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S.C. SUPREME COURT

ALAN WILSON
ATTORNEY GENERAL

June 25, 2025

Michael J. Walton, # 376160 (Q1A-0109-B)
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Re: Michael J. Walton, # 376160 v. State of South Carolina
Case No. 2023-CP-26-00337

Dear Mr. Walton,

Enclosed is a copy of the filed Order Denying Applicant's Motion to Alter or Amend Judgement, SCRCF 59(e) for the above-captioned case signed by the Honorable Dale F. Van Slambrook and filed with the Horry County Clerk of Court.

Sincerely,

Ryan T. Kowalski
Assistant Attorney General

RTK/ls
Enclosure

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
MICHAEL J. WALTON,)

FILED
HORRY COUNTY
2025 JUN 13 P 3:38
RENEE H. ELVIN
CLERK OF COURT
HORRY COUNTY, SC

) IN THE COURT OF COMMON PLEAS
) FIFTEENTH JUDICIAL CIRCUIT
) Case No.: 2023-CP-26-00337

v.)
)
) STATE OF SOUTH CAROLINA,)
)
) *Respondent.*)

) **ORDER DENYING APPLICANT'S**
) **MOTION TO ALTER OR AMEND**
) **JUDGMENT, SCRPC 59(e)**

This matter is before the Court upon Michael J. Walton's (hereinafter "Applicant") Motion to Alter or Amend Judgment, filed April 28, 2025, pursuant to Rule 59(e), SCRPC. The State of South Carolina (hereinafter "the State"), submitted a response to Applicant's Motion on June 6, 2025. For the reasons stated in greater detail below, Applicant's Motion to Alter or Amend Judgment is respectfully *denied*. The Court issues this Order on the memoranda and filings in this matter without the necessity of a hearing.

PROCEDURAL HISTORY

Applicant filed a post-conviction relief (PCR) action on January 19, 2023. An evidentiary hearing was held on March 19, 2025, at the Horry County Courthouse. Applicant was present at this hearing and voluntarily chose to proceed *pro se*. Applicant testified on his own behalf. Also testifying was Applicant's plea attorney, Ralph J. Wilson, Sr. After both parties rested their respective cases and the matter was concluded, this Court took the matter under advisement.

By Order filed April 28, 2025, this Court denied the PCR application. Applicant has now filed a Motion to Alter or Amend Judgment, pursuant to Rule 59(e), SCRPC. Applicant argues:

- (1) This Court erred in granting Respondent's motion for summary dismissal based on the statute of limitations.

- (2) This Court erred in granting the motion to be relieved as attorney filed by Applicant's PCR attorney.
- (3) Respondent erred in depicting the date that Judge Culbertson issued orders to amend the sentencing sheet and indictments
- (4) The signed Order of Dismissal does not adequately address all of Applicant's claims.

STANDARD OF REVIEW

"The purpose of Rule 59(e), SCRCP, to alter or amend the judgment is to request the trial judge to reconsider the matters properly encompassed in a decision on the merits." *Arnold v. State*, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992). "A party may wish to file such motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. A party *must* file such a motion when an issue or argument has been raised but not ruled on, in order to preserve it for appellate review." *Elam v. South Carolina Dept. of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004) (emphasis in original). "A party cannot use a motion to reconsider to present an issue he could have raised prior to judgment but did not." *Anderson Memorial Hosp., Inc., v. Hagen*, 313 S.C. 389, 434 S.E.2d 268 (1993); *See also Arnold*, 309 S.C. at 172-173, 420 S.E.2d at 842.

DISCUSSION

After consideration of the record, as well as the various interests balanced by the Court at the time of the ruling, Applicant's Motion to Alter or Amend Judgment is heard and is respectfully *denied*.

First, this Court correctly granted Respondent's motion for summary dismissal based on the statute of limitations. Applicant asserts that he discovered alleged issues with his indictments, which he claims are newly discovered evidence, in early 2022 and filed his PCR application

within a year of this discovery. Applicant's allegations are not newly discovered evidence because indictments are notice documents not evidence. *McCoy v. State*, 401 S.C. 363, 371, 737 S.E.2d 623, 627 (2013); *See State v. Gentry*, 363 S.C. 92, 102, 610 S.E.2d 494, 500 (2005). Likewise, Applicant pled guilty, which waived his right to challenge his indictments, and plea counsel testified at the evidentiary hearing that Applicant was informed of the waiver of this right. Any issues with the indictments could also have been discovered by the exercise of reasonable diligence at the time of Applicant's indictment, or the 2018 hearing amending his indictments. Applicant failed to file his PCR application within one year of the date he could have discovered the alleged issues.

Applicant testified at the PCR hearing that he had no documentation to substantiate his claims about the timeliness of his discovery and testified that this Court would "have to take [his] word for it." Additionally, plea counsel testified that he told Applicant about the issues with his indictment. In granting Respondent's motion to dismiss, this Court did not find Applicant's testimony credible.

Second, the Order of Dismissal correctly reflects what occurred at the evidentiary hearing. Applicant moved to have his appointed PCR attorney relieved at the outset of the hearing. Applicant indicated on the record that he wanted to relieve his attorney.

Third, the Order of Dismissal correctly reflects the date of the issuance of Judge Culbertson's Order, July 2, 2018, which was the date of filing.

Lastly, the Order of Dismissal sufficiently addresses all of Applicant's PCR allegations. According to the filed Form 4 Order and the Order of Dismissal, all of Applicant's allegations were dismissed as untimely except for the allegation that Counsel failed to file a direct appeal. Upon hearing testimony on that issue, the Court did not find the Applicant's testimony credible

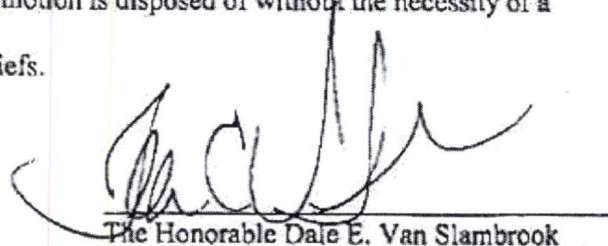
regarding his plea counsel advising that such an appeal would be "ridiculous." The dismissal of the other allegations as well as the findings regarding the allegation that counsel failed to file a direct appeal are detailed in the Order of Dismissal.

In consideration of the above, Applicant's Motion to Alter or Amend Judgment pursuant to Rule 59(e) is respectfully *denied*.

CONCLUSION

As stated in greater detail above, Applicant's Motion to Alter or Amend Judgment, filed April 28, 2025, is respectfully *denied*. This motion is disposed of without the necessity of a hearing and is decided on the record and briefs.

AND IT IS SO ORDERED!



The Honorable Dale E. Van Slambrook

June 11 2025
Moncks Corner, South Carolina