

Perry Young, #252478  
McCormick CI, F4B223  
386 Redemption Way  
McCormick, SC 29899

The Supreme Court of South Carolina  
Daniel E. Shearouse, Clerk  
Post Office Box 11330  
Columbia, SC 29211-1330

**RECEIVED**

AUG 26 2013  
S.C. SUPREME COURT

August 21, 2013

Dear Honorable Clerk Shearouse:

Please find enclosed for filing my Pro Se Brief and  
Designation of Matter.

Would you be so kind as to forward me back a filed copy.  
Thank you.

Sincerely,

s/ Perry Young  
Perry Young, Appellant

cc: Personal file

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

---

APPEAL FROM MARION COUNTY  
Court of Common Pleas  
Michael G. Nettles, Cir. Ct. Judge

---

Case # 2013-001587

---

**RECEIVED**

AUG 26 2013

S.C. SUPREME COURT

Perry Young, #252478,

Appellant,

vs

The State of South Carolina,

Respondent.

---

DESIGNATION OF MATTER  
TO BE INCLUDED IN THE RECORD ON APPEAL

---

Appellant proposes the following be included in the Record on Appeal:

- (1) Amended PCR Application Ex. B1 - Ex. 5
- (2) Ex. A1 - A3
- (3) Conditional Order of Dismissal
- (4) Final Order
- (5) Appellant's 59(e)/15(b) Motion
- (6) Order Denying Appellant's 59(e)/15(b) Motion

I certify that this designation contains no matter which is irrelevant to this appeal.

s/ Perry Young  
Perry Young, Appellant

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

---

APPEAL FROM MARION COUNTY  
Court of Common Pleas  
Michael G. Nettle, Cir. Ct. Judge

---

Case # 2013-001587

---

**RECEIVED**  
AUG 26 2013  
S.C. SUPREME COURT

Perry Young # 252478

Appellant

VS

The State

Respondent

---

APPELLANT'S PRO-SE BRIEF

---

Other counsel of record  
A/A Ben.  
David Spencer  
PO BOX 11549  
Cola, SC 29211-1549

Perry Young # 252478  
Unit 4-223-B  
MS Corr. Inst.  
386 Redemption Way  
MS Cormick, SC 29899

## ARGUMENT

Appellant's written explanation/argument per SCACR - Rule 243 (C) as to why the lower court findings was in error/improper.

Appellant argues that the lower court erred in its ruling that Appellant did not show sufficient reasons to entertain his second P.C.R. action, when in fact Appellant had overcome Aice v State 409 SE2d 392. By showing how his first PCR counsel undermined Appellant's due process SEE: attached 59 (e) motion; and Ex. 5

A1 - A3 Thus, in the face of Martinez

v Ryan 132 S.Ct. 1309 which recognize ineffective assistance of PCR counsel.

And, since in S.C. there is a prohibition against hybrid representation SEE: Foster v State 379 SE2d 907; McKaskle v Wiggins 465

U.S. 168 there was no way Appellant could

have raised the issues in his first PCR without the aid of counsel.

Appellant further argue that due to the unique facts and extraordinary circumstance of his case, the court was required to review his second PCR in the interest of justice, on a case-by-case basis SEE: Case v State 289 SE2d 413; Franklin v Maynard 588 SE2d 604 Also see Martinez v Ryan 132 S.Ct. 1309

Which the Appellant re-argue his arguments set out in his PCR application and AMENDED PCR motion Verbatim SEE: attached notice/motion to amended PCR application Ex B1 - Ex 5.

Appellant further argue that the lower court never address Appellant's 15(b) motion itself - within Appellant's 59(c) motion. The court was required to address... The court should have freely given leave to amend when justice was so required

in Appellant's case SEE: attached 59cc)  
and 15 (b) motion. Appellant argues that  
such amendment was not in bad faith or  
dilatatory on his part nor undue delay had  
occured in this matter, the State/Respondent  
would not have suffered any prejudice.  
Appellant's 15 (b) motion was not futile.  
Although, Appellant had amended his P.C.R.  
application - S.C.R. Civil P. still applied. Thus,  
due to the unique facts and extraordinary  
circumstance - justice so required leave to  
amend - 15 (b) states in part: Such amendment  
of the pleadings as may be necessary to cause them  
to CONFORM TO THE EVIDENCE and to raise  
these issues may be made upon motion of any  
party at any time, even after judgment.

### CONCLUSION

For all the foregoing reasons, the lower court  
erred in denying Appellant second P.C.R. Where  
Appellant had shown clear reasons as to  
why his second P.C.R. was not successive.

or time barred SEE: Martinez v Ryan 132 S.Ct. 1309  
Therefore, due to the unique facts and extraordinary  
circumstance of Appellant's case, his case  
should be remanded back to the lower court  
for a full and fair hearing. And, this court  
allow a full briefing on this matter.

Respectfully Submitted  
sf Perry Young

Date: 8-21-2013

Appellant

STATE OF SOUTH CAROLINA  
COUNTY OF MARION

) IN THE COURT OF COMMON PLEAS  
) FOR THE 12TH JUDICIAL CIRCUIT

Perry Young, # 252478

) Case No. 2010-CP-33-0134

) APPLICANT,

) NOTICE AND MOTION TO

) vs.

) AMENDED PCR APPLICATION

) State of South Carolina,

) Respondent.  

---

Now comes Applicant Perry Young in the above-captioned case acting Pro-Se as counsel, respectfully giving motion and motion to now Amend his application for Post-Conviction Relief. Applicant Young now Motions to add the following specific allegations of Ineffective Assistance of Counsel.

1. Trial Counsel was Ineffective for failing to move to quash the indictments, and failing to move for a continuance of the defective and unlawful indictments.
2. Applicant Young states that the indictments are/were defective and unlawful whereas applicant Young was not indicted within 90 days of the Warrants being issued which is in accordance with the statute and criminal rules of procedure and also, violating South Carolina rules of criminal procedures, rule, 1, 2, and 3. + see foot note pg.1 & 2.
3. Trial Counsel was ineffective for failing to move for case dismissal of the charges on the grounds that the charges violates State Statutory Law and rules of the Court and the Court

**Foot Note: 1.** "Former Wade Middle High School Principal Jane Blackwell speaks with television reporters in March after a warrant against her on Obstruction of Justice charges was dismissed by a judge after she was not indicted within 90 days of the warrant being issued, in

of General Sessions thus lacked the necessary Subject Matter Jurisdiction and personal jurisdiction over Defendant Young.

4. Applicant Young states to the Court that pursuant to S.C.R.Cri.Pro. Rule 12 (b)(5), that Applicant Young's indictments are/were unlawful due to the insufficient Due Process to obtain them. Dismissal is appropriate under S.C.R.Crim.Pro. Due to this The Honorable Court lacked personal/lawful jurisdiction over the Defendant/Applicant. In as much, Rule 4. S.C.R.Crim.Pro. serves two purposes it confers personal jurisdiction on the Court.

5. Applicant Young was entitled to transfer of Court Venue in his Criminal Trial. Likewise, then Defendant Young was entitled to the change of venue due to the mail bomb and death threats the United States Court of Appeals Judge, city alderman and civil Rights Attorney under the Supreme Courts, "Supervisry Standard since Defewndant Young made a showing that prejudicial information reached the public through news accounts detailing Defendant Young's past criminal record, convictions in obstruct ion of justice at trial. Previous reliance on the insanity defense, and statements of federal Investigating officers to the press concerning Defendant Young's guilt. see, U.S. vs. Moody,

accordance with statute. "March was a month of legal issues in Greenwood [SC]. the warrant against former Ware Shoals principal Jane Blackwell on obstruction of justice charges was dismissed by a judge after she was not indicted within 90 days of the warrant being issued.

Blackwell's warrant stemmed from the investigation of an incident which Jill Moore, Ware Shoals' former elementary coach and guidance clerk, allegedly purchased alcohol for two minor (s) cheerleaders and put them in a "highly inappropriate" situation involving a sexual relationship she was having with a National Guardsman. Moore also was alleged to have entered a pretrial intervention program in March that, if completed, would expunge her record of all charges. Moore had been charged with contributing to the delinquency of a minor and providing alcohol to minors."

N.D.GA. 1991, 762 H.Supp. 1485.

6. Defendant Young's position is that the U.S. Constitution Art. I § 14 requirement that "Any person charged with an offense shall enjoy the right ... to be fully informed of the nature and cause of the accusation" mandates that the notice included a listing of the offenses which trigger the two strikes law, or else the notice is constitutionally insufficient. Defendant Young states to this Court that without any listing of the charges triggering the recidivist statute's application he could not be "fully informed" of the nature of the charges against Defendant Young.

Historically, South Carolina has not required a Defendant be informed, even in the indictment, that he was eligible upon conviction to be punished more severely on the bases of previous convictions in the record. see, State vs. Stewart, 275 S.C. 447, 272 S.E.d. 628 (1980) which held that a Defendant Young was not entitled to notice prior to the application of a mandatory sentence under S.C. Code Ann. § 17-25-40 (1976) and (Repealed) the predecessor statute to section (§ 17-25-45) see State vs. Parris, 89 S.C. 140, 141, 71 S.E. 2d. 808-09 (1911). State vs. Stewart, S.C. 272 S.E. 2d. 628. and § 17-25-40, provides as follows:

"In case anyone whose combined conviction under the law of any state including this State, or of the United States, of the crime of Murder, Voluntary Manslaughter, Rape, Armed Robbery, Highway Robbery, Assault w/Int. to Ravish, Bank Robbery, Arson,

Ex 4

Burglary or Safe Cracking, or its intent, amount to as many as three, be conviction under the laws of this State, of the above crimes, he shall be subjected to the maximum sentence shall be life for any person convicted for the fourth time of any of such crimes. Provided; however, that nothing herein contained shall Probation, Parole and Pardon Board as now provided by law. If the circumstances indicate that they must be so considered then this conviction would only be the third conviction under Section, SC. Code § 17-25-40 which may be counted and as such § 17-25-40 would require the maximum sentence for his conviction. If the facts reveal that all the convictions need not be considered as one, then the Trial Court sentence of life for the fourth conviction as imposed pursuant to section § 17-25-40 will stand. We must remand the matter back to the Trial Court for a hearing to determine the proper sentence under SC. Code, § 17-25-40.

Through Personal Knowledge, Information and Belief, Applicant Young does hereby SWEAR that the afore going Notice and Motion to Amended PCR Application is true and correct under the penalty of perjury.

Respectfully Submitted,

*Perry Young*  
 Perry Young, # 252478

48-217, SCDC  
 386 Redemption Way  
 McCormick, SC. 29899-0001

*Jayle L Young*  
 SWORN to before me this 11

DAY OF August, 2011.

Notary Public for South Carolina

My Commission Expires: 8-28-2011

Ex 5



Staff file photo

Former Ware Shoals High School principal Jane Blackwell speaks with television reporters in March after warrant against her on obstruction of justice charges was dismissed by a judge after she was not indicted within 90 days of the warrant being issued, in accordance with statute.

#### MARCH

March was a month of legal issues in Greenwood.

The warrant against former Ware Shoals principal Jane Blackwell on obstruction of justice charges was dismissed by a judge after she was not indicted within 90 days of the warrant being issued, in accordance with statute.

Blackwell's warrant stemmed from the investigation of an incident in which Jill Moore, Ware Shoals' former cheerleading coach and guidance clerk, allegedly purchased alcohol for two minor cheerleaders and put them in a "highly inappropriate" situation involving a sexual relationship she was having with a National Guardsman. Moore also was alleged to have entered a pretrial intervention program in March that, if completed, would expunge her record of all charges. Moore had been charged with contributing to the delinquency of a minor and providing alcohol to minors.

Ex A 1

PAUL ARCHER

*Attorney at Law*

Phone/Fax: (843) 979-4000

*Member N.Y. Bar since 1966*  
*Member S.C. Bar 1994*  
*Federal Bar since 1967*  
*United States Supreme Court 1976*

*8231 Ocean Highway*  
*Pawleys Island, South Carolina 29585*

Mr. Perry Young #252478  
McCormick Correctional  
Rt. 2 Box 100  
McCormick, S.C. 29899

November 21, 2002

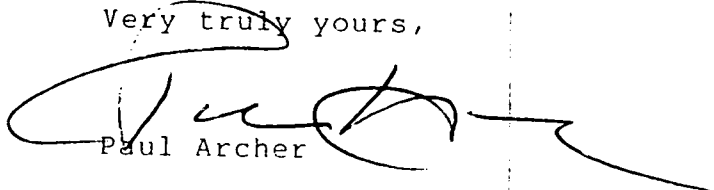
Re: Young V. State PCR

Dear Mr. Young:

William Grammer, Esq. has been appointed to represent you in your PCR. He has no experience in PCRs so he asked me if I would be substituted in his place. I have handled over 100 PCRs in the past few years.

Please sign the enclosed and return.

Very truly yours,

  
Paul Archer

Ex A 2

Perry Young #252478  
McCI Unit F3B-139T  
Rt. 2, Box 100  
McCormick, S.C. 29899

December 2, 2002

Paul Archer  
Attorney at Law  
8231 Ocean Highway  
Pawleys Island, S.C. 29585

Re: YOUNG V. STATE PCR

Dear Mr. Archer,

I received a letter and a consent order for you to substitute for William Grammar Esq. In your letter you spoke of the number of PCR cases that you have handled in the past. I've learned that can be a good thing or a bad thing. The good thing is you can bring plenty of experience in handling my PCR. The bad thing is some attorney's who have handled PCR cases seem to relax more and wait until the last minute to speak with the client, make decisions without talking with the client first, and never come to the prison to talk with the client.

I feel it would benefit me greatly to have you represent me, for I was rather impressed with your letter head and the number of PCR's you have handled. However, so that we get off to a good start, I must strongly let you know my position.

1. I truly need to speak with you in person at the earliest time you can schedule.
2. I would like to know before hand, any changes you will make or anything you may file.
3. I need a response on any questions that I may write and ask you.

I understand that you are the attorney and a experience one in PCR matters, but my goal is that we both work together to bring about a favorable outcome. I don't want you representing me to be a burden. I just want you to truly understand my life and future is in your hands. So I humbly ask that you come down soon and speak with me.

Ex A2

I look forward to seeing you soon and your representation. I pray this letter find you and yours in the best of spirit.

Sincerely,

Perry Young  
Perry Young #252478

Sworn and subscribed to before me:

this 2 day of Dec. 2002

[Signature]  
Notary Public for S.C.

My commission Expires 3-30-2009

cc:File

Ex A3

Perry Young #252478  
MCCI F3B-139  
Rt.2, Box 100  
McCormick, S.C. 29899

South Carolina Bar Association  
P.O. Box 11330  
Columbia, S.C. 29211

RE: Young V. State  
Complaint- PCR Counsel, Mr. Paul Archer

Dear Sir,

On November 25, 2002, I received a letter from Mr. Paul Archer stating that he was appointed to represent me, at my PCR hearing.

On December 2, 2002, I wrote Mr. Archer telling him I would like for him to come to the prison, so we could discuss my case. Not only did he deny my request to visit me at the prison, I only saw him 10 minutes before I was to go in front of the Judge, at my PCR hearing, on March 14, 2003.

In my study of the South Carolina PCR Manual, Chapter II, page 3, rule 1.1, it states, requires a lawyer to provide competent service to a client, rule 1.3, states, a lawyer is required to keep his client reasonably informed about the status of the matter and promptly reply with reasonable requests for information, rule 1.4(a), states, a lawyer must explain the case to the client to the extent necessary to permit the client to make informed decisions.

All of these rules have been violated. The PCR manual, on page 4, clearly states, What you do once you are appointed or retained? **FIND AND MEET YOUR CLIENT**, rule 71.1(e), Butler V. State, 286S.C.441, 334S.E.2d813 (1985). Make sure that your client

Ex A3

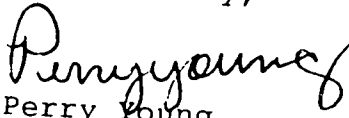
gets a fair and adequate hearing. I was deny a fair PCR hearing, I was not prepared, nor was my attorney, I asked for a continuance, but it was denied, because Mr. Archer said he was ready to proceed. Rule 6.2(c), lawyers are not only required to take the matter seriously, but you must also become competent in the area of law to adequately represent the client.

He, Mr. Archer, played with my life. Mr. Archer is bound to provide his client with full and fair representation. If he did not want to represent me, he should not have taken the case, and informed the judge of his decision.

Therefore, I would like to formally register a complaint against attorney- Mr. Paul Archer, 8231 Ocean Highway Pawleys Island, S.C. 29585.

Thank you for your time and cooperation in this matter.

Respectfully,

  
Perry Young

Note: exhibits of evidence  
to verify allegations.

sworn and subscribed before me  
this 1st day of May, 2003.

October 13, 2003  
my commission expires

Edward R. Martin  
notary republic

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF MARION )  
 )  
 Perry Young, #252478 )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 FOR THE 12TH JUDICIAL CIRCUIT  
 Case No.: 2010-CP-33-0134

**CONDITIONAL ORDER OF DISMISSAL**

2011 JUL 7 PM 2:35  
 BOOK PAGE  
 FILED  
 CLERK OF COURT  
 MARION COUNTY  
 SOUTH CAROLINA

This matter comes to this Court by way of a post-conviction relief (PCR) application filed March 1, 2010. The Respondent made its Return and Motion to Dismiss on May 4, 2010, moving to dismiss the PCR application as successive and beyond the statute of limitations. This Court announces its intention to grant the Respondent's motion.

**PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Marion County Clerk of Court. The Applicant was indicted at the August 1998 term of the grand jury for Marion County for kidnapping, carjacking, criminal sexual conduct - 1<sup>st</sup> degree, and possession of knife during commission of a crime of violence (98-GS-33-259). Applicant proceeded to trial and was found guilty as charged. On September 2, 1998, the Honorable James E. Brogdon, Jr., sentenced Applicant to confinement for a period of life without parole. Michael Ballenger, Esquire, represented the Applicant.

The Applicant filed a timely notice of appeal. After a review pursuant to Anders v. California, 386 U.S. 738 (1967), the South Carolina Court of Appeals dismissed the appeal. State v. Young, 2000-UP-283 (filed April 17, 2000).

A CERTIFIED COPY OF THE ORIGINAL FILED IN THIS  
 BOOK PAGE  
 Clerk of Court, Marion County  
 South Carolina

**Case No.: 2000-CP-33-337**

Applicant subsequently filed an application for post-conviction relief (PCR) on August 24, 2000. An evidentiary hearing was convened on March 14, 2003, at the Florence County Courthouse. Applicant raised the following issues in his first PCR:

1. Ineffective assistance of counsel;
2. Ineffective assistance of appellate counsel; and
3. Prosecutorial misconduct.

The Honorable J. Michael Baxley denied and dismissed Applicant's application by written Order on December 14, 2001. The Applicant subsequently appealed. The Supreme Court of South Carolina dismissed the appeal. The remittitur was issued on April 22, 2003.

**Current PCR Application**

In his current application for post conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "The defendant was denied discovery of all his Brady Materials."
2. "Applicant was denied effective assistance of counsel due to counsel's failure to move to quash indictment containing a sole police officer as a witness before the grand jury."

Before this Court are the records of the Marion County Clerk of Court regarding the subject convictions; Applicant's records from the South Carolina Department of Corrections; Applicant's prior PCR and Appellate Court records, Applicant's current PCR application and Respondent's Return and Motion to Dismiss.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

### Successiveness

This Court finds that the current application for post-conviction relief must be summarily dismissed because it is successive to his prior application for post-conviction relief. S.C. Code Ann. §17-27-90 provides that:

All grounds for relief available to an application under this chapter must be raised in his original, supplemental or amended Application. Any ground finally adjudicated or not so raised, knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding 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.

Successive applications are disfavored and the burden is on Applicant to establish that any new ground raised in a subsequent application could not have been raised by him in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 309 S.C. 157, 420 S.E.2d 834 (1992).

This Court finds that the current allegations were or could have been raised in the proceedings based on Applicant's prior application for post-conviction relief and thus the current application is successive and barred under S.C. Code §17-27-90. Applicant has failed to establish sufficient reason why he could not have raised his current allegations in his previous application for post-conviction relief; therefore, he has failed to meet the burden imposed upon him. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980); Aice v. State, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 420 S.E.2d 834 (1992).

### Statute of Limitations

This Court finds, further, that this Application for Post-Conviction Relief must be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160 (2003). S.C. Code Ann. §17-27-45(a) reads as follows:

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.

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). The Applicant was convicted of the offense(s) he challenges in this Application on September 2, 1998. The Supreme Court's decision was filed, after the Applicant's unsuccessful appeal, on April 17, 2000. This Application was filed on March 1, 2010, which was well after the statutory filing period had expired.

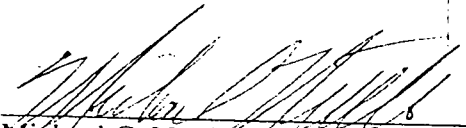
A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. §17-27-70(c) (2003) authorizes the Court to "grant a motion by either party for summary 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." Therefore, this Court finds that the application for post-conviction relief is summarily dismissed for failure to file within the time mandated by statute and for being successive.

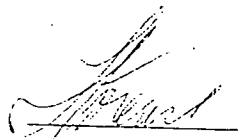
**CONCLUSION**

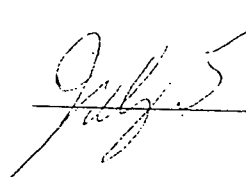
Pursuant to S.C. Code Ann. § 17-27-70(b), this Court intends to dismiss the Application with prejudice unless the Applicant provides specific reasons, factual or legal, why the Application should not be dismissed in its entirety. The Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final. The Applicant shall file any reasons he may have with the Marion County Clerk of Court and shall also serve opposing counsel at the following address:

David Spencer, Esquire  
Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

**AND IT IS SO ORDERED!**

  
Michael G. Nettles  
Chief Administrative Judge  
12<sup>th</sup> Judicial Circuit

  
\_\_\_\_\_, South Carolina

  
\_\_\_\_\_, 2011.

STATE OF SOUTH CAROLINA )  
 COUNTY OF MARION )  
 Perry Young, #252478 )  
 Applicant, )  
 v. )  
 State of South Carolina, )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 FOR THE 12TH JUDICIAL CIRCUIT  
 Case No.: 2010-CP-33-0134

**FINAL ORDER**

2011 NOV -9 PM 1:57  
 BOOK 1140  
 FILED

This matter comes to this Court by way of a post-conviction relief (PCR) application filed March 1, 2010. The Respondent made its Return and Motion to Dismiss on May 4, 2010, moving to dismiss the PCR application as successive and beyond the statute of limitations. This Court, after reviewing the pleadings and attachments of both parties, issued a Conditional Order of Dismissal on July 5, 2011, provisionally dismissing the application, but allowing Applicant twenty days from service of the Conditional Order to provide this Court with sufficient reason why this case should not be dismissed with prejudice. A copy of the Conditional Order was served on Applicant in person on July 27, 2011 (see attached Affidavit of Personal Service). On August 11, 2011, Applicant responded with a document entitled "Notion and Motion for Filing of Amendment to PCR Application".


Applicant, in his response, fails to indicate any reason why his claims could not have been brought in his prior PCR application or could not have been brought in a timely manner. The allegations generally allege either claims of ineffective assistance or indictment issues that should have been brought, if at all, in the prior PCR application. Accordingly, after careful consideration of the original pleadings and Applicant's response, this Court finds for the reasons

stated in its Conditional order that it must dismiss this application with prejudice as successive and untimely filed.

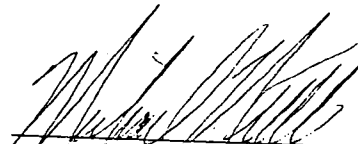
**IT IS THEREFORE ORDERED** that, for the reasons set forth in the Court's Conditional Order of Dismissal, the Application for PCR is hereby denied and dismissed with prejudice.

This Court notifies Applicant that he must file and serve a notice of appeal within thirty (30) days after receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Applicant's attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**AND IT IS SO ORDERED.**

 \_\_\_\_\_, South Carolina

11-4- \_\_\_\_\_, 2011.

  
\_\_\_\_\_  
Michael G. Nettles  
Chief Administrative Judge  
12<sup>th</sup> Judicial Circuit

STATE OF SOUTH CAROLINA  
COUNTY OF MARION

IN THE COURT OF COMMON PLEAS  
#2010-CP-33-0134

Perry Young #252478

Applicant

VS

The State

Respondent

NOTICE AND MOTIONS  
FOR  
59(e) MOTION  
AND  
15(b) MOTION

PLEASE TAKE NOTICE, NOW COMES the above named Applicant who move this Hon. Court in the above entitled matter per. S.C.R.C.P. Rule 59(e); to direct the entry of a new judgment to alter, amend and reconsider the findings of facts and conclusions of law to EACH issue per. S.C. Code Ann 17-27-80. And, amend to conform to the org. and amended P.C.R.

The Applicant received the final order of dismissal Nov 14<sup>th</sup> 2011. Which was signed by the Hon. Michael G. Nettles Nov 4, 2011 and filed by the Clerk of Court Nov 9, 2011

### ARGUMENT

In Marlar v State 653 SE2d 266 the SC Supreme Court made it clear that a P.C.R Judge MUST make specific findings of facts and State expressly the

copy

Although, in Plyler v State 424 SE2d 477 " " if the issue raised is not ruled on, it deny/preclud any appellate review upon that issue. Also see Marler v State 644 SE2d 744.

But in this case, Applicant is entitled to a full ruling as required per S.C. Code Ann 17-27-80. And would direct the court's attention to the following specific matters in support of the instant motion.

- (1) And, state his reasons, as to why his claims could not have been brought in his prior PCR or brought in a timely manner. Because there is no right to hybrid representation in South Carolina see: State v Sanders 237 SE2d 53; Foster v State 379 SE2d 907. Here Applicant had no way of amending his prior PCR when counsel refuse to amend his PCR once at the PCR hearing, undermining Applicant's due process. SEE: attached Ex. A1 - A3.
- (2) Further, Applicant strongly argue that subject matter jurisdiction, and personal jurisdiction can be raised at anytime see State v Brown 570 SE2d 559; Brown v State 540 SE2d 846. Moreover Applicant did not voluntarily or intelligently waive his personal jurisdiction. Also see Hope v State 492 SE2d 76; State v Crouch 585 SE2d 288.
- (3) The Applicant re-argue " " grounds set out in his org. PCR and amended PCR. Which he is

copy

entitled to a ruling on "all" issues per. S.C. Code Ann  
17-27-80 Also see: Bryson v State 493 SE2d 500  
Pruitt v State 423 SE2d 127; McCray v State 408  
SE2d 24. In this motion(s) Applicant re-argue the  
attached AMENDED PCR issues. SEE: Ex B 1-5.

### CONCLUSION

For the foregoing reasons the Applicant's 15 (b)  
issue(s) 1 and 2 above should be granted in  
whole. And, Applicant further respectfully  
requests this court to entry a new judgment  
to alter, amend and reconsider its order of  
dismissal.

Date NOV 22, 2011

Respectfully Submitted

s/ Perry Young

copy

PROOF OF SERVICE

I, Perry Young certify that I have served my motion for 59(e) motion upon the below persons. By placing the above said in Me. Corr. Inst. mail room on this day of 11 to be deposited in the U.S. mail with postage prepaid

Senior NA Gen  
David Spencer  
P.O. Box 11549  
Colg SC 29211-1549

Clerk of Ct.  
Sherry R. Rhodes  
P.O. Box 295  
Marion, SC 29571

SWORN to and subscribed before me  
this 22 day of NOV. 2011

Joyce L. Young  
Notary Public

Perry Young

My Commission Expires 10-11-2021

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF MARION )  
 )  
 Perry Young, #252478 )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 FOR THE 12TH JUDICIAL CIRCUIT  
 Case No.: 2010-CP-33-0134

FILED  
 PAGE  
 DEC 16 A 11:  
 MARION COUNTY S.C.  
 CLERK OF COURT

**ORDER DENYING APPLICANT'S  
 MOTIONS PURSUANT TO RULES  
 59(e) AND 15(b), SCRPC**

This matter comes to this Court by way of a post-conviction relief (PCR) application filed March 1, 2010. The Respondent made its Return and Motion to Dismiss on May 4, 2010, moving to dismiss the PCR application as successive and beyond the statute of limitations. This Court, after reviewing the pleadings and attachments of both parties, issued a Conditional Order of Dismissal on July 5, 2011, provisionally dismissing the application, but allowing Applicant twenty days from service of the Conditional Order to provide this Court with sufficient reason why this case should not be dismissed with prejudice. On August 11, 2011, Applicant responded with a document entitled "Notion and Motion for Filing of Amendment to PCR Application". On November 4, 2011, this Court found Applicant failed to show sufficient reason why the Conditional Order should not become final and dismissed this case by written order dated November 4, 2011. This was mailed to the parties on November 10, 2011.

Applicant now moves pursuant to Rules 15(b) and 59(e), SCRPC to amend the judgment. Applicant argues that his PCR counsel for his first application should have raised issues that Applicant wanted raised. This Court finds that this reason is insufficient to entertain a successive application for post-conviction relief. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Accordingly, the motion is denied.

A CERTIFIED COPY OF THE ORIGINAL FILED IN THIS OFFICE  
 BOOK \_\_\_\_\_ PAGE \_\_\_\_\_  
 Sherry R. [Signature]  
 CLERK OF COURT, MARION COUNTY  
 SOUTH CAROLINA



PROOF OF SERVICE

I, Perry Young, SCDC# 252478, certify that I have served my Pro Se Brief and Designation of Matter upon the below persons by placing the above said into the McCormick Correctional Institution mailroom on this 21 day of August, 2013, to be placed in the US Mail, postage prepaid.

The S.C. Supreme Ct. Clerk  
P.O. Box 11330  
Columbia, SC 29211-1330

A/Atty. Gen. David Spencer  
P.O. Box 11549  
Columbia, SC 29211-1549

S.C. Commission on Indigent Defense  
Appellate Division  
P.O. Box 11589  
Columbia, SC 29211-1589

**RECEIVED**

AUG 26 2013

S.C. SUPREME COURT

s/ Perry Young 252478  
Perry Young, Appellant  
252478, McCI-F4B223  
386 Redemption Way  
McCormick, SC 29899

SWORN TO and SUBSCRIBED before me  
this 21 day of August, 2013.

J. Franklin

Notary Public for South Carolina

My Commission Expires 12-16-2019.

Mr. Perry Young # 252478

Mc Cormick Corr. Inst / Unit 4-223-B

386 Redemption way

Mc Cormick, SC 29899

The S.C. Supreme Ct. Clerk

P.O. Box 11330

Columbia SC 29211-1330