

State of South Carolina )  
County of Greenville )

IN THE COURT OF COMMON PLEAS  
2013-CP-23-2304

John W Goldsmith )  
S.C.D.C. No. 281165 )  
Appellant )  
v. )

NOTICE OF APPEAL **RECEIVED**

MAR 27 2014

State of South Carolina, )  
Respondent. )

**RECEIVED** SC Court of Appeals

APR 01 2014

S.C. SUPREME COURT

The appellant, John W. Goldsmith, appeals the lower court's decision of Final Order of Dismissal. The appellant, John W. Goldsmith contends that his application should not be dismissed. SC Code Ann. Sec. 17-27-45(C) reads: If the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence, the application must be filed under this chapter 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. John contends that he was not aware that he was not given credit for the time served prior to being sentenced until after the first PCR application had been filed, therefore resulting in newly discovered evidence. When the appellant first discovered that he was not given credit for the time he served, per SC Code Ann. Sec. 24-13-14, he first obtained the time served report for S.C.D.C Transfer from Greenville County Records Division. Secondly, he filed a motion with the Clerk of Court, Paul B Wickensimer, to remedy the issue. Additionally, the appellant, John W. Goldsmith, was not aware that the issue should have been brought forth in first PCR application because he thought that the issue was

going to be resolved with the Clerk of Court and the proof of time served. It was not until he did not receive a response from the Clerk of Court that he filed his second PCR application.

Moreover, Case, *State v. Caskey, et al.*, 273 S.C. 325, 256 S.E. (2d) 737 (1979). A party requesting a new trial based on after-discovered evidence must show that the evidence (1) Is such as would probably change the result if a new trial was had. John W. Goldsmith contends that his trial counsel, Stephen Henry, failed to properly inform the trial court of the time served and that if the trial Judge had been made aware of the correct amount of time that he served by Stephen Henry, the trial judge would have given him the credit for the time served and he would not have to request the credit due to him per this PCR.

Furthermore, the punishment that the appellant received does not fit the crime. There are plenty of cases where convicted murders and child molesters get way less time than the appellant received for selling drugs to people that wanted to buy them. The appellant did not take a life nor did he commit sexually heinous acts against a child. The justice system needs revising and the only thing the appellant is asking for, is to receive credit for the time that he served as per the law.

Wherefore, the foregoing reasons the honorable Court should grant an evidentiary hearing to resolve this case on the merits to best serve the interest of Justice. John W. Goldsmith does not request a new trial; he just wants the credit due to him per SC Code Ann Sec. 24-13-14. The appellant is requesting 17 months be credited to his time. Please let justice prevail and grant John W. Goldsmith credit for the time he served from the date he was arrested to the time he was sentenced, which he is currently serving time for.

March 20, 2014

Respectfully Submitted:

A handwritten signature in cursive script, reading "John W. Goldsmith", is written over a horizontal line.

John W. Goldsmith #281165

Tyger River CI Unit 3B-115

200 Prison Rd

Enoree, SC 29335

To: Paul B Wickensimer  
Greenville County Clerk of Court  
305 East North St  
Greenville SC 29601

From: John W. Goldsmith 281165  
Tyger River CI U3-B -115  
200 Prison Rd  
Enoree, SC 29335

RE: 2013-CP-23-2304

Dear Mr. Wickensimer,

This is to serve as notice to file an appeal. The appellant, John W. Goldsmith, received a final notice of dismissal on February 6, 2014 with a stamp date of January 27, 2014. The applicant, John W Goldsmith, has yet to be served with an affidavit of service. However, the appellant is appealing the final notice of dismissal made by The Honorable Letitia H Verdin. Enclosed are the documents to justify his appeal, request to receive credit for the time served, and reason PCR should granted.

Respectfully Submitted,

John W Goldsmith  
March 20, 2014

**RECEIVED**  
MAR 27 2014  
**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE  
CASE NO: 2013CP2302304

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL B. WICKENSIMER  
2014 JAN 27 PM 3 40

John W Goldsmith vs. South Carolina State Of

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a),  
SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  Other: \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j) SCRPC;  Bankruptcy:  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
 Other: \_\_\_\_\_
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  
 Other: \_\_\_\_\_

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:  See attached order;  Statement of Judgment by the Court.

Dated at Greenville, South Carolina, this 27<sup>th</sup> day of January, 2014 .

Court Reporter: \_\_\_\_\_

\_\_\_\_\_  
PRESIDING JUDGE - Letitia H Verdin

This judgment was entered on the , and a copy mailed first class this , to attorneys of record or to parties (when appearing pro se) as follows:

\_\_\_\_\_  
John W Goldsmith Tyger River Corr Institute 200  
Prison Rd Enoree, SC 29335

\_\_\_\_\_  
Karen Christine Ratigan PO Box 11549 Columbia,  
SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

\_\_\_\_\_  
ATTORNEY(S) FOR THE DEFENDANT(S)

\_\_\_\_\_  
Paul B. Wickensimer Greenville County Clerk Of Court  
- Clerk of Court

**RECEIVED**

MAR 27 2014

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENVILLE )  
 )  
 John Willis Goldsmith, )  
 S.C.D.C. No. 281165, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 2013-CP-23-2304

FILED-CLERK OF COURT  
 GREENVILLE CO. S.C.  
 PAUL B. WICKENSIMMER  
 2014 JAN 27 PM 3 40

**FINAL ORDER OF DISMISSAL**

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed April 24, 2013. The Respondent made its return on September 19, 2013, requesting the application be summarily dismissed based upon the expiration of the statute of limitations and the presumption against successive PCR applications.

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal signed September 26, 2013 and filed September 30, 2013, provisionally denying and dismissing this action, while giving the Applicant twenty (20) days from the date of service of said Order in which to show why the dismissal should not become final. Attached to this Final Order and incorporated herein by reference is an Affidavit of Service dated October 28, 2013, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

In a document captioned "Response to the Respondent's Conditional Order of Dismissal" and filed December 3, 2013, the Applicant argues his second PCR application should not be dismissed because he "was not aware of the fact that jail time served prior to trial or sentencing

were not given to him under § 24-13-40 until after 1st PCR application had been filed nor the fact that it was a PCR issue.” The Applicant argues his counsel failed to inform the court “of the correct amount of time served by Applicant prior to trial and sentencing.”

This Court has reviewed the Applicant’s response to the Conditional Order of Dismissal in its entirety, in conjunction with the original pleadings, and finds a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

This Court notes the Applicant was sentenced on these two sets of charges on October 10, 2006 and November 8, 2006. As this action was filed on April 24, 2013, it was clearly filed outside the expiration of the statute of limitations. See S.C. Code Ann. § 17-27-45(a) (Supp. 2003). This is the Applicant’s second application for post-conviction relief. This Court notes successive PCR applications are disfavored. See Land v. State, 274 S.C. 243, 246, 262 S.E.2d 735, 737 (1980). This Court finds the Applicant had the opportunity to litigate all issues related to his case at the evidentiary hearing for his first PCR application on xxx. See Odom v. State, 337 S.C. 256, 261, 523 S.E.2d 753, 755 (1999) (“[A]n applicant is entitled to a full adjudication on the merits of the original petition, or ‘one bite at the apple.’”).

This Court finds that a credit-related claim or challenge to other conditions of confinement are administrative matters and, thus, cannot be raised in a post-conviction relief proceeding. See Al-Shabazz v. State, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000).

To the extent that the Applicant is arguing his issue is newly-discovered, this Court finds such an allegation is without merit. This Court finds the Applicant’s alleged evidence has failed to prove any of the five (5) required elements of newly-discovered evidence. See Hayden v. State, 278 S.C. 610, 611-12, 299 S.E.2d 854, 855 (1983). Most importantly, the issue of credit



for time-served would have been known to the Applicant when he was sentenced and thus could have been raised before the current application

**IT IS THEREFORE ORDERED** that, for the reasons set forth in this Court's Conditional Order of Dismissal, the PCR application is hereby denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

**AND IT IS SO ORDERED** this 21 day of Jan, 2014.



\_\_\_\_\_  
Letitia H. Verdin  
Chief Administrative Judge  
Thirteenth Judicial Circuit

\_\_\_\_\_, South Carolina.





John W. Goldsmith 28165  
Tyger River Ct. US-B-115  
200 Prison Rd.  
Endres, S.C. 29335

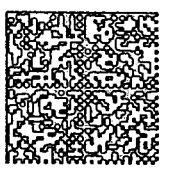
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Honorable Terry Abbott Kitchens  
Clerk of Court  
PO Box 14629  
Columbia, S.C. 29211

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SC Court of Appeals



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