

The State OF South Carolina

In The State Supreme Court

Certiorari to Marlboro County

Honorable Edgar W. Dickson, Circuit Court Judge

Darrell Williams,

Petitioner,

Vs.

State Of South Carolina,

Respondent,

Rule 245 Explanations for Appeal

Darrell Williams # 219730

Lee Correction Institution

990 Wisacky Highway/ F6B-2243

Bishopville, South Carolina 29010

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S.C. SUPREME COURT

Factual/ Legal Analysis

Question One:

Did Pcr court err in ruling that the applicant was barred by the statute of limitations to bring this action challenging prior conviction under McDuffie v State, 276 S.C. 229 (1981); Finklea v State, 273 S.C. 157 (1979)?

The post-conviction court's general denial of all claims not specifically addressed in the order does not constitute a sufficient ruling on any issues since it does not set forth specific findings of facts and conclusions of law relating to each claim presented.

Because the pcr application (20-CP-34-00142) specifically addresses numerous claims, as well as, applicant response and exhibits attached. The pcr court was required to address these documents and issues. For instance, the court never addressed the fact that the applicant had filed application after the Padilla court decision from the United States Supreme Court was issued and that application had been pending long before the applicant filed this current application which is before this court.

Under normal instances, the court would be correct in their analysis, but herein, this court cannot rely on the findings of the pcr court when those findings are not supported by the record. Similarly, numerous documents were submitted to the court that was not addressed in this order, and these same documents are pertinent to evidence applicant claims this court has not addressed.¹

¹ See documents attached to Applicant "Motion For Judgment on The Pleadings"

Applicant asserts the pcr court erred in granting state summary judgment and dismissing his application for post-conviction relief because of the statute of limitations. The pcr court did not pursuant to South Carolina Code Ann§ 17-27-80 (cum.supp 23) draft this order that addresses all of the issues raised by this application. Furthermore, despite applicant filing a rule 59 (e) motion the court still failed to address the issue as presented. See, Fishburne v State, 427 S.C. 505 (2019) The applicant argued to Judge Burch that the order does not address applicant contentions that no statute of limitations applied to issues under McDuffie. Clearly the court adopted the respondent order and failed to address my claims individually, but instead did so cumulatively which is reflected by this order. (See PCR order dated)

The applicant contends that the court erred in their assessment of this question. For instance, since petitioner claims the pcr judge erred in dismissing his application based on statute of limitations, this was error and court should agree.

Under South Carolina Code Ann. § 17-27-20 (a) (cum.supp.23), "any person who has been convicted of, or sentenced for, a crime..." may institute a pcr proceeding. The Act does not contain an express. "In custody" requirement. Further, the act does not expressly require the applicant to receive a sentence of imprisonment before bringing a pcr action.

Instead, the Act allows a person who has been convicted of or sentenced for a crime to file an action. Convict means "to prove a person guilty of a crime" Webster's New World Dictionary 311 (2d College ed.1976). A sentence is defined as "the judgment formally pronounced by the court or judge upon the defendant after his conviction in criminal prosecution, imposing the punishment to be inflicted" Black's Law Dictionary 122 (5th ed. 1979). A sentence is not limited to a term of imprisonment; instead, it may be either a term in prison or a fine or both.

This case concerns the due process interest in reliability at sentencing. Specifically, it concerns a state prisoners attempt to secure post-conviction relief where the judge who sentenced him took into consideration a prior conviction which was constitutionally unreliable.

As previously noted, this court's decision rests upon two principles of due process. The first principle is the need for reliability in criminal proceedings, and the resulting need for a mechanism to challenge reliability of prior convictions which are used to enhance punishment. The first principle arises from the concern that a constitutionally infirm prior conviction might not reliably reflect the applicant actually committed the charge offense, and the subsequent sentence should not rest upon evidence which is constitutionally unreliable.

The second due process principle, the need to avoid re-imposition of constitutional injury, arises from the concern that the use of a constitutionally infirm prior conviction at a later sentencing causes the applicant to "suffer anew" the previous deprivation of his constitutional rights

The implications of respondent statement when quoting McDuffie quoted as follows:

"The pcr applicant is entitled to an evidentiary hearing on an otherwise proper application, even if they are no longer incarcerated for the offense giving rise to the application, so long as he alleges the results of conviction still persist"

Response to Rule 59 (e) motion pg.5

Neither McDuffie nor Finklea vitiate the authority of the state court to entertain pcr application attacking applicant prior conviction, which was used to enhance the current sentence he is presently serving. In McDuffie, the court examined and broadly construed the in custody federal requirement whereas herein the applicant sentence was enhanced by prior unconstitutional conviction. The respondent misquoted the decision in McDuffie in a way that is confusing. For this reason the respondent should explain what constitutes as a properly filed application, because the other statement **"so long as he alleges the results of conviction still persists"** if alleged in application is the same thing applicant has averred that he has established warranting this court to grant

hearing. Nothing in McDuffie comes remotely close to what the respondent asserts, in fact the McDuffie court quoting Finklea, clearly counsels that the standard to obtaining a hearing requires applicant set forth a claim that addresses how the prior conviction “still persist.” Until recently, our appellate courts suggested a Pcr applicant must meet the federal habeas corpus “in custody” requirement in order to have standing. See, Finklea v State, 273 S.C. 157 (1979). However, “[a] petitioner has standing to petition for pcr if he is in custody or the results of his prior conviction still persist. See, Jones v state, 322 S.C. 101, 102 (1996); See also, McDuffie. Thus, an applicant, regardless of whether he served jail time, may bring a pcr action if he demonstrates he is prejudiced by persistent results of his conviction. Jones, supra, McDuffie, supra. Thus, the pcr court erred in holding petitioner was barred by statute of limitations.

As noted, the court has failed to address fact that applicant avers, this prior conviction was used for enhancement (return to rule 59 (e) pg. 1)² under South Carolina Code Ann. § 16-11-311 (A) (2) (cum.supp.23) §17-25-45. Thus, applicant avers that Sibron v New York, 392 U.S. 40 (1968); Street v New York, 394 U.S. 576 (1969) controls the disposition of this case. In light of the Brown decision quoted by respondent, stating “**Which found such claims were not within the purview of the pcr when the applicant was not in custody**” the Brown court was merely reiterating what was the previous holdings of our appellate courts stare decisis in that the applicant had to allege he was in custody in order to obtain relief or review from courts on prior conviction challenges.

Because petitioner alleged in his application and during the pleadings he was suffering continuing consequences as a result of his alleged invalid conviction³, petitioner is entitled to an

² “ Applicant’s subject 1995 conviction was used to enhance his sentence to a term of imprisonment for life without the possibility of parole”

³ Petitioner allege as a result of his conviction, he is suffering the following consequences (1) prior conviction was used to enhance under South Carolina Code Ann.§ 17-25-45 (cum.supp23)

evidentiary hearing to prove whether these persistent effects have prejudiced applicant. See, McDuffie, supra (where an applicant claims the conviction is invalid and alleges the results of his prior conviction still persist, even though the sentence has been fully served, and applicant is entitled to an evidentiary hearing to determine whether he is prejudiced).

Other courts have found similar matters reviewable, notwithstanding the expiration of criminal sentence, so long as the defendant suffers, or may suffer, collateral consequences resultant from the conviction. For example, the United States Supreme Court found that a case is not moot despite completion of the sentence where the conviction may be used for impeachment and sentencing purposes in future criminal proceedings. The Sibron Court specifically stated,

“A criminal case is moot only if it is shown that there is no possibility that any legal consequences will be imposed on the basis of the challenged conviction”

Sibron, id, at 57; Street, id.

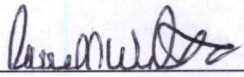
In accordance with Sibron, the respondent cannot allege that the prior conviction has no possibility of being used against applicant. In fact, just the opposite is alleged (**See footnote 1 of return to rule 59 (e) motion**).

Conclusion

The decision is not consistent with the holdings of McDuffie, Finklea, and Brown, what applicant is required to allege, has been adequately presented and the court is unreasonably applying the holding of state precedents. As such, Sibron, Street support applicant contentions of having standing to allege that prior convictions “still persist” and the court decision is not supported by law or facts.

Dated: 3rd day of October, 2024,

Respectfully Submitted:

S/ 

Darrell Williams /Pro Se