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STATE OF SOUTH CAROLINA
COUNTY OF HAMPTON

Courtney Sease, #328318,

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS SUPREME COURT
) IN THE FOURTEENTH JUDICIAL CIRCUIT

) CASE NO. 2024-CP-25-00118

**CONDITIONAL ORDER
OF DISMISSAL**

This matter is before the Court by way of an application for post-conviction relief (PCR) filed by Courtney Sease (Applicant) on April 16, 2024. Respondent made its return and moved to dismiss the application as untimely and successive. After consideration, Respondent’s motion to dismiss is granted.¹

PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections serving an aggregate forty-year sentence. In April 2008, the Hampton County Grand Jury indicted Applicant for murder (2008-GS-25-00191) and possession of a weapon during a violent crime (2008-GS-25-00190). On May 5, 2008, Applicant proceeded to a jury trial before the Honorable Perry M. Buckner, III. Robert M. Hughes, Esquire, represented Applicant. Assistant Solicitors Randolph Murdaugh and Tameaka Legette prosecuted the case. The jury convicted Applicant as indicted, and Judge Buckner sentenced him to consecutive terms of thirty-five years for murder and five

¹ The return was due to be filed within 90 days of service. See Rule 12(a), SCRCP (“[T]he State of South Carolina shall answer or otherwise respond to an application for post-conviction relief within 60 days after service of the application, if it arises out of a guilty plea, and 90 days if it arises out of a trial.”). Now, having completed the return and in light of no demonstrable prejudice to Applicant from the delay, this Court accepts this return as timely filed. See S.C. Code Ann. § 17-27-70(a) (establishing that the Court may fix the time in which the State must respond and that “respondent shall file with its answer the record or portions thereof that are material to the questions raised in the application”); *Guinyard v. State*, 260 S.C. 220, 195 S.E.2d 392 (1973) (holding the time limit prescribed by the statute is not mandatory but discretionary with the trial court, and the trial court may extend the time for filing).

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years of the weapon charge.

Applicant filed a timely notice of appeal, which was subsequently dismissed based on Applicant's failure to provide proof that the transcript had been ordered. The remittitur was sent July 14, 2008.

First PCR Application: 2009-CP-25-00394

On September 1, 2009, Applicant filed an application for PCR alleging:

1. Ineffective Assistance of Counsel
 - a. Failed to disclose discovery evidence to Applicant;
 - b. Failed to make background checks of witnesses for convictions or mental and physical tests;
 - c. Failed to determine if witnesses were psychotic, retarded or drug users;
 - d. Failed to use written statements at trial;
 - e. Failed to object to testimony of witnesses not listed in discovery;
 - f. Failed to object to prosecutorial misconduct;
 - g. Failed to inform Applicant of the statutory right to examine jurors during *voire dire*; and
2. Ineffective assistance of appellate counsel in that counsel failed to properly perfect Applicant's appeal. Applicant did not knowingly and voluntarily waive his appellate rights.

On August 31, 2011, an evidentiary hearing convened before the Honorable D. Craig Brown. Applicant was present and represented by Gerald A. Kelly, Esquire. On October 14, 2011, Judge Brown issued an order finding Applicant was entitled to a belated direct appeal pursuant to White v. State, 263 S.C. 110, 263 S.E.2d 35 (1974). Judge Brown denied and dismissed all other allegations with prejudice.

Applicant appealed, and the South Carolina Supreme Court affirmed. Sease v. State, Op. No. 2013-MO-025 (filed Sept. 11, 2013). The remittitur was sent September 17, 2013.

Second PCR Application: 2013-CP-25-00322

On October 8, 2013, Applicant filed his second PCR application alleging:

1. Ineffective assistance of counsel:

- a. Trial counsel was ineffective for not making a request to the trial judge concerning the jury instructions on the lesser included offense of manslaughter when evidence was presented that would warrant that instruction to be charged;
- b. Trial counsel was ineffective for failing to object to the trial judge's jury instruction on inferred malice from the use of a deadly weapon where evidence was presented that would reduce, mitigate, excuse and justify the homicide;
- c. Trial counsel was ineffective for not requesting a Neil v. Biggers hearing at pre-trial that would have determined the reliability of the eyewitness' identification testimonies in light of the factors set forth in the above case which would hinder mistaken identifications;
- d. For failing to inform applicant of the statutory right to examine jurors during voir dire; and
- e. For failing to object to testimony of witnesses not listed in discovery materials.

Respondent made its return and moved to dismiss, alleging the action was untimely and successive.

On November 7, 2014, the Honorable Carmen T. Mullen issued a conditional order of dismissal provisionally denying and dismissing the application. On November 19, 2014, Applicant filed a document entitled "Applicant's Response to Court's Conditional Order of Dismissal." On August 13, 2015, Judge Mullen issued a final order of dismissal denying and dismissing the application with prejudice.

Applicant filed a timely notice of appeal. On September 28, 2015, the South Carolina Supreme Court dismissed the appeal because Applicant failed to show an arguable basis for asserting the determination by the circuit court was improper as required by Rule 243(c), SCACR. The remittitur was sent October 14, 2015.

Third PCR Application: 2019-CP-25-00341

On August 28, 2019, Applicant filed his third PCR application alleging:

1. Newly Discovered Evidence
 - a. Applicant's mother and sister informed Applicant in March, 2019, that two members of the jury gave the thumbs up symbol to Victim's family shortly after being found guilty on both charges.

Respondent filed a return and moved to dismiss the action as untimely. Respondent further asserted Applicant did not make a prima facie showing of newly discovered evidence. On July 27, 2020,

the Honorable Deadra L. Jefferson issued a conditional order of dismissal provisionally denying and dismissing the application. On August 19, 2020, Applicant filed a Return to Motion to Dismiss and Objection to Conditional Order of Dismissal. document entitled “Applicant’s Response to Court’s Conditional Order of Dismissal.” On October 26, 2020, Judge Jefferson issued a final order of dismissal.

Applicant filed a notice of appeal. On March 9, 2021, the Supreme Court of South Carolina dismissed the matter, finding Applicant failed to show an arguable basis for asserting the determination by the circuit court was improper. The remittitur was sent March 29, 2021.

CURRENT APPLICATION

On April 16, 2024, Applicant untimely filed this successive PCR application alleging he is being held in custody unlawfully based on the following:

- A. Lack of subject matter jurisdiction: The trial court’s subject matter jurisdiction did not circumscribe to all of the elements of the crime charged in the indictment as well as all lesser included offenses. This materialized only when the State’s prosecutor introduced a witness which in turn testified that the plaintiff and victim engage in a “struggle” over a weapon resulting in the death of the victim. From that juncture the trial court lacked the subject matter jurisdiction to proceed, at this hearing, under the charge of murder, without the implication of some possible theories regarding lesser charge.
- B. 14th Amendment violation, due process: The plaintiff was deprived of life and liberty in his conviction and sentence. The jury should have been fully aware of all lesser included charges such as involuntary manslaughter, voluntary manslaughter, or even self-defense considering the evidence. If fundamental fairness was upheld, as well as due process, in the trial court – the plaintiff may have been found justified in this crime.

As relief, Applicant requests “vacation / reverse and remanding, rehearing, new trial.” Before this Court are the Hampton County Clerk of Court records of the underlying convictions; Applicant’s records from the South Carolina Department of Corrections; the trial transcript; the records from

Applicant's direct appeal; the records from Applicant's prior PCR actions; and the records from Applicant's appeals of prior PCR court orders

MOTION TO DISMISS

Respondent moved for summary dismissal pursuant to section 17-27-70 of the South Carolina Code, asserting no genuine issues of material fact necessitated an evidentiary hearing. Because no questions of law or fact necessitated a hearing, Respondent requested this Court NOT appoint counsel and instead issue a Conditional Order of Dismissal indicating the Court's intent to dismiss the application and its reasons for doing so. See S.C. Code Ann. § 17-27-70(b) (establishing procedure for summary disposition of PCR applications); Leamon v. State, 363 S.C. 432, 434, 611 S.E.2d 494, 495 (2005) (finding summary disposition appropriate when no facts need to be developed and the applicant is not entitled to relief); Re: Appointment of Counsel in Post-Conviction Relief Cases Before the Circuit Court, S.C. Sup. Ct. Order filed Oct. 6, 2008 ("If the Attorney General asserts that the [PCR] application is barred as being successive or as being untimely under the statute of limitations, counsel will not be appointed except upon written order of the Chief Judge for Administrative Purposes for the Court of Common Pleas in the circuit. In these cases, the Chief Judge will ensure that counsel is only appointed for an indigent applicant when the facts raise a material issue regarding the applicability of the rule forbidding successive applications or the statute of limitations."); Rule 71.1(d), SCRCP (providing appointment of counsel is necessary only when a question of law or fact necessitates a hearing).

This Court has reviewed the application and records in this case and finds there are no genuine issues of fact to warrant a hearing. Set forth below are this Court's findings:

Statute of Limitations

This Court finds this application is barred by the statute of limitations. A PCR application

“must be filed within one year after the entry of judgment . . . or within one year after the sending of the remittitur” § 17-27-45(A). A motion for summary judgment may be used to raise the defense of statute of limitations. McDonnell v. Consol. Sch. Dist. Of Aiken, 315 S.C. 487, 489, 445 S.E.2d 638, 639 (1994).

Here, Applicant was sentenced on May 5, 2008. He filed a direct appeal, and the remittitur was sent July 14, 2008. This PCR application was therefore due on or before July 15, 2009. This application was filed on April 16, 2024—more than fourteen years *after* the filing period expired. Accordingly, this application shall be summarily dismissed as untimely.

Successive

This Court finds this application should be summarily dismissed as successive. Courts disfavor successive applications and place the burden on applicants to establish that any new ground raised in a subsequent application could not have been earlier raised in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Arnold v. State, 309 S.C. 157, 420 S.E.2d 834 (1992). Section 17-27-90 of the South Carolina Code states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental, or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily, and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental, or amended application.

Successive PCR applications are forbidden unless an applicant can indicate a “sufficient reason” why new grounds for relief were not raised or properly raised in previous applications or actions challenging these convictions. Any new ground raised in a subsequent application is limited to those grounds that “could not have been raised . . . in the previous application.” Aice, 305 S.C. at

450, 409 S.E.2d at 394. The applicant bears the burden of showing the allegations could not have been previously raised. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980). Here, Applicant's allegations could have been raised in the 2009 PCR application. Thus, these allegations shall be dismissed as successive.²

[Conclusion and signature page follows]

² Applicant's claim that the trial court lacked subject matter jurisdiction patently lacks merit. See State v. Gentry, 363 S.C. 93, 101, 610 S.E.2d 494, 499 (2005) ("Circuit courts obviously have subject matter jurisdiction to try criminal matters.").

CONCLUSION

WHEREFORE, pursuant to section 17-27-70 of the South Carolina Code, this Court intends to dismiss this application with prejudice unless Applicant provides specific reasons, factual or legal, why the application should not be dismissed in its entirety. Applicant is granted twenty days from the date of service of this Order upon him to show why this Order should not become final. Applicant shall file any reasons he may have, factual or legal, with the Hampton County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
Danielle Dixon, Esquire
PCR Division – Fourteenth Circuit
P.O. Box 11549
Columbia, SC 29211

Applicant is cautioned that his response to this order must be received by the Hampton County Clerk of Court and opposing counsel within twenty days from the date of the service of this Order, and the Court will not consider any issues raised in his response if not so timely filed and served.

AND IT IS SO ORDERED this 14 day of July, 2025.



CARMEN T. MULLEN
Chief Administrative Judge – Common Pleas
Fourteenth Judicial Circuit

Beaufort, South Carolina