



which he contends that his newly discovered evidence was found in his "motion of discovery" from his first PCR action, which is why he is raising it only now. He further contends that his "motion for discovery" contains phone records placing him at the location where he told his defense counsel he was during the time of the crime, and that defense counsel did not present that evidence to the court. Applicant further contends that he should not have been advised to plead guilty, given inconsistencies in the victim's statements that render the arrest warrants and indictments defective. Next Applicant contends that the investigative notes indicate the fingerprint was not matched to his fingerprints, and the DNA match could have been "a male in his family." Additionally, Applicant contends that there are further inconsistencies between the victim's statements and the investigative reports regarding the timing of the crime. In conclusion, Applicant moves this Court for a summary dismissal of Respondent's motion to dismiss as untimely and barred by the statute of limitations, and not to dismiss his action.

This Court finds Applicant's purported newly discovered evidence wholly incredible based on the record before this Court. At Applicant's first PCR evidentiary hearing, Applicant testified, on direct and cross-examination, that defense counsel discussed cell phone tracking and GPS information with him and that he was aware of it. (2020-001492 App'x pp. 53, 61). The PCR court in that case even found that Applicant testified that defense counsel reviewed his discovery with him to include the cellphone GPS information. (2020-001492 App'x p. 88). This Court further finds that Applicant's claim of alleged "newly discovered evidence" fails to make a *prima facie* showing that he is in actual possession of new evidence and that the new evidence likely would have changed his decision to plead guilty and instead proceed to trial. While under S.C. Code § 17-27-45(c), a newly-discovered evidence claim can be timely raised within one year of actual discovery or within one year of when, by the exercise of due diligence, such evidence could

have been ascertained, Applicant has failed to set forth with any specificity how it would have affected the outcome if used at trial or why such alleged evidence was not readily discoverable at the time of guilty plea or his previous PCR action.

After a thorough review of the rest of Applicant's responses and the record, this Court finds that Applicant's responses contain allegations that he has previously raised in his prior PCR applications, or should have raised in his previous PCR action. As such, this Court's conclusions regarding the procedural bars in the Conditional Order of Dismissal remain valid.

Accordingly, this Court reasserts its finding in the Conditional Order of Dismissal that the current PCR application must be dismissed because it is untimely, barred by the statute of limitations, successive to Applicant's previous application, barred by the doctrine of *res judicata*, for failing to make a *prima facie* showing of newly discovered evidence pursuant to S.C. Code Ann. § 17-27-20, § 17-27-45, and § 17-27-90, and for failing to comply with the Uniform Post-Conviction Procedures Act, S.C. Code Ann. § 17-27-10 *et seq.* (2014). Before the Court will hold an evidentiary hearing, Applicant must make a *prima facie* showing that he is entitled to relief. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Applicant has failed to make such a showing based on the information before this Court, and, therefore, he is not entitled to an evidentiary hearing in this matter. Accordingly, this Court finds no reason why the Conditional Order of Dismissal should not become final.

**IT IS THEREFORE ORDERED** that for the reasons set forth in the Court's conditional order of dismissal, the Application for post-conviction relief is hereby **DENIED AND DISMISSED WITH PREJUDICE**.

This Court hereby advises Applicant that he must file and serve a notice of appeal within

thirty days of the service of this Order to secure appellate review. See Rule 203, SCACR. Applicant's attention is directed to Rule 243, SCACR, for the procedures following the filing and service of the notice of appeal.

**AND IT IS SO ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

APPLICANT'S COPY

\_\_\_\_\_  
DANIEL COBLE  
Chief Administrative Judge  
Fifth Judicial Circuit

\_\_\_\_\_, South Carolina.

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS**  
Post Office Box 21787 - Columbia, South Carolina 29221

Pursuant to Rule 4(d)(2) of the South Carolina Rules of Civil Procedure, the Director of the South Carolina Department of Corrections has designated H. R. Tillman (*Server*) as his duly authorized agent for the purpose of making service of the process on the below named individual.

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF McCormick )

**AFFIDAVIT OF PERSONAL SERVICE**

On this 4<sup>th</sup> day of November 2025, I served the Conditional Order of Dismissal (2025-CP-40-01962), on *Inmate* MICHAEL D. THOMAS *SCDC Inmate #329390* by delivering personally and leaving a copy of the same at MCCORMICK Correctional Institution. Deponent is not a party to this action.

H. R. Tillman

SCDC Server

**SWORN TO AND SUBSCRIBED BEFORE ME**

this 4<sup>th</sup> day of November, 2025

Lakiesha D. Gray (L.S.)  
Notary Public for South Carolina



APPLICANT'S COPY

My Commission Expires: 01/13/30

**ADMISSION OF SERVICE**

Service of a copy of the within Conditional Order of Dismissal (2025-CP-40-01962) is admitted at the South Carolina Department of Corrections

McCormick Correctional Institution), McCormick County, SC this

4 day of Nov, 2025.  
s/ Michael Thomas  
*Inmate*  
SCDC Inmate #: 329390

**RECEIVED**

JAN 27 2026

SC Court of Appeals