STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT
Edmond S. Adams, III, #265717, Applicant, v. State of South Carolina, Respondent.	)	CASE NO. 2023–CP–40–2976 **CONDITIONAL ORDER OF DISMISSAL**

This matter is before the Court based on a successive application for post-conviction relief (PCR) filed by Edmond S. Adams, III (Applicant) commenced on June 8, 2023. In response, Respondent, the State of South Carolina, made its return and moves to summarily dismiss this application as untimely, barred by the statute of limitations, successive to Applicant's previous PCR action, barred by the doctrine of *res judicata*, and for failing to comply with the Uniform Post-Conviction Procedures Act, S.C. Code Ann. § 17-27-10 *et seq.* (2014).

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections (SCDC). During the November 1998 term, the Richland County Grand Jury indicted Applicant for first degree criminal sexual conduct (1998-GS-40-34469), armed robbery (1998-GS-40-34470), and kidnapping (1998-GS-40-34471). Applicant elected to proceed *pro se* on these charges with the assistance of advisory counsel and a law clerk, after going through approximately five attorneys.

Applicant proceeded to trial on April 10-14, 2000, before the Honorable James C. Williams, and a jury. The Jury found Applicant guilty as charged, and Judge Williams sentenced Applicant to twenty-five years' imprisonment for first-degree criminal sexual conduct, fifteen years for armed robbery, and a consecutive twenty-five years for kidnapping. Applicant then

moved for a new trial, which was denied.

Applicant filed a timely Notice of Appeal on April 17, 2000. Applicant elected to proceed on his appeal *pro* se, citing to his Sixth Amendment right under Faretta v. California, 422 U.S. 806 (1975) and Article I, Section 14 of the South Carolina Constitution. Due to Applicant's inability to perfect the record on appeal, the South Carolina Court of Appeals granted Applicant's request for assistance and appointed Tara D. Shurling, Esquire, to assist Applicant. On March 3, 2005, Applicant filed the final brief of appellant raising the following grounds:

1. "Because a written order is a requisite to continue a criminal case beyond 180 days from the date of arrest, pursuant to the provisions of S.C. Const. Art V § 4, and there is no order in this case, the circuit court lacked original jurisdiction to entertain the appellants criminal case and sentence him, thus violating his rights under the S.C. Const. Art. I § 3, and under the 14th Amendment to the U.S. Const."
2. "Because the Appellants indictments are not filed with the clerk of court which violates Rule 3(c) SCRCrimp, the Circuit Court lacked original jurisdiction to entertain the Appellants criminal case, and sentence him thus violating his rights under the S.C. Const Art. I § 3, and under the 14th Amendment to the U.S. Const."
3. "Because the Appellants indictment for kidnapping did not sufficiently apprise him of what he had to meet at trial to prepare his defense the circuit court lacked subject matter jurisdiction to entertain this charge, and sentence him, thus violating his rights under the S.C. Const Art. I § 3, and under the 14th Amendment to the U.S. Const."
4. "Because the circuit court did not adjudicate the Appellant's post trial motions by written notice, the S.C. Court of Appeals do not have subject matter jurisdiction to entertain the Appellant's appeal, thus violating his rights under the S.C. Const. Art. I § 3, and under the 14th Amendment to the U.S. Const."
5. "Because the Appellant was not served a search warrant, it was an error for the trial court not to suppress the evidence from his home for a 4th Amendment violation."
6. "Because the trial court judge took 5 jurors off the jury panel that the Appellant picked, and replaced them with 5 jurors that the Appellant struck, and set aside 5 of the Appellants strikes after a Batson hearing the Appellants Rights under the S.C.

Const. Art. I § 3, and under the 14th Amendment to the United States Constitution was violated."

7. "Because the trial court judge did not remove juror # 126 from the jury panel after he gave misleading information to the court in the jury selection process to get on the jury, Appellants rights under the S.C. Const. Art. I § 3, and under the 14th Amendment to the United States Constitution was violated."
8. "Because the trial court judge did not fully address the Appellants issues of a partial jury, the Appellants rights under the S.C. Const. Art. I § 3, and under the 14th Amendment to the U.S. Const. was violated."
9. "Because the prosecutor Asst. Solicitor Kathryn Luck Campbell made improper references outside the evidence in the final closing argument, the Appellants rights under the S.C. Const. Art. I § 3, and under the 14th Amendment to the United States Constitution was violated."
10. "Because the prosecutor Asst. Solicitor Kathryn Luck Campbell used improper references in the final closing argument, even after a valid judicial warning by the trial court, it was an error for the court not to grant the Appellant's motion for a mistrial."

The South Carolina Court of Appeals affirmed Applicant's convictions and sentence on September 15, 2005. State v. Adams, Op. No. 2005-UP-520 (S.C. Ct. App. filed September 15, 2005). Following the denial of a Petition for Rehearing *en banc* on November 17, 2005, the Court returned the Remittitur to the lower court on December 22, 2005.

INITIAL PCR ACTION AND SUBSEQUENT APPEAL (2006–CP–40–7169)

Applicant subsequently filed an application for PCR on December 4, 2006, in which he alleged the following grounds for relief:

1. "I would contend that my waiver of trial counsel was not freely, knowingly, voluntarily and intelligently given to the court;"
2. "I would contend that my waiver of appellate court counsel was not freely, knowingly, voluntarily, and intelligently given to the appellate court;"
3. "I would contend that I was denied assistance of counsel on appeal to prepare my briefs;"
4. "I would contend that I was denied assistance of trial counsel to aid me in preparing my defense for trial;"
5. "I would contend that I was denied excess to the court to perfect my appeal;"

6. "I would contend that my federal and state constitutional rights were violated by an inordinate delay on appeal"
7. "I would contend that my federal and state constitutional rights were violated when I was pro se on appeal was not allowed to review the tapes of my criminal trial to correct my transcript;"
8. "I would aver that the S.C. Court of Appeals lacked subject matter jurisdiction to adjudicate my appeal;"
9. "I would contend that the court reporter violated my 6th and 14th Amendment rights to the United States Constitution;"
10. "I would contend that my 6th and 14th Amendment rights to the United States Constitution and my rights under Article I §§ 3 and 14 to the S.C. Constitution was violated by the law library being inadequate to prepare my briefs and arguments on appeal;"
11. "I would contend that I was denied assistance of counsel to consult with prior to my competency hearing;"
12. "I would contend that I was denied effective assistance of trial counsel at my pre-trial hearing;"
13. "I would contend that I was denied effective assistance during voir dire;"
14. "I would aver that I was denied effective assistance of counsel during the sentencing phase of my trial;"
15. "I would contend that I was denied effective assistance of counsel on my direct appeal during the rehearing stage;"
16. "I would contend that I was denied effective assistance of counsel on appeal, when my paid counsel abandoned me on appeal;" and
17. "I would contend that I was denied due process of the law by not being advised by counsel or the court or by any other means that I would take my case to the U.S. Supreme Court if I was denied relief on appeal."

An evidentiary hearing into the matter was convened on March 19, 2008, at the Florence County Courthouse before the Honorable James R. Barber, III. Applicant was present at the hearing and waived his right to appointed PCR Counsel. On May 19, 2008, Judge Barber issued the Order of Dismissal denying Applicant's application for post-conviction relief with prejudice. Applicant then filed a Rule 59(e), SCRCP motion, which was denied via Form 4 Order on July 14, 2008.

Applicant subsequently filed a Notice of Appeal of his PCR action on June 18, 2009. The Supreme Court of South Carolina issued an order warning Applicant about the dangers of

proceeding *pro se* on his appeal and requested Applicant inform the Court whether he wished to continue *pro se* or proceed with counsel. Applicant elected to proceed *pro se*[1] and filed his petition for writ of certiorari March 12, 2011. On November 14, 2012the South Carolina Supreme Court denied the petition by written order. The Remittitur was returned to the lower court on December 3, 2012.

HABEAS CORPUS ACTION: 6:12-3424-DCN-KFM

Applicant thereafter filed a *pro se* Petition for Habeas Corpus under 28 U.S.C. § 2254, raising thirteen grounds for relief. Respondent filed its return and motion for summary judgment on May 13, 2013. The Honorable Kevin F. McDonald, United States Magistrate Judge, issued the Report and Recommendation on February 28, 2014, recommending Respondent's motion for summary judgment be granted. Adams v. Eagleton, No. 6:12-CV-3424-DCN (D.S.C. Feb. 28, 2014). On August 22, 2014, the Honorable David C. Norton, United States District Judge, affirmed the Report and Recommendation, granting Respondent's motion for summary judgment and denying Applicant a certificate of appealability. Adams v. Eagleton, No. 6:12-CV-3424-DCN (D.S.C. Aug. 22, 2014).

Applicant appealed the District Court's decision. The United States Court of Appeals for the Fourth Circuit dismissed the appeal and denied a certificate of appealability on January 27, 2015. Adams v. Eagleton, 590 F. App'x 286 (4th Cir. 2015).

STATE HABEAS ACTION: 2017-002541

Applicant additionally filed a petition for state *habeas corpus* on December 13, 2017. Respondent submitted a letter to the Court dated January 5, 2018, in lieu of a formal response and

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[1] Bernice Jenkins, Esquire, was retained for the limited purpose of compiling the appendix for Applicant's appeal.

requested the petition be dismissed pursuant to the doctrine of *res judicata*. On July 6, 2018, the South Carolina Supreme Court issued an Order denying Applicant's petition.

SECOND PCR ACTION AND SUBSEQUENT APPEAL: 2020-CP-40-3837

On July 14, 2023, Applicant *untimely* filed his *second* application for PCR in which he alleged the following:

1. "The Court Lacked Jurisdiction (personal) to entertain my case."
   a. "I was denied Counsel at my competency hearing before trial on 4-10-2000."
   b. "I was denied Counsel on Remand, and on Appeal + for reconstruction of Trans [*sic*]."
   c. "Structural error in empaneling the jury, Tainted Jury Pool, + Conflict of interest with Luck Campbell, two illegal Jurors on the panel.
2. "The Court Lacked Competent personal Jurisdiction to hear my case."
   a. "PCR Judge Never signed my order of dismissal."

On October 20, 2021, the Honorable L. Casey Manning issued the Conditional Order of Dismissal. On November 2, 2021, Respondent filed its Return and Motion to Dismiss. On November 16, 2021, Applicant filed "Applicants Response to Conditional Order of Dismissal." On December 8, 2021, Judge Manning filed the Final Order of Dismissal, denying and dismissing Applicant's application with prejudice.

On January 19, 2022, Applicant timely filed a Notice of Appeal. On April 27, 2022, the Supreme Court of South Carolina issued an Order dismissing Applicant's appeal for failing to provide proof that Applicant timely served Respondent with the Notice of Appeal. The Remittitur was returned to the lower court on April 27, 2022.

CURRENT APPLICATION

On June 8, 2023, Applicant *untimely* filed his *third* application for PCR in which he alleged the following:[2]

1. Trial Court Lacked Subject Matter Jurisdiction
2. Denied the Right to Effective Assistance of PCR Counsel During First PCR Action
3. Denied the Right to Effective Assistance of Appellate Counsel
4. Richland County Grand Jury Did Not Have Subject Matter Jurisdiction to Convene and Issue Indictments
5. General Sessions Court Did Not Have Subject Matter Jurisdiction to Entertain PreTrial Matters
6. South Carolina Court of Appeals Did Not Have Jurisdiction to Entertain Appeal
7. Supreme Court Lacked Jurisdiction to Entertain Writ of Certiorari.

Before this Court are the Richland County Clerk of Court records regarding the subject's convictions; Applicant's records from the South Carolina Department of Corrections; Applicant's trial transcript; Applicant's records from his *habeas* actions; Applicant's records from his two prior PCR and appeal actions; and the records of the current PCR action.[3]

FINDINGS OF FACT AND CONCLUSIONS OF LAWS

This Court has reviewed the pleadings, the records submitted to it by the parties, and the applicable law. Pursuant to South Carolina Code Annotated §§ 17-27-70 and -80, this Court informs the parties of its intent to dismiss the application as there is no genuine issue of material fact which would necessitate an evidentiary hearing. See S.C. Code Ann. § 17-27-70(b) (establishing procedure for summary disposition of PCR applications); Leamon v. State, 363 S.C. 432, 434, 611 S.E.2d 494, 495 (2005) (summary disposition appropriate when there is no need to

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[2] Applicant filed attachments to his application that outline his arguments to the above allegations. They are attached for the Court's review and not outlined verbatim in this Return.

[3] Due to the age of these cases, the records may not be complete.

develop facts and the applicant is not entitled to relief); Welch v. MacDougall, 246 S.C. 258, 260, 143 S.E.2d 455, 456 (1965) (requiring a PCR applicant to make a *prima facie* showing he is entitled to relief before the court will hold an evidentiary hearing). Respondent moved for summary dismissal, and this Court finds summary dismissal is appropriate for the following reasons:

SUMMARY DISMISSAL BASED ON STATUTE OF LIMITATIONS

Respondent moved to summarily dismiss the application because it failed to comply with the filing procedures of the Uniform Post-Conviction Procedure Act.[4] Specifically, the Act requires as follows:

> (A). 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 upon an appeal, whichever is later.
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> (B). When a court whose decisions are binding upon the Supreme Court of this State or the Supreme Court of this State holds that the Constitution of the United States or the Constitution of South Carolina, or both, impose upon state criminal proceedings a substantive standard not previously recognized or a right not in existence at the time of the state court trial, and if the standard or right is intended to be applied retroactively, an application under this chapter may be filed not later than one year after the date on which the standard or right was determined to exist.
>
> (C). If the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence, the application must be filed under this chapter 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.

S.C. Code Ann. § 17-27-45.

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[4] S.C. Code Ann. § 17-27-10 to -160.

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 the statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). Additionally, S.C. Code Ann. § 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."

In the present case, Applicant is alleging he is entitled to post-conviction relief based on numerous allegations. However, Applicant failed to comply with the filing requirements under S.C. Code Ann. § 17-27-45. Applicant proceeded to trial on April 10-14, 2000. Applicant did pursue a direct appeal. The Remittitur was returned to the lower court on December 22, 2005. Pursuant to S.C. Code Ann. § 17-27-45(A), Applicant needed to file his application for post-conviction relief on or before December 23, 2006. Applicant did not file this PCR application until June 8, 2023, *sixteen years, five months, and sixteen days* beyond the statute of limitations.

Accordingly, this application is *untimely* pursuant to S.C. Code Ann. § 17-27-45 and shall be dismissed for failure to file within the time mandated by the Uniform Post-Conviction Procedure Act.

SUMMARY DISMISSAL BASED ON SUCCESSIVENESS

Respondent moved to summarily dismiss the application because it is successive to the previous application(s) for post-conviction relief. 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). Importantly, S.C. Code Ann. § 17-27-90 provides:

> 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 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.

Pursuant to S.C. Code Ann. § 17-27-90, successive PCR actions are barred 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). In Aice, the South Carolina Supreme Court held that PCR rules "contemplate an adjudication on the merits of the original petition, one bite at the apple as it were." Id. at 452, 409 S.E.2d at 395 (citing Gamble v. State, 298 S.C. 176, 178, 379 S.E.2d 118, 119 (1989)). The Court also noted, "[f]inality must be realized at some point in order to achieve a semblance of effectiveness in dispensing justice." Id. at 451, 409 S.E.2d at 394.

Expressly, 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. Notably, the 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).

Here, Applicant's current allegations *were or could have been* raised in Applicant's prior application for post-conviction relief; thus, the current application is successive and barred under

S.C. Code Ann. § 17-27-90. See Graham v. State, 378 S.C. 1, 3, 661 S.E.2d 337, 338 (2008) ("Successive PCR applications and appeals are generally disfavored because they allow an applicant to receive more than 'one bite at the apple as it were.' A successive PCR application is one that raises grounds not raised in a prior application, raises grounds previously heard and determined, or raises grounds waived in prior proceedings. In order to be entitled to a successive PCR application, the applicant must establish that the grounds raised in the subsequent application could not have been raised in the previous application."). This Court finds Applicant is unable to show that these claims could not have been raised in his initial application, as his claims were known and easily could have and should have been raised in his initial post-conviction relief action.

Accordingly, Applicant has failed to meet the burden imposed upon him, and the Court shall summarily dismiss the application as successive to Applicant's previous PCR application(s).

SUMMARY DISMISSAL BASED ON THE DOCTRINE OF RES JUDICATA

Additionally, this Court finds the application, except for the allegation of subject matter jurisdiction, is barred by the doctrine of *res judicata*. *Res judicata* prohibits subsequent actions by the same parties on the same issues. Bell v. Bennett, 307 S.C. 286, 414 S.E.2d 786 (Ct. App. 1992). A final judgment on the merits of a prior action bars subsequent consideration of those issues in a new action. Foran v. USAA Casualty Ins. Co., 311 S.C. 189, 427 S.E.2d 918 (Ct. App. 1993). *Res judicata* also bars any issues that could have been raised in the former action. Id.; see also Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981).

Applicant had a full opportunity to litigate any and all his allegations in his prior *four* PCR actions. The prior PCR Courts issued final judgments on the merits of the same or similar issues Applicant raises in this successive action. The finality of the previous Court rulings should be respected, and the application, except for the allegation of subject matter jurisdiction, shall be

summarily dismissed as barred by the doctrine of *res judicata*.

SUMMARY DISMISSAL BASED ON SUBJECT MATTER JURISDICTION

This Court finds Applicant's allegation that the trial court lacked subject matter jurisdiction because his indictments were insufficient shall be summarily dismissed. "[S]ubject matter jurisdiction of the circuit court and the sufficiency of the indictment are two distinct concepts and the blending of these concepts serves only to confuse the issue." State v. Gentry, 363 S.C. 93, 101, 610 S.E.2d 494, 499 (2005). With respect to Applicant's claims concerning the sufficiency of the indictment, Applicant was required to raise such a challenge prior to the swearing of the jury. S.C. Code Ann. §17-19-90 (2003). Regardless, "[a]n indictment is merely a notice document." State v. Baker, 390 S.C. 56, 62, 700 S.E.2d 440, 442 (Ct. App. 2010) (citing Gentry, 363 S.C. at 102-103, 610 S.E.2d at 500. Whether or not the indictment could be made more definite and certain is irrelevant. Baker, 390 S.C. at 62, 700 S.E.2d at 442. The court in Baker noted the following:

> [T]he court must look at the indictment with a practical eye in view of all the surrounding circumstances. The sufficiency of the indictment is determined by whether: (1) the offense charged is stated with sufficient certainty and particularity to enable a court to know what judgment to pronounce, and the defendant to know what he or she is called upon to answer and whether he or she may plead an acquittal or conviction thereon, and (2) whether it apprises the defendant of the elements of the offense that are intended to be charged.

Id. (citing Gentry, 363 S.C. at 102-103, 610 S.E.2d at 500).

Moreover, "an indictment passes legal muster when it charges the crime substantially in the language of the statute prohibiting the crime or so plainly that the nature of the offense charged may be easily understood." Id. 390 S.C. at 63, 700 S.E.2d at 443 (citing State v. Tumbleston, 376 S.C. 90, 98, 654 S.E.2d 849, 853 (Ct. App. 2007)); S.C. Code Ann. § 17-19-20. When the indictment references the statute, the elements of the charge are thereby incorporated into the

indictment. See State v. Owens, 346 S.C. 637, 649, 552 S.E.2d 745, 751 (2001) (murder statute) overruled on other grounds by Gentry, 363 S.C. 93, 610 S.E.2d 494; see also State v. Beam, 336 S.C. 45, 50-51, 518 S.E.2d 297, 300 (Ct. App. 1999) (video piracy statute); State v. Crenshaw, 274 S.C. 475, 477, 266 S.E.2d 61, 62 (1980) (bribery statute).

Applicant's indictment allegation is not proper for PCR. Applicant's failure to raise this challenge before he pled guilty prevents him from raising this allegation in this action. Additionally, the indictments charged Applicant substantially in the language of the statute prohibiting the crime, and thus pass legal muster. As such, Applicant's allegation as it pertains to the indictments should be dismissed.

Furthermore, Applicant has failed to sufficiently present facts to support his claim that the trial court lacked subject matter jurisdiction. An Applicant may challenge the subject matter jurisdiction of the trial court, and such a claim is one that may be raised at any time. Brown v. State, 343 S.C. 342, 346, 540 S.E.2d 846, 848-49 (2001), overruled in part by Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005). However, "[c]ircuit courts obviously have subject matter jurisdiction to try criminal matters." Gentry, 363 S.C. at 101, 610 S.E.2d at 499. See also S.C. Const. Art. V, § 11. Thus, Applicant must present evidence that his case is of some class over which the circuit court does not have the authority to preside. Applicant's conviction involved a criminal charge in the Court of General Sessions. Accordingly, the circuit court had subject matter jurisdiction. Applicant has failed to sufficiently present facts or evidence that the convictions he challenges in this application are in a class over which the circuit court does not have the authority to provide.

Accordingly, Applicant's allegation as it pertains to subject-matter jurisdiction shall be dismissed.

FRUSTRATION OF FINALITY OF CONVICTIONS

As a final matter, both the United States Supreme Court and the South Carolina Supreme Court have emphasized the necessity for finality of litigation in criminal cases. The Court in Aice explained that:

> Finality must be realized at some point in order to achieve a semblance of effectiveness in dispensing justice. At some juncture judicial review must stop, with only the very rarest of exceptions, when the system has simply failed a defendant and where to continue the defendant's imprisonment without review would amount to a gross miscarriage of justice. . . . [Here], Aice seeks to have more than one procedural "bite" at the apple. Aice has filed an original PCR application, and has been allowed to seek review of the ruling against him. We refuse to grant his request for a second chance, and again we do so in order to effectuate the purposes of the Act and rules.

305 S.C. at 451–52, 409 S.E.2d at 394–95 (citations omitted).

The United States Supreme Court has explained that "the principle of finality . . . is essential to the operation of our criminal justice system. Without finality, the criminal law is deprived of much of its deterrent effect." Teague v. Lane, 489 U.S. 288, 309 (1989). "Relitigation of a conviction is a rear-view mirror, while a respect for finality encourages those in custody to contemplate the future prospect of 'becoming a constructive citizen.'" United States v. Fugit, 703 F.3d 248, 252 (4th Cir. 2012) (quoting Schneckloth v. Bustamonte, 412 U.S. 218, 262 (1973) (Powell, J., concurring)). In his concurring and dissenting opinion in Mackey v. United States, Justice Harlan wrote:

> Finality in the criminal law is an end which must always be kept in plain view. . . . At some point, the criminal process, if it is to function at all, must turn its attention from whether a man ought properly to be incarcerated to how he is to be treated once convicted. If law, criminal or otherwise, is worth having and enforcing, it must at some time provide a definitive answer to the question litigants present or else it never provides an answer at all. Surely it is an unpleasant task to strip a man of his freedom and subject him to institutional

> restraints. But this does not mean that in so doing, we should always be halting or tentative. No one, not criminal defendants, not the judicial system, not society as a whole is benefited by a judgment providing that a man shall tentatively go to jail today, but tomorrow and every day thereafter his continued incarceration shall be subject to fresh litigation.

401 U.S. 667, 691 (1971) (Harlan, J., concurring in part and dissenting in part). Seven years after Mackey, the South Carolina Supreme Court quoted Justice Harlan's opinion with approval in Anderson v. Leeke, 271 S.C. 435, 441–42, 248 S.E.2d 120, 123 (1978). Applicant's attempt to relitigate his convictions and sentences through this successive and time-barred application is contrary to the recognized need for finality of litigation.

|CONCLUSION PAGE FOLLOWS|

CONCLUSION

Pursuant to S.C. Code Ann. § 17-27-70(b), the Court intends to dismiss this application with prejudice unless Applicant provides specific factual or legal reasons 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 Richland County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
PCR Division – 5th Circuit
P.O. Box 11549
Columbia, South Carolina 29211

Applicant is cautioned that his response to this order must be actually received by the Richland County Clerk of Court and opposing counsel within twenty days, and the Court will not consider any issues raised in his response if not so timely filed and served.

AND IT IS SO ORDERED this 8th **day of** December**, 2023.**

THE HONORABLE JOCELYN NEWMAN
Chief Administrative Judge
Fifth Judicial Circuit

Columbia, South Carolina