

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Jerome Long, #151047,

Case No. 2010-CP-38-00888

Applicant,

v.

FINAL ORDER OF DISMISSAL

State of South Carolina,

Respondent.

FILED FOR RECORD
JUN 10 PM 2:43
CLERK OF COURT
JUDICIAL CIRCUIT
ORANGEBURG COUNTY
SOUTH CAROLINA

2013 JUN 10 PM 2:43

This matter comes before the Court pursuant to an application for post-conviction relief filed May 10, 2010. The Respondent made its Return and Motion to Dismiss on July 12, 2011, requesting that the Application be summarily dismissed. 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 December 5, 2012 and filed on December 11, 2012, provisionally denying and dismissing this action, while giving the Applicant twenty 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 January 28, 2013, serving the aforementioned Conditional Order of Dismissal on the Applicant.

Applicant responded to the Conditional Order of Dismissal by way of a several documents. One such document is captioned "Rule 15, Amended and Supplemental Pleadings, and Applicant Response objection to conditional order of Dismissal" filed February 8, 2013. In this response, Applicant alleges that he received ineffective assistance of post-conviction relief counsel in his first post-conviction relief application¹ (97-CP-38-0106) for failing to raise "all available grounds." Specifically, Applicant alleges that post-conviction relief counsel failed to

¹ Applicant filed a post-conviction relief application on December 8, 1995 (95-CP—38-0833), however that application was dismissed without prejudice, because Applicant's appeal was still pending.



raise (1) “6th And 14th Amendment right to effective assistance of appellate counsel’ a ‘failure to raise applicant’s jury instruct on inference of malice from the use of a deadly weapon” and (2) Defense of dwelling or habitation.

Applicant’s also cites “newly discovered evidence” as being a sufficient ground to allow him a file a subsequent post-conviction relief application, but fails to plead or otherwise inform this Court what specific evidence his is attempting to introduce as “newly” or “after-discovered” evidence.

Furthermore, Applicant responded in a letter to this Court, dated April 17, 2013 and received April 17, 2013, in which he states that his former post-conviction relief counsel did not amend his initial application. Specifically, Applicant states: “Applicant first PCR counsel failure to amend his application of the defense of habitation to support his ground of ‘self-defense’ in the year of 1994.”

Applicant also responds with a “Motion to Reconsider Amend Original P.C.R. Application” and cites to SCRCP Rules 52, 59, and 60. This Court finds that such a motion is not properly before this Court, as this Court only has jurisdiction over Applicant’s current post-conviction relief application. However, to the extent that a Motion to Reconsider or Amend his initial post-conviction is properly before it, this Court finds that this motion is filed well beyond the ten days as required by SCRCP Rules 52, 59, and 60.

This Court has reviewed Applicant’s responses to the State’s Motion to Dismiss in its entirety, in conjunction with the original pleadings, and finds that no sufficient reason has been shown why the Conditional Order of Dismissal should not become final. The Court finds the Applicant’s claims for ineffective post-conviction relief counsel does not amount to a “sufficient reason” to permit a successive application. The Court finds that any supposed lack of

qualification of post-conviction relief counsel was an issue that could have been raised, if at all, at the time of the appointment and later pursued on certiorari following denial of relief by the post-conviction relief court. As a result, he cannot raise this or any other allegation now in a successive Application. Aice v. State, 409 S.E.2d 392 (1991); See also Arnold v. State, 309 S.C. 157, 420 S.E.2d 834, 843 (1992), *cert. denied*, 507 U.S. 927 (1993); Hunter v. State, 271 S.C. 48, 244 S.E.2d 530, 533 (1978) (successive application barred where applicant was aware of claim at the time of the filing of prior applications but did not raise it); Land v. State, 274 S.C. 243, 262 S.E.2d 735, 737 (1980) (applicant's conclusory assertion that post-conviction relief counsel was "inadequate" held not a "sufficient reason" warranting a successive application); Graham v. State, 378 S.C. 1, 3, 661 S.E.2d 337, 338 (2008). Therefore, this Application must be dismissed as impermissibly successive.

IT IS THEREFORE ORDERED that, for the reasons set forth in the Court's Conditional Order of Dismissal, the Application for post-conviction relief is hereby denied and dismissed with prejudice.

AND IT IS SO ORDERED this 16th day of May, 2013.



EDGAR W. DICKSON
Chief Administrative Judge
First Judicial Circuit

St. George, South Carolina.

(stm #

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Jerome Long

Plaintiff

v.

State Of South Carolina

Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.
2010-CP-38-00888

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

FILED
MAY 2 2013
CLERK OF COURT
COLUMBIA, SOUTH CAROLINA

Plaintiff's Attorney: Jerome Long, Bar No. Address: PERRY CORRECTIONAL INSTITUTION 430 Oaklawn Road Pelzer, SC 29669 phone: fax: e-mail: other:	Defendant's Attorney: Megan E. Harrigan, Bar No. Address: Post Office Box 11549 Columbia, South Carolina 29211 phone: 803-734-3737 fax: 803-734-4113 e-mail: mharrigan@scag.gov other:
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MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

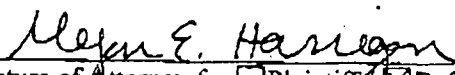
Nature of Motion:

Estimated Time Needed: Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

Written motion attached
 Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.


 Signature of Attorney for Plaintiff / Defendant

Date submitted: May 2, 2013

SECTION III: Motion Fee

PAID - AMOUNT: _____
 EXEMPT:

(check reason)

Rule to Show Cause in Child or Spousal Support
 Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRPC)
 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:

Other: _____

JUDGE'S SECTION

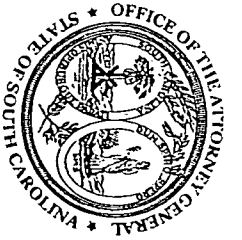
Motion Fee to be paid upon filing of the attached order.
 Other: _____

JUDGE: _____
 CODE: _____ Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

MOTION FEE COLLECTED: _____



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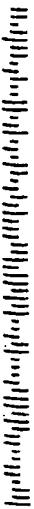
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