

STATE OF SOUTH CAROLINA SUPREME COURT

In the S.C. Supreme Court
appeal of circuit Court Judge
Christopher D. Taylor
civil case 2025-CP-23-02904

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FEB 25 2026

S.C. SUPREME COURT

Robert Watkins Appellant

v

The State of South Carolina Respondent

Appellate Case # 2026-000125

Appellant Explanation and sufficient facts as to
why the December 30, 2025 Judgment of
Judge Christopher D. Taylor in civil case
2025-CP-23-02904 is improper

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Appellant's Explanation containing sufficient facts, argument and citation to legal authority to show that there is an arguable basis for asserting that the determination by the lower court Judge Christopher D. Taylor case 2025-CP-23-02904 Judgment Construing Appellant's State Habeas Petition as a post Conviction Relief Application and dismissing with prejudice on December 30, 2025 was improper. Id as exhibit # (1) attached and enclosed. In reference to January 22, 2026 letter Appellant Received from Clerk of Court of S.C. Supreme Court Patricia A. Howard informing Appellant in reference to his Notice of Appeal of Civil Case 2025-CP-23-02904 has been assigned Appellate Case No. 2026-000125... see Id as exhibit # (2) attached and enclosed.

Appellant argues that Judge Christopher D. Taylor determination in Civil Case # 2025-CP-23-02904 Id as exhibit # (1) attached and enclosed was improper because (1) on NOV 3, 2025 in open Court before Judge Christopher D. Taylor, Mr. Isaac Johnson Jr. who was appointed to represent Appellant during the Habeas Corpus hearing ordered by Judge Perry H. Gravelly in his 6/26/25 Judgment Id as exhibit # (3) attached and enclosed. Mr. Isaac Johnson Jr. indicated on the record that Applicant requested his counsel file a motion that Counsel does not believe he has a good faith basis to file. As such Appellant indicated he wishes to pursue his claims pro-se. The Court found that it appears to be a breakdown in communication between Appellant and his counsel. Therefore granting Appellant's Motion to be Relieved of Counsel. The presiding Judge did not make Appellant aware of the Dangers and disadvantages of Self Representation.

As required pursuant to Faretta v California 422 U.S. 806. Therefore Appellant's waiver of his rights to counsel was not knowingly, and intelligently, waived. Judge Taylor also continued the hearing, when Isaac Johnson, Appellant's counsel during the November 3, 2025 hearing, informed that he had not been served with a copy of the Respondent's Return & Motion to dismiss, that the Respondent attempted to argue and in which it claims that Appellant's Habeas petition case 2025-CP-23-02904 should be construed as a PCR application and dismissed with prejudice. see Id as exhibit # (3) attached and enclosed, which is on the record of Case 2025-CP-23-02904 Transcript for Nov 3 2025 before Judge Christopher Taylor, who continued the hearing so that The Respondent Kaylee C. Kemp assistant Attorney General could serve Appellant on Nov 5, 2025 with a copy of Respondent's Return & Motion to Dismiss. see Id as exhibit # (4) attached and enclosed. On November 6, 2025 Appellant was called back into the courtroom before Judge Christopher D Taylor, in which Appellant appeared pro-se, without the representation of counsel. Where The Respondent Kaylee C. Kemp argued the Respondent return & motion to dismiss, arguing for summary dismissal because Appellant's Petition as procedurally barred because the claims must be brought pursuant to the Uniform Post Conviction Procedure Act S.G. Code Ann. § 17-27-10 seq (2014) and pursuant to SCRPC Rule 12(b)(1) & (6), Rule 12(c), Rule 56, and S.C.

Code Ann § 17-27-45, 70, -90 see Id as exhibit # (3) attached and enclosed

After the Respondent presented its case and argument, Appellant was allowed to stand, and Judge Christopher D Taylor asked Appellant to tell him why he should not grant the Respondent Return & motion to dismiss. In which Appellant stated his reasons on the record before Judge Christopher D Taylor in violation of his right to counsel. It was improper for Judge Christopher D Taylor to on December 30, 2025 issue a order construing Appellant's STATE Habeas Petition as a Post Conviction Relief application and dismissing with prejudice based on the evidence presented before him by the Respondent Kaylee C. Kemp, and allowing Appellant to take the stand and present his argument and evidence as to why Judge Taylor should not grant the Respondent's Return & Motion to Dismiss, without the representation of counsel on Nov. 6, 2025 violating Appellant's right

to counsel under SCRCR Rule 71.1(d), and prejudices Appellant of his right to counsel during the November 3, 2025 Habeas Hearing, therefore making his judgment in case 2025-CP-23-02904 on Dec 30, 2025 improper. See Whitehead v State, 310 S.C. 532, 426 S.E.2d 315 Rule 71.1(d) SCRCR requires the Judge to appoint counsel for him or to obtain his intelligent and knowing waiver of the right to counsel. To establish a valid waiver of the right to counsel, the Appellant must be made aware of the right to counsel, and the dangers of self-representation. Prince v State, 301 S.C. 422, 392 S.E.2d 462 (1990). Judge Christopher D. Vyle judgment in case #2025-CP-23-02904 of Dec 30, 2025 Id as exhibit # (5) attached should be reversed.

Also Judge Taylor Judgment was improper because when Appellant filed his State Petition for a Writ of Habeas Corpus with Jay Gersham, clerk of Court Greenville County Court of Common Pleas he assigned case number 2025-CP-23-02904 on May 14, 2025 and filed it. The Respondent failed to file it Return & motion to dismiss Id as exhibit # (C) attached and enclosed. On 6/26/25 Chief Administrative Judge Perry H. Graveley issue an order stating Upon review of the petition the court finds that this matter should be allowed to proceed forward and a hearing scheduled at the appropriate time after notice to Respondent / Defendant. see Id as exhibit # (6) attached and enclosed. Appellant argues that his State Petition for a Writ of Habeas Corpus case 2025-CP-23-02904 filed on May 14, 2025 contains the following sufficient facts, argument and citations to legal authorities to show there is an arguable basis for asserting that Appellants Petition for Writ of Habeas Corpus should be allow to proceed forward and a hearing scheduled by Judge Perry H. Graveley 6/26/25 Judgment in civil case 2025-CP-23-02904 Id as exhibit # (6) attached and enclosed. The failure of the Respondent did prepare it Return and motion to dismiss until Oct 31, 2025, in which was too late. Judge Perry H. Graveley had already issued a ruling -

on 6/26/25. In which can be implied that upon Judge Perry H. Gravely review at Appellant State Habeas Petition, which contained the following facts that would make Judge Christopher D. Taylor Judgment in case 2025-CP-23-02904 issued on Dec 30, 2025 Id as exhibit # (1) attached and enclosed improper.

where Appellant's Habeas petition was testing the legality of his detention McCall v State, 247 S.C. 15, 145 S.E.2d 419 (1965) and it supported the requested relief. Hunter v State, 316 S.C. 105, 447 S.E.2d 203 (1994). In his petition Appellant made out a prima facie case showing he was entitled to relief. Welch v MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965) Crosby v State, 241 S.C. 40, 126 S.E.2d 843 (1962). He presented sufficient factual allegations to support the petition. Hayes v State 242 S.C. 328, 130 S.E.2d 906 (1963) Appellant alleged and showed that he had exhausted all other remedies, and set out a constitutional Due process and Double Jeopardy claim that met the standard delineated in Butler v State 302 S.C. 466, 397 S.E.2d 87 cert denied, 498 U.S. 972. 111 S.Ct 442, 112 L.Ed.2d 425 (1990) and where Habeas Corpus is available only when other remedies, such as PCR, are inadequate or unavailable. Braskins v Moore, 362 F.Supp 187, 192 n. 5 (D.S.C 1973); Stirone v Markley 345 F.2d. 473 (7th Cir) cert. denied. 382 U.S. 829 86 S.Ct. 67 15 L.Ed.73 (1965); Leichtman v Singletary, 674 So.2d. 889 (Fla Ct App 1996) Appellate showed that the Uniform Post Conviction relief procedure Act was unavailable and inadequate. Applicant in his State Petition for a Habeas Corpus upon Judge Perry H. Gravely review found that the petition met the requirement in which the Petition should proceed forward and a hearing scheduled see Id as exhibit # (6) Judge Gravely 6/26/25 Judgment of civil Case # 2025-CP-23-02904 attached and enclosed. Making it improper for Judge Christopher D. Taylor to entertain the Respondent's Return and motion to dismiss on Nov 6, 2025 and on Dec 30, 2025 issue

a Judgment concerning state Habeas Petition or post Conviction Relief Application and dismissing with prejudice. Id. as exhibit # 11 attached and enclosed. Appellant argues that the hearing held on November 6, 2025 before Judge Christopher D Taylor, should have been on the merits of the requested relief in the petition instead of a hearing on the Respondent's Return and Motion for a Summary Judgment of dismissal with prejudice; Also presenting a Question of Lack of Subject Matter Jurisdiction, to entertain the Respondent's Return & Motion to Dismiss that wasn't filed pursuant to the statute of limitations under the SCRPC for filing a return to Appellant's state Petition for a Writ of Habeas Corpus; and if this Court finds that the court was without jurisdiction to entertain the Respondent's Return and Motion to dismiss, in which would render the Judgment of Christopher D Taylor on that Motion void and improper.

Appellant prays and Ask this Court to review the entire records of Case 2025-CR-23-02904 and that it will find consists of sufficient facts, arguments and citation to legal authority to show that there is an arguable basis for assessing the determination by the lower Court was improper. Appellant further brings to this Court a Motion that he needs an attorney to represent him on Appeal, that he is indigent.

Appellant further argues that the lower court order Judgment was improper because, the hearing held on November 6, 2025 was not a hearing on the merits of the claim set out in Appellant's state Petition for a Writ of Habeas Corpus.

Robert Watkins 243803 (S-37-A)
Civ. Serv. Inst.
P.O. Box 580
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Patricia K. Howard Clerk Esq.
S.C. Supreme Court
P.O. Box 11330
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Inner Department

Exhibit # (1)

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

S.C. SUPREME COURT
IN THE COURT OF COMMON PLEAS
FOR THE THIRTEENTH JUDICIAL CIRCUIT

Robert M. Watkins, SCDC #243803,

Case No.: 2025-CP-23-02904

Petitioner,

v.

State of South Carolina,

**ORDER CONSTRUING STATE HABEAS
PETITION AS POST-CONVICTION RELIEF
APPLICATION AND DISMISSING WITH
PREJUDICE**

Respondent.

FILED: 26 JAN 5 11:25
COC JAY GREENHAM QUL SC

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.

Exhibit # 2



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LINESAY

The Supreme Court of South Carolina

PATRICIA A. HOWARD
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

BLAIRE CANN
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
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1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201
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www.sccourts.org

January 22, 2026

Robert M. Watkins, 243803
Tyger River Correctional Institution
Lower Yard
100 Prison Road
Enoree, SC 29335-9308

Re: Robert M. Watkins v. State
Appellate Case No. 2026-000125

Dear Mr. Watkins,

This Court has received your notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

For this matter to proceed, you will need to provide this Court with the following within twenty (20) days of the date of this letter:

(1) Since the order of the circuit court determined that this action is barred as being successive and/or as being untimely under the statute of limitations, Rule 243(c), SCACR, requires you to provide a written explanation as to why this determination was improper. This explanation must contain sufficient facts, argument and citation to legal authority to show that there is an arguable basis for asserting that the determination by the lower court was improper. The failure to make a sufficient showing may result in the dismissal of this matter.

(2) Since you have filed multiple post-conviction relief applications challenging the underlying criminal conviction, the Court, if it determines that you have failed to provide an adequate explanation under Rule 243(c), SCACR, may decide to prohibit you from filing a post-conviction relief application, habeas corpus action or any other action, motion or petition in the circuit court challenging this conviction and sentence (including a motion under Rule 29 of the South Carolina Rules of Criminal Procedure) without first obtaining the permission of this Court to do so. If you believe that there is some reason(s) why such a prohibition should not be imposed on future filings by you in the circuit court, those reasons should be provided within twenty (20) days of the date of this letter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at www.sccourts.org/courtreg. Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02.

Please note that the responsibility for ensuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will not review filings for redaction or to determine if materials should be sealed.

Very truly yours,

Patricia A. Howard

CLERK

cc: Kaylee Christene Kemp

Exhibit # (3)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
Robert M. Watkins, SCDC #243803,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE THIRTEENTH JUDICIAL CIRCUIT

Case No.: 2025-CP-23-2904

RETURN & MOTION TO DISMISS

In response to the Petition for Writ of Habeas Corpus filed by Petitioner Robert Watkins in the Greenville County Court of Common Pleas on May 14, 2025, Respondent, the State of South Carolina, makes the following return and moves to summarily dismiss this application as procedurally barred because the claims must be brought pursuant to the Uniform Post-Conviction Procedures Act, S.C. Code Ann. § 17-27-10 *et seq.* (2014).

PROCEDURAL HISTORY

Applicant 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 Applicant for armed robbery and possession of a weapon during the commission of a violent crime (2002-GS-23-01063). (Attachment 1).

Trial

On October 23–25, 2002, Applicant proceeded to a jury trial with the Honorable C. Victor Pyle, Jr., presiding. Applicant 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 Applicant guilty as indicted. Judge Pyle sentenced Applicant

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Received on 11-5-25



ALAN WILSON
ATTORNEY GENERAL

October 31, 2025

The Honorable Jay Gresham
Greenville County Clerk of Court
305 E. North Street
Greenville, South Carolina 29601

Re: Robert M. Watkins, #243803 v. State of South Carolina
Case No. 2025-CP-23-2904

Dear Mr. Gresham:

Enclosed please find, for filing in your office, Respondent's *Return and Motion for Dismiss*, along with a Certificate of Service in reference to the above-mentioned case.

Thank you for your assistance in this matter, and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Kaylee C. Kemp
Assistant Attorney General

KCK/abb

Enclosure: Attachments to Return and Motion to Dismiss

cc: Isaac L. Johnson, Jr., Esquire (with copy of enclosures)
Victim Advocacy Division (with copy of enclosures)

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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

Applicant, 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.

Applicant 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 Applicant in what way Applicant 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)

Applicant 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.”

Applicant 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. Applicant 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

Applicant, 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 Applicant’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 find that because the State’s case was based on circumstantial evidence and Applicant 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 charge 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, Applicant was tried again before a jury, with the Honorable James C. Patterson presiding. (Attachment 2, Trial Tr.). Applicant 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 Applicant guilty as indicted. Judge Patterson sentenced Applicant 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. (Attachment 2, Trial Tr. & Attachment 3, Sentence Sheet).

Direct Appeal

Applicant, through counsel, filed a timely notice of appeal. Appellate Defender Elizabeth A. Franklin-Best of the South Carolina Commission on Indigent Defense represented Applicant on appeal, and argued that Judge Patterson: (1) abused his discretion by allowing Applicant to proceed as a *pro se* defendant and (2) erred by denying Applicant's motion to recuse Judge Patterson from presiding over Applicant's trial when Judge Patterson had also presided over Applicant's April 8, 2005, post-conviction relief hearing. (Attachment 4, Final Brief of Appellant). The State filed its Final Brief on December 30, 2009. (Attachment 5).

The South Carolina Court of Appeals reversed Applicant's convictions, finding that Judge Patterson erred in denying Applicant'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). (Attachment 6). The State timely filed a Petition for Rehearing on March 21, 2011, which was denied on April 21, 2011. (Attachment 7 & 8). 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. (Attachment 9).

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 Applicant's trial and (2) that the Court of Appeals erred in failing to address the issue of whether Judge Patterson properly allowed Applicant to proceed at trial as a *pro se* defendant. (Attachment 10). Applicant filed the Return to the petition on October 14, 2011. (Attachment 11).

On November 6, 2012, The South Carolina Supreme Court granted Respondent's petition and ordered that the parties commence with additional briefing. (Attachment 12). The State filed its brief on January 7, 2013, and Applicant filed his brief on May 9, 2013. (Attachment 13 & 14).

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). (Attachment 15). The Supreme Court granted the motion on October 15, 2023. (Attachment 16). 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). (Attachment 17).

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. (Attachment 18).

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

On June 10, 2013, Applicant 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 Applicant's state court proceedings were still ongoing. (Attachment 19).

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

On January 31, 2014, Applicant 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.

(Attachment 20).

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. (Attachment 21, PCR Tr.). Applicant 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. (Attachment 22). Judge Miller's order addressed the following claims presented by Applicant 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.

(Attachment 22).

PCR Appeal

Applicant, 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). Applicant 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;

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- 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.

(Attachment 24).

On March 2, 2017, the matter transferred to the Court of Appeals. (Attachment 25). On October 5, 2017, the Court of Appeals granted counsel's motion to be relieved and denied the petition. (Attachment 26). Applicant filed a Petition for Rehearing on November 8, 2017, which was denied on December 14, 2017. (Attachment 27 & 28). The Remittitur was issued on May 3, 2018. (Attachment 29).

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. (Attachment 30). Respondent made a return to the petition and moved for summary judgment. (Attachment 31). On September 30, 2019, United States Magistrate Judge Paige J. Gossett filed a report and recommendation, identifying the claims raised in Applicant's petition and recommending that Respondent's motion for summary judgment be granted. (Attachment 32). 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.

(Attachment 32).

On November 18, 2019, over Applicant'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. (Attachment 33).

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

Applicant filed a second *pro se* application for post-conviction relief, on February 13, 2020. (Attachment 34). Applicant 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. Applicant asked the Court to vacate his convictions.

On September 23, 2020, Applicant filed an amendment to his application. (Attachment 35). 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. Blich, 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. Applicant 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*. (Attachment 36). 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*. (Attachment 37). Applicant filed a response opposing summary dismissal. (Attachment 38). On October 4, 2023, the PCR court issued the Final Order of Dismissal finding that Applicant had not shown cause as to why the Conditional Order should not become final. (Attachment 39).

PCR Appeal

Applicant 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. (Attachment 40). The Remittitur was issued on January 26, 2024. (Attachment 41).

ATTACHMENTS

Respondent attaches, and incorporates by reference, the following:

1. Indictments;
2. Trial Transcript, dated September 22-24, 2008;
3. Sentence Sheet;
4. Final Brief of Appellant, dated December 30, 2009;
5. Final Brief of Respondent, dated December 30, 2009;
6. *State v. Watkins*, Op. No. 2011-UP-091 (S.C. Ct. App. filed March 8, 2011);
7. Petition for Rehearing, dated March 21, 2011;
8. Order Denying Petition for Rehearing, filed April 21, 2011;

9. Order recalling remittitur, filed June 30, 2011;
10. State's Petition for Writ of Certiorari, dated July 14, 2011;
11. Return to the Petition for Writ of Certiorari, dated October 14, 2011;
12. Order granting certiorari, filed October 17, 2012;
13. Brief of Petitioner, filed January 7, 2013;
14. Brief of Respondent, filed May 9, 2013;
15. State's Motion to Argue Against Precedent, filed October 4, 2013;
16. Order Granting Motion to Argue Against Precedent, filed October 15, 2013;
17. *State v. Watkins*, 406 S.C. 360, 752 S.E.2d 261 (2013);
18. Remittitur, issued December 20, 2013;
19. Order dismissing habeas action without prejudice, filed June 26, 2013;
20. First PCR Application (2014-CP-23-0589), filed January 31, 2014 & Amendments;
21. PCR Evidentiary Hearing Transcript, dated April 22, 2015;
22. Order of Dismissal, filed October 2, 2015;
23. *Johnson* Petition for Writ of Certiorari, filed April 20, 2016;
24. *Pro se Johnson* Response, filed June 24, 2016;
25. Transfer Order to Court of Appeals, filed March 2, 2017;
26. Order Denying Certiorari, filed October 5, 2017;
27. Petition for Rehearing, filed November 8, 2017;
28. Order Denying Petition for Rehearing, filed December 14, 2017;
29. Remittitur, issued May 3, 2018;
30. Second Federal Habeas Petition, filed December 20, 2018;
31. Return and Memorandum of Law in Support of Motion for Summary Judgment, filed May 9, 2019;
32. Report and Recommendation, filed September 30, 2019;
33. Opinion and Order, filed November 18, 2019;
34. Second PCR Action (2020-CP-23-0908), filed February 13, 2020;
35. Amendment to PCR application, filed September 23, 2020;
36. Return and Motion to Dismiss, filed June 8, 2021;
37. Conditional Order of Dismissal, filed June 25, 2021;

38. Applicant's Response to Conditional Order, filed July 16, 2021;
39. Final Order of Dismissal, filed October 4, 2023;
40. Order Dismissing Appeal, filed January 10, 2024;
41. Remittitur, issued on January 26, 2024;
42. *Watkins v. S.C. Dep't of Corr.*, Unpublished Op. No. 2024-UP-405 (S.C. Ct. App. filed Nov. 27, 2024).
43. Third PCR Application (2022-CP-23-6616), filed December 8, 2022.

CURRENT ALLEGATIONS

Applicant filed the petition for habeas corpus on May 14, 2025, in the Greenville County Court of Common Pleas. Applicant raised the following grounds summarized and interpreted by Respondent as follows:

- Ground One:** The 5-year sentence for possession of a weapon during the commission of a violent crime violated the double jeopardy clauses protection against a second prosecution after conviction of the same offense.
- Ground Two:** That the 25-year armed robbery sentence has expired.
- Ground Three:** Both 25 year sentence and 5 year consecutive sentences imposed on 9-24-2008 under indictment 2002-GS-23-1063 violated the due process and equal protection when the trial judge did not give Petitioner his 9 months, 5 days, and 6 years credit for the time he had already served against those sentences and offenses resulting in the 25 year sentence for armed robbery and 5 year consecutive sentence for PWDCVC, exceeding the maximum punishment authorized by law.
- Ground Four:** Due process violation – Indictment was insufficient

MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS

Petitioner has filed a writ of habeas corpus in the Greenville County Court of Common Pleas, challenging the calculation of his sentence. Respondent now moves to summarily dismiss this petition as procedurally barred, as 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, summary dismissal is appropriate pursuant to Rule 12(b)(1) & (6), Rule 12(c), Rule 56, SCRCF, and S.C. Code Ann. §§ 17-27-45, -70, -90. Notably, Applicant filed a post-conviction action on December 8, 2022, therein raising the same allegations that he now presents in his state habeas petition. The action is currently pending.

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 stated 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 PCR Act supersedes and encompasses the habeas corpus procedure provided by statute. The *Gibson* Court further held, “[h]abeas corpus is available only when other remedies, such as PCR, are inadequate or unavailable,” and “[p]rocedurally, a petitioner seeking habeas corpus must first exhaust all available PCR remedies.” *Id.* at 41-42, 495 S.E.2d at 428; see *Keeler v. Mauney*, 330 S.C. 568, 571, 500 S.E.2d 123, 124 (Ct. App. 1998) (“A person is procedurally barred from petitioning the circuit court for a writ of habeas corpus where the matter alleged is one which could have been raised in a PCR application.”); *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 *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 actions 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.*

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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 first allege that 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 petitioner 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 must be dismissed because it is procedurally barred. Petitioner alleges error in the calculation of how his sentences are to be served and alleges that under his calculation, he is subject to release. The allegation is separate and distinct from the allegation that he is being held subject to an unlawful or excessive sentence, which is a cognizable claim under the PCR Act. *See* § 17-27-20(A)(5) (“Any person who has been convicted of, or sentenced for, a crime and who claims ... [t]hat the court was without jurisdiction to impose sentence; ... [or t]hat his sentence has expired ... may institute ... a proceeding under [the PCR Act] to secure relief.”) Here, Petitioner takes issue with how his sentence has been calculated, which is not a cognizable claim in a post-conviction relief action, and our Supreme Court in *Al-Shabazz* has

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established that the appropriate avenue to challenge SCDC's sentence calculation is to the Administrative Law Court (ALC). 338 S.C. 354, 527 S.E.2d 742 (2000). Thus, the petition is barred considering Petitioner has offered no factual justification for why other remedies, such as the avenue prescribed in *Al-Shabazz*, were unavailable or inadequate to address his allegations.

Not only is the petition barred because *Al-Shabazz* provides for a specific avenue of relief to address these types of allegations, but the petition is barred by the doctrine of *res judicata*. *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.*

Petitioner has already raised his calculation concerns in a prior PCR action¹ and to the ALC. The ALC affirmed SCDC's credit calculation. Petitioner appealed the ALC's decision because "(1) SCDC misapplied his credit for time served, (2) SCDC should have awarded his credit for time served to the armed robbery sentence first, and (3) his conviction and sentence following his second trial violated double jeopardy protections against multiple punishments for the same offense."

The Court of Appeals affirmed the ALC's determination that SCDC properly credited Petitioner with the time served during his initial incarceration period by calculating his sentences from his arrest date. Petitioner argued he earned double credit because the time he served was for his concurrent sentences. Petitioner received consecutive sentences after his second trial; therefore,

¹ In his First PCR action, Petitioner raised a double jeopardy violation claim asserting that he had already served the 5-year sentence for the weapons conviction, the PCR court denied relief, and on appeal, the Court of Appeals denied the petition.

SCDC was not required to credit Petitioner with double the time he served. Further, SCDC was not required to award Petitioner credit for time served on one sentence before the other. Petitioner simply raises the same claim in this habeas corpus action, however, to the extent Petitioner attempts to appeal the state court's holding, "[h]abeas corpus cannot be used as a substitute for appeal or other remedial procedure for the correction of errors of law of which the [petitioner] had an opportunity to avail himself." *Tyler v. State*, 247 S.C. 34, 145 S.E.2d 434 (1965). Further, Petitioner also raises his sentence calculation claims in conjunction with constitutional claims. These claims are explicitly contemplated in the PCR Act and, accordingly, must have been brought as a post-conviction relief action. *See* § 17-27-20(A) (2014).

First, the petition should be dismissed because Petitioner has offered no factual justification for why other remedies, such as the avenue prescribed in *Al-Shabazz*, were unavailable or inadequate to address his allegations. Second, the petition should be dismissed pursuant to the doctrine of *res judicata*, because Petitioner has raised these issues in PCR and to the ALC and now attempts to re-litigate the same issues that have already been ruled upon in a separate action. As to the constitutional claims, those 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 a PCR action 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. Petitioner fails to meet the standards required for the issuance of this extraordinary writ.

Moreover, even if the Court were to construe this action as a post-conviction relief action, the claims still fail, and summary dismissal is appropriate. From a review of the record, it is clear these claims are procedurally barred as untimely and successive, as they could and should have been brought in Petitioner's initial post-conviction relief proceedings. *See* S.C. Code Ann. § 17-

27-45, -70, -90 (setting forth the time limitations for pursuing post-conviction relief and bars against successive post-conviction relief actions). Accordingly, the Petition is procedurally barred and should be summarily dismissed pursuant to Rule 12(b)(1) & (6), Rule 12(c), Rule 56, SCRPC, and S.C. Code Ann. § 17-27-45, -70, -90.

CONCLUSION

WHEREFORE, Respondent moves to summarily dismiss the Petition for Writ of Habeas Corpus and even if the Court were to construe the action as a post-conviction relief application, summary dismissal is appropriate pursuant to Rule 12(b)(1) & (3), Rule 12(c), Rule 56, SCRPC, and Code Ann. §§ 17-27-45, -70, -90.

Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

KAYLEE C. KEMP
Assistant Attorney General
S.C. Bar No: 107073

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-6305

By: Kaylee C. Kemp
Kaylee C. Kemp

October 31, 2025
Columbia, South Carolina

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Robert M. Watkins, #243803,)
Applicant,)

C/A No. 2025-CP-23-2904

v.)

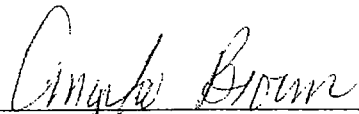
AFFIDAVIT OF SERVICE

State of South Carolina,)
Respondent.)

1. I am an employee of Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return and Motion to Dismiss**, in the above-captioned matter on the following by depositing same in the United States mail, postage prepaid:

Isaac L. Johnson, Jr., Esquire
130 Carson's Pond Dr.
Simpsonville, South Carolina 29681

DATED this 31st day of October, 2025.



Angela Brown
Administrative Coordinator

Exhibit (5) 2/2025

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2025CP2302904

Robert Max Watkins		South Carolina State Of	
--------------------	--	-------------------------	--

PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <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. See Page 2 for additional information.
- 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: _____
- STAYED DUE TO BANKRUPTCY
- 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:

ORDER INFORMATION

Applicant's counsel indicated on the record that Applicant requested his counsel file motions that counsel does not believe he has a good faith basis to file. As such, Applicant indicated he wishes to pursue his claims pro se. There appears to be a breakdown in communication between Applicant and his counsel. Therefore, Applicant's Motion to be Relieved of Counsel is hereby Granted.

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.**

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

2795

Judge Code

11/5/2025

Date

11-5-25
This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record or to parties (when appearing pro se) as follows:

Isaac L. Johnson 130 Carson's Pond Drive, Simpsonville, SC 29681

11-5-25
Kaylee Kemp A.G. Office
~~Megan Harrigan Jameson 1200 Senate Street, Suite B-03
Wade Hampton Building Columbia, SC 29201~~

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Jay Gresham

Jay Gresham Greenville County Clerk Of Court - Clerk of Court

Court Reporter

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Exhibit # 6

FORM 4

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2025CP2302904

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

Robert Watkins

South Carolina State Of

PLAINTIFF(S)

DEFENDANT(S)

Attorney for: Plaintiff Defendant
 Self-Represented Litigant

Submitted by: 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. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):
 - Rule 12(b), SCRPC;
 - Rule 43(k), SCRPC (Settled);
 - Rule 41(a), SCRPC (Vol. N
 - Other: _____
- ACTION STRICKEN (CHECK REASON):
 - Rule 40(j) SCRPC;
 - Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 - Bankruptcy;
 - Other: _____
- STAYED DUE TO BANKRUPTCY
- 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 CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court.

ORDER INFORMATION

Upon review of the Petition the Court finds that this matter should be allowed to proceed for a hearing scheduled at the appropriate time after notice to Respondent/Defendant.

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 entered. If 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 Entered (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 herein may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest and reasonable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Abstractors and researchers should refer to the official court order for judgment details.

Filing Note: In E-filing counties, the Court will electronically sign this form using a separate electronic signature.


Circuit Court Judge

2755 Judge Code
6/26/2025 Date

6-26-25

For Clerk of Court Office Use Only

6-26-25

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record or to parties (when appearing pro se) as follows:

Robert Watkins Tyger River Correctional Institute 200 Prison Rd Enoree, SC 29335

SC Attorney General

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Jay Gresham

Jay Gresham Greenville County Clerk Of Court - Clerk of Court

Court Reporter

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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