

CC
AG
ATT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Lawrence Pinckney, #337981,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
2010-CP-10-9071

**CONDITIONAL ORDER
OF DISMISSAL**

2011 NOV 14 PM 4:24
JULIE J. ARMSTRONG
CLERK OF COURT
FILED

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.

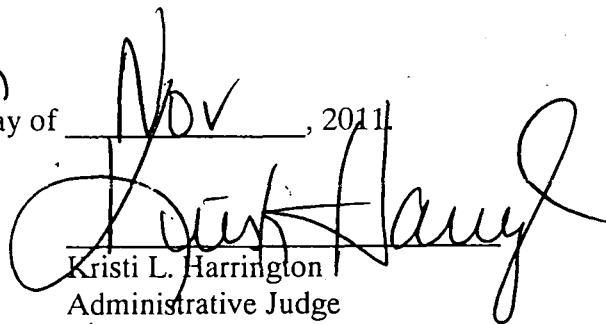
S.C. Code Ann. § 17-27-90 (2003). Successive applications are disfavored and the burden is on the Applicant to establish that any new ground raised in a subsequent application could not have


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

 South Carolina.

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS

Lawrence Pinckney, #337981,)

2010-CP-10-9071

Applicant,)

v.)

FINAL ORDER OF DISMISSAL

State of South Carolina,)

Respondent.)

FILED
2012 NOV -5 PM 12:36
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

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

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[Signature]

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).

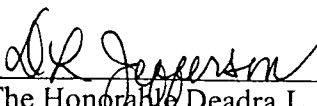
IT IS THEREFORE ORDERED that, for the reasons set forth in the Court's Conditional Order of Dismissal, the Application for PCR is hereby denied and dismissed with prejudice.

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,


2 2013
[Signature]


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 29th day of October, 2012.



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

 _____, South Carolina.

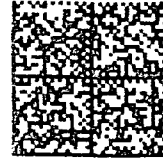
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Deadra L. Jefferson, Judge
The Circuit Court of the Ninth Judicial Circuit
Charleston County Judicial Center
100 Broad Street, Suite 336
Charleston, SC 29401-2236

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Lawrence Pinckney, #337981
Stono-A-46
Lieber Correctional Institution
P.O. Box 205
Ridgeville, SC 29472

SB-1

The State of South Carolina
In the Supreme Court

Appeal from Charleston County
Court of Common Pleas

Honorable Beadra L. Jefferson, Circuit Court Judge
Case No 2010-CP-10-9041

Laurence Pinkney Appellant
S.C.D.C. NO: 337981

- v -

The State Respondent

Proof of Service

I, the undersigned, do hereby certify that
On November 13, 2017, I served the foregoing Notice
of Appeal, Order of Dismissal, as well as Proof
of Service in this matter by depositing a true
copy of it in the United States mail at Lieber
Correctional Institution's mailroom First Class postage
pre paid on November 13, 2017 addressed to the following
as indicated below.

Office of Attorney's General
Attn: Ashleigh R. Wilson
Assistant Attorney General
Post Box 11549
Columbia, South Carolina
29211-1549

Laurence Pinkney 337981
Laurence Pinkney
Lieber / Cor / Inst / stn B-
PO Box 205
Ridgeville S.C.
29972

South Carolina Supreme Court
Post Box 11390
Columbia, South Carolina
29211

South Carolina Office of Appellate Defense
1330 Leady Street, Suite 401
P.O. Box 11589
Columbia, South Carolina
29271-1589

Julie J. Armstrong
Clerk of Court
Charleston County
100 Broad Street, Suite 106
Charleston, South Carolina
29401

Dated: November 13 2012

Lawrence Mackey 337981
~~James Mackey~~
Lieber Corr Inst Stone B-6
P.O. Box 205
Ridgeville S.C.
29477

To: Ashleigh R. Wilson
Assistant Attorney General
Post Office Box 11549
Columbia, South Carolina
29211-1549

Nov. 20, 2012

RE: Notice of Appeal
Case No. 2010-CP-10-9071

I Lawrence Pinckney, #337981, Applicant
do hereby certify that I have served a copy of a
Notice of Appeal and Proof of service to the
Attorney General Ashleigh R. Wilson. By depositing
true and accurate copies of it in the United
States mail at the Lieber Correctional Insti-
tution's mail room, first-class postage prepaid,
on November 20, 2012 addressed to

RECEIVED

NOV 30 2012

Ashleigh R. Wilson
Asst. Attorney General
Post Office Box 11549
Columbia, South Carolina
29211-1549

S.C. Supreme Court

Lawrence Pinckney 337981
Lawrence Pinckney 337981
Lieber / Cor / Inst / Steno^B - 21
P. O. Box 205
Ridgeville South Carolina
29472

Dated Nov. 20, 2012

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 : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> 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.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; 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 _____

2012 JAN 23 PM 11:09
 JULIE J. ARMSTRONG
 CLERK OF COURT
 FILED

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.

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.

<u>DL Jeff</u> Circuit Court Judge	<u>2128</u> Judge Code	<u>1/19/12</u> Date
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