STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	IN THE COURT OF COMMON PLEAS FOR THE THIRTEENTH JUDICIAL CIRCUIT
Robert M. Watkins, SCDC #243803, Petitioner, v. State of South Carolina, Respondent.	Case No.: 2025-CP-23-02904 **ORDER CONSTRUING STATE HABEAS PETITION AS POST-CONVICTION RELIEF APPLICATION AND DISMISSING WITH PREJUDICE**

This matter is before the Court by way of a Petition for Writ of Habeas Corpus filed by Petitioner Robert Watkins on May 14, 2025. Chief Administrative Judge, the Honorable Perry H. Gravely ordered that the matter be set for a hearing on June 26, 2025. Isaac Johnson, Esq., was appointed to represent Petitioner in this action. The State filed the Return and moved for summary dismissal of the petition on October 31, 2025. A hearing on the State's motion was scheduled to be held on Monday, November 3, 2025, at the Greenville County Courthouse before the undersigned. At the hearing, Petitioner Watkins moved for Counsel Johnson to be relieved and informed the Court that he wished to proceed *pro se*. This Court granted Petitioner's motion to relieve counsel via Form 4 Order. Petitioner asserted that he had not received the State's Return and Motion to Dismiss. The undersigned ordered that the matter be continued until Thursday, November 6, 2025, so that Petitioner may review the State's Return and Motion. On November 5, 2025, Petitioner was served with the State's Return and Motion to Dismiss and accepted service as indicated by the Affidavit of Service. After the hearing, Petitioner filed letters to the Court dated November 6, 2025, November 13, 2025, and November 22, 2025.

For the reasons set forth below, and after consideration of all filings in this case, this Court **DENIES** and **DISMISSES** the habeas petition, and thereby **GRANTS** Respondent's motion to dismiss as this action is untimely, successive and barred by the doctrine of *res judicata*.

PROCEDURAL HISTORY

Petitioner is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. During its February of 2002 term, the Greenville County Grand Jury indicted Petitioner for armed robbery and possession of a weapon during the commission of a violent crime (2002-GS-23-01063).

Trial

On October 23–25, 2002, Petitioner proceeded to a jury trial with the Honorable C. Victor Pyle, Jr., presiding. Petitioner was represented by James Wofford Bannister, Esq., and Assistant Solicitor Judith Mary Munson of the Thirteenth Circuit Solicitor's Office prosecuted the case. At the conclusion of trial, the jury found Petitioner guilty as indicted. Judge Pyle sentenced Petitioner to imprisonment for 30 years for armed robbery and 5 years for possession of a weapon during the commission of a violent crime, to be served concurrently.

Direct Appeal

Petitioner, through counsel, filed a timely notice of appeal. Senior Assistant Appellate Defender Wanda P. Hagler of the South Carolina Commission on Indigent Defense perfected the appeal by filing a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), arguing that Judge Pyle erred in failing to instruct the jury on the defense of alibi.

Petitioner filed a *pro se Anders* brief, arguing that Judge Pyle erred in: (1) admitting evidence that resulted from an illegal search and seizure, (2) failing to instruct the jury on the defense of alibi, (3) failing to ask Petitioner in what way Petitioner wanted to plead, (4) not

directing the jury's verdict, (5) instructing the jury on an inference that shifted the burden of proof from the State, and (6) giving a unanimous decision instruction to the jury.

The South Carolina Court of Appeals granted appellate counsel's motion to be relieved as counsel and dismissed the appeal. *State v. Watkins*, Op. No. 2004-UP-406 (S.C. Ct. App. filed June 22, 2004) (per curiam). The remittitur was issued on September 27, 2004.

PCR Action (2004-CP-23-7064)

Petitioner filed a *pro se* application for post-conviction relief on October 22, 2004, raising the following claims:

1) Ineffective assistance of counsel:
    a) "Fail to comply with SCRCrP Rule 5 alibi;"
    b) "Fail to articulate 4th Amendment claims;"
    c) Failed to object to "prosecution misconduct;"
    d) Failed to "request for a directed verdict of acquittal, and state authority and facts supporting motion;"
    e) Failed to "object to language in the indictment:"
    f) Failed to "object to state violating sequester:"
    g) "Assist[ed] the State in introducing inadmissible hearsay testimony into evidence;" and
    h) Failed to object to "improper charge to jury."

Petitioner filed an amendment expanding on the above raised issues on January 25, 2005. The State made its Return on February 28, 2005. An evidentiary hearing was convened before the Honorable Larry R. Patterson at the Greenville County Courthouse on April 8, 2005. Petitioner was represented by Rodney W. Richey, Esquire, and Karen C. Ratigan of the South Carolina Attorney General's Office represented Respondent. On January 17, 2006, Judge Patterson issued an order denying and dismissing the application for post-conviction relief with prejudice. The Order was filed with the Clerk of Court on January 25, 2006.

PCR Appeal

Petitioner, through counsel, filed a timely notice of appeal. In the Petition for Writ of Certiorari, Appellate Defender Robert M. Pachak of the South Carolina Commission on Indigent Defense argued that the PCR court erred in finding that Counsel Bannister was not ineffective for failing to obtain an alibi instruction.

The South Carolina Supreme Court granted Petitioner's petition and directed the parties to brief the issue. On January 14, 2008, the South Carolina Supreme Court reversed the Court of Appeals, finding that Counsel Bannister was ineffective for not requesting an alibi instruction. Our Supreme Court found that because the State's case was based on circumstantial evidence and Petitioner presented an alibi defense—that he was in a different place at the time of the robbery—there is a reasonable probability that the outcome would have been different had the jury been charged with an alibi instruction. *Watkins v. State*, Memorandum Op. No. 2008-MO-001 (S.C. Sup. Ct. filed January 14, 2008) (per curiam). The remittitur was issued on January 31, 2008.

Retrial

On September 22–24, 2008, Petitioner was tried again before a jury, with the Honorable James C. Patterson presiding. (Attachment 2, Trial Tr.). Petitioner was a *pro se* defendant at that trial, with Stephen John Henry, Esq., serving as standby counsel. At the conclusion of trial, the jury found Petitioner guilty as indicted. Judge Patterson sentenced Petitioner to imprisonment for 25 years for armed robbery and 5 years for the possession of a weapon during the commission of a violent crime, to be served consecutively.

Direct Appeal

Petitioner, through counsel, filed a timely notice of appeal. Appellate Defender Elizabeth A. Franklin-Best of the South Carolina Commission on Indigent Defense represented Petitioner

on appeal, and argued that Judge Patterson: (1) abused his discretion by allowing Petitioner to proceed as a *pro se* defendant and (2) erred by denying Petitioner's motion to recuse Judge Patterson from presiding over Petitioner's trial when Judge Patterson had also presided over Petitioner's April 8, 2005, post-conviction relief hearing. The State filed its Final Brief on December 30, 2009.

The South Carolina Court of Appeals reversed Petitioner's convictions, finding that Judge Patterson erred in denying Petitioner's motion for recusal, and declined to address the remaining issue. *State v. Watkins*, Op. No. 2011-UP-091 (S.C. Ct. App. filed March 8, 2011) (per curiam). The State timely filed a Petition for Rehearing on March 21, 2011, which was denied on April 21, 2011. The Remittitur was issued on June 2, 2011, but was recalled by the Court of Appeals on June 30, 2011, because the State never received notice of the denial of the petition for rehearing.

The State filed a Petition for Writ of Certiorari to the South Carolina Supreme Court arguing: (1) that the Court of Appeals erred in finding that Judge Patterson was required to recuse himself at Petitioner's trial and (2) that the Court of Appeals erred in failing to address the issue of whether Judge Patterson properly allowed Petitioner to proceed at trial as a *pro se* defendant. Petitioner filed the Return to the petition on October 14, 2011.

On November 6, 2012, The South Carolina Supreme Court granted Respondent's petition and ordered that the parties commence with additional briefing. The State filed its brief on January 7, 2013, and Petitioner filed his brief on May 9, 2013.

On October 4, 2013, the State filed a motion to argue against *Floyd* precedent in which the Court of Appeals purported to adopt a rule requiring that a trial judge must grant a recusal motion made during a new trial arising from a PCR hearing in which the judge also sat. *Floyd v. State*, 3030 S.C. 298 400 S.E.2d 145 (1991). The Supreme Court granted the motion on October

15, 2023. On October 16, 2023, oral argument was held. On December 4, 2013, the Supreme Court reversed the Court of Appeals grant of relief and addressed the following issue:

> Did the Court of Appeals err in creating a rule mandating that a trial judge recuse himself upon motion if he heard the post-conviction relief (PCR) matter that led to the new proceeding?

State v. Watkins, 406 S.C. 360, 752 S.E.2d 261 (2013).

The Supreme Court disagreed with the *per se* rule announced in *Floyd* and determined that a defendant may ask the judge who presided over the PCR to recuse himself from the retrial for any reasons which recusal may be sought. *State v. Watkins*, 406 S.C. 360, 752 S.E.2d 261 (2013). The remittitur was issued on December 20, 2013.

First Habeas Action (3:13-1129-CMC-JRM)

On June 10, 2013, Petitioner filed his first *pro se* petition for a writ of habeas corpus in the United States District Court for the District of South Carolina. On June 26, 2013, United States District Judge Cameron McGowan dismissed the petition without prejudice because Petitioner's state court proceedings were still ongoing.

First PCR Action (2014-CP-23-00589)

On January 31, 2014, Petitioner filed a *pro se* application for post-conviction relief, and later filed amendments thereto, raising multiple claims, which were:

(1) Henry was constitutionally ineffective for:

(a) Failing to articulate during a pre-trial suppression hearing a Fourth Amendment claim pursuant to specified authorities;

(b) Failing to call as witnesses during the pre-trial suppression hearing the victims, officers, and defendants in order "to make a substantial showing that a false statements was knowingly and intentionally made with reckless disregard for the truth";

(c) Failing to challenge the validity of a search warrant;

(d) Failing to move for the recusal of Judge Patterson;

(e) Failing to inform Judge Patterson that Applicant was making a special appearance;

(f) Failing to move to "[d]ismiss or squash" the indictment on the grounds that:

(i) The indictment was obtained in violation of Applicant's equal protection and due process rights;

(ii) Judge Patterson lacked personal jurisdiction over Applicant due to an illegal and unconstitutional practice, which violated the doctrine of the separation of powers;

(g) Failing to inform Applicant he had access to an identification expert;

(h) Failing to inform Applicant about a State's witness's testimony would be so that Applicant would be prepared to cross-examine that witness;

(i) Coercing Applicant to proceed at trial as a *pro se* defendant despite his having knowledge that Applicant did not understand the Rules of Criminal Procedure or the Rules of Evidence; and

(j) Failing to disqualify himself due to a conflict of interest whenever Judge Patterson appointed him as Applicant's standby counsel;

(2) Franklin-Best was constitutionally ineffective for:

(a) Failing to protect Applicant's right to a new trial, which was granted to him by the South Carolina Court of Appeals;

(b) Failing to oppose Respondent's motion to recall the remittitur; and

(c) Failing to move to vacate the Court of Appeals' order recalling the remittitur on the ground that Respondent had committed fraud upon the Court of Appeals;

(d) Failing to move for the dismissal of Respondent's petition for a writ of certiorari to the Court of Appeals on the grounds of fraud upon the court, misrepresentation, and misconduct; and

(3) Alexander was constitutionally ineffective for:

(a) Failing to bring to the attention of the Court of Appeals that Respondent made false statements in its motion to recall the remittitur;

(b) Telling Applicant that there was nothing that could be done when the Court

of Appeals recalled the remittitur;

(c) Failing to oppose Respondent's motion to recall the remittitur;

(d) Failing to present evidence showing that Judge Patterson was biased against Applicant and should have been disqualified from presiding over Applicant's trial; and

(e) Failing to take any exception to the Court of Appeals' recall of the remittitur;

(f) Failing to move for the dismissal of Respondent's petition for a writ of certiorari to the Court of Appeals on the grounds of fraud upon the court, misrepresentation, and misconduct;

(g) Failing to petition the Supreme Court for rehearing after it reversed the Court of Appeals' opinion;

(4) Judge Patterson did not have subject matter jurisdiction over Applicant's indictments;

(5) The procedures "practiced" by the Thirteenth Circuit Solicitor's Office violated Rule 3, SCRCrimP;

(6) The Thirteenth Circuit Solicitor's Office violated the requirements of *Brady v. Maryland*, 373 U.S. 83 (1963); and

(7) Judge Patterson's imposition of a sentence upon Applicant violated the double jeopardy clause of the Constitution because Applicant's previous convictions for those offenses had been reversed on appeal from Judge Patterson's denial of post-conviction relief to Applicant.

The State filed its Return on July 11, 2014. An evidentiary hearing was held before the Honorable Edward W. Miller at the Greenville County Courthouse on April 22, 2015. Petitioner was represented by R. Mills Ariail, Jr., Esq., and Ratigan again represented Respondent. On October 2, 2015, Judge Miller filed an Order of Dismissal denying and dismissing the application with prejudice. Judge Miller's order addressed the following claims presented by Petitioner at the evidentiary hearing:

1) Henry improperly handled the hearing pursuant to *Franks v.*

Delaware, 438 U.S. 154 (1978);

2) Henry did not tell Applicant what Henry had discussed with Krystyna Reilly, a surprise witness for the State;

3) Henry did not tell Applicant that he had hired an identification expert;

4) The appellate attorneys were constitutionally ineffective for:
   a) Not raising the issue of personal jurisdiction; and
   b) Failing to oppose Respondent's motion to recall the remittitur based upon the ground of fraud upon the court;

5) Applicant was subjected to double jeopardy because he had already served the five-year sentence for the possession of a weapon during the commission of a violent crime;

6) The magistrate judge failed to comply with South Carolina Code Section 17-13-141; and

7) Judge Patterson lacked subject matter jurisdiction because Rule 3(c), SCRCrimP, was violated.

PCR Appeal

Petitioner, through counsel, filed a timely notice of appeal. Appellate Defender Laura R. Baer of the South Carolina Commission on Indigent Defense, perfected the appeal by filing a brief pursuant to *Johnson v. State*, 294 S.C. 310, 364 S.E.2d 201 (1988), arguing that Judge Miller erred in finding that Franklin-Best was not constitutionally ineffective for not filing a return to Respondent's motion to recall the remittitur because the remittitur was not issued due to some mistake or inadvertence on the part of the Court of Appeals. (Attachment 23). Petitioner filed a *pro se* response on June 24, 2016, and raised the following issues:

1) Whether Judge Miller's order denying the application for post-conviction relief should be vacated because Judge Miller violated the South Carolina Appellate Court Rules, Judge Miller was biased against Applicant, and Judge Miller's impartiality could reasonably be questioned;

2) Whether the Supreme Court's jurisdiction over Applicant's appeal was obtained by fraud upon the court, misconduct, and malicious prosecution on the part of Respondent;

3) Whether Judge Miller abused his discretion in finding that Applicant failed to prove that Henry was constitutionally ineffective at a pre-trial hearing;

4) Whether Judge Patterson's impartiality could be questioned since Judge Patterson had "personal knowledge of disputed Evidentiary facts", the Thirteenth Circuit Solicitor's Office engaged in judge shopping so as to bring Applicant's case to trial before the biased Judge Patterson;

5) Whether Judge Miller abused his discretion in finding that Applicant failed to meet his burden of proof in proving that he received the constitutionally ineffective assistance of counsel from Henry;

6) Whether Judge Miller erred in finding that Applicant's re-trial did not violate the double jeopardy clause of the Constitution;

7) Whether the Supreme Court's subject matter jurisdiction over Applicant's direct appeal was obtained through misconduct and a miscarriage of justice on the part of Respondent; and

8) Whether Judge Miller, with bias and prejudice against Applicant, improperly precluded Applicant from arguing that Franklin-Best was constitutionally ineffective.

On March 2, 2017, the matter transferred to the Court of Appeals. On October 5, 2017, the Court of Appeals granted counsel's motion to be relieved and denied the petition. Petitioner filed a Petition for Rehearing on November 8, 2017, which was denied on December 14, 2017. The Remittitur was issued on May 3, 2018.

Second Habeas Action (0:18-cv-2945-CMC-PJG)

On December 20, 2018, Petitioner filed his second petition for a writ of habeas corpus in the United States District Court for the District of South Carolina. Respondent made a return to the petition and moved for summary judgment. On September 30, 2019, United States Magistrate

Judge Paige J. Gossett filed a report and recommendation, identifying the claims raised in Petitioner's petition and recommending that Respondent's motion for summary judgment be granted. The claims, as identified by Judge Gossett, are as follows:

1) Applicant's appellate lawyer was constitutionally ineffective for not filing a response in opposition to Respondent's motion to recall the remittitur;

2) Applicant's appellate lawyer was constitutionally ineffective for not arguing that Respondent's petition for a writ of certiorari should have been thrown out because Respondent gave a false basis for moving to recall the remittitur;

3) Henry was constitutionally ineffective for not calling witnesses during a pre-trial hearing to support the defense's motion to suppress the search warrant; and

4) Henry was constitutionally ineffective for not moving to suppress certain exhibits at trial due to an illegal search.

On November 18, 2019, over Petitioner's objection, Senior United States District Judge Cameron McGowan Currie issued an order adopting the report and recommendation, granting Respondent's motion for summary judgment, dismissing the petition for a writ of habeas corpus, and denying a certificate of appealability.

Second PCR Action (2020-CP-23-0908)

Petitioner filed a second *pro se* application for post-conviction relief, on February 13, 2020. Petitioner presented a single claim: that then-Assistant Solicitor Lucas Craig Marchant of the Thirteenth Circuit Solicitor's Office violated the requirements of *Brady v. Maryland*, 373 U.S. 83 (1963), by failing to turn over to the defense an "[i]ncident dispatch detail report" from the Greenville Police Department. Petitioner asked the Court to vacate his convictions.

On September 23, 2020, Petitioner filed an amendment to his application. He repeated in it the claim that he had presented already about (1) the alleged *Brady* violation and raised a claim

that (2) then-Assistant Attorney General William M. Blitch, Jr., of the South Carolina Attorney General's Office committed fraud upon the South Carolina Court of Appeals in Respondent's motion to recall the remittitur. Petitioner prayed in his amendment that the Court would reinstate the Court of Appeals' opinion in his (second) direct appeal or grant him a new trial.

Respondent submitted the return and moved to dismiss the application as untimely, successive, and barred by *res judicata*. On June 25, 2021, the PCR court issued a Conditional Order of Dismissal finding that the action was untimely, successive, and barred by the doctrine of res judicata. Petitioner filed a response opposing summary dismissal. On October 4, 2023, the PCR court issued the Final Order of Dismissal finding that Petitioner had not shown cause as to why the Conditional Order should not become final.

PCR Appeal

Petitioner filed a notice of appeal on October 12, 2023. On January 10, 2024, the Supreme Court dismissed the appeal for failure to show an arguable basis for asserting that the determination by the PCR court was improper. The Remittitur was issued on January 26, 2024.

THIRD PCR ACTION – PENDING (2022-CP-23-6616)

Petitioner filed a third PCR application for post-conviction relief on December 8, 2022, including four amendments filed through May 2024, and alleged the following as interpreted by Respondent:

1. SCDC improperly calculated Applicant's sentence pursuant to SC Code Ann. § 24-13-40 in reference to his original 2002 convictions;

2. Applicant is being subjected to double jeopardy, due process, and equal protection violations because he has already served his five-year sentence for the possession of a weapon during the commission of a violent crime (i.e. he already served five years on his 2002 conviction before his appeals, second trial, and subsequent new convictions);

3. Applicant's 25-year sentence for armed robbery should have expired as of March 18, 2023, by passing the 85% parole eligibility threshold (citing S.C. Code Ann. § 24-13-150(A)) (again, based on original 2002 convictions).

Based on Petitioner's arguments, Respondent interprets that he requests release from custody as having already finished his sentences.

Respondent filed a Return and moved for summary dismissal of the application arguing that the application was untimely, successive and barred by the doctrine of *res judicata* on October 24, 2025. Judge Gravely filed the Conditional Order of Dismissal on November 3, 2025, adopting Respondent's arguments on the procedural bars. Petitioner filed a response to the Conditional Order on November 10, 2025. The matter remains pending.

CURRENT ALLEGATIONS

In the state habeas petition and subsequent amendments, Petitioner makes the following Allegations as interpreted by Respondent:

1. The 5-year consecutive sentence for possession of a weapon during the commission of a violent crime violated the double jeopardy clause;

2. The 25-year armed robbery sentence has expired;

3. Applicant was not awarded credit for the 6 years, 9 months, and 5 days for the time he already served on the 25 and 5 year sentences, which resulted in exceeding the maximum punishment authorized by law;

4. The indictment was insufficient;

DISCUSSION

This Court finds that the habeas petition is procedurally barred because the allegations could have been raised in a post-conviction relief action. Therefore, this Court construes the petition to be an application for post-conviction relief and finds that the action must be summarily

dismissed because it is procedurally barred as untimely, successive and by the doctrine of *res judicata*.

Petitioner is attempting to circumvent the post-conviction relief process and its procedural bars by bringing these claims as a habeas corpus petition, and, accordingly, this Court finds summary dismissal is appropriate pursuant to Rule 12(b)(1) & (6), Rule 12(c), Rule 56, SCRCP, and S.C. Code Ann. §§ 17-27-45, -70, -90. Pursuant to the Uniform Post-Conviction Procedures Act, the post-conviction relief process provides a legal mechanism for:

> (A) Any person who has been convicted of, or sentenced for, a crime and who claims:
>
> (1) That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
>
> (2) That the court was without jurisdiction to impose sentence;
>
> (3) That the sentence exceeds the maximum authorized by law;
>
> (4) That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
>
> (5) That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
>
> (6) That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy; may institute, without paying a filing fee, a proceeding under this chapter to secure relief. Provided, however, that this section shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.

S.C. Code Ann. § 17-27-20(A) (2014).

The Act further provides, "[t]his remedy is not a substitute for nor does it affect any remedy

incident to the proceedings in the trial court, or of direct review of the sentence or conviction. Except as otherwise provided in this chapter, it comprehends and takes the place of all other common law, statutory, or other remedies heretofore available for challenging the validity of the conviction or sentence. It shall be used exclusively in place of them." S.C. Code Ann. § 17-27-20(B) (2014).

Our courts have repeatedly held that the Act severely limits the ability of a person to challenge his conviction or sentence using habeas corpus. In *Gibson v. State*, 329 S.C. 37, 40–41, 495 S.E.2d 426, 428 (1998), our Supreme Court held that the Act "supersedes and encompasses the habeas corpus procedure provided by statute." The *Gibson* Court further held, that the lower court could treat the applications as habeas corpus petitions and provide the appellants with a hearing on the merits only if the appellants "can show upon remand that PCR is unavailable, all other remedies have been exhausted, and the issues raised now could not have been raised in their prior PCR applications." *Gibson*, 329 S.C. at 42, 495 S.E.2d at 429 (emphasis added); *See Al-Shabazz v. State*, 338 S.C. 354, 365, 527 S.E.2d 742, 748 (2000) (explaining that any matter that is cognizable under the Uniform Post Conviction Procedure Act, "must be raised in PCR application, and may not be raised by a petition for a writ of habeas corpus before the circuit or other lower courts.").

In *Simpson v. State*, 329 S.C. 43, 46, 495 S.E.2d 429, 431 (1998), our Supreme Court held that "a matter which is cognizable under the Act may not be raised by a petition for a writ of habeas corpus before the circuit or other lower courts." However, the Supreme Court expressly reserved the "ability to entertain writs of habeas corpus in [its] original jurisdiction [under article V, section 5 of the South Carolina Constitution] and grant relief in those unusual instances where 'there has been a violation which, in the setting, constitutes a denial of fundamental fairness shocking to the

universal sense of justice.' " *Id.* at 46 n. 4, 495 S.E.2d at 431 n. 4.

In *Carpenter v. S.C. Dep't of Corr.*, 431 S.C. 512, 521, 848 S.E.2d 346, 350 (Ct. App. 2020), the Court of Appeals reaffirmed that any claims that could be brought pursuant to the PCR Act must be brought as post-conviction relief action and a person cannot circumvent the post-conviction relief process by filing a petition for habeas corpus or a declaratory judgment action. When a petitioner attempts to improperly bypass the post-conviction relief process by filing a petition for habeas corpus in the circuit court, the action is procedurally barred. *Id.*

Moreover, "[a] habeas corpus petition must support the requested relief." *Gibson*, 329 S.C. at 40, 495 S.E.2d at 427. Although the allegations in the petition are to be treated as true, the petitioner must make a *prima facie* case showing he is entitled to relief, and he must present sufficient factual allegations to support the petition before he or she is entitled to a hearing. *Id.* at 40, 495 S.E.2d at 427–28. To warrant a hearing, the petition must include the two allegations described below. First, the petition must allege the petitioner has exhausted all available post-conviction relief remedies. *Id.* at 42, 495 S.E.2d at 428. "Exhaustion includes filing of an application, the rendering of an order adjudicating the issues, and petitioning for, or knowingly waiving, appellate review." *Id.* at 42, 495 S.E.2d at 428. Second, the petition must allege sufficient facts to show why other remedies, such as post-conviction relief, are unavailable or inadequate. *Id.* Post-conviction relief is not rendered "unavailable or inadequate" merely because the petitioner's application might be dismissed as procedurally barred. Furthermore, if a person is procedurally barred, his only means of obtaining state habeas corpus relief *is to file a petition in the original jurisdiction of the Supreme Court.*" *Keeler*, 330 S.C. at 571, 500 S.E.2d at 124 (emphasis added).

In the present case, this petition for habeas corpus is procedurally barred because the issues

could have been raised in a PCR application – and were raised in a prior PCR action. (*See Watkins v. State*, Case No: 2022-CP-23-6616). Petitioner alleges that his sentence was erroneously calculated and that he should be given credit for time served prior to his first trial and raises accompanying constitutional violations to support his position. He asserts that as a result, his sentence has expired and that he is being held unlawfully. These claims are explicitly contemplated in the Uniform Post-Conviction Procedures Act and, accordingly, must have been brought as a post-conviction relief action. *See* S.C. Code Ann. § 17-27-20(A)(5) ("Any person who has been convicted of, or sentenced for, a crime and who claims That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint."). Petitioner also raises an issue regarding the sufficiency of the indictment, which could have been raised in his first post-conviction relief action as the information was available to him at the time he initiated that action.

This Court finds Petitioner fails to meet the standards required for the issuance of this extraordinary writ. The petition contains no allegations that post-conviction relief remedies have been exhausted nor any factual justification why other remedies, such as post-conviction relief, were unavailable or inadequate to address his allegations. Petitioner could have and must have raised these allegations in his prior PCR application, as these issues are squarely cognizable under the PCR Act and were known at the time of his initial post-conviction relief action. Petitioner could have brought these claims in post-conviction relief and, accordingly, is procedurally barred from bringing them in a petition for writ of habeas corpus in an attempt to circumvent the post-conviction relief process and its procedural bars.

Because these issues are cognizable in a post-conviction relief action, this Court construes the petition as an application for post-conviction relief. Petitioner's claims remain procedurally

barred. This action is **untimely** filed as the Remittitur from Petitioner's direct appeal was issued on December 20, 2013, and the petition was not filed until May 14, 2025. S.C. Code Ann. § 17-27-45(A) provides that the application must be filed one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court. Thus, the action has been filed beyond the statutory deadline.

The action is also **successive and barred by the doctrine of res *judicata***. S.C. Code Ann. § 17-27-90 provides:

> 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 applications are forbidden unless an applicant can indicate 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). Any new ground raised in a subsequent application is limited to those grounds that "*could not* have been raised . . . in the previous application." *Id.* at 450, 409 S.E.2d at 394 (quoting Supreme Court Rule 50(3)). If the applicant could have raised these allegations in a previous application, then the applicant may not raise those grounds in successive applications. *Id.* Courts disfavor successive applications and place the burden on applicants to establish any new ground raised in a subsequent application could not have been raised in an earlier application, whether state or federal. *Land v. State*, 274 S.C. 243, 245, 262 S.E.2d 735, 737 (1980) ("applicant [has] the burden of proving that a new ground for relief could not have been raised in the previous application."); *Foxworth v. State*, 275 S.C. 615,

618 274 S.E.2d 415, 416 (1981) ("The language of Section 17-27-90 is not restricted to State proceedings but rather refers to 'any other proceeding.'").

Similarly, *res judicata* prohibits subsequent actions by the same parties on the same issues. *Bell v. Bennett*, 307 S.C. 286, 414 S.E.2d 786 (Ct. App. 1992). A final judgment on the merits in a prior action bars subsequent consideration of those issues in a new action. *Foran v. USAA Casualty Ins. Co.*, 311 S.C. 189, 427 S.E.2d 918 (Ct. App. 1993). *Res judicata* also bars any issues that could have been raised in the former action. *Id.*

Here, Petitioner has raised the sentencing calculation issues in his first PCR application subsequent to his second trial. The PCR court noted that conviction after retrial does not constitute a double jeopardy violation and added that Petitioner received credit for the time served since his original conviction on the charges. The allegation was denied and dismissed with prejudice.

Petitioner then proceeded to raise the sentencing calculation issue to the Administrative Law Court (ALC) after he filed the current application. The ALC affirmed the Department of Corrections' calculation of Petitioner's sentence. Petitioner then appealed the decision to the Court of Appeals. The Court of Appeals affirmed the ALC's findings. *Watkins v. S.C. Dep't of Corr.*, Op. No. 2024-UP-405 (S.C. Ct. App. filed Nov. 27, 2024).

Petitioner now raises the same claims regarding sentencing calculations in this action. Simply put, Petitioner is not entitled to multiple attempts to litigate his claims. He has not provided any new information and attempts to again litigate claims which have already been adjudicated. Consequently, the procedural bar should be applied without exception. The claims raised here are improperly successive and otherwise barred by *res judicata.* Accordingly, this Court finds the petition is procedurally barred and shall be summarily dismissed pursuant to Rule 12(b)(1) & (6), Rule 12(c), Rule 56, SCRCP, and S.C. Code Ann. § 17-27-45, -70, -90.

CONCLUSION

IT IS THEREFORE ORDERED that the petition for writ of habeas corpus is construed as an application for post-conviction relief, and **DENIED** and **DISMISSED** with prejudice. Respondent's motion to dismiss is hereby granted.

AND IT IS SO ORDERED.

THE HONORABLE CHRISTOPHER D. TAYLOR
Presiding Judge
Thirteenth Judicial Circuit

Greenville, South Carolina
December 30, 2025

Copy mailed to
Attorney general / Petitioner
on 1 / 5 / 2026.