup>1</sup> The indictment contained eleven total counts. Count ten, accessory after the fact, and count eleven, resisting arrest, involved other individuals. Applicant was seventeen years old at the time of the crimes.

### First PCR - 1996-CP-43-0113

On February 15, 1996, Applicant filed an application for post-conviction relief. The State made its Return on September 27, 1996. An evidentiary hearing was convened on June 2, 1997, before the Honorable Alexander S. Macaulay. By written order dated December 5, 1997, Judge Macaulay ordered Applicant's sentences vacated and remanded "for sentencing consistent with the intent of the plea agreement or for a new trial."

A motion for speedy trial was made on May 19, 2004. A hearing on the motion was held on July 28, 2005. Applicant was represented by Tara D. Shurling, Esquire. At hearing, Applicant asserted that he wanted a new trial, he would not be eligible for parole upon resentencing, and he did not get the benefit of his bargain when the death penalty was later ruled unconstitutional for minors. By written order dated December 30, 2005, the Honorable Howard P. King ordered:

1. "...[Applicant] was sentenced to life imprisonment for murder under the law as it existed on April 17, 1995, and specifically with a parole eligibility of 30 years;"
2. "...the consecutive sentences...are all re-imposed and changed to run concurrent with each other and concurrent with the murder conviction. The sentence for the Lee County trafficking charge was concurrent, but this Court confirms that that sentence is to run concurrent with all the Sumter County charges."
3. "...the South Carolina Department of Corrections and the South Carolina Department of Probation, Parole, and Pardon Services shall consider only the conviction for murder for purposes of computing parole eligibility and is to disregard all other convictions for determining parole eligibility. This ruling applies only to the computation of determining parole eligibility and does not prevent DPPPS and the Parole Board from considering the other convictions when making a determination if [Applicant] shall be granted parole."
4. "...this Court reserves jurisdiction to amend this Order in any manner necessary for DOC and DPPPS to carry out the intent expressed herein to ensure that [Applicant] is eligible for parole after (30) years."

Applicant made a Motion to Alter or Amend the order.<sup>2</sup> Judge King denied the Motion in a written order dated and filed on February 9, 2006.

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<sup>2</sup> Though the motion was made under Rule 59, SCRPC, because the matter was a criminal one, the motion was treated as a post-trial motion under Rule 29, ScrimP.

Applicant appealed. The South Carolina Supreme Court affirmed the circuit court order as modified finding:

1. Applicant would be eligible for parole.
2. The question of election of remedies does not apply because the State did not violate the plea agreement.
3. "...there is no merit to Dingle's argument that he did not get the benefit of the bargain because the death penalty later became unconstitutional for minors. ... By remanding [Applicant's] Sumter County sentences such that he will be parole eligible, [Applicant] gets the benefit of his bargain."
4. The circuit court should be modified to correct errors including ordering the parole board to only consider the murder conviction when determining parole eligibility and finding there was no retroactive application of the statute defining trafficking as a violent offense.

State v. Dingle, 376 S.C. 643, 659 S.E.2d 101 (2008). Applicant's Petition for Rehearing was denied, and the remittitur was sent on April 16, 2008.

#### **Second PCR - 2009-CP-43-0031**

Applicant filed a second application on January 8, 2009 (2009-CP-43-0031). In this application, Applicant set forth the following grounds for relief:

1. "The Applicant is due a hearing to ascertain the applicability of *Roper v. Simmons*, 543 U.S. 551 (2005)."
2. "The Applicant's sentence is void and the sentence is illegal and should no longer have equitable application based upon the change of law and pursuant to SCRCR Rule 60(B)(5)."
3. "Applicant asserts that a fraud has been committed upon the court in the present case and the court should take judicial notice thereof."
  - a. Court should not be allowed to intervene in parole determination.
  - b. Applicant should have been allowed to withdraw plea.

On June 17, 2009, Respondent made its Return and Motion to Dismiss based on the failure to state a claim and barred by the doctrine of *res judicata*. The Honorable R. Ferrell Cothran, Jr., signed a Conditional Order of Dismissal on July 14, 2009, provisionally denying and dismissing the application for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act and barred by the doctrine of *res judicata*. Applicant made numerous responses

to the Conditional Order. After reviewing the responses, the Honorable W. Jeffrey Young, denied and dismissed the application with prejudice by a Final Order dated June 17, 2011, and filed June 20, 2011. Applicant subsequently appealed the Final Order. By Order dated July 9, 2013, the South Carolina Supreme Court denied Applicant's PCR appeal. The Remittitur was issued on July 25, 2013.

### **Third PCR - 2012-CP-43-1648**

In his third application, Applicant alleged that he is being held in custody unlawfully for the following reasons:

1. "...A violation of applicant's Due Process Rights pursuant to the Sixth (6<sup>th</sup>) and Fourteenth (14<sup>th</sup>) Amendments of the United States Constitution, Article I, Section 14 of the South Carolina State Constitution."
  - a. "...in that, attorneys/counsel for applicant: Mr. James E. Bell, III, Mr. James A. Stoddard, and Mr. Dwight C. Moore rendered ineffective assistance of counsel for subsequently allowing a plea offer offered by the prosecution in this case to lapse, in which, would have been a more favorable offer for applicant."
  - b. "...in that the prosecution offered applicant a more lenient plea in this case; however, counsel failed to have the plea offer enforced, resulting in the plea offer lapsing, and the applicant later pleading to a harsher sentence."
2. "Applicant raises allegations that South Carolina Transfer Laws of offenders below eighteen (18) years old at the time of their crimes, from juvenile Court to Adult Court violates the Eighth (8<sup>th</sup>) Amendment to the United States Constitution, the Equal Protection Clause, and applicant further challenges the Judicial waiver of offenders below eighteen (18) at the time of their crimes."

The Honorable George C. James Jr., denied and dismissed the application with prejudice by a Final Order dated September 5, 2013 and filed September 10, 2013.

### **CURRENT APPLICATION**

In his *fourth* and current application for post-conviction relief, Applicant alleges he is being held in custody unlawfully on the following grounds<sup>3</sup>:

1. "Newly discovered evidence – Unconstitutional Guilty Plea"

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<sup>3</sup> All of Applicant's arguments, however named in application, are explained in application as Great Seal arguments.

2. "Newly discovered evidence – Ineffective assistance of counsel"
3. "Newly discovered evidence – Prosecutorial Misconduct"
4. "Fraud upon the court - Newly discovered evidence"
5. "South Carolina Great Seal not affixed to laws applicant has been convicted under"

Before this Court are the Sumter County Clerk of Court records, Applicant's records from the South Carolina Department of Corrections, prior PCR records, prior PCR appeal records and the records from the current PCR application.

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

### **Statute of Limitations**

This Court finds that this application must 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. 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 that 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). For convictions prior to the effective date of this statute, the applicant was allowed one year from the effective date of the statute, July 1, 1995, to file an application. Therefore, for convictions prior to July 1, 1995, an applicant must have filed the application on or before July 1, 1996. Peloquin, 321 S.C. at 469.

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, S.C. Code Ann. § 17-27-70(c) 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.”

Applicant pled guilty and was sentenced on April 17, 1995. The application was therefore due on July 1, 1996. This application was filed on June 8, 2018, well beyond the statutory filing period. Therefore, the application must be summarily dismissed for failure to file within the time mandated by Uniform Post-Conviction Procedure Act.

### **Successive**

This Court finds this application should be summarily dismissed because it is successive to Applicant’s previous PCR 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 earlier 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 these allegations in a previous application, then the applicant may not raise those grounds in successive applications. Id. 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).

Applicant’s current allegations were or could have been raised in the prior three proceedings based on Applicant’s prior application for post-conviction relief; thus, the current application is successive and barred under S.C. Code Ann. § 17-27-90. Applicant has failed to establish any sufficient reason why he could not have raised his current allegations in his previous applications for post-conviction relief. Therefore, he has failed to meet the burden imposed upon him, and this Court summarily dismisses the application as successive to Applicant’s previous PCR applications.

#### **Laches**

This Court finds the application must also be barred under the doctrine of laches. To ensure finality of litigation, our courts require reasonable diligence in pursuing collateral relief. McElrath v. State, 276 S.C. 282, 283, 277 S.E.2d 890 (1981). This requirement “guards the state’s legitimate expectation that it will not be called upon without due cause, to defend the integrity of convictions that occurred many years ago, where records and witnesses are no longer available.” Id. (quoting Honeycutt v. Ward, 612 F.2d 36, 42 (2nd Cir. 1979)). In due consideration of the above requirement, Laches is an equitable doctrine defined as “neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done.” Bray v. State, 366 S.C. 137, 140, 620 S.E.2d 743, 745 (2005) (quoting Whitehead v. State, 352 S.C. 215, 219, 574 S.E.2d 200, 202 (2002)). “Whether a claim is barred by laches is to be determined in light of the facts of each

case, taking into consideration whether the delay has worked injury, prejudice, or disadvantage to the other party; delay alone in assertion of right does not constitute laches.” Id.

Applicant filed his post-conviction relief application twenty-three years after his conviction. Absent some explanation or justification for the delay in seeking post-conviction relief, laches will prevent an Applicant from seeking collateral review of his conviction, especially where the delay affects the availability of evidence to review Applicant’s claims. McElrath at 283, 277 S.E.2d at 890; Honeycutt at 41; Whitehead at 220, 574 S.E.2d at 202. Applicant offers no such justification, for there is none. The prejudice brought upon the State by this delay, in the form of witness memories and physical evidence naturally faded and degraded by the passage of time, is self-evident. *See, e.g., Bray* at 140, 620 S.E.2d at 745 (finding laches applied seven years after proceeding in question); State v. Serrette, 375 S.C. 650, 654 S.E.2d 554 (Ct. App. 2007) (record reconstruction undoubtedly futile eleven years after proceeding in question). Therefore, this Court finds the application must be summarily dismissed as barred by the doctrine of laches.

#### **Ineffective Assistance of PCR Counsel Claims**

This Court finds Applicant’s allegations of ineffective assistance of PCR counsel claims must also be dismissed with prejudice, as allegations of ineffective assistance of PCR counsel are not proper claims for PCR relief. In his amended PCR application, Applicant alleges PCR counsel was ineffective for various reasons. There is no constitutional right to appointed counsel for collateral review of a conviction. Pennsylvania v. Finley, 481 U.S. 551, 107 S.Ct. 1990 (1987). Therefore, “the contention that prior PCR counsel was ineffective is not per se a ‘sufficient reason’ warranting a successive PCR application under § 17-27-90.” Aice v. State, 305 S.C. 448, 409 S.E.2d 377 (2013). Allegations of ineffective assistance of PCR counsel are

not proper allegations to raise in a PCR action, and therefore, Applicant's allegations must be summarily dismissed as a matter of law.

### **Newly Discovered Evidence/ Great Seal**

This Court finds Applicant's allegations of newly discovered evidence are without merit and fail to establish a valid claim of newly discovered evidence. In South Carolina, a guilty plea is regarded as a waiver of non-jurisdictional defects and claims of violations of constitutional rights. *State v. Rice*, 401 S.C. 330, 331–32, 737 S.E.2d 485, 485–86 (2013). Therefore, an applicant requesting a new trial based on after-discovered evidence *following a guilty plea* must show:

(1) [T]he newly discovered evidence was discovered after the entry of the plea and, in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea; and (2) the newly discovered evidence is of such a weight and quality that, under the facts and circumstances of that particular case, the "interest of justice" requires the applicant's guilty plea to be vacated. In other words, a PCR applicant may successfully disavow his or her guilty plea only where the interests of justice outweigh the waiver and solemn admission of guilt encompassed in a plea of guilty and the compelling interests in maintaining the finality of guilty-plea convictions."

*Jamison v. State*, 410 S.C. 456, 470, 765 S.E.2d 123, 130 (2014).

Applicant alleges in support of his claim of newly discovered evidence Article III, Section 18 of the South Carolina Constitution, "No Bill or Joint Resolution shall have the force of law until it shall have been read three times and on three several days in each house, has had the Great Seal of the State affixed to it..." Applicant alleges there is no visible impression of the Great Seal on the Acts he was convicted of. The South Carolina Supreme Court has held that absolute literal compliance is not essential to valid legislation, but substantial compliance is sufficient. *Smith v. Jennings*, 67 S.C. 324; 45 S.E. 821, 824 (1903). Furthermore, under the

enrolled bill rule, an act is deemed to be properly passed when it has been ratified by the presiding officers of the General Assembly, approved by the Governor, and enrolled in the Office of Secretary of State. Medical Soc. of SC v. Medical Univ. of SC, 334 SC 270, 278, 513 S.E.2d 352, 356 (1999); Beaufort Cty v. Jasper Cty, 220 S.C. 469, 487, 68 S.E.2d, 421, 430 (1951); State v. Town Council of Chester, 39 S.C. 307, 17 S.E. 752, 755 (1893)(“when the bill...is deposited in the department of state, according to law, its authentication as a bill that has passed congress is complete and unimpeachable). There has not been a court to address this question directly in South Carolina. However, other jurisdictions have upheld acts challenged as invalid because there was not strict compliance with a constitutional provision. See Taylor v. Wilson, 22 N.W. 119 (Neb. 1885)(citing Cottrell v. State, 1 N.W. 1008 (Neb. 1879)); See Commr’s of Leavenworth Co. v. Higginbotham, 17 Kan. 62 (1876). Additionally, the South Carolina Supreme Court has upheld the appointment of an officer whose commission lacked the Great Seal as required by law. State v. Toomer, 7 Rich. 216, 229, 41 S.C.L. 216, 229 (1854). The Court explained if the State excused the delinquency of the officer and cured the defects, then the title has related back to the time of the election. Id.

Additionally, Section 2-7-45 of the South Carolina 1976 Code states:

“The Code of Laws of South Carolina, 1976, which contains the permanent laws of general application through the 1975 session of the General Assembly and which was presented to the members of the General Assembly during the 1977 session is hereby adopted as the Code of Laws of South Carolina, 1976, and is declared to be the only general statutory law of the State as of January 1, 1976.”

The South Carolina Supreme Court has held that codification of an act will cure a constitutional defect, and is part of the general statutory law of the State. SC Tax Comm’n v. York Elec. Co-op., Inc., 275 S.C. 326, 333, 270 S.E.2d 626, 629-30 (1980). The Acts had

substantial compliance with the requirements and were codified into the 1976 Code, thus making them enforceable.

Furthermore, Applicant's discovery of the missing Great Seals under Article III, Section 18 does not constitute newly discovered evidence. This evidence was discoverable prior to the entry of the plea. By entering a guilty plea, Applicant waived his right to present any and all defenses that he may have had, and he certainly cannot raise them now in his current application for post-conviction relief under the guise of "newly discovered evidence." Accordingly, this Court finds this allegation must be summarily dismissed with prejudice.

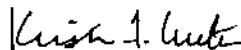
**CONCLUSION**

Pursuant to S.C. Code Ann. § 17-27-70(b), the Court intends to dismiss this application with prejudice unless Applicant provides specific reasons, factual or legal, why the application should not be dismissed in its entirety. Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final. Applicant shall file any reasons he may have with the Sumter County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General  
Attn: Brianna L. Schill, Esquire  
PCR Division – 3rd Circuit  
P.O. Box 11549  
Columbia, South Carolina 29211

Applicant is cautioned that his response to this order must be actually received by the Sumter County Clerk of Court and opposing counsel within twenty (20) days, and that the Court will not consider any issues raised in his response if not so timely filed and served.

**AND IT IS SO ORDERED** this 25<sup>th</sup> day of November, 2020.



\_\_\_\_\_  
KRISTI F. CURTIS  
Chief Administrative Judge  
Third Judicial Circuit

Sumter

, South Carolina