

Oct 19 2023

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA)
 COUNTY OF GREENVILLE)
)
 Robert Watkins, #243803,)
)
 Applicant,)
 v.)
 State of South Carolina,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS
FOR THE THIRTEENTH JUDICIAL CIRCUIT

Case No.: 2020-CP-23-00908

FINAL ORDER OF DISMISSAL

23 OCT 19 AM 11:35
Brice Garrett CDC GWL SC

This matter comes before this Court by way of an application for post-conviction relief filed on February 13, 2020, by Applicant Robert Watkins. Respondent made its return on or about June 8, 2021, and moved for summary dismissal of the application. Respondent asserted the action should be summarily dismissed as the action is untimely, improperly successive and barred by *res judicata*.

After consideration of the application, return and relevant documents attached thereto, this Court issued a conditional order of dismissal on June 15, 2021, filed June 25, 2021, finding that the action was untimely, improperly successive and barred by *res judicata*. Applicant was given the opportunity to respond and show cause as to why the conditional order should not become final. As evidenced by the attached Certificate of Service, Applicant was served with the conditional order on July 21, 2021. (Attachment 1). Applicant filed documents contesting the State's request for summary dismissal on July 13 and July 16, 2021, which the Court has considered as responses to the conditional order findings.

This Court has reviewed its prior order along with Applicant's filed responses and finds no cause as to why the Order should not become final. In particular, the Court reaffirms these findings:

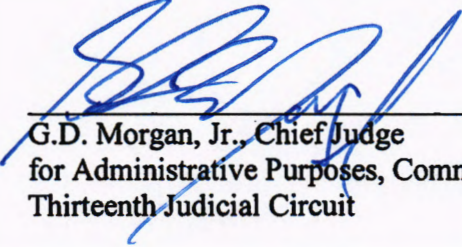
This Court finds that Applicant has failed to show that his claims could not have been discovered with diligence and timely raised in his prior action. Notably, in his response, he admits again that the basis for his claim that information was withheld contrary to *Brady v. Maryland*,¹ was known to him 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*.

¹ 373 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 30th 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)

Served to _____
by Shirley General / Applicant
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.