

Petition for a Writ of Certiorari to the
Court of Appeals

The State of South Carolina
in the Supreme Court

CASE NO: 2022-CP-07-00474

Charles W. McCormick Petitioner
326467

v.

State of South Carolina Respondent

Petition for a Writ of Certiorari

Pro Se

Charles W. McCormick
326467 BBB-14
Allendale CI.
1057 Revolutionary Trail
Fairfax, SC, 29827

RECEIVED

MAY 01 2024

S.C. SUPREME COURT

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Questions Presented

1. Did the Honorable Judge Robert J. Bonds error with Final Order of Dismissal for second PCR hearing. Having held action is barred by Res Judicata?
2. Did the Honorable Judge Robert J. Bonds have the full scope and understanding of Petitioners case? Replacing the Honorable Judge CARMAN T. Mullen?

Statement of Case

October 20, 2017 Petitioner being indigent filed application for DNA Testing and in forma pauperis, Mailed to Beaufort County Clerk of Court, receiving no response back.

Petitioner wrote the Beaufort County Clerk of Court on April 28, 2018 - August 19, 2018 - November 2, 2018 with no response to status of application. Petitioner wrote to Administration Law Court. Court responded with letter and Petitioner

Mailed to Beaufort Clerk of Court March 23, 2019
with no response.

February 18, 2020 Petitioner filed A Motion for Cause.
March 11, 2020 received response from Beaufort
Clerk of Court application was put on docket,
October 30, 2017 and that the Solicitor and A.G.'s
office have been notified.

Statue 17-28-50 states within 90 days or time
Court may fix. The Solicitor or AG. shall respond.

Here the Solicitor or AG responded. Nor did the
Court. Petitioner waited 225 days. Petitioner
Then Filed A Motion for default. November, 2020
requesting to have sentences vacated.

Petitioner was notified by Lieber staff OTR. That
Petitioner was going to have A virtual Web. X.
hearing December 16, 2020

Hearing was in front of Judge Carman T. Mullen
and Deputy Solicitor Sean Thornton 14th Circuit.

By Statue Judge Mullen violated 14-3-50
Disqualification of justice by reason of interest
or prior participation in case.

Petitioner raised several issues at hearing.

Judge Mullen acknowledge that she remembered
Petitioner's case and would go over all of it. That
Judge Mullen would respond back to petitioner,
After 2 years and no response from Judge Mullen,
and a little over 5 years from filing of Application

Petitioner filed a Writ of Mandamus, with the
South Carolina Supreme Court, the Appellate Court
and the 14th Circuit Judicial Court. Also the
Attorney General's Office. Mailed out October 24, 2022.

Petitioner wrote to the South Carolina Supreme Court
Clerk of Court April 4, August 8, November 7, 2023
Mandamus still pending.

Petitioner received letter and motion December 23,
2023 assigned new judge and conditional order to
dismiss 2nd PCR Application. Order signed by Judge
Bonds 6 days before Petitioner received Motion.
Rule 214

Petitioner response to order was mailed out on
December 27, 2023. Petitioner mailed letter of intent
to appeal to the Clerk of the Supreme Court on
February 1, 2024.

February 5, 2024 received from Clerk of the Supreme Court. Writ of Mandamus still pending.

February 8, 2024 Mailed out Writ of Certiorior to Appellate Court, 14th Circuit Court, Supreme Court and the Attorney General's office. Which was in error.

Petitioner received from the Beaufort County Clerk of Court and the A.G. Office on PCR's another dismissal and instructions to use rule 243.

Petitioner also filed with the disciplinary Council. November 28, 2022 about the virtual hearing and the transcript. There were problems obtaining it and parts are changed and incorrect.

Petitioner filed transcript with Writ of Mandamus as evidence.

ARGUMENT

Petitioner Asserts his due process, Fundamental Fairness and equal protection of the law, has been Abused over the undue delays. The Clerk of Court, the Solicitors and the Judge.

Petitioner Argues there are material facts that are not answered. That the State has violated several Statutes. 17-28-50(A) Clerk will deliver for docketing to Solicitor, (B) Solicitor or A.G. shall respond.

Petitioner here points out this took the Clerk of Court 2 years and 4 months to notify the Solicitor and AG. This after Motion for Cause.

Petitioner after waiting 225 days and Filing Motion for default, The Solicitor responded. At no time was there an order to extend Time.

December 16, 2020 Virtual Web, X hearing held in front of Judge Mullen and Solicitor Thornton Petitioner informed Judge Mullen of All the delays and the purpose of the DNA Testing.

Petitioner also informed Judge Mullen the Solicitors Motion was incorrect. That there was no blood under my wife's fingernails and there were no kidnapping charges.

Petitioner informed Judge Mullen that there was no paper work on where my clothes were for 17 days and no paper work where my wife's fingernail clippings were for 5 days. (Chain of Custody)

Petitioner also asked Judge Mullen why the Clerk of Court (Beaufort) felt it important to bring to her attention that I was asking for a calendar of when the Grand Jury was in session. This before first PCR. Letter with Mandamus evidence. Petitioner had written several months to Clerk. Petitioner filed this Virtual Web.X Transcript with his Writ of Mandamus and with the disciplinary counsel as evidence.

Petitioner also raised the possession charge of a firearm. There was no firearm in evidence. NO GSR on person or clothes. SLED report states inconclusive. Because petitioner never fired any firearm. Statute 8.2 must visibly displayed. Statute 16-23-490 5 years except were LWOP.

(6)

Solicitor also violated Section 17-25-45 and 17-25-50 (P) prior or previous shall mean on a separate occasion before life without parole can be imposed. (F) Written notice must be given by the solicitor to the defendant and the defendant's counsel not less than ten days before trial. Petitioner was never given any such notice.

Statute 17-28-320 (A)(B)(C) Preservation of evidence. All violated

Judge Mullen committed reversible error by neglecting to instruct the jury on the defense of Alibi. Judge Mullen knowing Petitioner said he was at a different place and the police Detective Bromage testified to those facts. There were witnesses to put me at the restaurant/bar. Petitioner's purpose for *Weldon v. State* 436 S.C. 69, 870 S.E.2d 183 (2021)

Conclusion

For the reasons stated, Petitioner asks this Court to grant the petition for Writ of Certiorari and/or vacate sentence.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

Charles W. McCormick)
Applicant)
BEAUFORT COUNTY, S.C.)
CLERK OF COURT)

v.)

State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS)
FOURTEENTH JUDICIAL CIRCUIT)

Case No.: 2022-CP-07-00474)

FINAL ORDER)
OF DISMISSAL)

2024 FEB 27 PM 12:47
JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

This matter is before the Court by way of an application for post-conviction relief (PCR) filed by Charles W. McCormick (Applicant) on March 17, 2022. Respondent filed a return and motion to summarily dismiss the application as untimely, successive, and barred by res judicata. Respondent further asserted Applicant did not set forth a newly recognized constitutional right.¹ After review of the record and pleadings, this Court agreed this application should be summarily dismissed and provisionally dismissed the action by way of a Conditional Order of Dismissal filed January 5, 2024, giving Applicant twenty days from the date of service of said Order to show why the dismissal should not become final. Attached to this Final Order and incorporated herein by reference is a Certificate of Service indicating Applicant was served the Conditional Order of Dismissal on January 19, 2024.

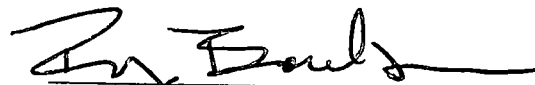
On January 16, 2024, Applicant filed a Motion and Response to Conditional Order to Dismiss, wherein he contends (1) Weldon v. State, 436 S.C. 69, 870 S.E.2d 183 (2021), constituted new caselaw; (2) counsel should have called certain witnesses at his criminal trial; (3) the State

¹ See S.C. Code Ann. § 17-27-45(B) (“When a court whose decisions are binding upon the Supreme Court of this State or 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.”); (Teague v. Lane, 489 U.S. 288, 301 (1989) (“[A] case announces a new rule if the result was not dictated by precedent existing at the time the defendant’s conviction became final.”)).

did not present overwhelming evidence of his guilt, and the SLED agents gave false and misleading testimony; (4) he lived in the home and thus his touch DNA would be everywhere;² and (5) the State did not submit paperwork on the chain of custody. As set forth in the Conditional Order of Dismissal, Weldon did not create a new constitutional right. Further, this Court finds Applicant has not set forth a reason this application should not be barred by the statute of limitations, the doctrine against successiveness, and res judicata. Applicant likewise has not set forth a valid basis for an evidentiary hearing.

IT IS THEREFORE ORDERED that for the reasons set forth in the Court's Conditional Order of Dismissal, this application for PCR is hereby **DENIED AND DISMISSED WITH PREJUDICE**. Should Applicant wish to procure appellate review, he must file and serve a notice of appeal within thirty days of this Order. See Rule 203, SCACR. Applicant's attention is directed to Rule 243, SCACR, for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this 15 day of Feb, 2024.

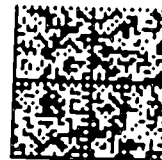



ROBERT J. BONDS
Chief Administrative Judge
Fourteenth Judicial Circuit

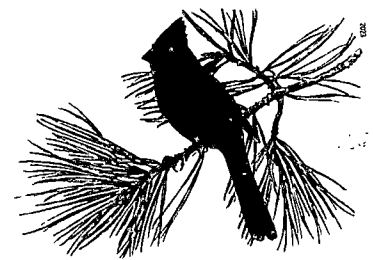
Walkerboro, South Carolina

² Petitioner states he raised this issue to Judge Mullen at a virtual hearing on December 16, 2020.

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