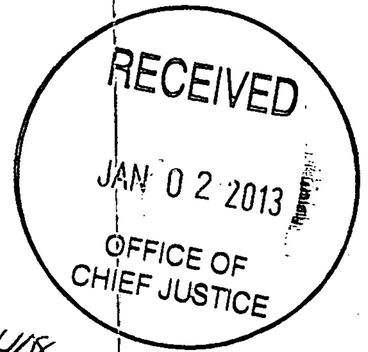
To: Chief Justice Jean Toal
Supreme Court of
South Carolina
P.O Box 11330
Columbia S.C. 29211



Appellate case: 2012-213408

To: Chief Justice Toal,

On October 29, 2012, I received a Final Order of Dismissal in Case no.: 2010-CP-10-9071. Inside that order the Assistant Attorney General Ashleigh R. Wilson states: that on December 29, 2011 the applicant submitted a "Motion of Supplement post-coviction relief" and a Memorandum of Law in Support of Leave to Supplement." On January 19, 2012, the Court granted the applicant's Motion for Leave to Amend Post-Conviction Relief application.

After the granting of the applicant's motion to amend his post-conviction relief application, the court recived a letter from the applicant requesting "appointment of legal counsel." This Court has not received any amendment to the applicant's response to the applicant's Conditional Order of Dismissal. Chief Justice Toal please let me show you, that I did respond to the Conditional Order of Dismissal.

Chief Justice Toal I can prove that I did reply to the Conditional Order of Dismissal. In which I did filed an Objection to the Conditional Order of Dismissal, that was dated December 5, 2011, and was filed on January 3, 2012 at 4:22 pm by Julie J. Armstrong Clerk of Court for the Charleston County Courthouse. Court records shows the applicant did reply to the Conditional Order of Dismissal, Seveteen (17) days after he received the order. I am sending you a copy of the Order that I received that was dated December 17, 2012. Inside this Order the Assistant Attorney General Ashleigh R. Wilson is asking for this Court to dismiss this case. On the grounds that applicant did not respond to the Conditional Order of Dismissal.

Chief Justice Toal as you can see on the Certificate of Service it shows that the date the applicant mailed the Objection to the Conditional Order of Dismissal was December 2, 2011. But on the Decision by the Court shows it was dated December 5, 2012. I would like to know how could this be, if it was filed on January 3, 2012. As you can see for your self, the court records shows the Applicant did reply to the Conditional Order of Dismissal. The applicant did send copys of every thing to the Assistant Attorney General Ashleigh R. Wilson. I sent copys of everything on November 26, 2012, copys of the Objection to

the Conditional Order of Dismissal, Decision by the Court, and a copy of all motions that was filed in January. The Decision by the Courts is showing that the applicant did reply to the Conditional Order of Dismissal.

As you can see from the Certificate of Service, that the applicant did mailed Copys to the Honarble Kristi L. Harrington Administive Judge for the 9th Judicial Circuit, and Mr. Matthew J. Friedman Assistant Attorney General that was asigned to the applicant's case at the time. Chief Justice Toal the court records show's the applicant did respond to the Conditional Order of Dismissal in a timely matter.

Chief Justice Toal Court records also show's that Assistant Attorney General Ashleigh R Wilson has given the Court false reason for the Order of Dismissal. The court records show's the truth; the Assistant Attorney General Wilson knew that the applicant did respond to the Conditional Order of Dismissal because on November 26, 2012, the applicant did mailed copys of every thing to the Assistant Attorney General Wilson.

Chief Justice Toal the Court records is showing that the applicant is telling the truth. The applicant did respond to the Conditional Order of Dismissal by sending in an Objection to the Conditional Order of Dismissal and that the applicant did it in a timely matter.

Chief Justice Toal not letting the Court hear the Applicant's Claim will constitue as a gross miscarriage of Justice. It also violates the applicant's U.S.C.A 14th Amendment Rights to Due Process. All the applicant is asking for is one full bite of the apple. Chief Justice Toal all the applicant is asking you, is can you please resend the order. Because the court records is telling the truth, that the applicant did respond to the Conditional Order of Dismissal. Court records states "that the matter comes before the court on Applicants' Motion for Leave to Amend post-conviction Relief Application dated December 2, 2011 and applicants' Objection to Conditional Order of Dismissal dated December 5, 2011.

Court records also shows that the Assistant Attorney General Ashleigh R. Wilson has given the Court a false reason for the Order of Dismissal in this case. Chief Just Toal the court records shows that the applicant is telling you the truth. Can you please resend the order. Chief Justice Toal can you please respond to this letter.

thank you, Sincerly
Lawrence Pinckney 337981
Lawrence Pinckney
Lieber Corr/Inst/St/No B-21
P.O. Box 205
Ridgeville S.C. 29472

Dated: December 20, 2012

The Supreme Court of South Carolina

Lawrence Pickney, Petitioner

v.

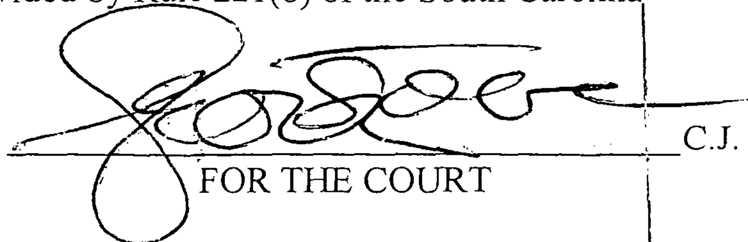
State of South Carolina, Respondent.

Appellate Case No. 2012-213408

ORDER

The circuit court issued a conditional order of dismissal, which gave petitioner twenty days to show cause why the conditional order should not become final. According to the final order of dismissal, petitioner did not file a response to the conditional order. Petitioner has now served and filed a notice of appeal from the final order.

Where, as here, a PCR applicant fails to file a response to a conditional order of dismissal, this Court has held that the applicant cannot appeal. *Edith v. State*, 369 S.C. 408, 632 S.E.2d 844 (2006). Accordingly, the notice of appeal is dismissed. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.



C.J.

FOR THE COURT

Columbia, South Carolina

December 17, 2012

cc: Ashleigh Rayanna Wilson
Lawrence Pickney, 337981

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2010-CP-10-9071

Lawrence Pinckney, #337981
PLAINTIFF(S)

State of South Carolina
DEFENDANT(S)

Submitted by: ______________________	Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

FILED
2012 JAN 23 PM 4:09
JULIE J. ARMSTRONG
CLERK OF COURT

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.

☐ **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 ______

☐ **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: This matter comes before the Court on Applicant's Motion for Leave to Amend Post Conviction Relief Application dated December 2, 2011 and Applicant's Objection to Conditional Order of Dismissal dated December 5, 2012 in which Applicant requests for leave to amend his application. Counsel for the State of South Carolina advised the Court it has no objection to Applicant's Motion for Leave to Amend. Therefore, Applicant's Motion is respectfully GRANTED.

It shows my response →

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.**

[signature]
Circuit Court Judge

2128
Judge Code

1/19/12
Date

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE [x] COURT OF COMMON PLEAS
[ ] FAMILY COURT

LAWRENCE Pinckney# 337981
[x] Plaintiff

v.

STATE OF SOUTH CAROLINA
[ ] Defendant

check box above indicating submitting party

CASE NO. 2010-CP-10-9071

MOTION INFORMATION FORM AND COVER SHEET

name, S.C. Bar no. and address of plaintiff's attorney	name, S.C. Bar no. and address of defendant's attorney
Lawrence Pinckney, Lieber Correctional Inst PO BOX 205 Ridgeville, SC 29472	Assist Attorney general Matthew J Freeman PO BOX 11549, Cola, SC 29202
telephone: fax:	telephone: fax:
e-mail: other:	e-mail: other:

[ ] **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
[ ] **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**

SECTION I: Hearing Information

Nature of Motion: LEAVE TO SUPPLEMENT
Estimated Time Needed: 15 Min Court Reporter Needed: YES / NO

SECTION II: Motion Type

[x] Written motion attached
[ ] Form Motion –
I hereby move for relief or action by the court as set forth in the attached proposed order.

[signature] 12/29/2011
Signature of Attorney for Plaintiff / Defendant Date submitted

SECTION III: Motion Fee

[ ] PAID – AMOUNT: ________
[ ] EXEMPT: (check reason)
[ ] Rule to Show Cause in Child or Spousal Support
[ ] Domestic Abuse or Abuse and Neglect
[ ] Indigent Status [ ] State Agency v. Indigent Party
[ ] Sexually Violent Predator Act [ ] Post-Conviction Relief
[ ] Motion for Stay in Bankruptcy
[ ] Motion for Publication [ ] Motion for Execution (Rule 69, SCRCP)
[ ] Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: ________
[ ] Other:

JUDGE'S SECTION

[ ] Motion Fee to be paid upon filing of the attached order.
[ ] Other:

JUDGE ________
CODE: Date:

CLERK'S VERIFICATION

Collected by: ________ (print name)

DATE FILED

[ ] MOTION FEE COLLECTED: ________
[ ] CONTESTED – AMOUNT DUE: ________

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
Lawrence Pinckney, # 337981	)	C/A NO 2010-CP-10-9071
Applicant,	)	
vs,	)	NOTICE AND MOTION TO SUPPLEMENT
	)	POST CONVICTION APPLICATION
STATE OF SOUTH CAROLINA	)	
Respondents	)	

FILED
2012 JAN -3 PM 4:22
JULIE J. ARMSTRONG
CLERK OF COURT

Comes now Applicant in the above numbered case moves this court for an Order to Supplement his PCR pursuant to Rule 15(a) and 15(d) of South Carolina Rules of Civil Procedure. It is well established that a motion to amend or supplement is addressed to the discretion of the trial judge, and the party opposing the motion has the burden of establishing prejudice.

Rule 15, SCRCP, provides that leave to amend shall be freely given when justice requires and does not not prejudice any other party. See Rule 15 SCRCP.

1. The applicant has a fundamental right to effective assistance of counsel, in that the defendant must either have an explanation of the charge by the trial judge, or at lease a representation by defense counsel that the nature of the offense has been explained to the accused, the record is silent therefore applicant was without his fundamental right to effective assistance of counsel.

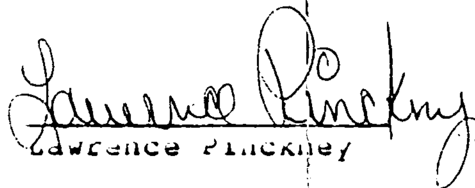
The fruit of the poisonous tree doctrine provides that evidence must be excluded if it would not have come to light but for the illegal actions of the police, and evidence has been obtained by the exploitation of that illegality. State v Copeland 463 S.E. 2d 620 (SC 1996)(quoting Wong Sun v United States, 371 U.S. 471 (1967).

The warrantless arrest of the defendant requires an suppression hearing to determine the extent of the illegal actions pursuant to §17-13.40 of the South Carolina Code of Laws. The record shows the defendant was pick-up. The defendant says he was arrested at his resident an taken away by the officer.

CONCLUSION

Based on the foregoing, defendant prays for leave to supplement his PCR application.

Respectfully submitted
12/29/ 2011



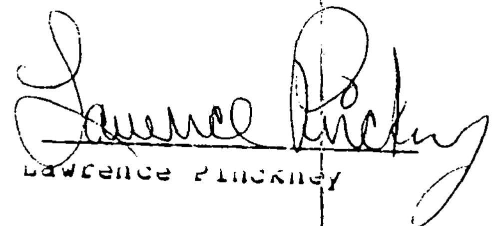
Lawrence Pinckney

Julie J Armstrong, Clerk
100 Broad Street, suite 106
Charleston S.C. 29401

RE: Lawrence Pinckney vs State of South Carolina
C/A NO: 2010-CP-10-9071

Dear Clerk,

Enclosed for filing is a copy of motion for leave to suuplement that is served upon you for filing.



Lawrence Pinckney

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON)

LAWRENCE PINCKNEY, #337981) C/A NO 2010-CP-10-9071

Applicant,)

vs,) MEMORANDUM OF LAW IN S[illegible]O[illegible] OF LEAVE TO SUPPLEMENT

STATE OF SOUTH CAROLINA)

Respondent.)

FILED
2012 JAN -3 PM 4:22
JULIE J. ARMSTRONG
CLERK OF COURT

The burden is on the applicant in a post-conviction proceeding to prove allegations in his applications. Butler v State, 286 S.C. 441, 334 S.E. 2d 813 (1985).

The right to counsel is a fundamental right of criminal defendant, it assures the fairness and thus legitimacy of our adversary process. Kimmelman v Morrison, 477 U.S. 376 (1986).

The record of the plea contains either an explanation of the charges by the trial Judge, or at least a representation by defense counsel that the nature of the offense has been explained to the accused. Hendersom v Morgan, 426 U.S. 637, 649 (1976).

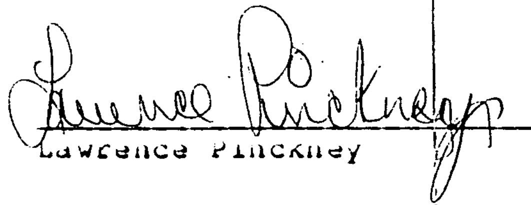
In this case the record is silent of the nature of the charge, as a matter of fact, the Judge never explained what the defendant is charge with.

2. The applicant has a fundamental right to effective assistance of counsel to do adequate investigation of his client warrantless arrest and suppression of evidence that came to light but for the illegal actions of the police. The Applicant was without his fundamental right of effective assistance if counsel.

These are the supplemental amendment of the PCR. (The State failed to send the applicant a copy of his transcript when they a filed a Return. (The Return shall include the transcript of the challenged proceedings. S.C. Code §17-27-70(a),) the PCR is not successive because the State did not send me the challenged proceeding. The burden is on the State to established prejudice.

Respectfully submitted

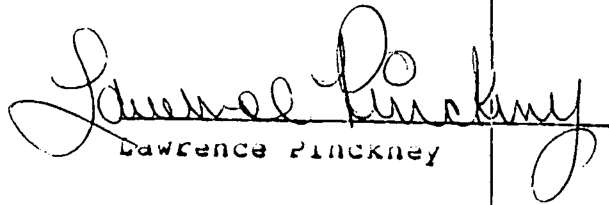
December 28, 2011



Lawrence Pinckney

CERTIFICATE OF SERVICE

The undersigned hereby certify that he cause to be mail the foregoing Motion For Leave to Supplement his PCR to Julie Armstrong, Clerk of Court and Matthew J, Freeman, Assist Attorney General this 29 day of December 2011 by depositing same in the U.S. mail.



Lawrence Pinckney

FILED
2012 JAN -3 PM 4:22
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
LAWRENCE PINCKNEY, #337981)
Applicant,)
vs,)
)
STATE OF SOUTH CAROLINA)
Respondent.)
)

IN THE COURT OF COMMON PLEAS

C/A NO 2010-CP-10-9071

MEMORANDUM OF LAW IN SUPPORT OF LEAVE TO SUPPLEMENT

FILED
2012 JAN -3 PM 4:22
JULIE J. ARMSTRONG
CLERK OF COURT

The burden is on the applicant in a post-conviction proceeding to prove allegations in his applications. Butler v State, 286 S.C. 441, 334 S.E. 2d 813 (1985).

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In this case the record is silent of the nature of the charge, as a matter of fact, the Judge never explained what the defendant is charge with.

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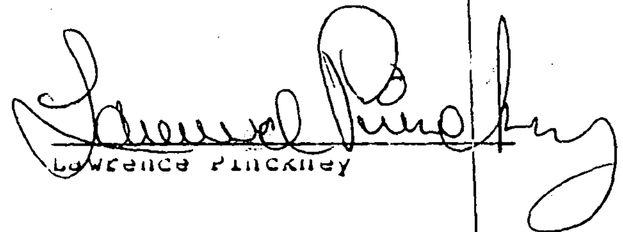
These are the supplemental amendment of the PCR. The State failed to send the applicant a copy of his transcript when they a filed a Return. The Return shall include the transcript of the challenged proceedings. S.C. Code §17-27-70(a), the PCR is not successive because the State did not send me the challenged proceeding. The burden is on the State to establised prejudice.

Respectfully submitted

December 28, 2011



Lawrence Pinckney

CERTIFICATE OF SERVICE

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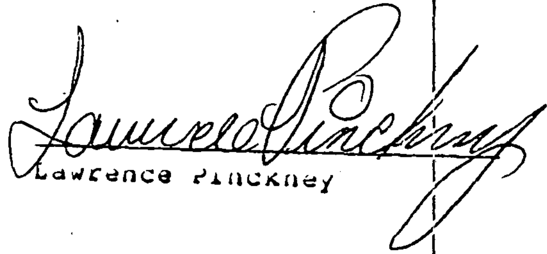


Lawrence Pinckney

FILED
2012 JAN -3 PM 4:22
JULIE J. ARMSTRONG
CLERK OF COURT

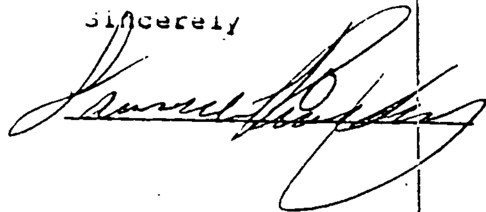
Julie J Armstrong, Clerk
100 Broad Street, Suite 106
Charleston, S.C. 29401

Dear Clerk,

Enclosed for filing are transcript of guilty plea, motion for leave to amend, and objections to the conditional order of dismissal to be served on the Honorable Kristi L. Harrington.

Also, for filing is a copy of objection to the conditional order of disimissal and motion for leave to amend, please return stamp filed copy to me.

Sincerely



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE [x] COURT OF COMMON PLEAS
[ ] FAMILY COURT

LAWRENCE PINCKNEY, 337981

[x] Plaintiff

v.

STATE OF SOUTH CAROLINA

[ ] Defendant

check box above indicating submitting party

CASE NO.
2010-CP-10-9071

MOTION INFORMATION FORM AND COVER SHEET

name, S.C. Bar no. and address of plaintiff's attorney	name, S.C. Bar no. and address of defendant's attorney
Lawrence pinckney, 337981 PO BOX 205 Ridgeville, S.C. 29472	Assist Attorney General Matthew Freeman PO BOX 11549, Cola, SC 29201
telephone: fax:	telephone: fax:
e-mail: other:	e-mail: other:

[ ] **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
[ ] **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**

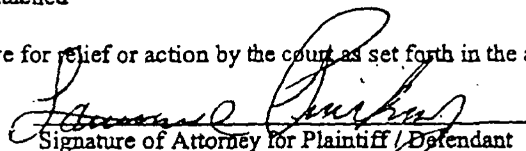
SECTION I: Hearing Information

Nature of Motion: Leave to Amend

Estimated Time Needed: 15 min. Court Reporter Needed: YES / NO

SECTION II: Motion Type

[x] Written motion attached
[ ] Form Motion –
I hereby move for relief or action by the court as set forth in the attached proposed order.



Signature of Attorney for Plaintiff / Defendant

12-2-11
Date submitted

SECTION III: Motion Fee

[ ] PAID – AMOUNT: ______
[ ] EXEMPT: (check reason)
[ ] Rule to Show Cause in Child or Spousal Support
[ ] Domestic Abuse or Abuse and Neglect
[ ] Indigent Status [ ] State Agency v. Indigent Party
[ ] Sexually Violent Predator Act [ ] Post-Conviction Relief
[ ] Motion for Stay in Bankruptcy
[ ] Motion for Publication [ ] Motion for Execution (Rule 69, SCRCP)
[ ] Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: ______
[ ] Other:

JUDGE'S SECTION

[ ] Motion Fee to be paid upon filing of the attached order.
[ ] Other:

______
JUDGE

CODE: Date:

CLERK'S VERIFICATION

DATE FILED

Collected by: ______
(print name)

[ ] MOTION FEE COLLECTED: ______
[ ] CONTESTED – AMOUNT DUE: ______

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON)

) C/A NO: 2010-CP-10-9071

LAWRENCE H. PINCKNEY, #337981
Applicant,)

) NOTICE AND MOTION FOR LEAVE

vs, TO AMEND POST CONVICTION

STATE OF SOUTH CAROLINA) APPLICATION

Respondent.)

This matter comes before this court by the applicant for leave to amend his post conviction application filed on November 1, 2010. This motion is made pursuant to SCRCP 15(a) and §17-27-60 of the South Carolina Code of Laws.

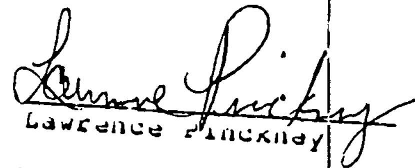
The applicant now move to Amend:

1. That his guilty plea was involuntary and unintelligently made to the Court and violated Due Process.

2. That applicant counsel was ineffective during the sentencing phase of his plea, whereas counsel never filed motions after sentencing to bring to the court attention that applicant never plea guilty to manslaughter according to Boykins v Alabama, 395 U.S. 238 (1969) and Tollett v Henderson, 411 U.S. 258, 267 (1973). In Boykin the record must show the charges against the applicant. In Henderson, Due Process is satisfied by the defendant's own solemn admission "in open court that he is in fact guilty of the offense with he is charged.

3. Counsel was ineffective because of negotiate sentence which exceeds the maximum minimum sentence for manslaughter, which the prosecutor had no authority to negotiate, counsel failed to file motions after sentencing.

December 2 2011.



Lawrence Pinckney

STATE OF SOUTH CAROLINA | IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

Lawrence Pinckney,#337981)
Applicant)
)
vs,)
)
STATE OF SOUTH CAROLINA)
Respondent)
______________________________)

C/A NO 2010-CP-10-9071

OBJECTION TO CONDITIONAL ORDER OF DISMISSAL

This matter is before this Court by was of an application for post conviction relief filed November 1, 2010. The Applicant was indicted at the June 2008 term of the Charleston County Grand Jury for murder (2008-GS-10-4528). Mark Peper, Esquire represented the Applicant. On November 16, 2009, the Applicant pled guilty under Alford to the lesser-included offense of voluntary manslaughter. The Honorable J.C.Nicholson,Jr. sentenced him to confinement for twenty-two (22) years pursuant to a negotiated sentence.

The applicant filed his first application for post conviction relief on April 30, 2010, which was filed without the transcript of guilt plea. This PCR hearing was held September 13, 2010 and an Order denying relief has been filed on September 25, 2010.

On October 5, 2010 William Runyon, Jr sent me the guilty plea transcript and it was read for the first time after that date.

/Then the Applicant filed his current PCR (C/A 2010-CP-10-9071) on November 14, 2011. (After review of the application for PCR it appears that the issues raised was not genuine for the Post Conviction Act, and pursuant to 15 (a) Applicant moves to amend his PCR application./

The Applicant could not have known the error in excepting his Alford plea before now because the plea transcript was witheld by PCR attorney William Runyon, Jr. See letter dated October 5, 2010].

in Applicant motion for leave to amend his states three claims:

1. That his guilty plea was involuntary and unintelligently made to the court and violates Due Process.

2. That applicant counsel was ineffective during the sentencing phase of his plea, whereas counsel never filed motions after sentencing to bring to court attention that applicant never plead guilty to manslaughter according to Boykins v Alabama, 395 U.S. 238 (1969) and Follett v Henderson, 411 U.S. 253, 267 (1973). In Boykins the record must show that charges against the applicant.

In Henderson Due Process is satisfied by the defendant's own solemn admission "in open court that he is in fact guilty of the offense with he is charged. The record is void of this admission

3. Counsel was ineffective during the sentencing phase because of the negotiate sentence which exceeds the maximum minimum sentence for manslaughter, which the prosecutor had no authority to negotiate for or secure a sentence that exceeds the statutory minimum for the offense of which a accused will be convicted.

The Applicant object that this court finds the current PCR application must be dismissed because it is successive to the Applicant's prior application, because the record of the guilty plea was withheld by substituted counsel William Runyon, Jr. until October 5, 2010 long after the first PCR hearing.

(The Applicant object that successive applications are disfavored and the burden is on the Applicant to establish that any new ground raised in a subsequent application could not have been raised by him in a previous application citing Aice v State, 305 S.C. 448, 409 S.E.2d 392 (1991) because the Applicant had not had one full bite at the apple.) Its a well known fact that the client's file belongs to the client. \ Matter of Haddock, 321 S.E.2d 601, and this court's refusal to hear the claims would constitute a gross miscarriage of justice. Fundamental fairness entitles indigent Applicant to an adequate opportunity to present their claims fairly within the adversary system.

It is the State's Return that shall include the transcript of the challenged proceedings S.C. Code Ann. §17-2770(a). Any

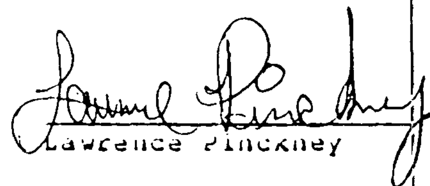
Applicants transcript was not given is beyond the applicant's control.

The Respondent alleges that the court find that Applicant has failed to establisned sufficient reason why he could not have raised his current allegations in the previous application, the Applicant objects because the current application is not genuine for for PCR hearing, it is the motion for leave to amend this PCR application hat is before this Court.

The Respondent states that based upon its view of the pleadings in this matter, this Court does not see the need to appoint counsel to represent the Applicant, Applicant objects, because if the Court grant leave to amend, then the claims that will be heard need counsel, after all, the Henderson court states "a guilty plea for federal purpose is a judicial admission of guilt conclusively establishing a defendant's factual guilty citing Lefkowitz v Newsome, 420 U.S. 282, (1975) and this record is void of those facts.

Having objected to the Respondent conditional Order of dismissal Applicant pray this Court would grant leave to amend.

Dated
December 5, 2011

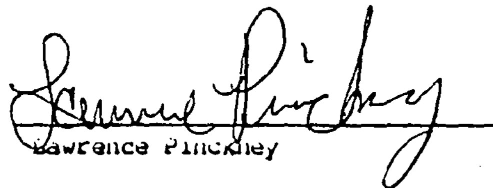


Lawrence Pinckney

CERTIFICATE OF SERVICE

The undersigned hereby certify that cause to be mail the foregoing motion for leave to Amend and Objection to condictional order of dismissal to Kristi L. Harrington, Administrative Judge 9th Judicial circuit and Matthew Freeman, Assist. Attorney General this 2 day of December 2011 by depositing same in the U.S. mail postage prepaid.

Assist. Attorney General
Matthew Freeman
PO BOX 11549
Columbia, S.C. 29201



Lawrence Pinckney

Cc AG

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) 2010-CP-10-9071

Lawrence Pinckney, #337981,
Applicant,

v.

State of South Carolina,
Respondent.

CONDITIONAL ORDER OF DISMISSAL

FILED
2011 NOV 14 PM 4: 2
JULIE J. ARMSTRONG
CLERK OF COURT

This matter comes before this Court by way of an application for post-conviction relief filed November 1, 2010. The Respondent made its Return and Motion to Dismiss on December 29, 2010, requesting that this Court summarily deny and dismiss the application.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the June 2008 term of the Charleston County Grand Jury for murder (2008-GS-10-4528). Mark Peper, Esquire, represented the Applicant. On November 16, 2009, the Applicant pled guilty under Alford to the lesser-included offense of voluntary manslaughter. Pursuant to a negotiated sentence, the Honorable J.C. Nicholson, Jr. sentenced him to confinement for twenty-two (22) years. The Applicant did not appeal the conviction or sentence.

The Applicant subsequently filed his first application for post-conviction relief on April 30, 2010, in which he raised the following grounds for relief:

1. Ineffective assistance of counsel in that counsel
   a. Did not advise Applicant correctly of results of DNA test by SLED.
   b. Purposely misled Applicant in signing the plea.
   c. Withheld evidence from the Applicant.
   d. Did not investigate the discovery.

The State made its Return on July 14, 2010. An evidentiary hearing was convened on September 13, 2010 at the Charleston County Courthouse. Applicant was present for the hearing and was represented by William L. Runyon Jr., Esquire. By Order of Dismissal dated October 6, 2010, the Honorable Roger M. Young, Sr. denied and dismissed the application with prejudice. Applicant's PCR appeal is currently pending before the Supreme Court of South Carolina.

Before this Court are the records of the Charleston County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the guilty plea transcript, the prior PCR application, the State's Return thereto, Judge Young's Order of Dismissal from the prior PCR application, the current application, and the State's Return and Motion to Dismiss thereto.

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

1. Actual innocence.
2. Fraud upon the Court by Solicitor and Law Enforcement agents.
3. Applicant pled guilty under duress.

This Court finds that the current PCR application must be summarily dismissed because it is successive to the Applicant's prior application. The Uniform Post Conviction Procedure Act provides that:

> All grounds for relief available to an applicant 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 the 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.

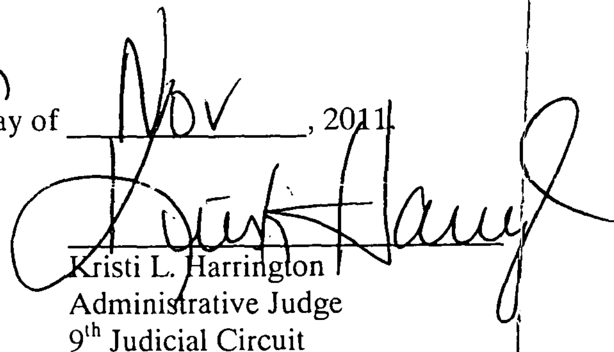
S.C. Code Ann. § 17-27-90 (2003). Successive applications are disfavored and the burden is on the Applicant to establish that any new ground raised in a subsequent application could not have

been raised by him in a previous application. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981).

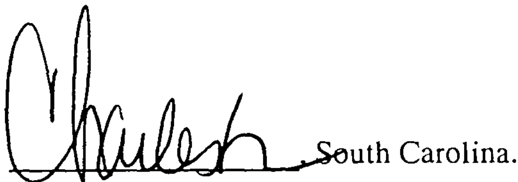
This Court finds that Applicant has failed to establish sufficient reason why he could not have raised his current allegations in the previous application; thus, he has failed to meet the burden imposed upon him. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980); Aice, 305 S.C. 448. Accordingly, this Court summarily dismisses the current application as successive.

Based upon its review of the pleadings in this matter, this Court does not see the need to appoint counsel to represent the Applicant and expresses its intent to summarily dismiss this matter unless the Applicant advises this Court with specific reasons, factual or legal, why it should not dismiss the matter 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 by filing any reasons he may have with the Clerk of Court for Charleston County, South Carolina. Applicant must also serve a copy of his response to opposing counsel Matthew J. Friedman of the Attorney General's Office at P.O. Box 11549, Columbia, SC 29211.

AND IT IS SO ORDERED this 9th day of Nov, 2011.



Kristi L. Harrington
Administrative Judge
9th Judicial Circuit



Charleston, South Carolina.

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)	IN THE COURT OF COMMON PLEAS
	)	
	)	2010-CP-10-9071
Lawrence Pinckney, #337981, Applicant,	)	
v.	)	**FINAL ORDER OF DISMISSAL**
State of South Carolina, Respondent.	)	

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed November 1, 2010. The Respondent (the State) made its Return and Motion to Dismiss on December 28, 2010, requesting that the Application be summarily dismissed. 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 dated November 9, 2011, provisionally denying and dismissing this action, while giving the Applicant twenty (20) days from the date of service of said Order in which to show why the dismissal should not become final.

On December 29, 2011, the Applicant submitted a "Motion to supplement post-conviction relief" and a "Memorandum of law in support of leave to supplement". On January 19, 2012, the Court granted the Applicant's Motion for Leave to Amend Post-Conviction Relief Applicant.

After the granting of the Applicant's motion to amend his post-conviction relief application, the Court received a letter from the Applicant requesting "appointment of legal

counsel". This Court has not received any amendments to the Applicant's application for post-conviction relief or any response to the Applicant's Conditional Order of Dismissal.

This Court has reviewed the State's motion to dismiss in its entirety, in conjunction with the original pleadings, and finds that a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final. Further, successive applications for post-conviction relief are disfavored. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980). S.C. Code Ann. § 17-27-90 (1985) states:

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

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). This Court finds that Applicant has failed to establish sufficient reason why he could not have raised his current allegations in the previous application; thus, he has failed to meet the burden imposed upon him. Land, 274 S.C. 243, 262 S.E.2d 735 (1980).

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 hereby advises the Applicant that he must file and serve a Notice of Appeal within thirty (30) days of the service of this Order to secure appellate review. See Rule 203,

SCACR. The Applicant's attention is directed to Rule 227, SCACR., for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this ______ day of ____________________, 2012.

____
The Honorable Deadra L. Jefferson
Administrative Judge
9th Judicial Circuit

______________, South Carolina.