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STATE OF SOUTH CAROLINA)
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COUNTY OF RICHLAND)
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Terrance G. Adams,)
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Applicant,)
)
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vs.)
)
State of South Carolina,)
)
)
Respondent.)
)
_____)

IN THE COURT OF GENERAL SESSIONS
FOR THE FIFTH JUDICIAL CIRCUIT

Indictment No(s): 2005-GS-40-3548, 2005-GS-40-3940, 2005-GS-40-3935, 2005-GS-40-3478, 2005-GS-40-3477, 2005-GS-40-4169

I971825
I971837
I971881
I972162

S.C. SUPREME COURT

CLERK OF COURT
S.C. SUPREME COURT

2023 JAN 20 AM 10:07

RICHLAND COUNTY
FILED

ORDER OF DISMISSAL

This matter comes before the Court by way of an application for post-conviction DNA analysis, pursuant to S.C. Code Ann. §17-28-40, filed May 31, 2016. Respondent made its Response on August 19, 2016. An evidentiary hearing on the matter was convened on November 30, 2022, at the Richland County Courthouse. Applicant was present at the hearing and represented by Jonathan Waller, Esquire. April Sampson, Esquire, of the Fifth Circuit Solicitor's Office represented Respondent.

The Court had before it the Richland County Clerk of Court records, Applicant's current application, Respondent's response, and the transcript from Applicant's trial.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Richland County Clerk of Court. Applicant was indicted in 2005 by the Richland County Grand Jury for six counts of Petit Larceny (2005-GS-40-3474, 3475, 3547, 3936, 3941, 4170), six counts of Burglary – 1st degree (2005-GS-40-3477, 3478, 3548, 3935, 3940, 4169), Possession of Burglary Tools (2005-GS-40-3549), and Resisting Arrest (2005-GS-40-

3550). Applicant was convicted, as indicted, of all charges and was sentenced to life imprisonment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Petitioner contends that physical evidence is available for testing and will exculpate him of the crime. In order for this Court to order DNA testing the Petitioner must establish by a preponderance of evidence that the biological material "is available and is potentially in a condition that would permit the requested DNA testing ... [and] has been subject to a chain of custody sufficient to establish it has not been substituted, tampered with, replaced, or altered" and is material to applicant's identity. SC Code Ann §17-28-90 (2014).

After review of the facts and circumstances surrounding Applicant's claims and the availability of testable evidence, this Court finds that Application for post-conviction DNA testing must be denied at the outset. The Petitioner has not shown any untampered evidence exists nor has the Petitioner shown that the evidence has been kept in a chain of custody sufficient under S.C. Code Ann. § 17-28-90(B)(2). All of the physical evidence introduced at trial was handled at the trial by the Jury and others, so the evidence no longer exists within a chain of custody sufficient to ensure it has not been tampered with. A representative of the Clerk of Court for Richland County appeared before the Court and represented that the physical evidence is still in the possession of the Clerk, but that the items in possession were handled by persons during and after the trial and were not kept in any sort or manner that would comply with a chain of custody. He further stated that the Clerk of Court maintained no additional items which were not introduced as exhibits during Applicant's trial.

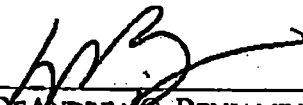
Further, all stolen items which would be additional physical evidence were returned their owners prior to the trial, so these items too were not kept in a proper chain of custody for testing. Items recovered following Applicant's arrest were documented and returned to their owners, with

no physical evidence being retained to allow for testing. Proving the existence of physical evidence in a testable state fall on the Petitioner, not the state. Id.

This Court finds that there is simply no evidence available for potential testing, a required factor to be proven by Applicant. Therefore, the motion for further DNA testing under the Access to Justice Post-Conviction DNA Testing Act must be denied. Further, because no testable evidence exists, the remaining allegations in Applicant's Application are moot.

IT IS THEREFORE ORDERED that Applicant's application for post-conviction DNA analysis, pursuant to S.C. Code Ann. §17-28-40, filed May 31, 2016, is hereby denied and dismissed with prejudice.

AND IT IS SO ORDERED this 13 day of Jan, 2023.



DEANDREA G. BENJAMIN
Presiding Judge
Fifth Judicial Circuit

Columbia, South Carolina.