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STATE OF SOUTH CAROLINA
COUNTY OF YORK

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2019CP4601421

IN THE COURT OF COMMON PLEAS SUPREME COURT

Jeffrey Lynn Chronister

South Carolina State Of

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: **Zachary Jones**

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 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.

/s/ Daniel D. Hall

2753

9/12/2022

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on September 12, 2022, and a copy mailed first class or placed in the appropriate attorney's box on September 12, 2022, to attorneys of record or to parties (when appearing pro se) as follows:

Jeffrey Lynn Chronister 4344 Broad River Road Kirkland
R&E Center F1A-0128-A Columbia, SC 29210

Zachary Jones PO Box 11549 Columbia, SC 29211-1549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

Court Reporter

David Hamilton - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

conviction relief application should not be dismissed because of the "existence of evidence of material facts, [sic] not previously presented and heard that require vacation of the conviction and sentence in the interest of [sic] also the direct verdict produced by fraud on the court in statutory conditional violations." In his motion, Applicant attempts to justify his successive and untimely application on the grounds of subject matter jurisdiction, prosecutorial misconduct, "misrepresentation," "fraud on the court," "directed verdict," and newly discovered evidence.

On January 27, 2020, Applicant filed a letter with the York County Clerk of Court following up on his "motion for after newly discovered evidence, and relating post-conviction relief application" and requesting appointment of counsel. On February 17, 2020, Applicant filed a second letter following up on his response to the conditional order of dismissal and requesting appointment of counsel in his post-conviction relief matter. On March 4, 2020, Applicant another "Motion for Appointment of Counsel" with the York County Clerk of Court requesting an attorney to represent him in his "motion for after newly discovered evidence and related post-conviction relief application."

This Court has reviewed Applicant's responses to Respondent's motion to dismiss and the conditional order of dismissal in its entirety, in conjunction with the original pleadings, and finds Applicant has failed to state a sufficient reason why the conditional order of dismissal should not become final.

Response to Request for Appointment of Counsel

In the 2008 order regarding appointment of counsel in post-conviction relief cases, former Chief Justice Toal states:

In post-conviction relief (PCR) cases, the appointment of counsel is appropriate only when a hearing must be held. Rule 71.1, SCRCP("If, after the State has filed its return, the application presents questions of law or fact which will require a hearing, the

court shall promptly appoint counsel to assist the applicant if he is indigent.”); *Richardson v. State*, 377 S.C. 103, 659 S.E.2d 493 (2008). I find that in many cases counsel are being appointed when the above standard has not been satisfied.

Further, in a significant number of these cases, the application is ultimately denied as being successive or as being barred by the statute of limitations. The appointment of counsel in such cases places an unnecessary burden on the appointment of counsel, and violates the mandate of Rule 608(g), SCACR, that appointments should be minimized. To help address this problem, I find it appropriate to direct the following:

Consistent with Rule 71.1, SCRCP, counsel will not be appointed until the Post-Conviction Relief Section of the Attorney General’s Office files its return to the application. In its return, the Attorney General’s Office shall clearly state in the caption heading whether it requests that counsel be appointed for the applicant.

If the Attorney General requests the appointment of counsel, counsel shall be appointed for the applicant unless a circuit court judge determines that it is inappropriate to do so. The authority to make the appointments in these cases may be delegated to the Clerk of Court or some other official.

If the Attorney General opposes the appointment of counsel for an indigent applicant, counsel will only be appointed as follows:

(1) If the Attorney General asserts that the application is barred as being successive or as being untimely under the statute of limitations, [1] counsel will not be appointed except upon written order of the Chief Judge for Administrative Purposes for the Court of Common Pleas in the circuit. In these cases, the Chief Judge will insure that counsel is only appointed for an indigent applicant when the facts raise a material issue regarding the applicability of the rule forbidding successive applications or the statute of limitations. Cf. *Gary v. State*, 347 S.C. 627, 557 S.E.2d 662 (2001) (statute of limitations).

(2) In all other cases in which the State opposes the appointment of counsel, counsel will only be appointed upon written order of a circuit court judge under the standard contained in Rule 71.1, SCRCP.

This is the most recent order issued by this Court regarding appointment of counsel in post-conviction relief cases before the circuit court.

In the present case, the South Carolina Attorney General's Office asserted in its return and motion to dismiss that the application should be summarily dismissed for being untimely under the statute of limitations and successive. In its conditional order, this Court provisionally denied and dismissed this action as being untimely under the statute of limitations and successive. Therefore, this Court denies Applicant's request for appointment of counsel.

Statute of Limitations

This Court finds the 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. 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). 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) 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." S.C. Code Ann. § 17-27-70(c).

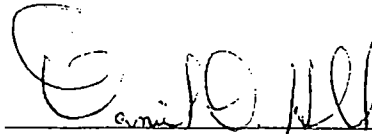
Applicant was found guilty on September 22, 1992, and the remittitur from his direct appeal was issued on September 19, 1994. Applicant was, therefore, required to file this current application on or before September 20, 1995. The current application was not filed until April 23, 2019, which is **over twenty years** past the one-year statutory filing period expired. Therefore, this Court finds this application be summarily dismissed as barred by the statute of limitations. S.C. Code. Ann. § 17-27-70 (b) & (c).

Successive / Newly Discovered Evidence

This application is successive to Applicant's previous *four* 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). Applicant has failed to establish any sufficient reason why he could not have raised his current allegations in his previous application for post-conviction relief. Before a court will hold an evidentiary hearing, the applicant must make a prima facie showing that he is entitled to relief. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Accordingly, this Court finds no reason why the conditional order of dismissal should not become final.

IT IS THEREFORE ORDERED that, for the reasons set forth in this Court's Conditional Order of Dismissal, the PCR application is hereby denied and dismissed with prejudice. This Court hereby advises Applicant that he must file and serve a Notice of Appeal within thirty days of the service of this Order to secure appellate review. See 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 9th day of September, 2022.



DANIEL D. HALL
Chief Administrative Judge
Sixteenth Judicial Circuit

York, South Carolina.