



This Court finds that Applicant has failed to show that his claims could not have been discovered with diligence and timely raised in his prior action. Notably, in his response, he admits again that the basis for his claim that information was withheld contrary to *Brady v. Maryland*,<sup>1</sup> was known to him as early as April 27, 2015. (Response filed July 13, 2021 at 12). Applicant raised a *Brady* claim in his 2014 application, and Judge Miller did not deny the prior application for relief until October 2, 2015. (See Conditional Order at 5-6). Assuming *only* for the sake of argument that Applicant could show that a report was wrongfully withheld (which this Court does not decide), Applicant has not shown that he timely filed or that this application is not improperly successive. See *Aice v. State*, 305 S.C. 448, 450, 409 S.E.2d 392, 394 (1991) (applicant's burden to show a claim "could not have been raised" in his prior PCR litigation); S.C. Code Ann. § 17-27-45 (C) (requiring applicant claiming "there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence" to show he has timely filed "within one year after the date of actual discovery of the facts by the applicant or after the date when the facts could have been ascertained by the exercise of reasonable diligence"). Applicant has had one full prior PCR action, 2014-CP-23-00589, including an appeal from the denial of relief. (See Conditional Order at 5-8). The instant application on the same judgment is both untimely and impermissibly successive. Further, as set out more fully in the conditional order, this Court also finds that the application should also be dismissed as barred by *res judicata*.

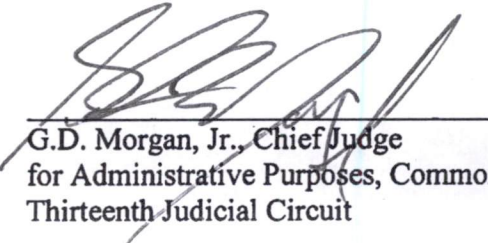
THEREFORE, this Court reasserts all its specific findings in the conditional order of dismissal and concludes that the application must be summarily dismissed as untimely, improperly successive, and barred by the doctrine of *res judicata*.

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<sup>1</sup> 373 U.S. 83 (1963).

IT IS THEREFORE ORDERED that for the reasons set forth in the Court's conditional order of dismissal, and the additional findings herein, the application for post-conviction relief is denied and dismissed.

IT IS SO ORDERED this 30<sup>th</sup> day of September, 2023.

  
G.D. Morgan, Jr., Chief Judge  
for Administrative Purposes, Common Pleas  
Thirteenth Judicial Circuit

Greenville, South Carolina

ATTACHMENT TO FINAL ORDER  
Certificate of Service (Conditional Order of Dismissal)

Copy mailed to  
Attorney General / Applicant  
on 10 / 4 / 2023

**\*\*NOTICE\*\***

This Court gives notice that Applicant must file and serve a notice of appeal **within 30 days** of the receipt of this order to secure appellate review. *See* Rule 203(b)(1), SCACR. Applicant's attention is directed to Rule 243, SCACR, for further procedures regarding an appeal.