

STATE OF SOUTH CAROLINA
COUNTY OF MARLBORO

Weldon W. Stewart, Jr., #295095,

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS
) FOR THE FOURTH JUDICIAL CIRCUIT

) CASE NO. 2023-CP-34-00282

) **FINAL ORDER OF DISMISSAL**

This matter comes before this Court by way of a successive post-conviction relief (PCR) action commenced by Weldon W. Stewart, Jr. (Applicant), on October 30, 2023. Respondent made its Return and Motion to Dismiss requesting this action be summarily dismissed because it was untimely, barred by the statute of limitations, successive to Applicant's previous applications, barred by the doctrine of *res judicata*, barred by the equitable doctrine of *laches*, for failing to make a *prima facie* showing of newly discovered evidence pursuant to S.C. Code Ann. § 17-27-20, § 17-27-45, and § 17-27-90, and for failing to comply with the Uniform Post-Conviction Procedures Act, S.C. Code Ann. § 17-27-10 *et seq.* (2014).

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal and Denial of Motion for Discovery in Successive PCR Action filed on August 12, 2024, provisionally denying and dismissing this action while giving counsel for Applicant twenty days from the date of service of said order in which to show why the Conditional Order of Dismissal should become final. Attached to this Final Order and incorporated herein by reference is an affidavit of service dated August 27, 2024, indicating the State served the above-mentioned Conditional Order of Dismissal on Applicant.

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MARLBORO COUNTY, S.C.

On June 10, 2024, prior to this Court's signing and filing of the Conditional Order of Dismissal, Applicant filed his "Response to Proposed Conditional Order of Dismissal and Denial of Discovery." On September 8, 2024, Applicant filed his "Supplemental Response to Conditional Order of Dismissal and Denial of Discovery," wherein he argues the same or similar variations of the arguments previously presented and ruled upon in his multiple prior actions. On September 24, 2024, Applicant filed his "Motion for Leave to Supplement Filed Response," his proposed "Order to Examine Autopsy Materials by Retained Pathologist," and his proposed "Order of Denial of Summary Dismissal and Granting Applicant Leave to Conduct Discovery."

As to Applicant's motion for leave, that request is denied.

Furthermore, this Court has thoroughly reviewed Applicant's responses to the Conditional Order of Dismissal in their entirety, in conjunction with the original pleadings, and finds a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

This Court finds Applicant has failed in his burden to establish there is a genuine issue of material fact such that he should be granted an evidentiary hearing on his PCR application. S.C. Code Ann. § 17-27-70(c); Leamon v. State, 363 S.C. 432, 434, 61 1 S.E.2d 494, 495 (2005) (summary disposition appropriate when there is no need to develop facts and the applicant is not entitled to relief). This Court reasserts its findings in the Conditional Order of Dismissal that the current PCR application must be dismissed because it is untimely, barred by the statute of limitations, successive to Applicant's previous applications, barred by the doctrine of *res judicata*, barred by the equitable doctrine of *laches*, for failing to make a *prima facie* showing of newly discovered evidence pursuant to S.C. Code Ann. § 17-27-20, § 17-27-25 and § 17-27-99, and for failing to comply with the Uniform Post-Conviction Procedures Act, S.C. Code Ann. § 17-27-10



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et seq. (2014).

Before the Court will hold an evidentiary hearing, Applicant must make a *prima facie* showing that he is entitled to relief. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Applicant has failed to make such a showing based on the information set forth in his application and his responses, and, therefore, he is not entitled to an evidentiary hearing in this matter. Accordingly, this Court finds no reason why the Conditional Order of Dismissal should not become final.

IT IS THEREFORE ORDERED that for the reasons set forth in the Court's Conditional Order of Dismissal, the Application for post-conviction relief is hereby **DENIED AND DISMISSED WITH PREJUDICE**.

This Court hereby advises Applicant he must file and serve a notice of appeal within thirty days of the service of this Order to secure appellate review. 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 8th day of October, 2024.



GEORGE M. MCFADDEN, JR.
Chief Administrative Judge
Fourth Judicial Circuit

Sumter, South Carolina.

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SOUTH CAROLINA

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