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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

Appeal from Greenville County Court of Common Pleas
The Honorable Grace Gilchrist Knie, Circuit Court Judge

Lower Case No. 2021CP2300182

Jennifer Holloway, # 00316269.....Petitioner

v.

State of South Carolina,.....Respondent

NOTICE OF APPEAL

The Petitioner, Jennifer Holloway, hereby appeals the Order of Dismissal of her Post-Conviction Relief Application. The Order of Dismissal was signed by the Honorable Grace Gilchrist Knie on August 14, 2026 and was filed on August 21, 2026. Undersigned Counsel received notice of the Order by way of email on August 21, 2026. A copy of the Order is attached. This Notice of Appeal is forwarded to the Clerk of Court for Greenville County.

Respectfully submitted,

Lauren Carole Hobbis

By: s/ Lauren C. Hobbis, #103190

William G. Yarborough, III
William G. Yarborough III, Attorney at Law, LLC
308 West Stone Avenue
Greenville, South Carolina 29609
(864) 331-1612



ALAN WILSON
ATTORNEY GENERAL

August 26, 2026

William G. Yarborough, III, Esquire
William G. Yarborough III, Attorney at Law, LLC
308 W. Stone Avenue
Greenville, SC 29609

Re: Jennifer Holloway, #316269 v. State of South Carolina
2021-CP-23-00182

Dear Mr. Yarborough, III,

Enclosed is a copy of the filed Order of Dismissal for the above-captioned case signed by the Honorable Grace G. Knie and filed with the Greenville County Clerk of Court.

Sincerely,

Sydney N. Willingham
Assistant Attorney General

SNW/zew
Enclosure

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS FOR THE THIRTEENTH JUDICIAL CIRCUIT

JENNIFER HOLLOWAY, #316269

Applicant,

v.

STATE OF SOUTH CAROLINA,

Respondent.

AFFIDAVIT OF SERVICE

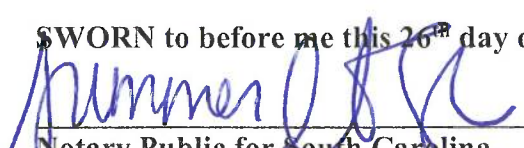
The undersigned hereby certifies that a true copy of the filed Order of Dismissal has been served upon the applicant by mailing one copy in the United States mail, postage prepaid, addressed to:

William G. Yarborough, III, Esquire
William G. Yarborough III, Attorney at Law, LLC
308 W. Stone Avenue
Greenville, SC 29609

This 26th day of August, 2026.


Zilcia Williams
Legal Assistant for Respondent

SWORN to before me this 26th day of August, 2026.


Notary Public for South Carolina.

My Commission Expires: 3.14.2032

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Jennifer A. Holloway, SCDC #316269,

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS
) THIRTEENTH JUDICIAL CIRCUIT

) CASE NO. 2021-CP-23-00182

**ORDER OF DISMISSAL
WITH PREJUDICE**

FILED: 26AUG21 PM 4:31
Clerk of Court
GREENVILLE, SC

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed by Jennifer A. Holloway (“Applicant”) on January 14, 2021. Respondent has filed a return and motion to dismiss. On June 22, 2026, a hearing on the motion to dismiss was held at the Greenville County Courthouse before the Honorable Grace Gilchrist Knie. Applicant was present and represented by William G. Yarborough, III, Esquire. Assistant Attorney General Sydney N. Willingham represented Respondent.

Following a thorough review of the record, along with the evidence presented at the hearing, this Court finds Applicant has failed to establish any constitutional violations or deprivations entitling her to relief and, accordingly, **GRANTS** Respondent’s motion to dismiss and **DISMISSES** this action with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections. During its May of 2005 term, the Greenville County Grand Jury indicted Applicant for kidnapping (2005-GS-23-003882) and murder (2005-GS-23-003881). The State served Applicant with notice on October 5, 2004, that it would seek the death penalty. Applicant was tried before a jury with the Honorable John C. Hayes, III, presiding. At the conclusion of trial, the jury found Applicant guilty

as indicted. On June 28, 2006, Judge Hayes sentenced Applicant to life imprisonment without the possibility of parole for murder and did not issue a sentence for kidnapping specifically since Applicant was sentenced to life for murder.

Applicant did not appeal her convictions or sentences.

CURRENT APPLICATION

In her application for post-conviction relief, filed through counsel on January 14, 2021, Applicant argues that she is entitled to relief based upon multiple claims, which are as follows: (1) Applicant did not knowingly and voluntarily waive her right to direct appellate review of her convictions and sentences; (2) Judge Hayes's jury instruction on malice was improper in light of State v. Burdette, 427 S.C. 490, 832 S.E.2d 575 (2019); and (3) Judge Hayes's jury instruction on the theory of accomplice liability was improper in light of State v. Washington, 431 S.C. 394, 848 S.E.2d 779 (2020). Applicant prays that the Court would grant relief by awarding her with a new trial or, in the alternative, allowing her to pursue a belated direct appeal.

ORDER GRANTING MOTION TO DISMISS

Respondent moved for summary dismissal alleging the records attached to the return and motion show that the application is barred by the statute of limitations and barred by the doctrine of laches. A hearing was held on June 22, 2026, before the Honorable Grace Gilchrist Knie on the Respondent's motion to dismiss. Having reviewed the application, and the return and motion, this Court agrees the motion to dismiss should be granted and makes the following findings:

Barred by the Statute of Limitations

Applicant raises two claims based upon allegedly improper jury instructions given to the jury during trial. Respondent argued that these two claims should be dismissed because the application was not timely filed. This Court agrees that the claims shall be dismissed for failure to

file within the statute of limitations. Applicant has not complied with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160. 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 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 did not appeal her convictions or sentences, and she was sentenced by Judge Hayes on June 28, 2006. The application was, therefore, due to be filed on or before June 29, 2007. This application was not filed until January 14, 2021, about thirteen-and-a-half years too late. Therefore, the claims of improper jury instructions shall be dismissed summarily due to Applicant's failure to file within the time mandated by Act.

Applicant's two claims regarding improper jury instructions shall also be dismissed summarily because Applicant could have raised the issues on direct appeal, assuming that she knowingly and voluntarily waived her right to direct appellate review of her convictions and sentences. Post-conviction relief is not a substitute for remedies incident to the proceedings in the trial court or on direct appeal. S.C. Code Ann. § 17-27-20(B). An applicant can allege constitutional violations in a PCR action unless he could have raised the issue on direct appeal. Gibson v. State, 329 S.C. 37, 41, 495 S.E.2d 426, 428 (1998) (citing Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1975) (affirming the PCR court's denial of relief because the applicant could have argued on direct appeal that the trial court erred in admonishing applicant's defense attorney and that the State improperly commented on the applicant's failure to call his wife as a witness at trial); S.C. Code Ann. § 17-27-20(b) (1976)); but see Fortune v. State, 428 S.C. 545, 837 S.E.2d

37, 44 (2019) (instructing that, in some instances, an applicant may argue a claim for post-conviction relief based on constitutional violations other than a violation of his Sixth Amendment right to counsel due to the ineffective assistance of counsel; recognizing Fortune was entitled to a new trial because the State made improper statements during its closing arguments at trial). By waiving her right to a direct appeal, wherein she could have raised the two arguments that she does now, Applicant waived her right to raise the claims now. This Court dismisses the claims for this reason.

Belated Appeal Barred by the Doctrine of Laches

Applicant also raises a claim that she did not knowingly and voluntarily waive her right to direct appellate review of her convictions and sentences. Such a claim can be properly raised in an application for post-conviction relief. In White v. State, 263 S.C. 110, 119, 108 S.E.2d 35, 39 (1974), the Supreme Court held that, even though a post-conviction relief court may find that an applicant did not voluntarily and intelligently abandon his right to a direct appeal, the PCR court does not have jurisdiction to grant a belated appeal. However, when an accused establishes in a post-conviction relief hearing that he was unconstitutionally deprived of his right to a direct appeal, the South Carolina Supreme Court, upon an appeal of the post-conviction relief decision, will review the trial record and pass upon all issues properly raised and argued as if the direct appeal has been perfected. Id. at 119, 108 S.E.2d at 39-40. That claim is not subject to Respondent's motion to dismiss based upon the untimely filing of the application, though, because the one-year limitations period in which to file an application for post-conviction relief does not apply when an applicant alleges that he or she was denied a direct appeal due to the ineffective assistance of counsel. Wilson v. State, 348 S.C. 215, 218, 559 S.E.2d 581, 582-83 (2002).

Applicant's claim that she did not knowingly and voluntarily waive her right to direct appellate review, as well as her claims about allegedly improper jury instructions, shall be dismissed because the doctrine of laches serves as a bar to the claims. The doctrine of laches can apply so as to bar an action even when there is no applicable statute of limitations. Whitehead v. State, 352 S.C. 215, 219, 574 S.E.2d 200, 202 (2002) (citing Godwin v. Carrigan, 227 S.C. 216, 87 S.E.2d 471 (1955)). "Laches is neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done. 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." Bray v. State, 366 S.C. 137, 620 S.E.2d 743 (2005) (quotation omitted). In this case, the transcript for Applicant's trial cannot be produced. Respondent received a filed copy of the application from the Greenville County Clerk of Court on January 26, 2021. On January 28, 2021, Respondent requested from the court reporter a copy of the transcript of Applicant's trial. On January 29, 2021, a representative from Court Administration informed Respondent that court reporters are not required to retain records after five years and that Applicant's trial was held more than five years ago. Therefore, there is not a transcript available for direct appellate review or for an evidentiary hearing in this matter. Applicant's more-than-thirteen-years delay in filing her application has disadvantaged Respondent because Respondent cannot rely upon a transcript in responding to any direct appeal claims that Applicant could raise if the Court allows her to pursue a belated appeal; neither Respondent nor a reviewing court can verify whether Judge Hayes informed Applicant of her right to direct appellate review during her trial, identify what instructions Judge Hayes gave to the jury during trial, or weigh Applicant's arguments in light of

the evidence presented at trial. This Court finds Applicant's delay in filing her application and in seeking a belated appeal is unreasonable and therefore this Court dismisses the application.

Accordingly, this Court grants Respondent's motion to dismiss the application because the application is barred by the statute of limitations, barred by the equitable doctrine of *laches*, and for failing to comply with the Uniform Post-Conviction Procedures Act, S.C. Code Ann. § 17-27-10 *et seq.* (2014).

[CONCLUSION PAGE TO FOLLOW]

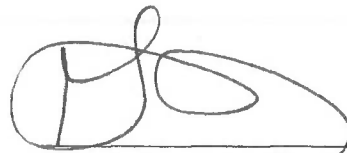
CONCLUSION

IT IS THEREFORE ORDERED that, for the reasons set forth herein, Respondent's motion to dismiss is granted, and this action shall be dismissed with prejudice.

This Court notifies the Applicant that she 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. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf if the Applicant wishes to seek appellate review. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

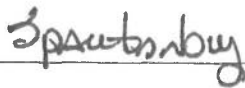
IT IS THEREFORE ORDERED:

1. That Respondent's motion to dismiss is granted;
2. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
3. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.



GRACE GILCHRIST KNIFE
Presiding Judge
Thirteenth Judicial Circuit

8/14/26



, South Carolina