

The Supreme Court of South Carolina

Willie M. Anderson, Petitioner

V

State of South Carolina Respondent

Willie M. Anderson v State

February 16 2014

Appellate Case No. 2013-002724

Lower Court Case No. 2010-CP-14-00672

Clerk of Court,
Supreme Court of South Carolina
Daniel E. Shearman

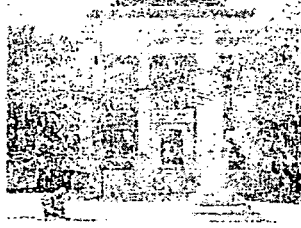
I have been advised that the document you requested for is not available at this time all document you ask for I had sent to my attorney in new york to the innocence project, Attorney Investigation merely I own it to my attorney and her agency, But I am sending you some document to show you when my PCR Application had been file with the court and when the Appeal was file also and as for my attorney I am sending her the document that you requested from me and maybe she can get in touch with you cause you can see South Carolina Court System is not trying to report me to attorney cause of my innocence, I been dealing with her from the Court System

Every Sense Day one

Sincerely
Willie Mous Anderson

F. Cooper

Clarendon County Clerk of Court Office



BEULAH G. ROBERTS
CLERK OF COURT
POST OFFICE BOX 136
MANNING, SC 29102
PHONE: (803) 435-4443
FAX: (803) 435-4844

MARILYN WILSON
FAMILY COURT
POST OFFICE BOX 490
MANNING, SC 29102
PHONE: (803) 435-4210
FAX: (803) 433-8008

March 26, 2012

Case number *4:09-CV-2267*

Case name - *Anderson v Billups*

No 95-CP-14-03

BLIND APPEAL REVIEW

To: Willie M. Anderson

From: Office of Clerk of Court Clarendon County

FINAL ORDER

Re: Appeal *2010-CP-14-0672*

NOTICE TO D. APPEAL

We received an appeal and filed it with your file, as we are to do. Any other action to be taken or places it needs to be filed is up to you.

Also, my name is Mrs. Beulah G. Roberts. Please address your correspondence to Mrs. Roberts.

RECEIVED

FEB 24 2014

S.C. SUPREME COURT

Claims bearing upon state Prisoner Release From Custody

(1) Justice Souter also adopts the common law principle that one cannot use the device of an out standing criminal conviction

(2) But think it necessary to uphold on that principle in those cases of which no real-life example comes to mind involving former state prisoners who because they are no longer in custody cannot bring post-conviction challenges)

(3) Post. at 2379 we think the principle barring collateral attacks — a long standing and deeply rooted feature of both the common law and our own jurisprudence — is not rendered inapplicable by the fortuity that a convicted criminal is no longer incarcerated)

(4) Justice Souter opines that disallowing a damages suit for a former state prisoner framed by Ku Klux Klan — dominated state officials is "hard indeed to reconcile with the purpose of § 1983: Post at 2380 But if as Justice Souter appears to suggest)

(5) The goal of Four interpretive enterprise under § 1983 were to provide a remedy for all conceivable invasions of federal rights that freedmen may have suffered at the hands of officials of the former state (of the Confederacy)

Case Number 4:09-CV-02267 & Copy
Case Name Anderson v Billups

SOUTH CAROLINA LAW ENFORCEMENT DIVISION



MARK SANFORD
Governor

REGINALD I. LLOYD
Director

Concern My DNA test result,
May 17 1990

Case number: 4:09-CV-02267 September 18, 2008

Case name Anderson v Billups

Willie M. Anderson, #170797
Evans C.I. / Santee Unit A Wing Rm. 272
610 Hwy. 9 West
Bennettsville, SC 29512

Person convicted under this section must
provide a sample from which DNA may be
obtained for inclusion in the state DNA
Database See 23-3-620

RE: SLED Lab#: L90-5845

Dear Mr. Anderson: 4:05-CV-02661-GRATER (Date Filed 02/13/2006)

The above referenced file concerning your case has been copied and reviewed. Please find listed below a breakdown of the charges associated with your request.

6 pages @ \$.25 per page of copy	-	\$ 1.50
Iron Mountain Storage Facility Retrieval	-	12.24
TOTAL	-	\$13.74

All fees need to be paid by money order and made payable to the State Law Enforcement Division. Please ensure that your name and FOI# 2008-743 are referenced on the money order. Address the envelope to SLED Public Information Office, P.O. Box 21398, Columbia, SC 29221-1398, Attention: Mary Perry. Upon receipt of your money order, the file will be forwarded to you.

Sincerely,

M. C. Perry

Mary C. Perry
FOIA/Subpoena Compliance Coordinator

MCP/dis/FOI#2008-743



An Accredited Law Enforcement Agency

P.O. Box 21398 / Columbia, South Carolina 29221-1398 / (803) 737-9000 / Fax (803) 896-7041

The entire landscape of our § 1983 Jurisprudence would look very different
we would not for example have Absolute immunity from Liability for damages under § 1983 *Pierson v Ray*, 386 U.S. 547, 87 S.Ct 1213 18 L. Ed. 2d 258 (1967)

A Rule that would prevent Recovery by a Former slave who Been tried and Convicted before A Corrupt State Judge in League with the Ku Klux Klan

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

IN THE COURT OF COMMON PLEAS

RECEIVED

Willie Anderson, 170797

Plaintiff

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE

CASE NO.
2010-CP-14-0672

FEB 24 2014

DATE 7/20/11

Beulah G. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET
S.C. SUPREME COURT

State Of South Carolina

Defendant.

Plaintiff's Attorney: Willie Anderson, Bar No. Address: ACI Post Office Box 1151 Fairfax SC 29827 phone: fax: e-mail: other:	Defendant's Attorney: Robert Corney, Bar No. Address: Post Office Box 11549 Columbia SC 29211-1549 phone: (803) 734-3737 fax: (803) 734-4113 e-mail: other:
<input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input checked="" type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: Estimated Time Needed: Court Reporter Needed: <input type="checkbox"/> YES / <input type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input type="checkbox"/> Written motion attached <input checked="" type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached-proposed order.	
<u><i>Robert Corney</i></u> Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant	<u>July 6, 2011</u> Date submitted
SECTION III: Motion Fee	
<input type="checkbox"/> PAID - AMOUNT: <input checked="" type="checkbox"/> EXEMPT:	
(check reason) <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input checked="" type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: <input type="checkbox"/> Other:	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other:	<u>W. Jeffrey Young</u> JUDGE CODE: <u>43</u> Date: <u>07-13-11</u>
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____	
<input type="checkbox"/> MOTION FEE COLLECTED: _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: _____	

BEULAH G. ROBERTS
 CLERK OF COURT
 CLARENDON COUNTY, SC
 2011 JUN 20 AM 11:28

STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON)

IN THE COURT OF COMMON PLEAS

2010-CP-14-0672

BEULAH G. ROBERTS
CLERK OF COURT
CLARENDON COUNTY, SC
JUN 20 11:28 AM

Willie Anderson, #170797,)



Applicant, **CERTIFIED TRUE COPY**
OF ORIGINAL FILED IN THIS OFFICE
v. DATE 7/20/11 **CONDITIONAL ORDER OF DISMISSAL**

State of South Carolina,)
Respondent.)

Beulah G. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

This matter comes before this Court by way of an application for post-conviction relief filed December 1, 2010. In its Return, Respondent requests that the action be summarily dismissed.

Before this Court are the records of the Clarendon County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, and records from Applicant's previous application for post-conviction relief. The records before this Court reflect that the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Clarendon County. The Applicant was indicted at the September 1990 term of the Clarendon County Court of General Sessions for Armed Robbery, Assault and Battery with Intent to Kill, and Possession of a Weapon during a Violent Crime (1990-GS-14-0235). Harold Detwiler, Esquire, represented him. On September 27, 1990, Applicant proceeded to a jury trial before the Honorable Anthony Harris. The jury found Applicant guilty, and Applicant was sentenced twenty (20) years imprisonment for Armed Robbery, twenty (20) years imprisonment for Assault and Battery with Intent to Kill, to be served

consecutively, and five (5) years imprisonment for Possession of a Weapon during a Violent Crime, to be served concurrently. The Applicant did not appeal his conviction.

The Applicant subsequently filed an application for PCR on November 7, 1994 (1995-CP-14-0003). In his application, Applicant set forth the following grounds for relief:

1. "Incompetency, ineffective assistance of Counsel."
2. "17-27-20(4) Exclusiveness Remedy; Rule 33; 59 ALR FED 657, FED PRC CRIM."
3. "Did not advise the defendant of the right to appeal."

The State filed its return on March 13, 1995, and an evidentiary hearing was held before the Honorable Gary E. Clary, at which the Applicant was present and represented by John C. Land, IV, Esquire. By Order dated November 28, 1995, Judge Clary denied and dismissed the Applicant's application for PCR.

Applicant filed his second application for PCR on October 9, 1996 (1996-CP-14-0393). In his application, Applicant set forth the following grounds for relief:

1. Ineffective Assistance of Counsel
 - a. "Counsel did not call all witnesses Mr. Anderson requested at his trial."

The State filed its Return and Motion to Dismiss on November 27, 1996. By Order dated December 3, 1996, the Honorable Thomas W. Cooper denied and dismissed the Applicant's second application for PCR.

Applicant filed his third application for PCR on July 1, 2004 (2004-CP-14-0331). In his application, Applicant set forth the following grounds for relief:

1. "... deprived of his liberty without Due Process of law as guaranteed by the Fifth and Fourteenth Amendments to the Constitution of the United States, and by Article I, Section 3, of the South Carolina constitution."
2. "After discovered evidence/Illegal Arrest."
3. Lack of Subject Matter Jurisdiction.

The State filed its Return and Motion to Dismiss on August 2, 2005. By Final Order dated August 18, 2006, the Honorable Thomas W. Cooper denied and dismissed the Applicant's third application for PCR.

Applicant also filed a Federal Habeas Corpus motion, which was denied.

In his current application for post conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Applicant applied for legal advice and attorney by submitting 'In Forma pauperis.' Applicant should have been appointed an attorney but was not."
2. "Not knowing proper procedure, Applicant missed important deadlines, and PCR was denied. This is a direct violation of SCRCP 71.1(d)(g)."
3. "Applicant applied for same in his Federal habeas Corpus claim and was denied."
4. "In both motions (State and federal), Applicant's Constitutional rights were violated."

This Court finds that the current application for post-conviction relief must be summarily dismissed because it is successive to his prior applications for post-conviction relief. S.C. Code Ann. §17-27-90 provides that:

All grounds for relief available to an application under this chapter must be raised in his original, supplemental or amended Application. Any ground finally adjudicated or not so raised, knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding 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 applications are disfavored and the burden is on Applicant to establish that any new ground raised in a subsequent application could not have been raised by him in a previous

application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 309 S.C. 157, 420 S.E.2d 834 (1992).

This Court finds that the current allegations were or could have been raised in the proceedings based on Applicant's prior application for post-conviction relief and thus the current application is successive and barred under S.C. Code § 17-27-90. Applicant has failed to establish sufficient reason why he could not have raised his current allegations in his previous application for post-conviction relief; therefore, he has failed to meet the burden imposed upon him. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980); Aice v. State, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 420 S.E.2d 834 (1992).

This Court finds, further, that this Application for Post-Conviction Relief should 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. S.C. Code Ann. §17-27-45(a) reads as follows:

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

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). The Applicant was convicted of the offense(s) he challenges in this Application on September 27, 1990. This Application was filed on December 1, 2010, which was more than twenty (20) years after the statutory filing period had expired.

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) (2003) 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 that the application for post-conviction relief should be summarily dismissed for failure to file within the time mandated by statute and for being successive.

Additionally, this Court intends to summarily dismiss the application as barred by the doctrine of *res judicata*. *Res judicata* prohibits subsequent actions by the same parties on the same issues. Bell v. Bennett, 307 S.C. 286, 414 S.E.2d 786 (Ct. App. 1992). A final judgment on the merits in a prior action bars subsequent consideration of those issues in a new action. Foran v. USAA Casualty Ins. Co., 311 S.C. 189, 427 S.E.2d 918 (Ct. App. 1993). *Res judicata* also bars any issues that could have been raised in the former action. Id.

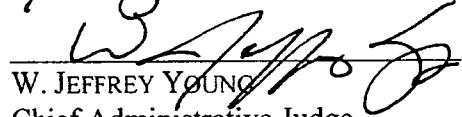
The Applicant had a full opportunity to litigate all current allegations in prior proceedings and did in fact make similar allegations (e.g. the victim was related to the sheriff) in his prior application for relief. The other grounds present allegations that could have been raised in those prior proceedings. The public interest in finality of judgments requires that litigation must eventually come to an end. Pursuant to Rule 12(b)(6), SCRPC, the Court will summarily dismiss these claims as barred by *res judicata*.

Pursuant to S.C. Code Ann. § 17-27-70(b), the Court intends to dismiss this Application with prejudice unless the Applicant provides specific reasons, factual or legal, why the Application should not be dismissed in its entirety. The Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final. The Applicant shall file any

reasons he may have with the Clarendon County Clerk of Court and shall serve opposing counsel at the following address:

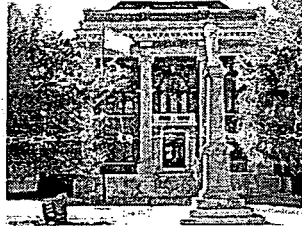
Office of the Attorney General
Attn: Rob D. Corney, Esquire
P.O. Box 11549
Columbia, South Carolina 29211

AND IT IS SO ORDERED this 13 day of July, 2011.


W. JEFFREY YOUNG
Chief Administrative Judge
Third Judicial Circuit Court

Sumter, South Carolina

Clarendon County Clerk of Court Office



BEULAH G. ROBERTS
CLERK OF COURT
POST OFFICE BOX 136
MANNING, SC 29102
PHONE: (803) 435-4443
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MARILYN WILSON
FAMILY COURT
POST OFFICE BOX 490
MANNING, SC 29102
PHONE: (803) 435-4210
FAX: (803) 433-8008

January 13, 2011

To: Willie Moses Anderson

From: Office of Clerk of Court

Re: PCR Application

Please remit the amount of \$2.00 and this office will be happy to send you a certified copy of your PCR Application that was filed with this office on December 1, 2010.

Walter Mose Anderson #170792
See Anderson's institution
Charlestonfield South Room 2029
490 W. Main St. Hughes
Buckhornville SC 29016

LEGAL MAIL ONLY

RECEIVED

FEB 18 2014

LEE CI MAIL ROOM

The Supreme Court of South Carolina
Daniel E. Shearman & Sterling
Post office Box 11330
Columbia South Carolina 29211

THE DEPARTMENT OF CORRECTIONS HAS NOT RECEIVED
THIS ITEM, THEREFORE, THE DEPARTMENT DOES NOT
ASSUME RESPONSIBILITY FOR ITS WRITTEN CONTENTS.
LEE CORRECTIONAL INSTITUTE
SC DEPARTMENT OF CORRECTIONS