THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

APPEAL FROM CHARLESTON COUNTY
COURT OF COMMMON PLEAS
DALE E. VAN SLAMBROOK, Circuit Court Judge

CASE NO. 2019-CP-10-00813

Anthony D.J. Wilder,
Appellant

vs

State of South Carolina,
Respondent

NOTICE OF INTENT TO APPEAL

I, Anthony D.J. Wilder appeals the Final Order of Dismissal issued by Honorable Dale E. Van Slambrook dated January 28, 2026 and filed on February 12, 2026, a copy of which is attached hereto, along with Conditional Order of Dismissal.

Anthony D.J. Wilder #328282
Kershaw Corr. Inst.
4848 Goldmine Hwy
Kershaw, SC 29067

I, appellant was indicted by the Charleston County Grand Jury for Murder, first degree burglary, assault and battery with intent to kill, and two counts of kidnapping. Lionel S. Lofton and V. Lynn Lofton represented me. Assistant Solicitors Nathan Stuart Williams and Julie Cardillo were the Solicitors.

On May 5, 2008 I went before the Honorable J. Derham Cole in a jury trial. Where the jury found me guilty, and on May 9, 2008 Judge Cole sentenced me to life for murder, life for first degree burglary, twenty years for assault and battery with intent to kill, and thirty years for kidnapping.

I filed a timely notice of appeal, and was represented by Chief Appellate Defender Robert Dudek. The South Carolina Court of Appeals denied appeal August 9, 2011 in an unpublished opinion. State v. Wilder, Op. No. 2011-UP-385. I filed a petition for rehearing which was denied on November 17, 2011. Then I filed a petition for writ of certiorari in the South Carolina Supreme Court on December 29, 2011. On March 20, 2013, the South Carolina Supreme Court denied petition. The remittitur was issued on April 9, 2013.

Then I filed an application for post conviction relief on September 25, 2013, in which I claim the following grounds for relief: Ineffective assistance of counsel for not objecting to hearsay testimony, and Prosecutorial Misconduct where Solicitor allowed a State witness to commit perjury in trial testimony. Respondent made its return on February 19, 2014 and filed on February 21, 2014. A Notice of Amendment to the Post Conviction Relief application was filed on April 24, 2014 by James Falk of the Bush Law Group, P.C. That included Ineffective assistance of trial counsel for not calling attention to the discrepancy between the testimony of one witness and the written statement of another, and Ineffective assistance of appellate counsel in that he did not raise issue of whether the trial court was correct in admitting certain physical evidence over timely objection of trial counsel. App. 1043.

On December 15, 2015 a evidentiary hearing was held at the Charleston County Courthouse before the Honorable Deadra Jefferson. I was represented by Naki Richardson-Bax. J. Rutledge Johnson represented the State.

As the PCR hearing began I raised Ineffective assistance of counsel for not objecting to hearsay testimony and Solicitor Constituted prosecutor misconduct when allowed State witness to commit perjury in trial testimony. App. 1037, 19-1041, LN13. When I began to raise trial counsel was ineffective for not objecting to admittance of evidence. The State objected to it as not raised in application. PCR counsel explained that there suppose to be two amended applications by original appointed counsel Mr. Falk. App. 1041, LN19-1043. When PCR counsel and I proceeded and attempted to raise trial counsel was ineffective for not objecting to a mask marked State's Exhibit No. 113 and a glove marked State's Exhibit No. 114. The Court objected to it, as not seeing it in application. PCR counsel asked the Court to be able to talk about this evidence that was submitted. The Court said "confine everything to appellate counsel, not trial counsel. Because the Court was not going to go back and rehash all that. If he objected to it that's a forgone issue. Direct questions to what appellate counsel did, because I'm not going to go through every piece of evidence that's in this voluminous record because the evidence he's talking about his lawyer objected to it." App. 1044, LN14-1046, LN4.

When I proceeded, I raised appellate counsel was ineffective because he failed to raise a issue that was properly preserve for appeal. Where a objection was made to a mask marked State's Exhibit No. 104, pair of gloves marked States Exhibit No. 105, and another pair of gloves marked State's No 106 because collection officers did not identify this evidence and trial judge overruled the objection. App. 1047, LN13-1048, LN6. When I continued on how appellate counsel was ineffective, because he argue under the same Rule as trial counsel that Rule 702, SCRE deals with reliability of evidence. Where Rule 702, of SCRE relates to testimony of experts. The State objected claiming this issue has been raised and ruled upon by the Court of appeals. PCR counsel asked to allow me to explain better. The

Court instead ruled that it does deal with reliability... The parts have already been dealt with in appeal... And they have already ruled there is no basis under the case law regarding the DNA that was developed from his pants. App. 1047, LN 13-1049, LN 21.

PCR counsel began direct examination of trial counsel inquiring whether he remeber the defense theory of the case. Trial counsel stated, "... Of course we challanged the DNA which was the main issue on appeal. The chain of custody of clothing, we thought the chain was contaminated..." Trial counsel continued, "you got to remember the big problem with this case was that he and the other two Defendants were arrested in a car fleeing the scene and that was during the course of their fleeing the scene of course they were throwing evidence out the window, mask and things of that nature. Those were pretty substantial obstacles to try to overcome. App. 1056, LN 25-1057.

PCR counsel questioned trial counsel about the evidence that was found on the side of the road. Did he remember there being an issue about the chain of custody regarding the evidence that was taken off the side of road. Trial counsel answered, "I can tell you I remember there was chain of custody issues in the trial. Specifically what items I can't tell you." App. 1057, LN 25-1058, LN 13.

PCR counsel questioned, "When we talk about the chain of custody, one of the pieces of evidence that was found was the mask and the glove off the side of the road. Can you -- would I be wrong if I rephrase that that's where it was found?" Trial counsel answered, "I'm not going to tell you that you are wrong, but I'm not going to tell you you are right either. I specifically don't remember. All I can tell you is that there were a number of items seized from the side of the road that the allege Defendants were throwing from the car as they were fleeing the scene and police were in hot pursuit." The State objected to the line of questioning. That there's nothing in the application that's saying ineffective for failing to challenge the chain of custody.

PCR counsel answered, "Your Honor, I was just laying the ground work which the defense had to deal with." The Court said, "I'm going to give you a little latitude. You may proceed." App. 1059, LN 11-1060, LN 5.

PCR counsel further questioned trial counsel," were there any other issues regarding -- aside from the evidence that you felt were something that could be brought up in Mr. Wilder defense? I know we talked chain of custody and evidence. We talked about DNA. Was there anything else that you had felt was a particular issue to raise during your defense of Mr. Wilder?" Trial Counsel:" One of the other issues that we raised and argued strenuously during the course of the trial was the identification because the victim that identified Mr. Wilder, the State introduced certain photographs that looking at the photographs to where she said she identified him from her location in her house there were trees in the way,.. How did you see that through the bushes?. So we did challenge her identification. We also raised the issue of if I recall that Mr. Wilder's photograph or picture had been on television, it had been in the newspaper and so there was a great deal of cross-examination of her and the reliability of her identification of him being outside the residence prior to the attack." PCR counsel:" Did you become aware before trial that they were going to make an in-court identification to Mr. Wilder?" Trial Counsel: I can't tell you yes, but I must have had that information. I'm guessing that in one of my conversations with Nathan Williams who was the prosecutor that he told me that there was going to be or attempt to be an in-court identification. I can't say that unequivocally, but that - I'm guessing that's what happen. PCR counsel:" And you didn't object to that in court identification?" The State objected stating this is not in the application. The Court ask PCR counsel would she like to respond. PCR counsel stated," You Honor, this all has to do with his defense of Mr. Wilder trying to figure out what the strategy and defense was at the time." The State answered, "To reply, Your Honor, she is going into specific instances of his defense that were not in the application. The State has no notice of that..." The Court:" I will give her a little latitude. He said things within the strategy and I am going to let her develop that line of questioning. Then if you need additional time to prepare for cross I will give you that. You may proceed." App. 1060, LN 7 - 1062, LN 11.

PCR counsel questioned," Now as the DNA results become an issue did you ever feel at any time that that might have been something that might have been something that could have been explored, at least the contamination part with an

expert witness or -- The State objected stating she is getting into whether or not he was ineffective for failing to secure an expert witness. That's a specific allegation that the State objects to. The Court: Ms. Bax, I have read the transcript and I am at loss as to how an expert would have aided. PCR Counsel: That wasn't my question. The Court: So let's ask the question. Because what his strategy was, you don't really need an expert to establish contamination... You may ask the question, Ms. Bax. PCR Counsel: Was that ever something that was considered? Trial Counsel: I did not consider consulting an expert, no, ma'am. App. 1063-1064, LN 3.

At the end of the hearing PCR Court made a ruling; He raised a Biggers issue. Basically base on the overwhelming breadth of this record, even if he had a Biggers hearing it is unlikely he would have prevailed on it, and even if it was error for Mr. Lofton to have not requested on, it would have been harmless error. Given the overwhelming evidence in this record it would be harmless error and since the standard is only a preponderance of the evidence, it is unlikely that the Court would have suppressed the identification that is contained in the record... App. 1076 23-1077, LN 12. The Court further ruled, "... What is overwhelming in this regard, most troubling is that he could not overcome the fact they were arrested within such close proximity of the allege incident and they were discarding the fruits of this event from the vehicle. That in and of itself with nothing else being offered in the record is enough to have convicted him. App. 1079, LN 9-16.

The Court further ordered, "The State is directed to provide the Court with a proposed order within 20 days of today and provide Ms. Bax a copy of that order so that she can weigh in on anything that she would like to have added for the Court to consider that. App. 1081, LN 14-18.

On May 5, 2016 PCR judge signed order of dismissal denying application that was filed May 6, 2016 App. 1083-1091. PCR counsel received order of dismissal on May 16, 2016 and filed motion to alter or amend judgment on May 26, 2016. On July 26, 2016 PCR judge signed and filed amended order of dismissal. App. 1093-1102

From a Motion to alter or amend judgment filed on May 26, 2016 and received

on June 10, 2016 where the order is amended to reflect that Applicant's allegation made in the Notice of Amendment to Post Conviction Relief Application. PCR counsel submitted "copies of letters" to the Court date January 6, 2016 and January 14, 2016 that were sent to the State which addressed the issues raised by her client after the hearing. This motion is disposed of without the necessity of a hearing and decided on the record and written motion. Rule 59(f), SCRCP; Pollard v. City of Florence, 314 S.C. 397, 401-402, 444 S.E.2d 534, 536 (Ct. App. 1994). The State was given the opportunity to respond to the motion and declined. This Court finds that all of the issues that were raised during the hearing have now been addressed and those raised afterwards are waived as untimely. App. 1093 (footnote #1)

On March 8, 2017, John H. Strom, of the South Carolina Commission on Indigent Defense, filed a Johnson petition for writ of certiorari in the Supreme Court of South Carolina. Where he raised, Did the PCR court error in finding that trial counsel provided effective assistance of counsel where trial counsel failed to conduct a reasonable investigation by not consulting with an expert to support the defense theory that DNA evidence showing the deceased blood on Petitioner's clothes was hopelessly contaminated by law enforcement's improper evidence handling. The South Carolina Supreme Court ordered the case transferred to the South Carolina Court of Appeals on October 30, 2017. On September 5, 2018 the South Carolina Court of Appeals denied writ of certiorari and granted counsel's request to withdraw. I filed a petition for rehearing on September 25, 2018. Raising issues: Did the PCR court error in not ruling and explaining on whether appellate counsel was ineffective for raising issue properly preserve for appeal. Where trial counsel made an objection to the admittance of a mask marked State's Exhibit No. 104, a pair of gloves marked State's Exhibit No. 105, and pair of gloves marked State's Exhibit No. 106 when the collection officers did not identify this evidence and trial judge overruled the objection. Did the PCR court error in not ruling on the 59(e) motion and explaining on whether trial counsel was ineffective for failing to object to the admittance of State's evidence a mask marked State's Exhibit No. 113, and a glove marked State's Exhibit No. 114 when there was a missing link in the chain of custody. Did the PCR court error in not ruling on the 59(e) motion and explaining on whether trial was

ineffective for failing to object to the admittance of State's evidence when the chain of custody was not establish, where the custodian of property and evidence was not identify at the evidence compound. Did the PCR court error in ruling that had Petitioner had a Biggers hearing Petitioner would not had prevail, where trial counsel was ineffective for failing to timely object to unreliable in court identification. Did the PCR court error in ruling SCRE Rule 702 does deal with reliability. On October 18, 2018 the South Carolina Court of Appeals denied petition for rehearing. The remittitur was issued on November 28, 2018.

Second Post Conviction Relief application was filed on February 19, 2019 base upon being held in custody unlawfully pursuant to S.C Code Ann. §17-27-20(A)(1)(2)(b) newly discovered evidence and to 17-27-90 Ineffective assistance of counsel, with attached affidavit of truth and motion for post conviction relief. Raising the following grounds under ineffective assistance of counsel; for failing to object to in court identification, for failing to consult with an independent expert witness, for not objecting to admittance of evidence a mask State's No. 113, and a glove State No. 114 where there was a missing link in the chain of custody, for not objecting to the admittance of States evidence where there was a missing link in the chain of custody because the evidence custodian could not be identify at the evidence compound, for erroneously arguing Rule 702 SCRE refers to reliability of evidence, and Appellate counsel ineffective for not raising issue properly preserve for appeal. And newly discovered evidence, where there was no visible impression of the Great Seal of the State that could be located on the following Act(s): 1993 Act. No. 184, 1995 Act No. 7, 1996 Act No. 317, 1998 Act No. 402, 2002 Act No. 278.

The State in making its Return to the application in proposed order of dismissal allege application must be summarily dismissed for failure to comply with the filing procedures of the Uniform Post Conviction Procedure Act S.C Code Ann. § 17-27-10 to-160, Specifically, Under S.C Code Ann. § 17-27-45(a) Statute of Limitations. That I was convicted and sentenced on December 6, 1996. The remittitur from the direct appeal was issued on December 10, 1998. The application was therefore due on December 10, 1999. This application was filed on September 19, 2018, well beyond the statutory filing period. Therefore, the application shall be summarily dismissed for failure to file within the time mandated by the Uniform

Post Conviction Procedure Act.

The State further find the application must be summarily dismissed because it is successive to Applicants previous PCR application. Alleging Applicants current allegations were or could have been raised in the proceedings based on Applicant's ~~prior~~ application for post conviction relief; thus, this current application is successive and barred under SC Code Ann. §17-27-90. Applicant has failed to establish any sufficient reason why he could not have raised his current allegations in previous application for post conviction relief. Therefore, he has failed to meet the burden imposed upon him, and the Court shall summarily dismiss the application as successive to Applicants previous PCR application. Then the State allege applicant assertion that he is being held in custody unlawfully as a result of newly discovered evidence, that he should be entitled to vacation of his sentence and immunity is without merit. The Uniform Post Conviction Relief Act states that a person may institute a post conviction action if, "there exists evidence or material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice." SC Code Ann. §17-27-45(a)(4). If the applicant contends there is evidence of material fact not previously presented, post conviction relief application must be filed within one year after the date of actual discovery of the facts by the applicant or after the date when the facts could have been ascertained by the exercise of reasonable diligence. S.C. Code Ann. §17-27-45(C). Furthermore, in the alternative, Applicant's discovery of the missing Great Seals under Article III section 18 does not constitute newly discovered evidence. This evidence was discoverable prior to the entry of the plea. By entering a guilty plea, Applicant waived his right to present any and all defenses that he may have had, and he certainly cannot raise them now in his current application for post conviction relief under the guise of "newly discovered evidence".

In conclusion pursuant to SC Code Ann. §17-27-70(b) the Court intended to dismiss the application with prejudice unless provided specific reasons, factual or legal, why the application should not be dismissed in its entirety. Where I was granted 20 days from the date of service of this order to show why the Order should not become final. This Order was signed July 1, 2020 by the Honorable Jennifer B. McCoy and filed on July 10, 2020. And served on August 3, 2020 by Affidavit of Personal Service.

In my Response to Conditional Order of dismissal filed on August 17, 2020 in rebutting the States claim that application should be summarily dismissed because of statute of limitations. I informed the Court that I was convicted and sentenced on May 9, 2008 and the remittitur from Direct Appeal was issued on April 9, 2013. And filed first PCR application on September 26, 2013. The remittitur for the first PCR appeal process was issued on November 28, 2018. Where I filed a timely second PCR application on February 19, 2019. Showing the Court that under the Uniform Post Conviction Procedure Act I fall within those guidelines.

And on the States claim of successiveness, I pointed out to the Court that these issues are from the 'copies of letters' the PCR judge stated PCR counsel submitted to the Court addressing issues. Where PCR counsel filed a timely Rule 59(e) motion because the PCR court failed to rule on issues. The Court dispose motion without a necessity for a hearing and decided on the record and written motion. Rule 59(f), SCRCP, Pollard v. City of Florence, 314 S.C. 397, 401-402, 444 S.E.2d 534, 536 (Ct.App. 1994). The State was given opportunity to respond to motion and declined. The Court found that all issues that were raised during the hearing have now been addressed and those raised afterwards are waived as untimely. And further urged the Court that in Pollard is similar, however different from Applicant case. In my case PCR counsel submitted 'motion to alter or amend' and 'copies of letters' without arguement on issues raised nor citations to legal authority. In the Pollard case motion set forth legal arguments on issues and gave citations to legal authority. When the PCR court erroneously denied PCR application, for those reasons above I filed under S.C. Code § 17-27-90. Due to PCR counsel failure to properly raise issues, I should not be denied to raise issues under S.C. Code Ann. § 17-27-90 due to PCR ~~counsel~~ inadequacy.

And additionally asserted that I made discovery of the evidence where there is no visible impression of the Great Seal of the State on Act Nos. 1993 Act No. 184, 1995 Act No. 7, 1996 Act No. 317, 1998 Act No. 402, and 2002 Act No. 278 when Mr. Steven D. Tuttle, Deputy Director of Archives and Record Management from the South Carolina Department of Archives and History notified me in a letter dated October 17, 2018 and November 18, 2018. (See in PCR attachments) Article III Section 18 of the South Carolina

Constitution states," No Bill or Joint Resolution shall have the force of law until it shall have been read three times and on three several days in each house, and has had the Great Seal of the State affixed to it...." Pursuant to S.C. Code Ann. §17-27-20(A)(1)(2)(6), I assert this is newly discovered evidence, and the issue that is being raised is in regards to the Act and Law in which I was convicted and sentenced under. And that I do meet the requirements of both statutes SC Code Ann. §17-27-20(A)(4) and 17-27-45(C). And the Respondent(s) argument that I am requesting a new trial based on after-discovered evidence following a guilty plea is misplace and improper where I was found guilty after a jury trial.

Then on May 12, 2025 I filed a motion for leave to file an amended response to Conditional order of dismissal. Pursuant to Rule 15(a), SCRCP to enter a order granting leave to filed amended response containing additional reasons why not to dismiss application in its entirety. Since initial response to the State Conditional Order of Dismissal was filed more than 3 years ago, and still pending, with no hearing date schedule, the State would not be prejudiced by allowing me to file amended response. Where I also filed motion to amend response with the motion for leave to file on May 12, 2025. Pursuant to Rule 15(b) SCRCP with additional reasons, factual and legal why second PCR application should not be dismiss in its entirety. The issues now being raised under §17-27-90 for Ineffective Assistance of Trial Counsel inside current and second Post-Conviction Relief application were attempted to be raised at first an initial PCR hearing. Where the State objected to issues for not being in original application. App. 1041, LN 19-1045, 1051, LN 5-12. PCR counsel asked the Court to talk about and present additional issues. App. 1045, LN 3-8. The PCR court stated to confine everything to appellate counsel, not trial counsel. Because the Court was not going to go back and rehash all that, and not going to go through every piece of evidence in the voluminous record because the evidence that I was talking about trial counsel objected to it. App. 1045. Where in fact, trial counsel did not object to any issues I attempted to raise. The PCR court denied me the opportunity to raise additional issues during hearing at every attempt when the State objected, however allowed PCR counsel raise issue, question, and elicit testimony from trial counsel over the State objections. App. 1056, LN 25-1063. At the close of hearing the Court stated PCR counsel can weigh in

on anything that she would like to have added for the Court to consider. App 1081, Ln 16-18.

Pursuant to §17-22-90 "All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental, or amended application." I attempted to present issues during hearing, and the State objected to it. PCR counsel was allowed to supplement the record, where the State did not object. The Court agreed that PCR counsel vet all information from me, to determine if there were any meritorious issues that needed to be address. (Attached as Exhibit A motion to alter/amend with response) Counsel submitted copies of letters to the Court January 6, 2016 and January 14, 2016 that were sent to the State which addressed the issues raised by I, applicant after the hearing. The PCR court disposed of motion per Rule 59(f), SCRCP; Pollard v. City of Florence. The State was given opportunity to respond to the motion and declined. The Court stated all issues raised during hearing have been addressed and those raised afterwards are waived as untimely. The PCR court disposed of motion per Rule 59(f), SCRCP; Pollard v. City of Florence, because issues were not raised properly by being in letter form. PCR judge abused its discretion in not ruling on additional amended and supplemental issues following the Rule 59(e) motion, and waiving those issues as untimely. The State did not object to the PCR counsel request to supplement the record and also denied to respond to the motion.

Where the PCR court allowed PCR counsel to elicit testimony from trial counsel over the State objection, I should have been permitted to present claims that the State objected to as not being in application. Where the PCR court gave PCR counsel latitude to elicit testimony from trial counsel, the issues I attempted to raise during and after hearing was rebuttal evidence to trial counsel testimony and held merit. The PCR court allowed PCR counsel to weigh in on anything to be added, agreed with the stipulation to supplement the record, and that counsel vet all information from me to determine if there were any meritorious issues that needed to be addressed. Even though issues were not properly raised in application and not in proper motion form. The PCR court should have allowed issues to be raised on the record during and after hearing pursuant to Rule 15(b), SCRCP, and ruled on issues pursuant to the Rule 59(e), SCRCP, and

pursuant to S.C. Code Ann. §17-27-70(c) and 17-27-80. from the above stated facts, I provided the Court with amended specific reasons why application should not be dismiss.

Then the Court sent a final Order of Dismissal signed January 28, 2026 and filed February 12, 2026 by Honorable Dale E. Van Slambrook. To summarily dismiss the action as procedurally barred pursuant the Uniform PCR Act. Alleging that I failed to set forth any valid basis for an evidentiary hearing. Although that I allege newly discovered evidence, my allegations of newly discovered evidence are insufficient to warrant a hearing on this issue. That my contention that the statute of limitations does not apply to my current PCR action because I filed within my one year from the remittitor of PCR appeal lacks merit. That I fail to file my current PCR application within one year limitation set forth in the Uniform PCR Act. And that my contention my application is not successive because PCR counsel failed to properly raise issues also lacks merit. And did not provide a "sufficient reason" why my current grounds for relief were not raised in previous PCR application.

Argument

When considering the State's motion for summary dismissal of an application, where no evidentiary hearing has been held, the Circuit Court must assume facts presented by an applicant are true and view those facts in the light most favorable to the applicant. Similarly, when reviewing the propriety of a dismissal, this Court must view the facts in the same fashion. Leamon v. State, 363 S.C. 432, 434, 611 S.E.2d 494, 495 (2005) (Citing S.C. Code Ann. §17-27-80) Where an applicant alleges facts that would establish an exception to either the Statute of limitations or the prohibition against successive PCR applications and those facts are not conclusively refuted by the record before the PCR court, a question of fact is raised which can only be resolved by a hearing. McCoy v. State, 401 S.C. 363, 737 S.E.2d 623 (2013) (Citing Cf. Delaney v. State, 269 S.C. 555, 556, 238 S.E.2d 679 (1977)).

The State claim in Conditional Order of dismissal that I was convicted and sentenced on December 6, 1996. The remittitor from direct appeal was issued on December 10, 1998 and application was due on December 11, 1999. Is entirely an error and improper procedural

history of Applicant case. Where the Court erroneously applied S.C. Code Ann. 17-27-45(a) to Applicant case. Where I inform the Court that I was convicted and sentenced on May 9, 2008, and remittitur from Direct Appeal was issued April 9, 2013. First PCR application was filed on September 25, 2013, and remittitur from that PCR appeal was issued on November 28, 2018. where second PCR application was filed on February 19, 2019. An accumulation of an estimated 8 months in total between remittiturs and filings, and not exceeding a year at any time between remittitur and filing. "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 a year after sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later." S.C. Code Ann. §17-27-45(a)

"If the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence, the application must be filed under this chapter within one year after the date of actual discovery of the facts by the applicant or after the date when the facts could have been ascertained by the exercise of reasonable diligence." S.C. Code Ann. §17-27-45(c). I did not make actual discovery of Acts not having a visible impression of the Great Seal of the State on it until I received the response to the letter I sent making the inquiry on October 4, 2018 and November 8, 2018 and received a response from the South Carolina Department of Archive & History on October 12, 2018 and November 14, 2018. And filed application on February 19, 2019 that is within the one year after the date of actual discovery of facts according to S.C. Code Ann. §17-27-45(c).

The Court contends this evidence was discoverable prior to the entry of the plea, that waived my rights to present any and all defense that I may have had and certainly cannot raise them in current application for post conviction relief under the guise of 'newly discovered evidence'. The above allegations by the Court is another incorrect and improper assertion, where I was convicted after a jury trial. The Court claim the newly discovered evidence is insufficient to warrant a hearing on this issue.

S.C. Constitution Art. III § 18 states, "No Bill or Joint Resolution shall have the force of law until it shall have been read three times and on three several days in each

house, has had the Great Seal of the State affixed to it..." There is no Great Seal of the State affixed to the following Act(s): 1993 Act No. 184, 1995 Act No. 7, 1996 Act No. 317, 1998 Act No. 402, and 2002 Act No. 278. Under the Uniform Post Conviction Procedure Act S.C. Code Ann. §17-27-20 Persons who may institute proceeding; exclusiveness of remedy. (A) A person who has been convicted of, or sentenced for, a crime who claims (1) That the conviction or the sentence was in violation of Constitution of the United States or the Constitution or laws of this State; (2) That the court was without jurisdiction to impose sentence; and (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;...

Which I have shown to the Court there is a claim of vidation of the Constitution of this State and United States Constitution, that renders the Court without jurisdiction to impose sentence, and subject to collateral attack. Therefore, under the Uniform PCR Act pursuant to S.C. Code Ann. §17-27-20 (A)(1)(2)(6) this issue is sufficient to warrant a hearing.

Petitioner now set forth reasons why application is not successive. At the close of the hearing on December 15, 2015 the PCR court order the State to provide the court with a proposed order within 20 days and provide Ms. Bax (PCR counsel) with a copy of that order so she can weigh in on anything that she would like to have added for the court to consider that. App. 1081, 14-18. "PCR counsel submitted copies of letters to the Court dated January 6, 2016 and January 14, 2016 that were sent to the State which addressed the issues raised by her client after the hearing." App. 1093. (Quoting from footnote 1)

A order of dismissal was filed May 6, 2016 that PCR counsel received on May 16, 2016 that failed to address issues raised during hearing and afterwards in accordance the Uniform Post Conviction Procedure Act. "The Court shall make specific findings of fact, and state expressly it conclusions of, relating to each issue presented." S.C. Code Ann. §17-27-80. Where a motion to alter or amend judgment was filed on May 26, 2016 and received on June 10, 2016 this order is amended to reflect the Applicants allegations made in his Notice of Amendment to his Post Conviction Relief

Application. App.1093. (Quoting from footnote 1) An amended order of dismissal was filed on July 26, 2016. App.1093-1102. which did not address issues raised during hearing nor afterwards according to S.C. Code Ann. §17-27-80 and Rule 52(a), SCRCP after a Rule 59(e), SCRCP motion was filed.

In Amended Order of dismissal, footnote 1, the Court further stated along with the above quoted. "This motion is disposed of without the necessity of a hearing and decided on the record and written motion Rule 59(f), SCRCP; Pollard v. City of Florence, 314 S.C. 397, 401-402, 444 S.E.2d 534, 536 (Ct. App. 1994). The State was given opportunity to respond to the motion and declined. This Court finds that all of the issues that were raised during the hearing have now been addressed and those raised afterwards are waived as untimely."

The PCR court abused its discretion when it ruled to dispose of motion without hearing and decided on the record and written motion Rule 59(f), SCRCP. Within the ~~first~~ second and last paragraph of the 59(e) motion stated, "At the hearing on this matter. Counsel requested to supplement the record. Respondent did not object. The Court agreed with the stipulation that counsel vet all information from the Applicant to determine if there were any meritorious issues that need to be addressed before any submission to the Court. Counsel and Respondent communicated regarding several issues and Counsel requested that reference to those issues be included and addressed in the Order, which did not happen. Additionally, the final Order of dismissal failed to mention or address the Supplemental PCR application filed by Applicants previous counsel. Without a full finding on these issues. Applicant submits that the Order does not fulfill the requirements set forth in S.C. Code Ann. §17-27-80. Therefore Applicant requests that the Court alter or amend its judgment to address the issues stated above. In McCray v. State, 305 S.C. 329, 408 S.E.2d 241 (1991) the Court ruled," S.C. Code Ann. §17-27-80 (1976), requires the PCR court to "make specific findings of fact, and state expressly its conclusions of law, relating to each issue presented."

PCR court abused its discretion because the motion was not the equivalent of a brief, nor did it set forth arguments on issues raised, neither citations to legal authority. Therefore should not have been disposed of per Rule 59(f), SCRCP.

The PCR court alleges that my contention of my application is not successive because PCR counsel failed to properly raise issues, is not fact. From what have also been brought to the Courts attention above is additional reasons why my application is not successive.

Where PCR counsel failed to raise issue properly. Counsel sent copies of letter to the PCR court that contained issue attempted to be raised during hearing, that was further raised after hearing. Raising an issue in a letter is a procedural nullity that does not count as the issue being fully and fairly litigated. The letter was noted, however the legal merits of the issue were never reached because a letter is not a valid vehicle for a ruling. The letter provide notice that a problem exists but do not constitute the adjudication of the legal merits. Therefore, issues were 'inadequately raised'. S.C. Code Ann. §17-27-90 provides in part," sufficient reason why issues were inadequately raised in the original, supplemental, or amended application." Which Petitioner expressly gave to the court.

Additionally, the PCR court made error in not filing the 'copies of letters', that were sent to the Court by PCR counsel, with the Clerk of Court. In accordance with Rule 5(e), SCRCP, Filing with the Court Defined. Which provides in part, "...except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk..." No South Carolina Cases interpreting Rule 5(e) have been located. However, in J.A. Tobin Const. Co., Inc. v. Kemp, 239 Kan. 430, 437, 721 P.2d 278 (1986) There Supreme Court ruled," First the judge must accept the filing of the papers with him. If the judge accepts the papers, he must at that time note the date of his acceptance and then forthwith take the papers to the clerk."

Where the PCR court failed to file the 'copies of letters' with the Clerk of Court after receiving them for consideration. That took away my right to appeal any determination or rulings by the lower court. In Jamison v. State, 410 S.C. 456, 765 S.E.2d 123 (2014) The Court ruled, "A petition filed pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988) is the post-conviction relief equivalent of a direct appeal filed pursuant to Anders v. California, 388 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967). Johnson, 294 S.C. at 310, 364

S.E. 2d at 201. This Court recently held that," under the Anders procedure, an appellate court is required to review the entire record, including the complete trial transcript, for any preserved issue with potential merit."

Further within the Amended order of dismissal, footnote 1, the PCR court ruled, "This Court finds that all of the issues that were raised during the hearing have now been addressed and those raised afterwards are waive as untimely." In Berry v. McLeod, 328 S.C. 435, 492 S.E.2d 794 (Ct.App. 1997) the Court ruled," Under Rule 15(a) and (b), SCRCP, the court has the power to amend pleadings beyond the time allowed for an amendment when to do so does not prejudice another party. Courts have wide latitude in amending pleadings. citing Porter Bros., Inc. v. Specialty Welding, Co. 286 S.C. 39, 331, S.E.2d 783 (Ct.App. 1985) While this power should not be used indiscriminately or to prejudice or surprise another party, the decision to allow an amendment is within the sound discretion of the trial court and will rarely be disturbed on appeal. Id. The trial judge's finding will not be overturned without an abuse of discretion or unless manifest injustice occurred. Anders v. Nash, 256 S.C. 102, 180 S.E.2d 878 (1971); Mylin v. Allen-White Pontiac, Inc, 281 S.C. 174, 314 S.E.2d 354 (Ct.App. 1984). Where the Court told PCR counsel she can weigh in on anything that she would like to add for the court to consider at the end of PCR hearing, to where PCR counsel request to supplement the record, and the Respondent did not object, where the court agreed to the stipulation as stated inside the Rule 59(e) motion. PCR court abused its discretion when waived issues raised after hearing as untimely.

As asserted in motion to amend response, reasons why not to dismiss second PCR application in its entirety. That as the PCR hearing proceeded I attempted to raise two separate issues addressing trial counsel ineffective for not objecting to the chain of custody. Where the State and Court objected to issues not being in application. App. 1041, LN 19-1042 LN 3. In Love v. State, 428 S.C. 231, 834 S.E.2d 196 (2019) Court ruled, Rule 15(b) provides in part," When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings."

And PCR counsel also raised issues of trial counsel ineffective for not objecting

to the chain of custody, in court identification, not calling expert witness. The objected to issues not being in application, the line of questioning, and having notice. Where the PCR court over the State's objection gave PCR counsel a little latitude. And told the State that the Court will let her develop that line of questioning, and will give the State additional time to prepare for cross if needed. App. 1056, 25-1064, LN 3. "Rule 15(b) also provides that "if evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice him in maintaining his action or defense upon the merits." Id. at 200, 428 S.C. 231.

And at the close of hearing permitted PCR counsel to weigh in on anything that she would like to have the court consider. App. 1081, LN 14-18. Also aloud PCR counsel to supplement the record, agreeing to the stipulation that counsel vet all information from me to determine if they were any meritorious issues that needed to be address. With no objection from the State, as stated in Rule 59(e) motion. In Dunbar v. Carlson, 341 S.C. 261, 267 533 S.E.2d 913 (Ct. App. 2000) the Court explained," Rule 15(b) covers two situations involving amendments to conform to evidence." First, if an issue not raised by the pleadings is tried by express or implied consent of the parties the court may permit amendment of the pleadings to reflect the issue. Second, if a party objects to the introduction of evidence as not being within the pleadings the court may permit amendment of the pleadings subject subject to a right to grant a continuance if necessary." Citing Sunvillas Homeowners Ass'n, Inc. v. Square D. Co., 301 S.C. 330, 334, 391 S.E.2d 868, 871 (Ct. App. 1990) "Express consent may be demonstrated by a stipulation but implied consent depends on whether the parties recognized an issue not raised by the pleadings entered the case during trial." Id at 335, 391 S.E.2d at 871.

Additionally, where issue raised in Notice of Amendment by original appointed counsel, Ineffective assistance of appellate counsel that he did not raise issue of whether the trial court was correct in admitting certain physical evidence over

timely objection of trial counsel. App.1043. That was raise during the hearing that Appellate counsel was ineffective because he failed to raise an issue that was properly preserve for appeal. Which was a objection made to a mask marked State's Exhibit No.104, pair of gloves marked State's Exhibit No. 105, pair of gloves marked State's No.106 because collection officers did not identify this evidence and trial judge overruled the objection. App-1047, LN13-1048, LN6. The Court failed to address this issue in both order of dismissal in accordance with Rule 52(a), SCRCP and S.C.Code Ann. §17-27-80 The Court shall make specific findings of fact, and state expressly its conclusions of law, relating to each issue presented. where trial counsel testified during the hearing that this evidence was allege to been thrown from the vehicle and a substantial obstacle to overcome. App.1056, LN25-1057. And the PCR court ruled this evidence as the fruits of the event, that is overwhelming. App.1079, LN9-1080, LN1.

Additionally, the PCR court did not address issues that it made rulings on at the hearing inside the Conditional Order of dismissal. App.1076, LN23-1077, LN12. Neither did the PCR court made ruling on issues raised during nor after hearing after a timely filed Rule 59(e) motion, Pursuant to S.C.Code Ann. 17-27-80, and Rule 52(a), S.CRCP. The PCR court waive issues raised after the hearing as untimely after agreeing to stipulation. See S.C.Code Ann. §17-27-70(a).

In Conclusion, I never received a full procedural bite of the apple because I was prevented from adjudication on the issues. Refusal to grant hearing on claims would constitute a gross miscarriage of justice. From all that has been stated above in this notice is why the lower court determination is improper.

Respectfully Submitted,

Anthony D.J. Wilder

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Kershaw Cor. Inst.
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STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	IN THE COURT OF COMMON PLEAS IN THE NINTH JUDICIAL CIRCUIT
Anthony Wilder, #328282 Applicant, v. State of South Carolina, Respondent.	Case No. 2019-CP-10-00813 **FINAL ORDER OF DISMISSAL**

This matter is before the Court by way of an application for Post-Conviction Relief (PCR) filed by Anthony Wilder (Applicant) on February 19, 2019. Respondent made its return and moved to summarily dismiss the action as procedurally barred pursuant to the Uniform PCR Act, located at section 17 27-10 to -160 of the South Carolina Code.

After review of the record and pleadings, this Court agreed this application should be summarily dismissed and provisionally dismissed the action by way of a Conditional Order of Dismissal filed July 10, 2020, giving Applicant twenty days from the date of service of said Order to show why the dismissal should not become final. Attached to this Final Order and incorporated herein by reference is an Affidavit of Service indicating Applicant was served the Conditional Order of Dismissal on August 3, 2020.

On August 17, 2020, Applicant filed a Response to the Conditional Order of Dismissal with the Clerk of Court.[1] This Court finds Applicant has failed to set forth any valid basis for an evidentiary hearing. Although Applicant alleges newly-discovered evidence, his allegations of newly-discovered evidence are insufficient to warrant a hearing on this issue. See Hayden v. State, 278 S.C. 610, 611, 299 S.E.2d 854, 855 (1983) ("A party requesting a new trial based on after-discovered evidence must show that the evidence: (1) Is such as would probably change the result if a new trial was had; (2) Has been discovered since the trial; (3) Could not by the exercise of due diligence have been discovered before the trial; (4) Is material to the issue of guilt or innocence; and, (5) Is not merely cumulative or impeaching.").

[1] Additionally, on May 12, 2025, Applicant filed a "motion for leave to file an amended response to conditional order of dismissal" and a motion to amend response. On June 2, 2025, Applicant filed a notice of amendment to PCR Application.

Applicant's contention that the statute of limitations does not apply to his current PCR action because he filed within one year from the remittitur of his PCR appeal lacks merit. Applicant failed to file his current PCR application within the one-year limitation set forth in the Uniform PCR Act. S.C. Code Ann. § 17-27-45(A) (an applicant has one year from the entry of judgment, or from the sending of the remittitur or the filing of a final decision on appeal, whichever is later, to file a PCR application). Finally, Applicant's contention that his application is not successive because PCR counsel failed to properly raise all issues also lacks merit. Applicant did not provide a "sufficient reason" why his current grounds for relief were not raised in his previous PCR application. See Aice v. State, 305 S.C. 448, 450, 409 S.E.2d 392, 393 (1991) (Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised ... in the previous application.").

Applicant has not set forth sufficient allegations to warrant an evidentiary hearing; thus, this Court finds this application should be dismissed.

IT IS THEREFORE ORDERED that for the reasons set forth in the Court's Conditional Order of Dismissal, this application for PCR is hereby **DENIED AND DISMISSED WITH PREJUDICE.** Should Applicant wish to procure appellate review, he must file and serve a notice of appeal within thirty days of this Order. See Rule 203, SCACR. Applicant's attention is directed to Rule 243, SCACR, for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this 28 day of January, 2026.

DALE E. VAN SLAMBROOK
Chief Administrative Judge – Common Pleas
Ninth Judicial Circuit

Marion, South Carolina