

STATE OF SOUTH CAROLINA
COUNTY OF BAMBERG

Willie James Odom, SCDC #156748

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS
) FOR THE SECOND JUDICIAL CIRCUIT
)

) CASE NO. 2022-CP-05-00100
)

) **CONDITIONAL ORDER OF DISMISSAL**
) (Appointment of Counsel Not Required)
)

FILED
BAMBERG COUNTY
2026 JUN 18 AM 9:38
JANNIE C. JOHNSON
CLERK OF COURT
BAMBERG, SC

This matter comes before this Court by way of Willie James Odom's ("Applicant") application for post-conviction relief (PCR), commenced on April 5, 2022. Respondent, the State of South Carolina, made its return and moved to summarily dismiss this application as untimely, barred by successiveness, and *laches*.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections. During the May 1989 term, Applicant was indicted on the following charges: seven (7) counts of Assault and Battery with Intent to Kill (ABWIK) (1989-GS-05-0074, Counts 1-7); Burglary in the First Degree (Count 8); Murder (1989-GS-05-0074, Count 9); and Arson, Second Degree (1989-GS-05-074, Count 10). Applicant was represented by Bruce Perry, Esquire. On May 23, 1989, Applicant pleaded guilty. Honorable Rodney A. Peebles sentenced Applicant to ten years for one count of ABWIK¹; fifteen years of imprisonment for burglary, first degree; life imprisonment for murder; and twenty years for arson, second degree. All sentences were to run concurrently. Applicant did not appeal on his plea or sentence.

¹ The remaining six counts of ABWIK were subsequently dismissed pursuant to the plea.

FIRST PCR ACTION: 1990-CP-05-00011

Applicant filed an application for post-conviction relief (PCR) on January 23, 1990 (1990-CP-05-0011). In his application, Applicant set forth the following grounds for relief:

1. His attorney did not tell him that he had a right to appeal the guilty plea (this allegation is contained in Paragraph 8)
2. Ineffective assistance of counsel in that his attorney:
 - a. Failed to offer critical evidence at trial.
 - b. Failed to investigate and call additional witnesses at trial
 - c. Failed to move to suppress identification evidence.
 - d. Failed to follow procedures under the exclusionary rule.
 - e. Failed to move for a Jackson v. Denno hearing.
 - f. Failed to advise the Applicant of his constitutional rights.
 - g. Failed to adequately investigate the case.
3. He did not plead guilty knowingly, voluntarily and intelligently.
 - a. The trial court failed to resolve the conflict between his waiver of trial and his claim of innocence.
 - b. The trial court did not ascertain on the record that the plea was free and voluntary.
4. The trial court erred by entering into the plea negotiations.

The State made its Return on or about March 30, 1990. An evidentiary hearing was convened on April 9, 1990, at which Applicant was present and represented by counsel. In a written order dated May 27, 1990, and filed June 1, 1990, the Honorable Rodney A. Peeples, denied and dismissed the application with prejudice. A timely Notice of Appeal was filed. The South Carolina Supreme Court denied the petition in an Order on February 21, 1991.

1994 FEDERAL HABEAS ACTION: 3:94-1787-2AJ

Applicant filed a Petition for Writ of Habeas Corpus under 28 USC § 2254 on June 28, 1994 (3:94-1787-2AJ). In his petition, Applicant alleged:

1. Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charges and the consequences of the plea.
 - a. Defendant was on medication at the time of his plea (trial trans page 5 line 11-18). Defendant also contends he was pressured from his family to enter a guilty plea when he insisted on going to trial. Defendant also contends his counsel did not discuss with him the time he was to receive.



2. Ineffective assistance of counsel.
 - a. Trial counsel had defendant plead guilty but mentally ill after defendant had already been established to be legally insane at the time of the crime and would have been relieved of criminal responsibility and as a result defendant was sentenced to life in prison.
3. Conviction obtained by a violation against self-incrimination.
 - a. Police of Bamberg County had the defendant sign a confession after defendant explained he was on medication. Then trial counsel told the defendant that the signed confession would be used against him in front of a jury and because of the confession, the defendant would be found guilty and sentenced to death.

Respondents made their Return and Motion for Summary Judgment on August 25, 1994. By an Amended Report and Recommendation filed on January 25, 1996, United States Magistrate Judge Robert S. Carr recommended the Respondents' Motion be granted and Applicant's petition be denied. By written Order dated February 27, 1997, the Honorable C. Weston Houck denied Applicant's request for habeas relief and granted Respondents' Motion for Summary Judgment. Applicant filed a Notice of Appeal. The United States Court of Appeals for the Fourth Circuit dismissed the appeal in an unpublished opinion on September 17, 1997.

SECOND PCR ACTION: 2011-CP-05-00104

Applicant filed an application for post-conviction relief on May 19, 2011 (2011-CP-05-0104). In his application Applicant set for the following grounds for relief:

1. Ineffective assistance counsel.
 - a. "Mentally incompetent stand trial claim cannot be barred by the procedural default Rule of Wainwright v Sykes, 781 F2d. 1558 4th Cir 1986.)"
 - b. "...trial counsel failed to investigate his client mental health background with a "second opinion by his own psychiatrist.""
 - c. "...failing to investigate and request for a second opinionio (sic)."
 - d. "...failing to request for a mental examination which may have formed the basis of an insanity defense or a determination that he was not competent to stand trial, cite at Jeter v. State, 471 SE2d 594 S.C. (1992):"
2. "6th Due Process Clause."

- a. "Due process footnote (4) prohibits the conviction of a person who is mentally incompetent Bishop v. United States, 350 U.S. 961, 76 S.Ct 440 100 L.Ed 835 (1956)..."
3. "14th"

Respondent made its Return and Motion to Dismiss on September 14, 2011. On September 15, 2011, the Honorable Doyet A. Early, III, issued the Conditional Order of Dismissal. Applicant responded to the Court's Conditional Order of Dismissal on September 29, 2011. The court issued a Final Order of Dismissal on January 9, 2012.

Applicant filed a timely Notice of Appeal. The South Carolina Supreme Court issued an order dismissal Applicant's appeal for failing to provide documents and the explanation as required by Rule 243(c) of the South Carolina Appellate Court Rules. The Remittitur was issued on June 7, 2012.

THIRD PCR ACTION: 2015-CP-05-00110

Applicant filed his third post-conviction relief application on May 26, 2015 (2015-CP-05-0110), alleging the following grounds for relief:

1. Ineffective Assistance of Counsel
 - a. Failure to advise of right to direct appeal
2. Ineffective assistance of PCR Counsel
 - a. PCR Counsel failure to raise appealable issue of Applicant constitutional right to direct appeal.
 - b. PCR Counsel's failure to file proper motion to have PCR judge recuse himself as PCR judge because he was the same judge to preside on Applicant's plea hearing.
 - c. Failure to make motion to dismiss PCR application without prejudice because Applicant had a pending appeal still active on his first PCR application.
 - d. Failure to request PCR Judge to recuse himself.
3. Plea judge failure to follow proper sentencing guidelines to sentence applicant to proper sentence that plea court desired.
 - a. Plea court erroneously sentence the applicant to a parole sentence when in fact applicant was ineligible for parole.



The Respondent made its Return on July 23, 2015, requesting the application be summarily dismissed based on statute of limitations and successiveness. The Court issued a Conditional Order of Dismissal dated July 27, 2015. Applicant responded to the Court's Conditional Order of Dismissal on August 14, 2015, with a document captioned "Response to Respondent and Return and Motion to Dismiss." Applicant alleged he was mentally ill and unable to exercise his constitutional rights, therefore, statute of limitations should not be applied. Likewise, he claimed his application was not successive because he brought new grounds not previously raised in prior applications. The court issued a Final Order of Dismissal on November 20, 2015.

Applicant filed a Notice of Appeal. It was not served on opposing counsel until March 17, 2016. Therefore, based on the failure of the petitioner to establish the timeliness of the service of the notice of appeal as required by Rules 243(b) and 203(e)(1)(C) of the South Carolina Appellate Court Rules (SCACR), the notice of appeal was dismissed on April 27, 2016. The Remittitur was issued May 13, 2016.

In response the dismissal, Applicant filed a "Petition for Reinstatement" on May 19, 2016. On May 24, 2016, the South Carolina Supreme Court responded to the motion for restatement determining no action would be taken on the petition because Applicant's rehearing was untimely and the Remittitur was already issued before the rehearing was received.

FOURTH PCR ACTION: 2018-CP-05-00215

Applicant filed his *fourth* PCR application on October 15, 2018 (2018-CP-05-00215), alleging the following grounds for relief:

1. Newly Discovered Evidence
2. Unconstitutional Guilty Plea
3. Ineffective Assistance of Counsel
4. Prosecutorial Misconduct
5. Fraud Upon the Court



On July 29, 2020, Respondent received an amended application from Applicant alleging claims of ineffective assistance of PCR counsel. Respondent made its Return on December 22, 2020, requesting the application be summarily dismissed based on statute of limitations, successiveness, and barred by the equitable doctrine of *laches*. The Court issued a Conditional Order of Dismissal on February 5, 2021. Applicant responded to the Court's Conditional Order of Dismissal on March 26, 2021, with a document captioned "Response to Conditional Order of Dismissal." The Court issued a Final Order of Dismissal on December 17, 2021.

CURRENT APPLICATION

On April 5, 2022, Applicant filed his *fifth* and current application for PCR in which he alleges the following:

1. "Murder indictment has a fatal flaw and cannot confer jurisdiction of the plea court."
 - a. "Murder indictment lacks the word murder and the court sentenced [Applicant] for murder, that a technicality."

Applicant seeks relief from the court in the form of "vacating the conviction and sentence for murder or grant parole"

Before this Court are the Bamberg County Clerk of Court records regarding the subject's convictions, Applicant's SCDC records, Applicant's available records from his previous PCR actions, and the records of the current PCR action.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the pleadings, the records submitted to it by the parties, and the applicable law. Pursuant to section 17-27-70 and -80 of the South Carolina Code, this Court informs the parties of its intent to dismiss the application this application is procedurally barred and no purpose would be served by further proceedings. See S.C. Code Ann. § 17-27-70(b)

(establishing the procedure for summary disposition of PCR applications); Leamon v. State, 363 S.C. 432, 434, 611 S.E.2d 494, 495 (2005) (holding that summary disposition is appropriate when there is no need to develop facts and the applicant is not entitled to relief); Welch v. MacDougall, 246 S.C. 258, 260, 143 S.E.2d 455, 456 (1965) (requiring a PCR applicant to make a *prima facie* showing he is entitled to relief before the Court will hold an evidentiary hearing). Respondent moved for summary dismissal, and this Court finds summary dismissal is appropriate for the following reasons:

Summary Dismissal Based on Statute of Limitations

This Court finds this application shall 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 (“the Act”). Specifically, the Act requires as follows:

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

S.C. Code Ann. § 17-27-45(A).

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). Applicant pleaded guilty and was sentenced on May 23, 1989. Accordingly, Applicant was required to file this Application on or before July 1, 1996. Applicant did not file the current applications until 2022, which was well beyond the statutory filing period.

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) authorizes the 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.” Therefore, this Court finds this application is dismissed for failure to file within the time mandated by the Act.

Summary Dismissal Based on Successiveness

This Court finds the Application shall be summarily dismissed because it is successive to Applicant’s previous *four* PCR applications. Successive applications for post-conviction relief are disfavored. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980). S.C. Code Ann. § 17-27-90 (1985) 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.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a “sufficient reason” why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). In his current application, Applicant alleges his indictment was flawed, therefore, the plea court lacked jurisdiction. Specifically, Applicant contends the indictment failed to include the word “murder” rendering it flawed. “[S]ubject matter jurisdiction of the circuit court and the sufficiency of the indictment are two distinct concepts and the blending of these concepts serves only to confuse the issue.” 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.” Gentry, 363 S.C. at 101, 610



S.E.2d at 499. Therefore, this Court finds Applicant has presented no facts whatsoever to support his claim that the trial court lacked subject matter jurisdiction.

With respect to Applicant's claims concerning the sufficiency of the indictment, Applicant was required to raise such a challenge prior to the swearing of the jury. S.C. Code Ann. §17-19-90 (2003). Additionally, notwithstanding successiveness, this argument is wholly without merit. Applicant's own attached copy of the indictment plainly states that the charge was murder. Therefore, this Court finds Applicant has failed to show a sufficient reason why the bar against successive applications should not apply. Accordingly, this Court finds this application shall be summarily dismissed as successive.

Summary Dismissal Based on Laches

This Court finds this action shall further be summarily dismissed based on the equitable doctrine of *laches*. To ensure finality of litigation, our courts require reasonable diligence in pursuing collateral relief. McElrath v. State, 276 S.C. 282, 284, 277 S.E.2d 890, 891 (1981). This requirement “guards the state’s legitimate expectation that it will not be called upon without due cause, to defend the integrity of convictions that occurred many years ago, where records and witnesses are no longer available.” Id.

Where a PCR applicant fails to exercise reasonable diligence, the State may seek the summary dismissal through the equitable doctrine of *laches*, which is defined as “neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done.” Bray, 366 S.C. at 140, 620 S.E.2d at 745 (quoting Whitehead v. State, 352 S.C. 215, 219, 574 S.E.2d 200, 202 (2002)); see also RWE NUKEM Corp. v. ENSR Corp., 373 S.C. 190, 199, 644 S.E.2d 730, 734–35 (2007) (“*Laches* connotes not only an undue lapse of time, but also negligence and opportunity to have acted



sooner.”). “Whether a claim is barred by *laches* is to be determined in light of the facts of each case, taking into consideration whether the delay has worked injury, prejudice, or disadvantage to the other party; delay alone in assertion of right does not constitute laches.” Whitehead, 352 S.C. at 219, 574 S.E.2d at 202. Recognizing the importance of finality in litigation, Rule 9(a) of the Federal Habeas Corpus Act recognizes the doctrine of *laches*. The Rule states in pertinent part:

A petition may be dismissed if it appears that the state of which the Respondent is an officer has been prejudiced in its ability to respond to the Petition by delay in its filing unless the Petitioner shows that it is based on grounds of which he could not have had knowledge by the exercise of reasonable diligence before the circumstances prejudicial to the state occurred.

The South Carolina General Assembly has likewise recognized this problem and instituted a one-year statute of limitations. *See* S.C. Code Ann. § 17-27-45(A).

Applicant filed this PCR action over *thirty-five years* after he pleaded guilty. *See, e.g., Bray*, 366 S.C. at 140, 620 S.E.2d at 745 (affirming PCR judge’s ruling that laches barred belated review of denial of PCR seven years after PCR hearing was held). Applicant’s delay has greatly prejudiced the State (as well as Applicant). *See McMann v. Richardson*, 397 U.S. 759, 773–74 (1970) (“What is at stake in this phase of the case is not the integrity of the state convictions obtained on guilty pleas, but whether, years later, defendants must be permitted to withdraw their pleas, which were perfectly valid when made, and be given another choice between admitting their guilt and putting the State to its proof. . . . This would be an improvident invasion of the State’s interests in maintaining the finality of guilty-plea convictions that were valid under constitutional standards applicable at the time.”).

Applicant’s delay greatly prejudices Respondent as witness availability and memory has naturally faded over the past twenty-six years. *See McElrath*, 276 S.C. at 283. Applicant has

provided no justification for this delay. Therefore, this Court finds this application should be summarily dismissed based on the doctrine of *laches*.

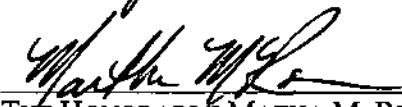
CONCLUSION

Pursuant to section 17-27-70(b), the 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 with the Bamberg County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
T. Cruise Mitchell, Esquire
PCR Division
P.O. Box 11549
Columbia, SC 29211

Applicant is cautioned that his response to this order must be actually received by the Bamberg County Clerk of Court and opposing counsel within twenty days, 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 8th day of Jan, 2026.



THE HONORABLE MATHA M. RIVERS
Chief Judge for Administrative Purposes
Second Judicial Circuit

Aike, South Carolina