

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
IN THE SEVENTH JUDICIAL CIRCUIT

Isaac G. Lyles., #209983,)
Applicant,)

Case No.: 2018-CP-42-04193

v.)

CONDITIONAL ORDER OF DISMISSAL

State of South Carolina,)
Respondent.)

This matter comes before the Court by way of a post-conviction relief application filed by Applicant Isaac G. Lyles on December 5, 2018. Respondent made its return, requesting the application be summarily dismissed.

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. In January 1994, the Spartanburg County Grand Jury indicted Applicant for first degree burglary (1994-GS-42-0319) and murder (1994-GS-42-0320). In March 1994, the Spartanburg County Grand Jury indicted Applicant for possession with intent to distribute crack cocaine (1994-GS-42-1190). Mabry Max Cauthen, Esquire represented Applicant. On March 21, 1994, Applicant pleaded guilty to the lesser-included offense of voluntary manslaughter on the murder indictment before the Honorable J. Derham Cole, circuit court judge. Judge Cole sentenced Applicant to twenty-five years imprisonment. Applicant did not appeal his conviction or sentence.

First PCR Action: (1995-CP-42-01594)

Applicant filed his first PCR application on September 14, 1995. Applicant was represented by Andrew J. Johnston, Esquire. Teresa N. Cosby, Esquire represented the State. The Honorable John W. Kittredge oversaw the case. The PCR application was denied and dismissed.

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on April 6, 1999.¹

II. Current Action before this Court

In his PCR application, Applicant alleges his plea was entered involuntarily because he was allegedly unaware that his 1994 conviction, which he now seeks relief upon, could be used to enhance sentences related to subsequent convictions in 2013, upon which he was sentenced to life without parole. He states that he did not know the 1994 convictions could be “reopened [to] . . . separate [the] offenses and use them for enhancement purposes in the 2013 charges” and if he had been informed of this, he would not have pled, but would have proceeded to trial.

Before this Court are Applicant’s Spartanburg County Clerk of Court Records, Applicant’s South Carolina Department of Corrections Records, the plea transcript, the current application for relief.

III. Findings of Fact and Conclusions of Law

This Court has reviewed the pleadings, the records submitted to it by the parties, and the applicable law. Pursuant to South Carolina Code Annotated Sections 17-27-70 and -80, this Court informs the parties of its intent to dismiss the application based upon the following findings:

Statute of Limitations

The 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

¹ These records have since been destroyed and, consequently, specific details about this case are not discussed in this conditional order of dismissal.



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decision on appeal, whichever is later.

S.C. Code Ann. § 17-27-45(A).

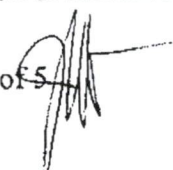
The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. *Peloquin v. State*, 321 S.C. 468, 469 S.E.2d 606 (1996). A motion for summary judgment may properly be used to raise the defense of statute of limitations. *McDonnell v. Consolidated School District of Aiken*, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, South Carolina Code Annotated 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.”

Applicant pled guilty to all charges on March 21, 1994. The application was therefore due on March 22, 1995. This application was filed on December 5, 2018, well beyond the statutory filing period. Therefore, the application should be summarily dismissed for failure to file within the time mandated by Uniform Post-Conviction Procedure Act.

Successiveness

The application shall be summarily dismissed because it is successive to Applicant’s previous PCR application. 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



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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 PCR 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, 409 S.E.2d at 394. 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 proceedings based on Applicant's prior PCR application; thus, the current application is successive and barred under South Carolina Code Annotated Section 17-27-90. Applicant has failed to establish any sufficient reason why he could not have raised his current allegations in his previous PCR application. Therefore, he has failed to meet the burden imposed upon him, and the application shall be dismissed as successive to Applicant's previous PCR application.

IV. Conclusion

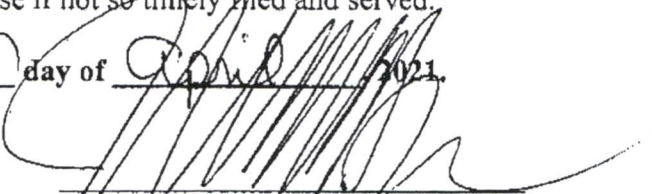
Pursuant to South Carolina Code Annotated Section 17-27-70(b), the Court intends to dismiss this application with prejudice unless Applicant provides specific reasons, factual or legal, why the application should not be dismissed in its entirety. Applicant is granted twenty days from the date of service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

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Office of the Attorney General
Attn: Chelsey F. Marto, Esquire
PCR Division – Seventh Circuit
P.O. Box 11549
Columbia, South Carolina 29211

Applicant is cautioned that his response to this order must be actually received by the Spartanburg County Clerk of Court and opposing counsel within twenty 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 5th day of April, 2021.


J. MARK HAYES, II
Chief Administrative Judge
Seventh Judicial Circuit

Spartanburg, South Carolina

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