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MAR 20 2025
S.C. SUPREME COURT

The State OF South Carolina

In The State Supreme Court

Certiorari to Florence County

Honorable Steve DeBerry, Circuit Court Judge

Timothy Johnson,

Petitioner,

Vs.

State Of South Carolina,

Respondent,

Notice of Appeal

Please Take Notice, that Applicant above-named mentioned hereby files this notice of appeal from the judgment of the pcr court dated the 11th day of February, 2025, (See attached Orders) subsequently thereafter the court order applicant file a motion pursuant to South Carolina Civil Procedure rule 59 (e), this court subsequently thereafter issued its order on the 6th day of March 2025, this appeal follows.

Date: 19 day of March, 20 25,

Respectfully Submitted;

S/ Timothy Johnson

Timothy Johnson/Pro Se

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

Timothy L. Johnson, #370487,

Applicant

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS
) THE TWELFTH JUDICIAL CIRCUIT
)

) CASE NO. 2024-CP-21-00870
)
)
)

) **FINAL ORDER OF DISMISSAL**
)
)

FILED
2025 FEB 11 A 9:24
DORIS FOULOS O'HARA
CCCP & GS
FLORENCE COUNTY, SC

This matter comes before this Court by way of a post-conviction relief (PCR) action commenced by Timothy L. Johnson (Applicant), filed on April 10, 2024. Respondent made its Return and Motion to Dismiss on June 12, 2024, requesting this action be summarily dismissed as untimely, barred by the statute of limitations, successive to Applicant's previous application, barred by the doctrine of *res judicata*, 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 filed on June 24, 2024, provisionally denying and dismissing this action while giving Applicant twenty days from the date of service of said order in which to show why the Conditional Order of Dismissal should not become final. Attached to this Final Order and incorporated herein by reference is a certificate of service dated August 7, 2024, indicating the State served the above-mentioned Conditional Order of Dismissal on Applicant.

On July 5, 2024, Applicant filed a document captioned "Hearing Requested" wherein

Handwritten initials/signature

CERTIFIED TRUE COPY
CLERK OF COURT, P. & G.S.
FLORENCE COUNTY, S.C.

Applicant outlines his arguments as 1. Actual Innocence 2. Violation of Discovery 3. Statute of Limitations. Also attached to the filing is an affidavit from Sheila Renee Webb-Parker (Sheila).¹ While Sheila provides in her affidavit that she and her brother were used against Applicant to secure a conviction, this Court is not persuaded by the affidavit that this is newly discovered evidence as this information was available to Applicant before he pled, when he pled, and directly after he pled. This Court finds Applicant's purported newly or after-discovered evidence fails the Clark² factors number 1, 3, and 5. See, e.g., United States v. Connolly, 504 F.3d 206, 212 (1st Cir. 2007) ("Every element of this test . . . is essential, and a failure to establish any one element will defeat the motion."). This Court further finds Applicant has failed to make a *prima facie* showing of newly or after-discovered evidence.

On August 22, 2024, Applicant filed a document captioned "Motion in Support of Notice for Judgment on the Pleadings." Applicant filed an identical or similar document on August 30, 2024. On January 15, 2025, Applicant filed a document captioned "Notice of Motion for Reconsideration Based on Newly After Discovered Evidence (Actual Innocence)."

After a thorough review of the record and Applicant's filings, this Court reasserts its finding in the Conditional Order of Dismissal that the current PCR application must be dismissed because it is untimely, barred by the statute of limitations, for failing to make a *prima facie* showing of newly discovered evidence, and for failing to comply with the Uniform Post-Conviction Procedures Act, S.C. Code Ann. § 17-27-10 *et seq.* (2014). Before the Court will hold an

¹ This Court is further convinced that Sheila's affidavit does not support his position as Sheila's affidavit contains contradicting statements as to whether Applicant was or was not involved in the distribution of drugs. For instance, on page four (4) of Applicant's "Exhibit 7," Sheila indicates that the police got the date wrong of when the distribution occurred as it was actually on September 7, 2015, between the hours of 8:30 am and 9:00 am and not on September 9, 2015.

² Clark v. State, 315 S.C. 385, 387–88, 434 S.E.2d 266, 267 (1993).

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 before this Court, 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 11 day of Feb., 2025.



H. STEVEN DEBERRY, IV
Chief Administrative Judge
Twelfth Judicial Circuit

Florence, South Carolina.

FILED

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2024CP2100870

Timothy Johnson
2025 FEB 11 AM 9:05
South Carolina State Of
DORIS POULOS O'HARA
CCCP & GS
FLORENCE COUNTY, SC

PLAINTIFF(S) DEFENDANT(S)
Submitted by: Attorney for: Plaintiff Defendant
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRCP; Rule 41(a), SCRCP (Vol. Nonsuit);
 Rule 43(k), SCRCP (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON): Rule 40(j) SCRCP; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- STAYED DUE TO BANKRUPTCY
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
 Affirmed; Reversed; Remanded; Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

2/11/2025

Date

For Clerk of Court Office Use Only

CERTIFIED: A TRUE COPY
[Signature]
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

This judgment was entered on February 11, 2025, and a copy mailed first class or placed in the appropriate attorney's box on February 12, 2025, to attorneys of record or to parties (when appearing pro se) as follows:

Timothy Johnson Lee Correctional Institution 990 Wisacky
Hwy Bishopville, SC 29010

D. Russell Barlow II PO Box 11549 Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Doris P O'Hara

Court Reporter

Doris Poulos O'Hara - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Timothy Johnson 370487
Lee C.I. F6B 2243
990 Wisacky Hwy
Bishopville SC 29010

RECEIVED

MAR 26 2025

S.C. SUPREME COURT



US POSTAGESM PITNEY BOWES



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02 4W
0000373846 MAR 24 2025



Supreme Court of South Carolina
Clerk
1231 Gervais St
Columbia SC 29201