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**Sep 16 2026**

**S.C. SUPREME COURT**

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT  
APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas  
The Honorable S. Bryan Doby, PCR Action Judge  
2020-CP-10-03696

TERRELL CHANDLER, #300938,  
Petitioner,

v.

STATE OF SOUTH CAROLINA,  
Respondent.

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**NOTICE OF APPEAL**

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Terrell Chandler appeals the denial of his post-conviction relief application. The post-conviction relief action was heard and denied by the Honorable S. Bryan Doby, circuit court judge, on June 16, 2026, and was denied by written order issued filed on August 17, 2026. Applicant received notice of the judgement on August 18, 2026.

/s Chelsey F. Marto  
Chelsey F. Marto, Esquire  
Attorney for the Applicant  
The Law Office of Chelsey F. Marto, LLC  
P.O. Box 8795  
Columbia, SC, 29201  
(864)-404-5583

Other Counsel of Record:  
Kylee Kanealey, Esquire  
Office of the Attorney General, State of SC  
P.O. Box 11549  
Columbia, SC, 29211-1549

GS  
SOL  
AG  
AT

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )  
)  
)  
Terrell Chandler, SCDC #300938, )  
)  
Applicant, )  
)  
v. )  
)  
)  
State of South Carolina, )  
)  
Respondent. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2020-CP-10-3696

**ORDER OF DISMISSAL**

**FILED**  
**AUG 17 2026**  
JULIE J. ARMSTRONG  
CLERK, C.P. & G.S.

This matter comes before the Court by way of Terrell Chandler's (Applicant's) application for post-conviction relief (PCR) filed on August 24, 2020. Respondent filed its return and motion to dismiss requesting a hearing on its motion to dismiss. On Tuesday June 16, 2026, an evidentiary hearing was held at the Charleston County Courthouse before the Honorable S. Bryan Doby. Applicant was present and represented by Chelsey F. Marto, Esquire. Assistant Attorney General Kylee Kanealey represented Respondent. Applicant proceeded forward on the allegation of newly discovered evidence. In support of this claim, Applicant testified on his own behalf and presented the testimony of Kevin Chandler and his co-defendant, Storme Carr.

Following a thorough review of the record, along with the testimony and evidence presented at the hearing, this Court finds Applicant has failed to meet the threshold of newly discovered evidence and this application is denied and dismissed with prejudice.

**PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Charleston County Clerk of Court. During its November 2008 term, the Charleston County Grand Jury indicted Applicant for murder (2008-GS-10-8361) and

possession of a firearm during the commission of a crime (2008-GS-10-8359). On June 7-11, 2010, Applicant proceeded to a jury trial before the Honorable Roger M. Young, Sr. Sam Mitchell Slade, Jr. and Waring Simons Howe, Jr., Esquires ("Counsel") represented Applicant. Assistant Solicitors Jennifer Shealy and Kriston Neely prosecuted the case. On June 16, 2010, the jury convicted Applicant as indicted. Judge Young sentenced Applicant to consecutive terms to forty-five (45) years of imprisonment for murder and five (5) years of imprisonment for the gun charge. On June 16, 2010, Applicant timely filed a notice of appeal. Appellate Defender Tristan M. Shaffer perfected Applicant's appeal by filing a brief with the Court of Appeals on the following issue:

Did the trial court err in finding that Appellant's statement to police was voluntary when he was told that if he refused to give a statement he would be charged with murder.

Following briefing and oral argument, the Court of Appeals affirmed Applicant's conviction and sentence. State v. Chandler, 2012-UP-313, (S.C. Ct. App. filed May 23, 2012). The case was remitted back to the circuit court on September 25, 2012.

***Initial PCR Action and Subsequent Appeal: 2012-CP-10-5037***

On August 1, 2012, Applicant filed his first PCR action, raising ineffective assistance of counsel as the ground for relief. The State requested an evidentiary hearing through its return on June 26, 2013. On November 18, 2013, the PCR court convened an evidentiary hearing before the Honorable Stephanie P. McDonald. Applicant was present at the hearing and represented by Charles Brooks, Esquire. Assistant Attorney General Ashleigh R. Wilson appeared on behalf of the State. At the hearing, Applicant proceeded solely on the following claims:

1. Ineffective assistance of counsel.
  - a. Failure to have removed from the jury a juror who was related to one of the State's witness.
  - b. Failure to investigate.
  - c. Failure to properly advise the Applicant regarding his right to testify at trial.

By order signed October 27, 2014, and filed October 30, 2014, Judge McDonald denied the application on all grounds and dismissed the action with prejudice. Applicant timely filed a notice of appeal. Appellate Defender Katherine H. Hudgins perfected Applicant's appeal by filing a Johnson<sup>1</sup> petition for writ of certiorari with the Supreme Court, raising the following issue:

Did the PCR judge err in refusing to find trial counsel ineffective for not moving to strike a juror who was related to one of the State's witnesses?

By order dated April 15, 2016, the Court denied Applicant's petition for writ of certiorari and granted appellate counsel's request to be relieved. The remittitur was issued on May 3, 2016.

***Federal Habeas Corpus Action: 1:16-cv-02994-HMH***

On August 23, 2016, Applicant filed a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in the United States District Court for the District of South Carolina. Applicant raised the following allegations in his *pro se* petition (verbatim):

1. The South Carolina Court of Appeals decision affirming Petitioner's conviction and sentence, that his statement was voluntary, was an unreasonable determination of the facts in light of the evidence presented in the trial.
  - a. Petitioner was placed in a 10x10 hot and stuffy room for five hours for interrogation. Only a short portion of this interrogation was recorded. Petitioner gave a written statement after being told that if he refused to make a statement he would be charged with murder. The lead detective (Osborne) stepped out of the room and a Detective Fleming entered the small room [detective that told Petitioner he had to make a statement or be charged with murder]. Denial of effective assistance of counsel.
2. Ineffective Assistance of Trial Counsel.
  - a. Trial counsel rendered constitutionally deficient assistance in failing to request that the jury be instructed that the testimony

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<sup>1</sup> Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988) (approving of the withdrawal of counsel in meritless post-conviction appeals in accordance with the procedures outlined in Anders v. California, 386 U.S. 738 (1967)). Anders requires that counsel who seeks to withdraw after finding the "case to be wholly frivolous" following a "conscientious examination" must submit a brief referencing anything in the record that arguably could support an appeal, furnish a copy of that brief to the defendant, and after providing the defendant with an opportunity to respond, the reviewing court must conduct a full examination of the proceedings to determine if further review is merited. 386 U.S. at 744.

of a co-defendant who provides evidence against the defendant [Petitioner] for expected gain, the hope of reward or for personal advantage or vindication, must be examined and weighed by the jury with the greater care than the testimony of an ordinary witness.

3. Due Process Violation—Fourteenth Amendment to the United States Constitution.
  - a. The state proffered false testimony from codefendant and state's witness Steven Brown in regards to the Petitioner's involvement in the murder of Calvin Gibbs. Brown testified at Petitioner's trial that he entered into a proffer agreement with the state. That all he had to do—give truthful information to the solicitor's office—to tell the truth.
4. Ineffective Assistance of Appellate Counsel violation of Sixth and Fourteenth Amendments, Due Process violation.
  - a. Appellate counsel was ineffective in failing to raise the issues of accomplice liability jury charge requested by the State that was objected to and argued before the trial court and overruled, on direct appeal.
5. Ineffective Assistance of Appellate Counsel, violation of Sixth and Fourteenth Amendments, Due Process violation.
  - a. Appellate counsel was ineffective for failing to raise "The trial court erred in refusing to grant a directed verdict on the charge of murder because the State failed to present any substantial evidence beyond a reasonable doubt of Appellant's guilt."

Respondent filed a return and motion for summary judgment on October 11, 2016. The Court entered a Roseboro<sup>2</sup> order on October 11, 2016, advising Applicant he had thirty-four days to file any material in opposition to the motion for summary judgment. On April 25, 2017, the Honorable Shiva V. Hodges, United States Magistrate Judge, issued a report and recommendation that Respondent's motion for summary judgment be granted and the petition dismissed with prejudice. Applicant filed objections to the R&R on May 15, 2017.

On May 15, 2017, the Honorable Henry M. Herlong, United States District Judge, issued an order adopting and incorporating the R&R by reference; granting Respondent's motion for summary judgment; granting Respondent's motion for summary judgment; and denying a

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<sup>2</sup> See Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975) and Webb v. Garrison, No. 77-1855 (4th Cir. July 6, 1977) (requiring courts to provide explanation of dismissal/summary judgment procedures in federal habeas corpus cases).

certificate of appealability. Chandler v. Warden, No. 1:16-2994-HMH-SVH (D.S.C. May 15, 2017). Judge Herlong subsequently vacated the May 15, 2017 order after receiving Petitioner's objections to the R&R on May 16, 2017. After considering Petitioner's objections, Judge Herlong issued a new order adopting and incorporating the R&R by reference; granting Respondent's motion for summary judgment; granting Respondent's motion for summary judgment; and denying a certificate of appealability. Chandler v. Warden, No. 1:16-2994-HMH-SVH (D.S.C. June 6, 2017). Applicant served the South Carolina Attorney General's Office with a notice of appeal on June 12, 2017. However, Applicant never filed the notice of appeal.

#### CURRENT APPLICATION

In his second and current application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on the following (excerpted verbatim):<sup>3</sup>

1. "4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 13<sup>th</sup>, 15<sup>th</sup> Amendment Violations."
2. Due Process Violations
3. Fraud Upon the Court
4. Prosecutorial misconduct
5. Subject Matter Jurisdiction
  - a. "Applicant is challenging the General Session courts jurisdiction to sign the commitment order(s), the court of Common Pleas jurisdiction to sign the final order in case 2012-CP-10-5037, as well as I am challenging their jurisdiction to establish and/or keep in place the conviction itself..."
6. Ineffective Assistance of Counsel

On September 30, 2024, Applicant, through counsel, filed an amended application alleging newly discovered evidence with an affidavit from his co-defendant alleging that Applicant was not in the area the night of the crime.

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<sup>3</sup> Unless quoted, Applicant's allegations have been summarized for brevity and clarity.

On December 5, 2025, Applicant, through counsel, filed an amended application alleging newly discovered evidence with an affidavit from Applicant's brother, Kevin Chandler, alleging he was made aware of a twenty-year plea offer during his brother's case and recently he discovered his brother did not know about this offer.

Applicant requests a "new and fair trial" as relief.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

On June 16, 2026, a hearing on the State's Motion to Dismiss convened before the undersigned. After reviewing the records before this Court and hearing argument, this Court finds Applicant's application is successive, barred by the statute of limitations and Applicant has failed to meet a threshold showing of newly discovered evidence and therefore application is denied and dismissed.

#### ***Statute of Limitations***

This Court finds this Application is barred by the statute of limitations. Pursuant to the Act, 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). The statute of limitations applies to all PCR applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 470, 469 S.E.2d 606, 607 (1996). 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).

Applicant's second and current PCR application was filed well after the expiration of the statutory filing period. Applicant was convicted on June 11, 2010, and the remittitur from the direct appeal was issued on September 25, 2012. This application was filed on August 24, 2020—almost *seven years* after the requisite filing period expired and thus, is barred by the statute of limitations.

### *Successive*

This Court further finds Applicant's application is successive to his first application. The Uniform Post-Conviction Relief Act states the following:

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.

S.C. Code Ann. § 17-27-90.

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 prior 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). Successive PCR actions are barred unless an applicant can indicate 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, 452, 409 S.E.2d 392, 395 (1991). Thus, any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." Id. at 450, 409 S.E.2d at 394. 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 current allegations could have been raised in his prior PCR application. Applicant has failed to meet his burden of showing the allegations could not have been previously raised. Therefore, this Court finds this application is successive and barred under section 17-27-90.

### *Newly Discovered Evidence*

This Court finds Applicant's allegations of newly discovered evidence, are not newly discovered evidence. The Uniform Post-Conviction Relief Act states that a person may institute a post-conviction relief 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." S.C. Code Ann. § 17-27-20(A)(4). If the applicant contends there is evidence of material facts not previously presented, the 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). To prevail, Applicant must show the newly-discovered 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.

Hayden v. State, 278 S.C. 610, 611, 299 S.E.2d 854, 855 (1983).

Applicant's first amended application with the affidavit from his co-defendant Storme Carr, is not newly-discovered evidence. Storme Carr writes in this affidavit that Applicant was not in the vicinity of the incident. This individual was not a witness at Applicant's trial, and therefore his "recantation" would not change the result if a new trial was had. Furthermore, the overwhelming majority of federal courts hold that exculpatory testimony from a co-defendant who did not testify at trial does not constitute "newly discovered evidence" for purposes of a motion for new trial or post-conviction relief where the defendant knew or should have known of the co-defendant's potential testimony at the time of trial. This principle applies whether the co-defendant's non-testimony at trial resulted from invocation of the Fifth Amendment, a tactical or

strategic decision, simple unwillingness to cooperate, or the defense's election not to call or subpoena the witness. See United States v. Griffin, 489 F. App'x 679, 681–82 (4th Cir. 2012) (unpublished) (following the majority rule and declining to adopt the contrary approach of the First Circuit); United States v. Owen, 500 F.3d 83, 91 (2d Cir. 2007) (“[A]lthough codefendant’s statement became newly available after trial, it was not newly discovered evidence, since defendant was aware of content of his conversations with codefendant . . . and he knew or should have known codefendant could offer material testimony.”); id. (“But when a defendant knew or should have known that his codefendant could offer material testimony as to the defendant’s role in the charged crime, his inability to procure that testimony before or during trial should not be redressed by granting the defendant a new trial when the codefendant asserts his willingness to exculpate the defendant after the original trial is over.”); United States v. Jasin, 280 F.3d 355, 368 (3d Cir. 2002) (“[A] codefendant’s testimony known to the defendant at the time of trial cannot be considered ‘newly discovered evidence’ under Rule 33, regardless of the codefendant’s unavailability during trial because of invocation of his Fifth Amendment privilege.”); United States v. Muldrow, 19 F.3d 1332, 1339 (10th Cir. 1994) (“If a former codefendant who originally chose not to testify subsequently comes forward and offers testimony exculpating a defendant, the evidence is not newly discovered if the defendant was aware of the proposed testimony prior to trial.”); United States v. DiBernardo, 880 F.2d 1216, 1224–25 (11th Cir. 1989) (same); see also United States v. Lockett, 919 F.2d 585, 591 (9th Cir. 1990); United States v. Metz, 652 F.2d 478, 480 (5th Cir. 1981); United States v. Flynn, 791 F. Supp. 133, 136–37 (M.D.N.C. 1992).

South Carolina’s established standard for after-discovered evidence, which requires, *inter alia*, that the evidence “has been discovered since the trial” and “could not have been discovered prior to trial by the exercise of due diligence,” is in full accord with this prevailing authority. The

fact that a co-defendant who possessed exculpatory information simply did not testify at trial but later expresses a willingness to do so does not transform that testimony into newly discovered evidence where its substance was known or knowable to the defendant at the time of trial. Griffin, 489 F. App'x at 681–82; Cagle v. Branker, 520 F.3d 320, 325–26 (4th Cir. 2008). To hold otherwise would undermine the plain meaning of “newly discovered,” eviscerate the due-diligence requirement, and disregard the strong policy favoring finality of judgments.

Further, Applicant testified at his first PCR hearing in his first PCR action (2012-CP-10-5037) to his version of events and testifies to being there – contradicting this affidavit he now seeks to enter. (PCR Tr. p. 11 – 15). Further, Storme Carr testified at the post-conviction relief evidentiary hearing and this Court finds the testimony not credible and inconsistent with the evidence presented at Applicant's trial.

This Court finds Applicant's second amended application with the affidavit from his brother, Kevin Chandler, is also not newly-discovered evidence. Applicant's brother's affidavit states that he was made aware of a twenty-year plea offer during the pendency of his brother's case and “relatively recently and after his brother was found guilty at trial, he realized his brother was unaware of any plea offers made in this case.” This is not newly-discovered evidence. This is not material to the issue of guilt or innocence. This is a new allegation. Applicant has already had a PCR action and chose not to raise this issue then. Further, at the evidentiary hearing in Applicant's first action, Applicant's counsel testified that there was a plea offer of thirty years that was “adequately, thoroughly, vehemently” conveyed to Applicant and that was a bona fide offer and “would be the best there would be.” (PCR Tr. p 55). Further, Kevin Chandler testified at the post-conviction relief hearing, and this Court finds his testimony not credible. There was no further evidence presented by Applicant to support the existence of this alleged twenty-year plea offer.

Therefore, this Court finds these allegation of newly-discovered evidence do not meet the threshold of newly-discovered evidence and are therefore dismissed.

**CONCLUSION**

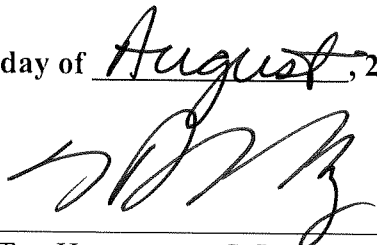
Based on the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief is **DENIED and DISMISSED WITH PREJUDICE**.

Should Applicant wish to secure appellate review, she must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. 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 an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR, 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. Attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED:**

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant shall be remanded to and remain in the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 4 day of August, 2026.

  
\_\_\_\_\_  
THE HONORABLE S. BRYAN DOBY  
Presiding Judge 2784  
Ninth Judicial Circuit

Bishopville, South Carolina

**JULIE J. ARMSTRONG**

CLERK OF COURT, C.P. & G.S.  
100 BROAD STREET, SUITE 106  
CHARLESTON, SC 29401-2258

**RETURN SERVICE REQUESTED**



clerkofcourt.charlestoncounty.org

Kylee Marcella Kanealey  
PO Box 11549  
Columbia, SC 292111549



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## **NOTICE OF ENTRY OF JUDGMENT/ORDER PURSUANT TO RULE 77 SCRPC**

**Order: Motion/Dismiss Granted**

**CASE NO: 2020CP1003696**

**Terrelle Q Chandler VS South Carolina State of**

This judgment was entered on the 16th day of July, 2026, and notice mailed first class on Monday, July 20, 2026, to all counsel of record and/or all parties entitled to receive notice.

You may view and download this document at <http://clerkofcourt.charlestoncounty.org> or obtain a copy in person at the Clerk of Court's Office during regular Charleston County business hours.



ALAN WILSON  
ATTORNEY GENERAL

August 14, 2026

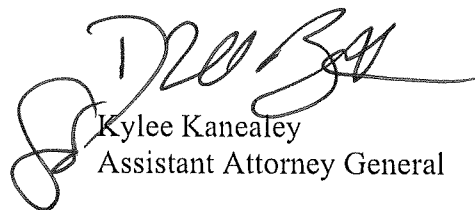
The Honorable Julie J. Armstrong  
Charleston County Clerk of Court  
100 Broad Street, Suite 106  
Charleston, South Carolina 29401

***Re:*** **Terrell Chandler, #300938 v. State of South Carolina**  
**Case No. 2020-CP-10-03696**

Dear Ms. Armstrong:

Enclosed for filing, please find the original Order of Dismissal, signed by the Honorable S. Bryan Doby, for the above-captioned case. Please forward a time-stamped copy back to our office for our file.

Sincerely,

  
Kylee Kanealey  
Assistant Attorney General

KK/vh  
Enclosure

cc: Chelsey F. Marto, Esquire