

PCR

STATE OF SOUTH CAROLINA
 COUNTY OF FLORENCE

WELBOME W. JAMES, #298382
 APPELLANT,
 v.
 STATE OF SOUTH CAROLINA,
 RESPONDENT.

IN THE COURT OF COMMON PLEAS
 FOR THE TWELFTH JUDICIAL CIRCUIT

CASE NO. 2012-CP-21-3233

NOTICE OF APPEAL

PLEASE TAKE NOTICE THAT APPELLANT WELBOME W. JAMES HEREBY APPEAL THE ORDER OF DISMISSAL FILED ON APRIL 10TH, 2014 OF WHICH NOTICE OF ENTRY WAS SERVED ON APRIL 17TH, 2014.

~~RESPECTFULLY SUBMITTED,~~
 Jerome W. James
 WELBOME W. JAMES

RECEIVED
 MAY 08 2014
 S.C. SUPREME COURT

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE) FOR THE TWELFTH JUDICIAL CIRCUIT

Jerome W. James, # 288382,) Case No. 2012-CP-21-3233
)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

**ORDER DENYING APPLICANT'S
RULE 59(E) MOTION**

FILED
2014 APR 10 PM 1:25
CONNIE REEL-STEIN
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

This matter comes before the Court on Applicant's "Motion to Alter or Amend Judgment" filed March 5, 2014. Respondent filed a reply to Applicant's motion on or about March 31, 2014. Applicant's motion appears to ask the Court to reconsider, pursuant to Rule 59(e), its final order of dismissal. Applicant alleged two grounds for reconsideration. First, he alleges Respondent "lost all right and jurisdiction to file any motions when they failed to meet statute of limitations pursuant to § 17-27-70(a) S.C. Codes of Law." Second, Applicant alleges the Court's order "failed to address clearly established law." Respondent submitted Applicant failed to comply with the Rules of Civil Procedure by not properly serving the motion on Respondent. Respondent further submitted that the motion was without merit and the Court's final order adequately addressed all issues raised in Applicant's filings.

The Court has reviewed the original pleadings and all of Applicant's filings. The Court finds Applicant did not properly serve his motion on Respondent, as indicated by his certificate of service. See Rule 59(e) and Rule 5(a)-(b). Therefore, the Court finds Applicant's motion should be denied for failure to comply with the Rules of Civil Procedure.

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

) IN THE COURT OF COMMON PLEAS
) FOR THE TWELFTH JUDICIAL CIRCUIT

Jerome W. James, #288382,

) Case No. 2012-CP-21-03233
)

) Applicant,
)

) **FINAL ORDER OF DISMISSAL**

) v.
)

) State of South Carolina,
)

) Respondent.
)

FILED
2014 FEB 17 PM 12:11
CONNIE REEL-SHEARIN
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

This matter comes before the Court pursuant to an Application for Post-Conviction Relief (PCR) filed December 5, 2012. Respondent made its Return and Motion to Dismiss on or about February 12, 2013, requesting the Application be summarily dismissed as untimely and successive. Pursuant to this motion, the Court reviewed the pleadings in this matter and all of the records attached thereto. The Court issued a Conditional Order of Dismissal, filed on March 6, 2013, provisionally denying and dismissing this action, while giving Applicant twenty (20) days from the date of service of said order to show why the dismissal should not become final. Attached to this final order and incorporated herein by reference is the Affidavit of Personal Service, dated April 14, 2013, of the above-mentioned conditional order on Applicant.

Applicant filed a document titled "Motion to Amend PCR Application and Reply to Motion to Dismiss" on March 14, 2013. In this pro se document, Applicant argues two grounds why the conditional order should not become final. First, he argues the current allegations were adjudicated on the merits in his prior PCR. In support of this argument, Applicant submitted a copy of a motion for summary judgment in his federal *habeas corpus* action. This motion argues certain issues raised in federal court are procedurally barred because his PCR appeal was

CERTIFIED: A TRUE COPY
Connie Reel-Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

dismissed pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988).¹ He also cites Gamble v. State, 298 S.C. 176, 379 S.E.2d 118 (1989), for the proposition the application is not successive because his allegations were not adjudicated on the merits. Applicant's second ground is the State's incorrectly interpreted the mandatory sentencing requirement for his conviction.

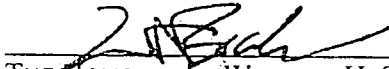
The Court finds Applicant has not shown a sufficient reason why the application is not untimely and successive and why the conditional order should not become final. Applicant's reliance on Gamble is misplaced. In Gamble, the applicant was entitled to a second PCR because his first PCR was dismissed *without* prejudice. Gamble, 298 S.C. at 177, 379 S.E.2d at 119. In contrast, the record here clearly demonstrates Applicant's prior PCR was dismissed *with* prejudice. This dismissal was upheld by the Supreme Court after a review of the record pursuant to Johnson. Thus, Applicant had his "one bite at the apple." Id. at 178, 379 S.E.2d at 119. Furthermore, the fact claims are procedurally barred in federal court has no bearing on the propriety of successive and untimely claims in state court. Applicant is still barred from raising new grounds in a successive application if those grounds could have been raised in a previous one. Aice v. State, 305 S.C. 448, 450, 409 S.E.2d 392, 394 (1991). Likewise, Applicant's allegations regarding the State's sentencing interpretation is barred because it could have been raised in Applicant's prior PCR. Therefore, the Court finds Applicant has not shown good cause to be allowed to proceed with a successive and untimely application.

¹ In federal court, a claim is procedurally barred if the State appellate court dismissed the appeal pursuant to a no-merit procedure. See Fisher v. Angelone, 163 F.3d 835, 844 (4th Cir. 1998).

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.

This Court notes Applicant must file and serve a notice of intent to appeal within thirty (30) days from receipt of this order to secure the appropriate appellate review. See Rule 203, SCACR. Rule 71.1(g), SCRCP, and Bray v. State, 336 S.C. 137, 620 S.E.2d 743 (2005), for the obligation of Applicant's counsel to file and serve notice of appeal. The Applicant's attention is also directed to Rule 243, SCACR, for appropriate procedures after notice has been timely filed.

IT IS SO ORDERED this 24 day of January, 2014.


THE HONORABLE WILLIAM H. SEALS, JR.
Chief Judge for Administrative Purposes
Twelfth Judicial Circuit

Mullin, South Carolina

CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

2014 FEB 17 PM 12:15

FILED

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Connie Reel-Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

12
JT

FORM 4

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

FILED

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2012CP2103233

Jerome W James

2014 FEB 17 PM 1:54

State

CONNIE REEL SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: Plaintiff Defendant
 Self-Represented Litigant

DISPOSITION TYPE (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. See Page 2 for additional information.
- 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; (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code

For Clerk of Court Office Use Only

2/17/2014

Date

CERTIFIED: A TRUE COPY
Connie Reel Shearin

CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

This judgment was entered on February 17, 2014, and a copy mailed first class or placed in the appropriate attorney's box on February 18, 2014, to attorneys of record or to parties (when appearing pro se) as follows:

Jerome W James #288382 PO Box 205 Ridgeville, SC
29472

Joshua L. Thomas PO Box 11549 Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Connie Reel-Shearin

Court Reporter

Connie Reel-Shearin - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA)

COUNTY OF FLORENCE)

Jerome W. James, 288382)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS

2012-CP-21-3233

CONDITIONAL
ORDER OF DISMISSAL

CERTIFIED: A TRUE COPY

Connie Reel Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

FILED
2013 MAR - 6 PM 2:59
CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed December 5, 2012. Respondent made Return on February 12, 2013, requesting summary dismissal of the matter. This Court also has before it the records of the Clerk of Court regarding the subject convictions.

PROCEDURAL HISTORY

Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Florence County Clerk of Court's orders of commitment. The Florence County Grand Jury indicted the Applicant at the March 2002 term of General Sessions for first degree burglary, armed robbery, assault and battery of a high and aggravated nature, and possession of a firearm during commission of a violent crime (02-GS-21-331). Applicant was also indicted for second degree burglary, failure to stop for blue light, possession of stolen vehicle, and resisting arrest (02-GS-21-341). In addition, Applicant was indicted for two counts of armed robbery, possession of a firearm during commission of violent crime, grand larceny, and arson (02-GS-21-364). Applicant was also indicted for breaking and entering motor vehicle, malicious injury to personal property, grand larceny, and resisting arrest (02-GS-21-365). Daryl J. Corbin,

Esquire represented the Applicant.

On October 31, 2002, the Applicant pled guilty to the following charges on the following indictments: failure to stop for blue light and resisting arrest on indictment 02-GS-21-341; two counts of armed robbery on indictment 02-GS-21-363; one count of armed robbery on indictment 02-GS-21-364; another armed robbery and second degree burglary, subsection B on indictment 02-GS-21-331. The charges on indictment 02-GS-21-365 were nolle prossed. Upon information and belief, the Applicant may have pled to additional charges on this date.

The Honorable Lee S. Alford sentenced the Applicant to: three years concurrent for failure to stop for blue light and one year concurrent for resisting arrest (02-GS-21-341); ten years concurrent on the two armed robbery charges (02-GS-21-363); ten years on the armed robbery charge (02-GS-21-364); and ten years concurrent for armed robbery and second degree burglary subsection B (02-GS-21-331). The Applicant did not appeal his guilty plea or sentences.

Applicant filed his first PCR July 15, 2003. A hearing was convened on February 2006 in Florence County before the Honorable John L. Breeden. On July 15, 2005, Judge Breeden dismissed the case. Applicant appealed and his petition was denied. The remittitur was sent January 3, 2008.

ALLEGATIONS

Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Due process violation, Ineffective Assistance of Counsel"
2. "Lack of Subject Matter Jurisdiction, Misinterpretation of law"
3. Involuntary Guilty Plea, Newly Discovered Evidence"

DISCUSSION

This Court finds that the Application should be dismissed with prejudice as it was filed beyond the statute of limitations, and is successive.

Statute of Limitations

Applicant has failed to comply with the filing procedures of the Act. S.C. Code Ann § 17-27-10 to -160 (1976 & Supp. 1997). The Act reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment 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.

S.C. Code Ann. § 17-27-45(a) (Supp. 1998).

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). Applicant's conviction was October 31, 2002. This application was filed December 5, 2012, which was beyond the time the statutory filing period 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) (1985) authorizes the PCR 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, the Court finds that it should summarily dismiss the Application for PCR for failure to file within the time mandated by statute.

Successive

The Court should summarily dismiss the current Application because it is successive to the previous applications for post-conviction relief. Successive applications for post-conviction relief are strongly disfavored. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980). S.C. Code Ann. § 17-27-90 (1985) states:

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.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to 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, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." [Emphasis in original]. Id., 305 S.C. at 450, 409 S.E.2d at 394. If the Applicant could have raised these allegations in a previous application, then the Applicant may not raise those grounds in successive applications. Id. The Applicant bears the burden of showing that the allegations could not have been raised previously. Land, Id.

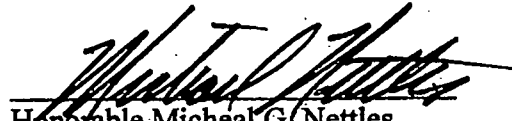
The Applicant could have raised the new grounds for relief in his prior post-conviction relief application. The Applicant has failed to present any reasons why he could not have raised the current allegations in his previous post-conviction relief applications. Accordingly, this application should be summarily dismissed.

CONCLUSION

Based upon its review of the pleadings in this matter, this Court expresses its intent to summarily dismiss this matter unless the Applicant advises this Court with specific reasons, factual or legal, why it should not dismiss the matter in its entirety. The Applicant is granted twenty days from the date of service of this Order upon him to show why this Order should not become final by filing any reasons he may have with the Clerk of Court, and serving such reasons with the SC Office of the Attorney General: Attn. Assistant Attorney General Tyson A. Johnson, Sr., Post Office Box 11549, Columbia, SC 29211.

AND IT IS SO ORDERED this

6 day of March, 2013.


Honorable Micheal G. Nettles
Chief Administrative Judge
12th Circuit

Nettles, South Carolina.

FILED
2013 MAR -6 PM 2:59
CONNIE REEL-SHEARIN
CCCP & CS
FLORENCE COUNTY, SC

13
AT

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Post Office Box 21787 - Columbia, South Carolina 29221

Pursuant to Rule 4(d)(2), SCRCP, the Director of the South Carolina Department of Corrections has designated off. Mitchell Melson (Server) as his duly authorized agent for the purpose of making service of the signed Conditional Order of Dismissal on the below named individual.

STATE OF SOUTH CAROLINA)
COUNTY OF) **AFFIDAVIT OF PERSONAL SERVICE**

On this 14 day of April, 2013, I served the signed Conditional Order of Dismissal on Inmate Jerome W. James No. 288382, by delivering personally and leaving a copy of the same at Lieber Correctional Institution, Ridgeville, South Carolina. Deponent is not a party to this action.

s/ off. Mitchell Melson
SCDC Server off. Mitchell Melson

SWORN TO AND SUBSCRIBED BEFORE ME

this 15th day of April, 2013
Ludrean Bryant (L.S.)
Notary Public for South Carolina

My Commission Expires May 26, 2020

ADMISSION OF SERVICE

Service of a copy of the signed Conditional Order of Dismissal is admitted at the S.C. Department of Corrections, Lieber Correctional Institution, Ridgeville, Darlington County, South Carolina, this 14th day of April, 2013.

s/ Jerome W. James
Inmate Signature
SCDC No. 04/14/13

RECEIVED

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

IN THE COURT OF COMMON PLEAS

MAY 08 2014

WELONIZ W. JAMES, #288382,

APPELLANT,

v.

STATE OF SOUTH CAROLINA,
RESPONDENT.

CASE No. 2012-CP-21-3233

S.C. SUPREME COURT

BRIEF / MEMORANDUM OF LAW IN
SUPPORT OF APPELLANT'S NOTICE OF
APPEAL

PURSUANT TO RULE 243 SCACR, APPLICANT
ADDRESSES THE FOLLOWING ISSUES:

I.

HERE JUDGE WILLIAM H. SEALS, JR. ERRORED DO TO THE FACT
HE FAILED TO UPHOLD THE LAW. APPELLANT RAISED SEVERAL ISSUES IN
HIS PCR APPLICATION FILED ON DEC. 5TH, 2012.

1. DUE PROCESS VIOLATION
2. INEFFECTIVE ASSISTANCE OF COUNSEL
3. LACK OF SUBJECT MATTER JURISDICTION
4. MISINTERPRETATION OF LAW
5. INVOLUNTARY GUILTY PLEA
6. NEWLY DISCOVERED EVIDENCE

JUDGE WILLIAM H. SEALS, JR. ERRORED BECAUSE DUE PROCESS

VIOLATION, INEFFECTIVE ASSISTANCE OF COUNSEL, INVOLUNTARY GUILTY PLEA AND LACK OF SUBJECT MATTER JURISDICTION WAS ALL RAISED IN APPELLANT'S FIRST PCR FILED ON 07-15-03. AND WHEN JUDGE JOHN W. BREEDEN ISSUED HIS FINAL ORDER, IT FAILED TO STATE SPECIFIC FINDINGS OF FACT AND CONCLUSION OF LAW ON EVERY ISSUE AS REQUIRED BY LAW §17-27-80. THE SUPREME COURT HAS HELD THAT AN ORDER FROM A PCR HEARING THAT DOESN'T STATE SPECIFIC FINDINGS OF FACT AND CONCLUSION OF LAW ISN'T A FINAL ORDER. MCLAY V. STATE, 305 S.C. 329, 408 S.E.2D 241 (1991), PRUITT V. STATE, 310 S.C. 254, 423 S.E.2D 127 (1992), GARNER V. STATE, 341 S.C. 1, 626 S.E.2D 860 (2006), MARLAR V. STATE, 375 S.C. 407, 653 S.E.2D 266 (2007).

Therefore, opening the way for a second hearing and judgment. AS TO WHETHER THE ISSUES RAISED IN APPLICANT'S FIRST APPLICATION FILED ON 07-15-03 WAS HELD TO THE LEGAL STANDARD OF §17-27-80. HERE RESPONDENT DO NOT CONTEST THIS BECAUSE THEY HAVE PREVIOUSLY STATED THAT THE ISSUES RAISED IN APPELLANT'S FIRST APPLICATION WASN'T ADJUDICATED ON THE MERITS. (SEE EXHIBIT - A PAGES 10, 11, 15-16 AND 18) SO, JUDGE WILLIAM H. SBAIS, JR. HAD A LEGAL STANDARD TO UPHOLD, BECAUSE THE SUPREME COURT HELD THAT AN ORDER FROM THE PCR COURT, WHICH DID NOT CONTAIN FINDINGS OF FACT AND CONCLUSION OF LAW ON EVERY ISSUE RAISED, DOES NOT CONSTITUTE A FINAL ORDER OR JUDGMENT UNDER THE UNIFORM POST-CONVICTION RELIEF ACT AND THEREFORE NOT PRESERVING ISSUES FOR APPELLATE REVIEW. U.S. CONST. AMEND. 6, §17-27-80, MCLAY V. STATE, 305 S.C. 329, 408 S.E.2D 241 (1991); PRUITT V. STATE, 310 S.C. 254, 423 S.E.2D 127 (1992), GARNER V. STATE, 341 S.C. 1, 626 S.E.2D 860 (2006); MARLAR V. STATE, 375 S.C. 407, 653 S.E.2D 266 (2007).

Therefore, APPELLANT HASN'T RECEIVED A FINAL ORDER IN THE

MATTER AND APPELLANT RESAINS THE RIGHT TO HAVE EVERY ISSUE ADJUDICATED ON THE MERITS, AND TO HAVE ISSUES PRESERVED FOR APPELLATE REVIEW.

RESPONDENT HASN'T PRODUCED ONE PIECE OF EVIDENCE TO REFUTE THESE CLAIMS. THEY ONLY STATE CONTINGENTLY AND SUCCESSIVELY AS A DEFENSE, BUT FAIL TO PRODUCE EVIDENCE OR PROVE THE SUPREME COURT ERRORED IN ESTABLISHING GROUNDS TO §17-27-80 STANDARD IN MCCRAY, FRUIT, MARLAR AND GARNER. THIS STATUTE OF LIMITATION AND SUCCESSIVENESS DON'T APPLY.

II.

ALSO, AS TO THE MATTER OF NEWLY DISCOVERED EVIDENCE STATUTE OF LIMITATION AND SUCCESSIVENESS DON'T APPLY IN THE CURRENT MATTER. §17-27-45(e) ALLOWS AN APPLICANT TO RAISE AN ISSUE OF NEWLY DISCOVERED EVIDENCE ON PCR. AS LONG AS THE MATTER IS BROUGHT BEFORE THE COURT IN A REASONABLE TIME AFTER THE EVIDENCE IS DISCOVERED. APPELLANT HAS PRODUCED EVIDENCE AND AN AFFIDAVIT AS TO WHEN THE EVIDENCE WAS DISCOVERED. APPELLANT'S WORD IS CONSIDERED TRUE AND CORRECT UNTIL PROVEN OTHERWISE. IN LATE 2012 APPLICANT DISCOVERED THE EVIDENCE AND IMMEDIATELY AFTER FILE A PCR APPLICATION, WHICH WAS FILED ON DEC 5TH, 2012. (SEE EXHIBIT-3 APPELLANT'S AFFIDAVIT) RESPONDENT HASN'T PRODUCED ANY AFFIDAVITS, SWORN STATEMENTS OR HEARINGS, NOR PRODUCED ANY EVIDENCE TO REFUTE APPELLANT'S AFFIDAVIT OR EVIDENCE. NOR DO RESPONDENT PRESENT ANY LEGAL REASON AS TO WHY THE ISSUES SHOULD BE BARRED, NEITHER DO THE FINAL ORDER SIGNED AND ISSUED BY JUDGE WILLIAM H. SEALS, JR. ON

MAY 24th, 2014 ESTABLISH CLEAR LAW AS TO THIS ISSUE OR ISSUES RAISED BY APPELLANT IN HIS ORIGINAL APPLICATION AND AMENDMENTS MADE BY APPELLANT. THEREFORE NOT PRESERVING APPELLANT'S ISSUES FOR APPELLATE REVIEW. §17-27-80; MURRAY V. STATE, 305 S.C. 329, 405 S.E.2D 241 (1991); PRUITT V. STATE, 310 S.C. 254, 423 S.E.2D 127 (1992); GARDNER V. STATE, 371 S.C. 1, 626 S.E.2D 860 (2006); MARLAR V. STATE, 375 S.C. 407, 653 S.E.2D 266 (2007).

CONCLUSION

THAT AN EVIDENTIAL HEARING BE HELD OR APPELLANT SENTENCE BE VACATED.

RESPECTFULLY SUBMITTED,
Jerome W. James
Jerome W. James
COUNSELOR AT LAW

I CERTIFY THAT A COPY OF NOTICE OF APPEAL ALONG WITH BRIEF/MEMORANDUM OF LAW WAS SERVED ON THE COURT THIS 4th DAY OF MAY 2014, BY PLACING THE SAID IN THE U.S. MAIL.

RESPECTFULLY,
Jerome W. James
Jerome W. James