

The Supreme Court of South Carolina

Anthony Fields, Petitioner,

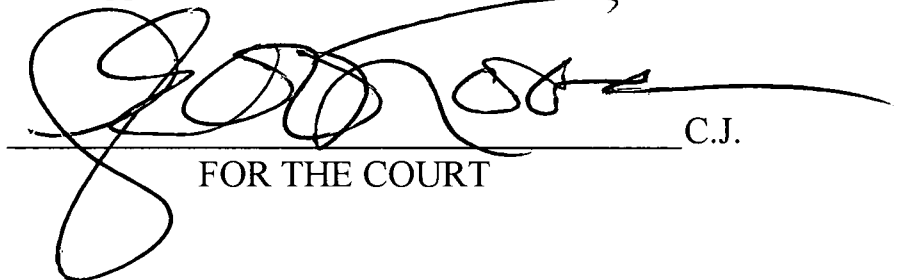
v.

State of South Carolina, Respondent.

Appellate Case No. 2010-181707

ORDER

The State has filed a motion asking this Court to require counsel for petitioner to supplement the appendix with certain documents. The State also requests that the time for filing its brief be extended until thirty days after the Court's receipt of the supplemental appendix. Petitioner has not filed a return to the motion. The motion is granted. Rule 243(f), SCACR. Counsel for petitioner shall, within ten days of the date of this order, serve and file a supplemental appendix that contains the documents referenced in the State's motion. The State shall have thirty days from the date of service of the supplemental appendix to serve and file its brief.



C.J.
FOR THE COURT

Columbia, South Carolina

July 5, 2012

cc:

Robert M. Pachak

Robert Daniel Corney

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Richland County
Honorable Alison Renee Lee, Circuit Court Judge

RECEIVED

JUN 13 2012

S.C. Supreme Court

ANTHONY L. FIELDS,

Petitioner,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

**MOTION TO REQUIRE PETITIONER TO SUPPLEMENT THE APPENDIX
AND TO HOLD DEADLINE FOR FILING IN ABEYANCE**

Respondent herein seeks to have the South Carolina Commission on Indigent Defense, Appellate Defense Division, supplement the Appendix, pursuant to Rule 243(f), SCACR, on the following grounds:

I.

The transcript of Petitioner's October 20, 2006, trial, copies of the Richland County Clerk of Court's records from Petitioner's 2005 convictions (indictments, arrest warrants and sentencing sheets), and the relevant documents from Petitioner's previous post-conviction relief action (2007-CP-40-06689) have been omitted from the Appendix for this Court's review on the current Petition for Writ of Certiorari. These items are essential portions of the record that were reviewed by the lower court and, therefore, should be included in the record for this Court's review.

II.

Respondent respectfully requests the South Carolina Office of Appellate Defense prepare a Supplementary Appendix to include the above-mentioned items as required under Rule 243(f), SCACR. Further, the current deadline imposed for submission of Respondent's Brief is Monday, June 18, 2012. Because specific citations to the Supplementary Appendix will be needed once it is provided, Respondent respectfully requests this Court hold the deadline for submission of Respondent's Brief in abeyance for thirty (30) days after the Court's receipt of the Supplementary Appendix.

III.

WHEREFORE, having made Motion to Require Petitioner to Supplement the Appendix and to Hold Deadline for Filing in Abeyance, Respondent would respectfully request this Court to grant the Motion and for such other and further relief as this Court may deem just and proper.

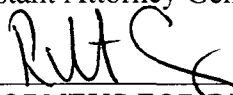
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

ROBERT D. CORNEY
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-5178

June 13, 2012

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal From Richland County
Honorable Alison R. Lee, Circuit Court Judge

Anthony L. Fields, 200592,

Petitioner,

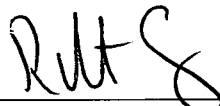
v.

STATE OF SOUTH CAROLINA,

Respondent.

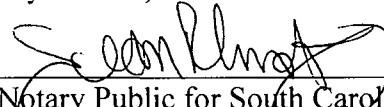
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Motion to Require Petitioner to Supplement the Appendix and to Hold Deadline for Filing in Abeyance has been served upon opposing counsel, Robert M. Pachak by mailing two (2) copies addressed to: South Carolina Office of Appellate Defense; 1330 Lady Street, Suite 401; Columbia, SC 29211; with postage prepaid, this 13th day of June, 2012.



ROBERT D. CORNEY
ATTORNEY FOR RESPONDENT

SWORN to before me this 13th
day of June, 2012.

 (L.S.)
Notary Public for South Carolina.
My Commission Expires: ~~my~~ Commission Expires
January 30, 2013

The Supreme Court of South Carolina

Anthony Fields, Petitioner,

v.

State of South Carolina, Respondent.

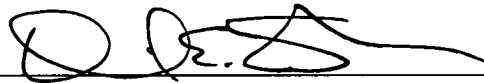
Appellate Case No. 2010-181707

ORDER

For good cause shown, the request for an extension to serve and file the Brief of Respondent is granted and extended until June 18, 2012. Pursuant to the order of the Supreme Court of South Carolina dated March 18, 2009 (www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2009-03-18-01), any further extension request must show the existence of extraordinary circumstances, state what actions are being taken to insure that no further extension will be required, and be signed by the appropriate attorneys.

FOR THE COURT

BY



Clerk

Columbia, South Carolina

June 4, 2012

cc: Robert M. Pachak
Robert Daniel Corney



ALAN WILSON
ATTORNEY GENERAL

May 18, 2012

RECEIVED

MAY 18 2012

S.C. Supreme Court

The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

RE: Anthony Fields, 200592 v. State of South Carolina
2010-CP-400-3452

Dear Mr. Shearouse:

The Brief of Respondent in the above appeal is due to be served and filed on today. However, this is to respectfully request a 30-day extension until June 18, 2012 in which to serve and file this Brief.

This extension request is not intended for the purpose of delay. Rather, this extension request is necessitated by a heavy workload.

Sincerely,

Robert D. Corney
Assistant Attorney General

RDC/jri

cc: Robert M. Pachak Esquire; SC Office of Appellate Defense

I CONSENT:

Robert M. Pachak, Esquire

The Supreme Court of South Carolina

Anthony Fields,

Petitioner,

v.

State of South Carolina,

Respondent.

The Honorable Alison Renee Lee
Richland County
Trial Court Case No. 2010-CP-40-03451

ORDER

For good cause shown, the request for an extension until May 18, 2012 to serve and file the Brief of Respondent is granted. Pursuant to this Court's order dated March 18, 2009, any further extension request must be based on a showing of good cause and must be signed by the appropriate attorneys.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY *Brenda J. Shealy*
Clerk

Columbia, South Carolina

April 19, 2012

cc: Appellate Defender Robert M. Pachak
Assistant Attorney General Robert D. Corney



ALAN WILSON
ATTORNEY GENERAL

April 18, 2012

RECEIVED

APR 18 2012

S.C. Supreme Court

The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

RE: Anthony Fields, 200592 v. State of South Carolina
2010-CP-400-3451

Dear Mr. Shearouse:

The Brief of Respondent in the above appeal is due to be served and filed on today. However, this is to respectfully request a 30-day extension until May 18, 2012 in which to serve and file this Brief.

This extension request is not intended for the purpose of delay. Rather, this extension request is necessitated by a heavy workload.

Sincerely,

Robert D. Corney
Assistant Attorney General

BTP:jri

cc: Robert M. Pachak; SC Office of Appellate Defense

The Supreme Court of South Carolina

Anthony Fields,

Petitioner,

v.

State of South Carolina,

Respondent.

The Honorable Alison Renee Lee
Richland County
Trial Court Case No. 2010-CP-40-03451

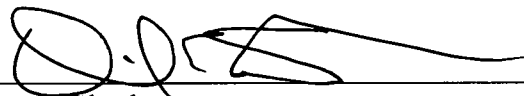
ORDER

The request for an extension until April 18, 2012 to serve and file the Brief of Respondent is granted. Pursuant to this Court's order dated March 18, 2009, any further extension request must be based on a showing of good cause.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY



Clerk

Columbia, South Carolina

March 20, 2012

cc: Appellate Defender Robert M. Pachak
Assistant Attorney General Robert D. Corney



ALAN WILSON
ATTORNEY GENERAL

March 19, 2012

RECEIVED

MAR 19 2012

The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

S.C. Supreme Court

RE: Anthony Fields, 200592 v. State of South Carolina
2010-CP-400-3451

Dear Mr. Shearouse:

The Brief of Respondent in the above appeal is due to be served and filed on today. However, this is to respectfully request a 30-day extension until April 18, 2012 in which to serve and file this Brief.

This extension request is not intended for the purpose of delay. Rather, this extension request is necessitated by a heavy workload.

Sincerely,

Robert D. Corney
Assistant Attorney General

RDC:jri

cc: Robert M. Pachak; SC Office of Appellate Defense

RECEIVED

MAR 19 2012

U.S. SUPREME COURT

To: MR. PACIK,

I am writing you this letter to tell you that your brief is not entirely accurate. And also, that you correct this mistake for the Record.

In your brief, pg. 4, you mention that I filed my first PCR Application for Relief on Oct. 8, 2007. This is untrue. The Respondent wants the court to believe this too. Anyway, I filed two PCR petitions in 2007 for two expired unconstitutional convictions. The first PCR petition that I filed, was on Aug 6, 2007. Petition 2007-CP-35-81 was for Relief for a burglary conviction in McCormick Co., Feb, 1990. That conviction was an uncounseled Guilty plea, in which the state used to enhance ^{my} future convictions. Judge Knox McMahon rescuse himself from that PCR Petition, and he drop all his previous orders. Now, for whatever reason, the state simply refuse to acknowledge this.

I have all Court Records to prove all my claims. I pray that you correct this for the Record, Thank You.

Anthony Fields, #200592

✓

State of South Carolina

PROOF OF SERVICE

I Anthony Fields, certify that I have served this letter for correctness on Robert M. Pachak, Appellate Defender, on 3-15-2012 2012, addressed to Office of the S.C. Commission on Indigent Defense

Division of Appellate Defense
P.O. Box 11589
Columbia, S.C. 29211-1589

Date: 3-15-12

S1. Ant. Fed

Sworn to and subscribed to ME
this 15 day of March 2012

Eugene Kuyper
Notary Public of South Carolina

My Commission Expires: _____

My Commission Expires April 4, 2016

Anthony Fields #200592
BRCF Con-245
4460 Broad River Rd.
Coto, S.C. 29210



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0008003534 MAR 16 2012
MAILED FROM ZIP CODE 29210

RECEIVED

MAR 16 2012

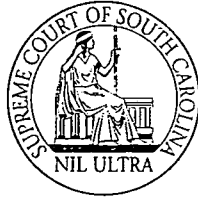
BRCI
MAILROOM

LEGAL MAIL

29211+1330

Daniel E. Shearouse, Clerk
OF COURT
P.O. Box 11330
Columbia, S.C. 29211





The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

February 9, 2012

Appellate Defender Robert M. Pachak
South Carolina Commission on Indigent Defense
P O Box 11589
Columbia, SC 29211

Re: Fields, Anthony v. The State

Dear Counsel:

Enclosed is the order issued in the above entitled matter.

By copy of this letter and order, we are advising all interested parties of the action by the Court.

Very truly yours,



CLERK

DES/jj

cc: Assistant Attorney General Robert Corney

The Supreme Court of South Carolina

Anthony Fields,

Petitioner,

v.

State of South Carolina,

Respondent.

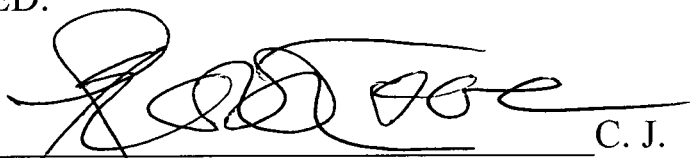
ORDER

Counsel has submitted a petition pursuant to *Johnson v. State*, 294 S.C. 310, 364 S.E.2d 210 (1988), and moves to be relieved. We deny the petition to be relieved and direct the parties to address the following question:

Was petitioner entitled to a hearing on his post-conviction relief application when he alleged ineffective assistance of counsel in his 2006 conviction for failing to investigate the propriety of using a prior uncounseled conviction to enhance his sentence?

Petitioner shall serve and file a petition on this question within thirty (30) days of the date of this order. Thereafter, respondent shall have thirty (30) days to serve and file its return.

IT IS SO ORDERED.


C. J.
FOR THE COURT

Columbia, South Carolina

February 9, 2012

 ORIGINAL

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Richland County

Alison Renee Lee, Circuit Court Judge

RECEIVED

MAR - 3 2011

S.C. Supreme Court

ANTHONY FIELDS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

JOHNSON PETITION FOR WRIT OF CERTIORARI

ROBERT M. PACHAK
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR PETITIONER

INDEX

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ISSUE PRESENTED

Whether petitioner was entitled to a PCR hearing?

STATEMENT

On August 10, 1993, petitioner appeared before the Honorable J. Ernest Kinard, Jr. in Richland County and pled guilty to three (3) counts of burglary in the first degree, five (5) counts of burglary in the second degree, and two (2) counts of grand larceny. A sentence of twenty (20) years was imposed for the first degree burglary charges. A sentence of fifteen (15) years was imposed on the second degree burglary charges, and thirty (30) day was imposed on the grand larceny charges.

Petitioner filed his first application for post-conviction relief on October 8, 2007. The application was denied and dismissed by the written order of the Honorable James R. Barber, III on May 27, 2008.

Petitioner filed his current PCR application on May 25, 2010. The Honorable Alison Renee Lee issued a conditional order of dismissal on August 4, 2010, giving petitioner twenty (20) days to show why the order should not become final. Petitioner filed an opposition to the conditional order of dismissal on August 2, 2010.

On November 18, 2010, Judge Lee issued a final order of dismissal denying petitioner any relief.

ARGUMENT


Petitioner is entitled to a PCR hearing.

Petitioner did not have a hearing on his 2010 PCR application. Petitioner did not have a hearing on his 2007 application. There was no appeal. S.C. Code §17-27-80 contemplates a hearing on an application. In Gamble v. State, 298 S.C. 176, 379 S.E.2d 118 (1989), the Court held that the rules for post-conviction relief contemplate an adjudication on the merits of the original petition. Petitioner is entitled to one bite at the apple. His case should be remanded for a full hearing.

CONCLUSION

Petitioner's case should be remanded for a full hearing.

Respectfully submitted,



Robert M. Pachak
Appellate Defender

ATTORNEY FOR PETITIONER

This 3rd day of March, 2011.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO RICHLAND COUNTY
ALISON RENEE LEE, CIRCUIT COURT JUDGE

ANTHONY FIELDS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT


PETITION TO BE RELIEVED AS COUNSEL

Counsel for Anthony Fields states:

1. He is Appellate Defender for the South Carolina Office of Appellate Defense and was appointed to represent petitioner.
2. He has reviewed the records and transcript of petitioner's post-conviction relief hearing which was held on . In his opinion seeking certiorari from the order of dismissal is without merit.
3. He has, pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988), briefed the one arguable legal issue which arose during the post-conviction relief process.

Therefore, counsel requests that the Court relieve him as counsel for Anthony Fields.

Respectfully submitted,



Robert M. Pachak
Appellate Defender

ATTORNEY FOR PETITIONER

This 3rd day of March, 2011

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Richland County
Alison Renee Lee, Circuit Court Judge

ANTHONY FIELDS,

PETITIONER,

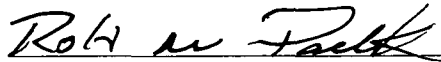
V.

STATE OF SOUTH CAROLINA,

RESPONDENT

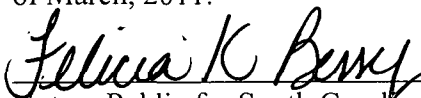
CERTIFICATE OF SERVICE

I certify that a true copy of the Johnson petition for writ of certiorari and a copy of the appendix in this case have been served on Brian Petrano, Esquire and Anthony Fields, #200592, at Broad River Correctional Institution this 3rd day of March, 2011.


Robert M. Pachak
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 3rd day
of March, 2011.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: June 21, 2020.



ALAN WILSON
ATTORNEY GENERAL

March 4, 2011

RECEIVED

MAR - 8 2011

S.C. Supreme Court

Honorable Daniel E. Shearouse
Clerk of the Supreme Court
State of South Carolina
Post Office Box 11330
Columbia, SC 29211

Re: Anthony Fields, 200592 v. State
2010-CP-40-3451

Dear Mr. Shearouse:

We are in receipt of the Johnson Petition for Writ of Certiorari. Respondent waives the filing of a formal Return in light of the position taken by Petitioner's counsel in this matter. Thus, it is our position that there is probative evidence in the record to support the ruling of the lower court. Such evidence meets the standard of review in these proceedings. Webb v. State, 281 S.C. 237, 314 S.E.2d 839 (1984).

By filing this informal Return, we understand that we are not waiving our right to brief any issue should this Court grant certiorari. By copy of this letter, I am serving opposing counsel with a copy of our informal Return.

Sincerely,

Brian T. Petrano
Assistant Attorney General

BTP/jri

cc: Robert M. Pachak, Esquire

The State Of South Carolina

V

Anthony Fields

RECEIVED

APR 14 2011

S.C. SUPREME COURT

PRO-SE RECEIVED

Response APR 14 2011

S.C. SUPREME COURT

The state is intentionally trying to compound and confuse the court with my prior expired conviction and my current conviction as one.

First of all, I was convicted and sentenced in 2006 for my current conviction for which I'm challenging. I appealed my current conviction on direct appeal, and the decision was upheld. I then filed a timely PCR petition.

For the record, I tried to get relief from my prior expired convictions while I was on Direct Appeal, by way of Post conviction Relief. I was denied relief.

Now in my current PCR application, the state wants to construe the amended petition as a direct attack on that prior expired conviction. The amended petition that I filed is to only show for the record, the history of the state's Due process violation.

But what the state failed to realize is that convictions from 1993 as well as

1990, was used to enhance my current conviction. Also, in my amended PCR petition, I clearly show how the state used my 1990 uncounseled conviction, to enhance my 1993 and 2006 convictions.

And for whatever reason, the record shows the state intentionally avoids mentioning that 1990 uncounseled conviction.

The fact of the matter is that had my 2006 trial counsel investigated all my prior convictions like I had asked him to, then the state could not enhance my current sentence.

The state purposely omits and add bogus claims in all of their responses, to my petition.

My claims are a question of Facts and Law. The state only refutes my claims with beliefs and opinions. I have never had a PCR hearing at all. To deny me my one bite at the apple, would be a complete miscarriage of Justice.

And finally, for the record, I want to get it straight on all the bogus claims the state makes in the Appendix for the Johnson petition.

Pg. 7 of Appendix

Why are my 1993 convictions brought up? I challenged these convictions on PCR, and I was denied relief. All these convictions were expired before I was convicted for my current conviction. That's why I was able to challenge these convictions, while I was on Direct Appeal for my current conviction.

Pg. 11+12 of Appendix

The state's claims of Successive Petitions, and Statute of Limitations, is completely without merit. First of all, I can not raise claims for a current conviction, (PCR) if that conviction is on Direct Appeal. But I can seek relief thru PCR, for an expired conviction, even if I'm on Direct Appeal for another conviction. The state contends that I should have raised my current claims in my first PCR Application. How? My current PCR claims could only be raised after my decision from my Direct Appeal. (6-09)
The state also claims that I'm really challenging my 1993 conviction. This is a complete lie. The record shows

that my current PCR Petition is for my current conviction. (2006)

And as for Statute of Limitations, this is another bogus claim by the state,

My Direct Appeal decision was given in June 2009, so my time runs to Jun 2010, to file a PCR petition.

My prior expired 1993 conviction, is irrelevant to my current PCR petition.

Pg. 17 of Appendix

There is only one conviction going on here, and that's my current 2006 conviction for Burglary 1st.

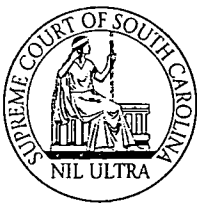
Pg. 9 of Appendix

As the record again shows, that I claimed in my amended PCR petition, ~~that~~ my 2006 trial counsel was ineffective for not investigating my 1990 uncounseled conviction. Because, had he, then the state could not impose the maxime punishment, or enhance my current conviction.

That amended PCR petition basically shows how the state used my 1990 uncounseled conviction to further enhance ~~future~~ future convictions.

My whole point is that, the state

Repeatedly violated my Due process rights all the way back to that 1990 uncounseled conviction. And the state cannot refute this, it's clearly on the record. I have all court documents and records to prove beyond a reasonable doubt on all my current claims. When there is a question of law and fact, then an evidentiary hearing should be held.



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

February 1, 2012

Mr. Anthony Fields #200592
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210

Re: Fields, Anthony v. The State

Dear Mr. Fields:

This responds to your undated letter received by this office on January 31, 2012.

The petition for writ of certiorari filed by your counsel and your *pro se* response to that petition are currently awaiting consideration by the Court. Due to the volume of pending cases, it is impossible for me provide you with any indication of when the Court may act on this matter.

Very truly yours,

CLERK

DES/jj

cc: Appellate Defender Robert M. Pachak
Assistant Attorney General Brian T. Petrano

I am informing about the status of my Appeal, that was submitted last Jan. A year ago. I have heard nothing for no one concerning my appeal process. I'll like to know when will I hear something. Because time is very important in my situation.

Anthony Fields
200592

Thank You

RECEIVED

JAN 8 1 2012

S.C. SUPREME COURT

Anthony Fields #200592
BRCE-A-245
4460 Broad River Rd.
Colo, S.C. 29210

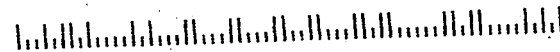


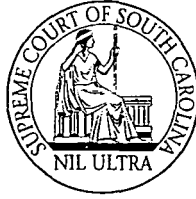
CONGAREE UNIT

Daniel Shearouse
P.O. Box 11330
Columbia, S.C. 29211

LEGAL MAIL

29211+1330





The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

March 4, 2011

Mr. Anthony Fields #200592
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210

Re: Fields, Anthony v. The State

Dear Mr. Fields:

Your counsel has submitted a Petition for Writ of Certiorari indicating that this appeal is without merit and moves to be relieved as your counsel. Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988). The records of this Court reflect that counsel served you with a copy of the Petition and Appendix on March 3, 2011.

You may, within forty-five (45) days of the date of this letter, file with this Court a pro se response to the Petition filed by your counsel. In this response, you may raise and argue any issues you believe the Court should consider in this appeal. Upon receipt of your pro se response or the expiration of forty-five (45) days, the matter will be submitted to the Court for its consideration.

If you do decide to file a pro se response, the response must be either typewritten or legibly hand printed, and must have at least a one inch margin on all sides. Further, you will need to only submit one copy of your response, and this copy should not be stapled or bound in any manner.

Fields, Anthony v. State
Page Two
March 4, 2011

Very truly yours,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

CLERK

DES/dmh

cc: Appellate Defender Robert M. Pachak
Assistant Attorney General Brian T. Petrano

5th BP ✓

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

JUDGMENT IN A CIVIL CASE
CASE NO: 2010CP4003451

Anthony L #200592 Fields

vs.

State of South Carolina

Plaintiff

Defendant

CHECK ONE:

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):
 - Rule 12(b), SCRPC;
 - Rule 43(k), SCRPC (Settled);
 - Other:
- ACTION STRICKEN (CHECK REASON):
 - Rule 40(j) SCRPC;
 - Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 - Other: _____

JEANETTE W. MBRIDGE
 C. P. & G.
 Bankruptcy
 Rule 41(a)
 2010 NOV 18 PM 2:40
 RICHLAND COUNTY
 FILED

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;

Statement of Judgment by the Court:

Dated at Columbia, South Carolina, this _____ day of _____, 2010.

PRESIDING JUDGE

This judgment was entered on the _____ day of _____, 2010, and a copy mailed first class this 18 November 2010, to attorneys of record or to parties (when appearing pro se) as follows:

Anthony L #200592 Fields

Brian T Petrano

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Jeanette W. McBride

Clerk of Court

SCANNED

ATTORNEY GENERAL'S OFFICE

12/11 BY 121110
RECORDED

ADMINISTRATIVE INSTRUCTIONS

FILE OPEN

HAVE 200 COPIES UNDER

ROUTE TO _____

ORDER: _____ TRANSCRIPT

PER RECORDS _____ CLERK REMEDIES

OTHER nothing and close

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Anthony Fields)
 Plaintiff)

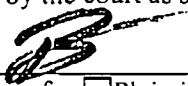
v.)

State Of South Carolina)
 Defendant.)

IN THE COURT OF COMMON PLEAS

CASE NO.
2010-CP-400-3451

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

| | |
|--|--|
| Plaintiff's Attorney: Anthony Fields, Bar No. Address: BRCI 4460 Broad River Road Columbia, South Carolina 29210 phone: fax: e-mail: other: | Defendant's Attorney: Brian T. Petrano, Bar No. Address: Post Office Box 11549 Columbia, South Carolina 29211 phone: 803-734-3737 fax: 803-734-4455 e-mail: other: |
| <input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input checked="" type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III) | |
| <p style="text-align: center;">SECTION I: Hearing Information</p> Nature of Motion: Estimated Time Needed: Court Reporter Needed: <input type="checkbox"/> YES / <input checked="" type="checkbox"/> NO | |
| <p style="text-align: center;">SECTION II: Motion/Order Type</p> <input type="checkbox"/> Written motion attached <input checked="" type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order. <div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: center;">  Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant </div> <div style="text-align: center;"> <u>August 19, 2010</u> Date submitted </div> </div> | |
| <p style="text-align: center;">SECTION III: Motion Fee</p> <input type="checkbox"/> PAID - AMOUNT: <input type="checkbox"/> EXEMPT: (check reason) <ul style="list-style-type: none"> <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input checked="" type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCF) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: <input type="checkbox"/> Other: | |
| <p style="text-align: center;">JUDGE'S SECTION</p> <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: | _____ JUDGE CODE: _____ Date: _____ |
| <p style="text-align: center;">CLERK'S VERIFICATION</p> Date Filed: _____ Collected by: _____ <input type="checkbox"/> MOTION FEE COLLECTED: _____ | |

 RICHLAND COUNTY
 FILED
 2010 NOV 18 PM 2:35
 JEANETTE McMBRETT
 C.C.P. & F.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
))
))
Anthony Fields, #200592,)
))
Applicant,)
))
v.)
))
State of South Carolina,)
))
Respondent.)

IN THE COURT OF COMMON PLEAS

2010CP4003451

FINAL ORDER OF DISMISSAL

RICHLAND COUNTY
FILED
2010 NOV 18 PM 2:35
JEANETTE W. McBRIDE
C.C.P. & G.S.

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed May 25, 2010. The Respondent made its Return and Motion to Dismiss on July 26, 2010, requesting that the Application be summarily dismissed. Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal dated August 5, 2010, provisionally denying and dismissing this action, while giving the Applicant twenty (20) days from the date of service of said Order in which to show why the dismissal should not become final.

Applicant timely filed a document captioned "Opposition to Conditional Order of Dismissal" in response to the Conditional Order of Dismissal. Applicant argues that his current PCR application, 10-CP-40-2451, "is a direct attack on his current conviction," rather than a direct attack on his prior convictions.

This Court has reviewed the Applicant's response to the State's motion to dismiss in its entirety, in conjunction with the original pleadings, and finds that a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

I. PROCEDURAL HISTORY

Applicant has two sets of convictions, among others, which are important here. Applicant pleaded guilty in 1993 to several burglary and larceny charges in Richland County. Applicant received a sentence of twenty years in total. Applicant was released from prison on supervised furlough in February 2005. On June 2, 2005, Applicant burglarized an apartment in Richland County. On June 8, 2005, Applicant was arrested. Applicant was charged with first-degree burglary and petit larceny and a trial was held. Applicant was found guilty and on October 18, 2006, was sentenced to life without parole.

On October 8, 2007, Applicant filed an application for post-conviction relief, 2007-CP-40-6689, challenging his 1993 convictions in Richland County. Among other claims, Applicant claimed a violation of his right to counsel. Applicant's 2007 PCR application was summarily dismissed because it was not filed within the statutory limitations period and due to the doctrine of laches.

On May 25, 2010, Applicant filed this current PCR application. Applicant's current PCR application purports to challenge his 2006 convictions on the claim that Applicant's 2006 trial counsel was ineffective for failing to challenge his 1993 convictions.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court finds that the current application for post-conviction relief must be summarily dismissed because it is successive to his prior application for post-conviction relief. S.C. Code Ann. §17-27-90 provides that:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, 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

Anthony Fields – Final Order of Dismissal (2010CP4003451)

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.

Successive applications are disfavored and the burden is on Applicant to establish that any new ground raised in a subsequent application could not have been raised by him in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 309 S.C. 157, 420 S.E.2d 834 (1992).

In his current PCR application Applicant purports to challenge his 2006 convictions, but in reality only challenges his 1993 convictions. Applicant attempts to use the ruse of a claim of ineffective assistance of counsel to file a successive PCR application for his 1993 convictions. His claim regarding purported ineffective assistance of counsel for the new conviction is based solely on another challenge to the legitimacy of his 1993 conviction:

Ineffective Assistance of Counsel

Counsel was ineffective for failing to investigate and challenge the legality of petitioner's prior convictions, where those prior convictions were improperly used to enhance the current burglary conviction. Petitioner claims that prior convictions were uncounseled and therefore unconstitutional. Curtis v. U.S., 128 L.S.2d 517, Court Reaffirmed Maleng: (Constitutional challenge to enhance conviction and sentence requires a showing that there is a positive and demonstrable nexus between prior conviction and current custody.) Also, Harper v. Evans, 941 F.2d 1533; U.S. v. Tucker, 404 U.S. 443; Burgett v. Texas, 68 S.Ct 258. (U.S. v. Toney, 527 F.2d 716, where motion to suppress prior convictions.)

The legitimacy of his 1993 convictions has been (or could have been) addressed via his prior PCR(s). Applicant claims that his 2006 trial counsel should have challenged the legality of his 1993 convictions because Applicant alleges his 1993 convictions were uncounseled. But the legality of Applicant's 1993 convictions was challenged in Applicant's 2007 PCR application. The legality of

Applicant's 1993 convictions was, for PCR purposes, "finally adjudicated" in the 2007 PCR action. S.C. Code Ann. § 17-27-90 prohibits applicants from raising in new PCR applications grounds that were finally adjudicated in past PCR proceedings. Applicant cannot advance on his purported claim of ineffective assistance of counsel without first demonstrating that his 1993 convictions were invalid. But the validity of his 1993 convictions has been finally adjudicated. Thus, any attempt to challenge the validity of Applicant's 1993 convictions, as Applicant attempts to do here, is successive to his 2007 PCR application and must be dismissed.

Additionally, this Court finds that this matter should be summarily dismissed because Applicant has failed to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10, et seq. (2003). S.C. Code Ann. § 17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was convicted of the offense he challenges in this Application on August 10, 1993. The Applicant was therefore required to file his application before August 10, 1994. This Application was filed on May 25, 2010, which was well beyond the time that the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (2003) authorizes the PCR Court to "grant a

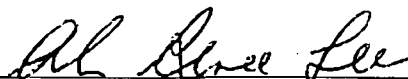
motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law."

CONCLUSION

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

This Court hereby advises the Applicant that he must file and serve a Notice of Appeal within thirty (30) days of the service of this Order to secure appellate review. See Rule 203, SCACR. The Applicant's attention is directed to Rule 243, SCACR., for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this 18 day of November, 2010.



Alison Renee Lee
Chief Administrative Judge
Fifth Judicial Circuit

Columbia, South Carolina.

STH B P
6

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

JUDGMENT IN A CIVIL CASE
CASE NO: 2007CP4006689

Anthony L #200592 Fields
Plaintiff

vs.

State of South Carolina
Defendant

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**
 - Rule 12(b), SCRPC;
 - 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: _____

JEANETTE W. McBRIDE
 CLERK OF COURT
 2009 DEC 22 AM 11:47
 RICHLAND COUNTY
 FILED

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; Statement of Judgment by the Court:

Dated at Columbia, South Carolina, this _____ day of _____, 2009.

PRESIDING JUDGE

This judgment was entered on the _____ day of _____, 2009, and a copy mailed first class this 23rd day of Dec., 2009, to attorneys of record or to parties (when appearing pro se) as follows:

Anthony L #200592 Fields
Anthony L #200592 Fields

State of South Carolina
Brian T Petrano
State of South Carolina

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Jeanette W. McBride

Clerk of Court

ATTORNEY GENERAL'S OFFICE

12/29/88 12/29/88
RECEIVED

ADMINISTRATIVE INSTRUCTIONS

FILE OPEN ETC.

HAVE _____ COPIES MADE

ROUTE TO _____

ORDER: _____ TELETYPE _____

OPEN RECORDS CLERK RECORDS

OTHER: *notify and close*

(file in purse)

send copy to Karen

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
Case No.: 2007CP4006689

Anthony L. Fields, #200592,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)

FINAL ORDER

RICHLAND COUNTY
FILED
2009 DEC 22 AM 10:59
JEANETTE W. McBRIDE
C.C.P. & C.S.

This matter comes before this Court by way of an application for post-conviction relief filed October 8, 2007. Respondent made its Return and Motion to Dismiss on or about May 27, 2008, requesting that the application be summarily dismissed.

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal filed June 30, 2008, provisionally denying and dismissing this action, while giving Applicant twenty (20) days from the date of service of said Order in which to show why the dismissal should not become final.¹ The Applicant was served with the COD on July 15, 2008:

[Scan of Affidavit of Service on next page]

¹ The COD was issued by the Honorable L. Casey Manning in his capacity as then Chief Administrative Judge for the Court of Common Pleas for the Fifth Judicial Circuit.

In a document captioned "Opposition to Summary Dismissal," dated July 21, 2008, Applicant argues that his application should not be summarily dismissed based on Statute of Limitations:

| | | |
|-----------------------------|---|---------------------------------|
| STATE OF SOUTH CAROLINA |) | IN THE COURT OF COMMON PLEAS |
| County of <u>Richland</u> |) | |
| |) | C/A No.: 2007-CP-40-6689 |
| Anthony L. Fields, #200592, |) | |
| Applicant, |) | |
| v. |) | OPPOSITION TO SUMMARY DISMISSAL |
| State of South Carolina, |) | |
| Respondent. |) | |

This matter comes before the Court by way of an Application for Post-Conviction Relief filed October 8, 2007. Respondent made its return on May 27, 2008, requesting that the Application be summarily dismissed. The Conditional Order of Dismissal was signed by The Honorable Casey Manning on June 24, 2008. Now comes the Applicant's motion in Opposition to Summary Dismissal.

It should be noted that Applicant has two separate Post-Conviction Relief Actions running at the same time. Each Post-Conviction Relief Action is for separate cases that occurred at different times. C/A No.: 2007-CP-35-81 is for a prior case and its results are the sole critical evidence for C/A No.: 2007-CP-40-6689.

In the instant case, Applicant has filed a 62(b), Stay of Motion for Judgement, until Applicant's 60(b), Motion For Relief From Judgement, for Applicant's prior Post-Conviction Relief Application, C/A No.: 2007-CP-35-81, has been answered.

Concerning C/A No.: 2007-CP-35-81, a judgement was entered June 25, 2008, and filed June 27, 2008 by The Honorable Knox McMahon, in which he withdrew

the Conditional Order of Dismissal filed on November 6, 2007 and recused himself from any further part in the matter. Therefore this case is still alive and critical to C/A No.: 2007-CP-40-6689.

Because of this situation, Applicant and the State has to resolve the issues on Applicant's first Post-Conviction Relief Application, C/A No.: 2007-CP-35-81, in order to begin the process on Applicant's second Post-Conviction Relief Application, C/A No.: 2007-CP-40-6689.

This was the primary reason for the filing of a 62(b) Motion for Stay in the instant case. If a Motion for Stay or a Leave of the Court to pursue a Ruling in C/A No.: 2007-CP-35-81 cannot be granted then Applicant is requesting the Dismissal be granted without prejudice so Applicant can re-file a Post-Conviction Relief Application in this case once a Ruling has been made in C/A No.: 2007-CP-35-81.

Wherefore, the Applicant forever prays this Court grant this Motion in Opposition to Summary Dismissal.

Respectfully,

Anthony L. Fields 7/21/08
Anthony L. Fields #200592
B.R.C.I. CO-128
4460 Broad River Road
Columbia, S.C. 29210
PRO SE APPLICANT

cc:file

This Court does not share the Applicant's assertion that his other pending PCR in another county relating to other charges in anyway affects whether this PCR is timely and/or otherwise properly before this Court.

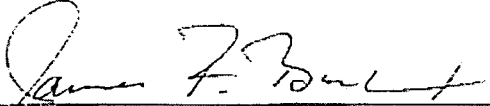
This Court has reviewed Applicant's responses to the State's motion to dismiss in its entirety, in conjunction with the original pleadings, and finds that a sufficient reason has not been shown why the Conditional Order of Dismissal should not become

final. This Court finds that Applicant's first application was barred by the statute of limitations.

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

This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Applicant's attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

AND IT IS SO ORDERED!


The Honorable James R. Barber, III
Chief Administrative Judge
Fifth Judicial Circuit

12/21, 2009

Columbia, South Carolina.

THE State OF South Carolina
IN the Supreme Court

Appeal From Richland County
Court of Common Pleas

Alison R. LEE, Circuit Court Judge

RECEIVED

DEC 30 2010

S.C. SUPREME COURT

CASE No. 2010-CP-4003451

Anthony L. Fields, _____ Appellant,

v.

Brian T. Petrano _____ Respondent,

NOTICE OF Appeal

Anthony L. Fields appeals the order of the Honorable Alison R. LEE, dated November 18, 2010. Appellant received written notice of entry of this order on December 3, 2010.

December 21, 2010

OTHER Counsel OF Record:

Brian T. Petrano

P.O. Box 11549

Columbia, S.C. 29211

ATTORNEY FOR Respondent

Crutts Files

Anthony L. Fields

BRCF C-147

4460 Broad River Rd.

Columbia, S.C. 29210

pro-se

THE State OF South Carolina
IN THE Supreme Court

Appeal From Richland County
Court of Common Pleas

Alison R. LEE, Circuit Court Judge

RECEIVED

DEC 30 2010

S.C. SUPREME COURT

Case No. 2010-CP-4003451

Anthony L. Fields — Appellant,
v.
Brian T. Petrano — Respondent,

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Brian T. Petrano by depositing a copy of it in the United States Mail, postage prepaid, on December 21, 2010, addressed to his attorney of record, Brian T. Petrano, P.O. Box 11549, Columbia, S.C. 29211. [by personally delivering a copy of the same to his attorney of record, Brian T. Petrano, at his office at P.O. Box 11549, on December 21, 2010.

Sworn to and Subscribed before
me this 21 day of Dec, 2010

Supreme Court L.S.

Notary Public for South Carolina
My Commission Expires: April 4, 2016

Anthony L. Fields

Anthony L. Fields
BRCI C-147
4460 Broadriver Rd,
Columbia, S.C. 29210

THE State OF South Carolina
TO THE Supreme Court

Appeal From Richland County
Court of Common Pleas

Alison RILEY, Circuit Court Judge

CASE No. 2010-CP-4003451

Anthony L. Fields — Appellant,

Brian T. Petrano — Respondant,

Explanation

Anthony L. Fields appeals the order of the Honorable Alison R. LEE, dated November 18, 2010. Appellant received written notice of entry of this order on December 3, 2010.

Anthony Fields

Anthony Fields

BRLC-147

4460 Broadview Rd.

Columbia, S.C. 29210

Procedural History

1. Fields was convicted on Oct 18, 2006, and thereafter appealed his conviction. THE Court of Appeals affirmed Fields conviction on 6-9-2009. Fields then sought relief by way of Post Conviction Relief, filed May 25, 2010.

2. It must be noted that while Fields was awaiting a decision by the Court of Appeals, Fields filed two PCR Petitions for two prior convictions, for which those sentences was completed. The current PCR petition that Fields filed, could not have been filed, because he was on Direct Appeal for that conviction.

3. Why the state contends that Fields current PCR Application (GS-40-3451), is successive and beyond the statute of limitations is completely outrageous. A petitioner can file a PCR petition for any conviction, so long as he or she has never filed one for that conviction, or if he or she is not in the Court of Appeals for that conviction. The record clearly proves that the petitioner (Fields) was well within the guidelines.

FOR THE RECORD

Fields has never had a PCR hearing for his current conviction, nor for any of his prior convictions.

THE state refuses to address not only the current petition, but Fields prior petitions that was filed.

Fields was convicted in Aug. 2005 for 1st degree Burglary, (2005-GS-40-5629).

But why do the conditional Order only states Charges from 1993?

And why do the Respondant claims that (2007-CP-40-6689) was the first PCR application that Fields filed? The record specifically shows that (2007-GS-CP-403581), was the first PCR application Fields filed. And why has the Respondant not mentioned anything at all about this petition? Nothing at all.

The bottom line is the Respondant only mission is to confuse the court.

The Respondant wants this court to believe that Fields current petition, is the same as the prior petitions that was filed. Those prior PCR petitions was for completed convictions for which Fields served the time for. And the court has yet to address those petitions, let alone Fields current PCR petition, as it is proven under Explanation,

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
Anthony Fields, # 200592)
Applicant,)
vs.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS

2010CP4003451

CONDITIONAL ORDER OF DISMISSAL

RICHLAND COUNTY
FILED
2010 AUG -5 AM 10:11
JEANETTE W. McBRIDE
C.C. CLERK S.S.

This matter comes before the Court by way of an Application for Post-Conviction Relief filed May 25, 2010.

I. PROCEDURAL HISTORY

This Court has before it a copy of the records of the Richland County Clerk of Court and Applicant's records from the South Carolina Department of Corrections. The records before this Court indicate that Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. The Applicant was indicted at the March, April, and July terms of the Richland County Grand Jury for two charges of burglary in the first degree (93-GS-40-2150, 2021), five charges of burglary in the second degree (93-GS-40-2152, 2155, 02157, 01967, 01969), and two charges of grand larceny and burglary in the first degree (93-GS-40-02020, 02022). He was represented by Eve Major, Esquire. On August 10, 1993, the Applicant pled guilty to the above charges. He was sentenced by the Honorable J. Ernest Kinard, Jr. to confinement for a period of twenty (20) years for each charge of burglary in the first degree, fifteen years (15) for each charge of burglary in the second degree, and thirty days (30) for each charge of grand larceny. The Applicant did not

appeal his guilty plea or sentence.

The Applicant filed his first application for PCR (2007-CP-34-6689) on October 8, 2007, in which the Applicant alleged the following grounds for relief:

1. Ineffective assistance of counsel on the allegation that counsel did not consult him on his ability to appeal or the proper manner in which to do so;
2. Involuntary guilty plea;
3. Newly Discovered Evidence;
4. Violation of Due Process;
5. Violation of Right to Counsel; and
6. Cruel and Unusual Punishment.

The Respondent made its Return and Motion to Dismiss on or about May 27, 2008, requesting that the application be summarily dismissed. By Final Order filed December 22, 2009, the Honorable James R. Barber, III, denied and dismissed the PCR application. The Applicant did not appeal.

CURRENT ALLEGATIONS

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

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

| |
|---|
| <p>9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:</p> <p>(a) <u>Ineffective assistance of counsel</u></p> <p>(b) <u>DUE PROCESS Violation</u></p> <p>(c) _____</p> |
| <p>10. State concisely and in the same order the facts which support each of the grounds set out in (9)</p> <p>(a) <u>Council did not investigate the defendant's charge, as required by the law.</u></p> <p>(b) _____</p> |

18. State clearly the relief you seek in filing this application.

A New Trial

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

County of Richland)

Anthony Fields #200592)

v.)

2010-CP-400-3451

Amended Application For)

State of South Carolina)

Post-Conviction Relief)

2010 JUL -9 PM 3:28
JENNIFER W. MCBRIDE
CLERK, C.P. & G.S.
RICHLAND COUNTY, SC

Procedural History

Petitioner was convicted on October 18, 2006 of first degree burglary. Petitioner appealed decision but decision was affirmed by the Appellate Court. Petitioner now wishes to bring forth these additional claims of Constitutional Magnitude for Post-Conviction review.

Ineffective Assistance of Counsel

Counsel was ineffective for failing to investigate and challenge the legality of petitioner's prior convictions, where those prior convictions were improperly used to enhance the current burglary conviction. Petitioner claims that prior convictions were uncounseled and therefore unconstitutional. Curtis v. U.S., 128 L.E.2d 517, Court Reaffirmed Maleng: (Constitutional challenge to enhance conviction and sentence requires a showing that there is a positive and demonstrable nexus between prior conviction and current custody.) Also, Harper v. Evans, 941 F.2d 1530; U.S. v. Tucker, 404 U.S. 443; Burgett v. Texas, 88 S.Ct 253. (U.S. v. Toney, 527 F.2d 716, Where motion to suppress prior convictions.)

Due Process Violation; Fourteenth Amendment

As the record proves, the state violated petitioner's due process rights over and over from petitioner's first burglary conviction (McCormick 1990),

which was uncounseled and therefore unconstitutional, and was used to enhance petitioner's 1993 guilty plea, to which the state continued to use those convictions to enhance this current conviction (Trial 2006). U.S. v. Tabares, 86 F.3d 326 (Due process requires that defendant not be convicted and sentenced based on inaccurate information as to his prior criminal record); Alexander v. state, 402 S.E.2d 484 (Prior convictions were, and can not be obtained in violation of defendant's due process rights). Petitioner has been suffering for 17 years because of this violation.

Eighth Amendment Violation

Petitioner has done time for convictions in which the state had no *subject matter* jurisdiction to convict the petitioner.

Prosecutorial Misconduct

The state willfully conducted a farce hearing (McCormick conviction) without the attendance of the court officials. Mooney v. Holohan, 555 Ct. 340, 294 U.S. 103, 79 L.E.d 791. The state induced petitioner to plea (1993 guilty plea) by enhancing charges to first degree burglary. U.S. v. Brown, 117 F.3d 471; Baldasar v. Illinois, 100 S.Ct. 1585; State v. McDuffie, 277 S.E.2d 595; Esslinger v. Davis, 44 F.3d 1515; Marchibroda v. U.S., 32 S.Ct. 510 (A guilty plea if induced, deprives it of the character of a voluntary act, then it is void.) The coercive nature of the guilty plea (1993 guilty plea).

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court has reviewed the pleadings and all relevant supporting documents. Pursuant to S.C. Code Ann. § 17-27-70(b) (2003), the Court makes the following findings of fact and conclusions of law:

This Court finds that the current application for post-conviction relief must be summarily dismissed because it is successive to his prior application for post-conviction relief. S.C. Code Ann. §17-27-90 provides that:

All grounds for relief available to an application under this chapter must be raised in his original, supplemental or amended Application. Any ground finally adjudicated or not so raised,

Anthony Fields – Conditional Order of Dismissal (2010CP4003451)

knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding 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.

Successive applications are disfavored and the burden is on Applicant to establish that any new ground raised in a subsequent application could not have been raised by him in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 309 S.C. 157, 420 S.E.2d 834 (1992).

This Court finds that the current allegations were or could have been raised in the proceedings based on Applicant's prior application for post-conviction relief and thus the current application is successive and barred under S.C. Code §17-27-90. Applicant has failed to establish sufficient reason why he could not have raised his current allegations in his previous application for post-conviction relief; therefore, he has failed to meet the burden imposed upon him. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980); Aice v. State, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 420 S.E.2d 834 (1992).

This Court finds that this matter should be summarily dismissed because Applicant has failed to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160 (2003). S.C. Code Ann. § 17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996).

The Applicant was convicted of the offense he challenges in this Application on August 10, 1993. The Applicant was therefore required to file his application before August 10, 1994. This Application was filed on May 25, 2010, which was well beyond the time that the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (2003) authorizes the PCR Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law."

CONCLUSION

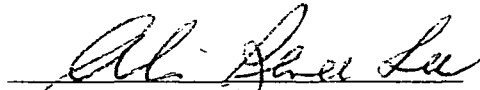
S.C. Code Ann. § 17-27-70(b) states in pertinent part:

When a court is satisfied, on the basis of the application, the answer or motion, and on the record, that Applicant is not entitled to post-conviction relief and no purpose would be served by a further proceeding, it may indicate to the parties its intention to dismiss the application and give its reasons for so doing. Applicant shall be given an opportunity to reply to the proposed dismissal.

Pursuant to S.C. Code Ann. § 17-27-70(b), the Court intends to dismiss this Application with prejudice unless the Applicant provides specific reasons, factual or legal, why the Application should not be dismissed in its entirety. The Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final. The Applicant shall file any reasons he may have with the Richland County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
Attn: Brian Petrano, Esquire
P.O. Box 11549
Columbia, South Carolina 29211

AND IT IS SO ORDERED this 4th day of August, 2010.


The Honorable Alison Renee Lee
Chief Judge for Administrative Purposes
Fifth Judicial Circuit

Columbia, South Carolina.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

2010CP4003451

Anthony Fields, #200592,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

FINAL ORDER OF DISMISSAL

JEANETTE W. McBRIDE
C.J.P. & G.S.

2010 NOV 18 PM 2:35

RICHLAND COUNTY
FILED

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed May 25, 2010. The Respondent made its Return and Motion to Dismiss on July 26, 2010, requesting that the Application be summarily dismissed. Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal dated August 5, 2010, provisionally denying and dismissing this action, while giving the Applicant twenty (20) days from the date of service of said Order in which to show why the dismissal should not become final.

Applicant timely filed a document captioned "Opposition to Conditional Order of Dismissal" in response to the Conditional Order of Dismissal. Applicant argues that his current PCR application, 10-CP-40-2451, "is a direct attack on his current conviction," rather than a direct attack on his prior convictions.

I. PROCEDURAL HISTORY

Applicant has two sets of convictions, among others, which are important here. Applicant pleaded guilty in 1993 to several burglary and larceny charges in Richland County. Applicant received a sentence of twenty years in total. Applicant was released from prison on supervised furlough in February 2005. On June 2, 2005, Applicant burglarized an apartment in Richland County. On June 8, 2005, Applicant was arrested. Applicant was charged with first-degree burglary and petit larceny and a trial was held. Applicant was found guilty and on October 18, 2006, was sentenced to life without parole.

On October 8, 2007, Applicant filed an application for post-conviction relief, 2007-CP-40-6689, challenging his 1993 convictions in Richland County. Among other claims, Applicant claimed a violation of his right to counsel. Applicant's 2007 PCR application was summarily dismissed because it was not filed within the statutory limitations period and due to the doctrine of laches.

On May 25, 2010, Applicant filed this current PCR application. Applicant's current PCR application purports to challenge his 2006 convictions on the claim that Applicant's 2006 trial counsel was ineffective for failing to challenge his 1993 convictions.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court finds that the current application for post-conviction relief must be summarily dismissed because it is successive to his prior application for post-conviction relief. S.C. Code Ann. §17-27-90 provides that:

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.

Successive applications are disfavored and the burden is on Applicant to establish that any new ground raised in a subsequent application could not have been raised by him in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 309 S.C. 157, 420 S.E.2d 834 (1992).

In his current PCR application Applicant purports to challenge his 2006 convictions, but in reality only challenges his 1993 convictions. Applicant attempts to use the ruse of a claim of ineffective assistance of counsel to file a successive PCR application for his 1993 convictions. His claim regarding purported ineffective assistance of counsel for the new conviction is based solely on another challenge to the legitimacy of his 1993 conviction:

Ineffective Assistance of Counsel

Counsel was ineffective for failing to investigate and challenge the legality of petitioner's prior convictions, where those prior convictions were improperly used to enhance the current burglary conviction. Petitioner claims that prior convictions were uncounseled and therefore unconstitutional. Curtis v. U.S., 128 L.E.2d 517, Court Reaffirmed Maleng: (Constitutional challenge to enhance conviction and sentence requires a showing that there is a positive and demonstrable nexus between prior conviction and current custody.) Also, Harper v. Evans, 941 F.2d 1533; U.S. v. Tucker, 404 U.S. 443; Burgett v. Texas, 88 S.Ct 258. (U.S. v. Toney, 527 F.2d 716, where motion to suppress prior convictions.)

The legitimacy of his 1993 convictions has been (or could have been) addressed via his prior

Applicant's 1993 convictions was, for PCR purposes, "finally adjudicated" in the 2007 PCR action. S.C. Code Ann. § 17-27-90 prohibits applicants from raising in new PCR applications grounds that were finally adjudicated in past PCR proceedings. Applicant cannot advance on his purported claim of ineffective assistance of counsel without first demonstrating that his 1993 convictions were invalid. But the validity of his 1993 convictions has been finally adjudicated. Thus, any attempt to challenge the validity of Applicant's 1993 convictions, as Applicant attempts to do here, is successive to his 2007 PCR application and must be dismissed.

Additionally, this Court finds that this matter should be summarily dismissed because Applicant has failed to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10, et seq. (2003). S.C. Code Ann. § 17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was convicted of the offense he challenges in this Application on August 10, 1993. The Applicant was therefore required to file his application before August 10, 1994. This Application was filed on May 25, 2010, which was well beyond the time that the statutory filing period had expired.


motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law."

CONCLUSION

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

This Court hereby advises the Applicant that he must file and serve a Notice of Appeal within thirty (30) days of the service of this Order to secure appellate review. See Rule 203, SCACR. The Applicant's attention is directed to Rule 243, SCACR., for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this 18 day of November, 2010.



Alison Renee Lee
Chief Administrative Judge
Fifth Judicial Circuit

Columbia, South Carolina.

Ex. A THE first PCR petition Fields filed was for a prior completed conviction. (GS-40-3581) was filed 8-9-07. And on 6-25-08, the residing judge, Knox McMahon rescused himself from the case. The state refuse to address and acknowledge this petition. I have heard nothing from the state to this day, on this case.

Pg. 2

Ex. B THE second PCR petition Fields filed was for another prior completed conviction. (GS-40-6689) was filed 10-8-07. On 6-11-08, the Respondent (State) Requested an evidentiary hearing for this petition. THE Residing Judge, Casey Manning, for no reason dismissed the petition. It is widely known that MR. Manning commentates Basketball Games. Does he have enough time to Review PCR Petitions? Fields is still awaiting that hearing for which the state requested.

Pg. 3

Ex. C Now Fields current Petition, (GS-40-3451) is being claimed successive and beyond the statute of Limitations. This application was filed within the Rules and Guidelines of the Uniform Post Conviction Relief Act.

FORM 4

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

FILED

JUDGMENT IN A CIVIL CASE

CASE NO. 2007 - CP-35 81

ANTHONY L. FIELDS, # 200592

08 JUN 27 AM 10: 25

STATE OF SOUTH CAROLINA

KATHRYNE P. BUTLER
CLERK OF COURT
McCORMICK COUNTY, S.C.

PLAINTIFF(S)

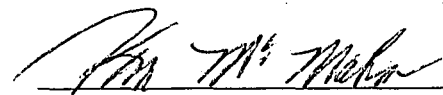
DEFENDANT(S)

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC Rule 41(a), SCRPC (Vol.) Nonsuit: Rule 43(k), SCRPC (Settled); Other - _____
- ACTION STRICKEN (CHECK REASON):** Rule 400) SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____

IT IS ORDERED AND ADJUDGED: See attached order Statement of Judgment by the UPON REVIEW OF THIS POST CONVICTION RELIEF MATTER I DISCOVERED I WAS THE SOLICITOR FOR THE ORIGINAL ACTION. THUS, THIS COURT WITHDRAWS THE "CONDITIONAL ORDER OF DISMISSAL" FILED NOVEMBER 8, 2007. FURTHER, I RECUSE MYSELF FROM ANY FURTHER PART IN THIS MATTER.

Dated at LEXINGTON, South Carolina, this 25TH day of JUNE, 20 08


PRESIDING JUDGE

This judgment was entered on the 27th day of June, 20 08, and a copy mailed first class this 30th day of June, 20 08 to attorneys of record or to parties (when appearing pro se) as follows:

U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

→ Ex. B Respondent submits that the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact which is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper v. State, 305 S.E.2d 247.

V.

Respondent submits that the Applicant's allegation of newly-discovered evidence is also without merit. A party making a motion for a new trial or for relief from judgment based on newly-discovered evidence must show that the evidence: (1) will probably change the result if a new trial is granted; (2) has been discovered since the trial; (3) could not have been discovered before the trial; (4) is material to the issue; and (5) is not merely cumulative or impeaching. Lanier v. Lanier, 364 S.C. 211, 612 S.E.2d 456 (S.C. App. 2005).

The Respondent submits that the Applicant cannot satisfy either requirement of the Lanier test. In fact, the allegation of newly-discovered evidence is so vague that it is impossible

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State,

Respondent,

v.

Anthony Fields,

Appellant.

Appeal From Richland County
James W. Johnson, Jr., Circuit Court Judge

Unpublished Opinion No. 2009-UP-263
Submitted May 1, 2009 – Filed June 2, 2009

AFFIRMED

Appellate Defender Eleanor Duffy Cleary, of
Columbia, for Appellant.

Attorney General Henry Dargan McMaster, Chief

Anthony Fields

BREF C-147

4460 BROADRIVER Rd.
Columbia, S.C. 29210



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CONGAREE UNIT

DEC 29 2010

BRCI
MAILROOM

LEGAL MAIL

Daniel Shearhauer

P.O. Box 11330

Columbia, S.C. 29211