

2013-CP-40-01198

Ray Anthony Harrison # 301982
Lee County CI Kershaw North 2221
490 WISACKY HWY
BISHOPVILLE SC 29010

January 28, 2014

Jeanette W. McBride
Clerk of Court
Richland County
P.O. Box 2766
Columbia SC 29202

Dear Ms. McBride:

I am writing you about a problem I am having with a motion I send to your office on August 11, 2013. I received a copy from your office on January 15, 2014. It was a copy of a motion to respond to a conditional order of dismissal, but there was no copy of the motion to support. I am asking did you receive that to it was all together? If so would you please send it to me. There has been a very big miss understand with my case where the Attorney General said they confirmed with the Richland County Clerk of Court in it was said your office never received the order respond to the conditional order of dismissal and motion to support. But I received a copy of the order from office on January 15, 2014. And it was filed August 12, 2013 11:21 AM but there was no motion to support in it. I am trying to find out do your officer have it respond to conditional order of dismissal motion to support.
RE: Ray Anthony Harrison # 301982 v. State of South Carolina 2013-CP-40-1198.

RECEIVED

JUN 16 2014

SC Court of Appeals

JEANETTE W. McBRIDE
Clerk of Court

ANNE G. KELLY
Chief Deputy Clerk of Court

RICHLAND COUNTY CLERK OF COURT
Richland County Judicial Center
1701 Main Street, Room 205
Columbia, S. C. 29201

MAILING ADDRESS:
POST OFFICE BOX 2766
COLUMBIA, S.C. 29202-2766

TELEPHONE:
Phone: (803) 576-1950
Fax: (803) 576-1785
TDD (803) 748-4999



Ray Anthony Harrison # 301982
Lee Correctional Inst.
990 Wisacky Hwy.
Bishopville, SC 29010

We have received your inquiry and respond as follows:

- We were unable to find a case with the name(s) and/or case number that you provide. If the case is a Richland County Case, please provide us with as much information as possible. (For example: a list of the **full** names of **ALL** parties in the case number and approximate filing date).
- The document you requested was not in the referenced case file. If the document was a Proposed Order, you may want to contact the Chief Administrative Judge or the Judge to whom you proposed this Order.
- The record you requested is sealed by Court Order. In order to obtain a copy, please contact the Chief Administrative Judge.
- In order to obtain a transcript, send a written request to South Carolina Court Administration at 1015 Sumter Street, Suite 200, Columbia, SC 29201. You need to provide the case number, the Judge's name and the date of the trial. If you have any questions, call (803) 734-1800.
- A \$5.00 money order or law firm check and a self-addressed stamped envelope are required for copies of all documents that are less than 30 pages. For documents over 30 pages, please contact this office for an exact amount.
- This office is not permitted to provide legal advice or legal forms. Please contact an attorney to assist you.
- This office cannot assist you with your request. For assistance, please contact: _____
- Other: **There in no Motion Filed on Date Requested.**

Sincerely,
Civil Records

RECEIVED

JUN 16 2014

SC Court of Appeals

**Ray Anthony #301982 Harrison
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210**

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2013CP4001198

Ray Anthony #301982 Harrison

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : Plaintiff Defendant or 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.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Dismissal); 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 _____

RICHLAND COUNTY
 CLERK OF COURT
 2013 DEC 9 AM 11:38
 JUDGE: J. BRADY
 LEAH E. BRADY
 2013 DEC 9 AM 11:38
 JUDGE: J. BRADY
 LEAH E. BRADY

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 PUBLIC 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
		\$
		\$
		\$

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 _____ Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20 _____ and a copy mailed first class or placed in the appropriate attorney's box on this 9 December 2013 to attorneys of record or to parties (when appearing pro se) as follows:

Ray Anthony #301982 Harrison

Megan E. Harrigan

Ray Anthony #301982 Harrison

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court

Jeanette W. McBride

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Ray Anthony Harrison, #301982,)

Case No. 2013-CP-40-01198

Applicant,)

v.)

CONDITIONAL ORDER OF DISMISSAL

State of South Carolina,)

Respondent.)

2013 DEC -9 AM 11:26
JENNIFER M. HERNANDEZ
C.C.P. & G.S.
RICHLAND COUNTY
FILED

This matter comes before this Court by way of an application for post-conviction relief filed February 26, 2013. In its return, Respondent requested the Application be summarily dismissed.

PROCEDURAL HISTORY

Before this Court are the records of the Richland County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, appellate records, and records from Applicant's previous applications for post-conviction relief. The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. The Applicant was indicted at the May, 2003 term of the Richland County Grand Jury for Twelve counts of armed robbery (03-GS-40-1575, 1578, 1579, 1581, 1582, 1583, 1584, 1738, 1777, 1778 and 04-GS-40-9177, 9294), five counts of kidnapping (03-GS-40-1737, 1781 and 04-GS-40-0481, 0482, 1577), burglary – second degree (03-GS-40-1573), two counts of carjacking (03-GS-40-1576, 1736, 1779 and 04-GS-40-9178), possession of a firearm during the commission of a crime (03-GS-40-1780), two counts of grand larceny of a vehicle (03-GS-40-1782 and 04-GS-40-1650), assault with intent to kill (04-GS-40-0478), attempted armed robbery (04-GS-40-0489), attempted escape (04-GS-40-

2799), and one count of escape (04-GS-40-8963). Applicant waived presentment and was directly indicted for one additional count of escape (04-GS-40-6567). Applicant was represented by Fielding Pringle, Esquire. On May 12, 2004, the Applicant pled guilty to the charges. He was sentenced by the Honorable G. Thomas Cooper, Jr. to an aggregate period of confinement of thirty (30) years. The Applicant did not appeal his convictions or sentences.

Subsequently, Applicant filed his first application for PCR on April 19, 2005 (2005-CP-40-01814). The Applicant raised the following grounds for relief:

1. Ineffective assistance of counsel in that counsel failed to investigate the circumstances of each of the crimes;
2. Ineffective assistance of counsel in that counsel failed to advise me of my right to appeal;
3. Ineffective assistance of counsel in that counsel should have moved to quash Applicant's confessions to the crimes;
4. Lack of subject matter/personal jurisdiction; and
5. Defective/perjury warrants.

The Respondent made its Return on October 19, 2005. An evidentiary hearing was convened at the Richland County Courthouse on January 11, 2007. The Applicant was present at the hearing and was represented by Charlie J. Johnson, Jr., Esquire. On April 24, 2007, Honorable L. Casey Manning filed an Order of Dismissal, in which he denied relief and dismissed the Application with prejudice.

Applicant timely filed a notice of appeal. Assistant Appellate Defender Kathrine H. Hudgins represented him. On March 21, 2008, Hudgins filed a Johnson¹ Petition for Writ of Certiorari and Petition to be Relieved as Counsel. The South Carolina Supreme Court filed an

¹ Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (S.C.1988)

Order on September 4, 2008, in which it denied certiorari and granted counsel's petition to be relieved. The remittitur was issued on September 25, 2008.

The Applicant filed a Federal Petition for Habeas Corpus on November 3, 2008. He raised the following grounds for relief.

1. Erroneous Sentencing Advise.
2. Unknowingly, involuntary and forced guilty plea.
3. Failure to investigate.
4. Failure to object to indictments being quashed before sentencing judge.

On February 17, 2009, the Respondent filed a motion for summary judgment. The United States Magistrate Judge Paige J. Gossett filed a Report and Recommendation on August 20, 2009, suggesting that Respondent's motion for summary judgment be granted and Petitioner's motion to dismiss be denied. On September 9, 2009, the United States District Court adopted the Report and granted Respondent's motion for summary judgment and dismissed Applicant's petition.

Applicant filed a second application for post-conviction relief on May 27, 2010 (2010-CP-400-3522). Respondent made a timely Return and Motion to Dismiss, arguing that the Court should summarily dismiss the application as untimely and successive to his previous application. On August 4, 2011, the Honorable James R. Barber, III, denied and dismissed this second post-conviction relief action.

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

1. "Denied effective assistance of counsel"
2. "Ineffective assistance of PCR counsel"
3. "Plea court lacked subject matter jurisdiction to hear Applicant's case"

4. "Newly discovered evidence could not have been discovered prior to plea by the exercise of due diligence."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court finds that the current application for post-conviction relief must be summarily dismissed because the Applicant's assertion that he is entitled to a new trial based upon newly-discovered evidence is without merit. A defendant 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;
- (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, 611-12, 299 S.E.2d 854, 855 (1983).

Applicant has not shown that the alleged evidence meets *any* of the requirements for after-discovered evidence. Most importantly, the "new evidence" offered by Applicant is not "material to the issue of guilt or innocence," and probably would not "change the result if a new trial was had." Hayden, Id. Accordingly, the Application is denied and dismissed.

This Court also finds that the current Application for post-conviction relief must be summarily dismissed because ineffective assistance of counsel on his prior post-conviction relief application is not a ground for relief. There is no constitutional right to appointed counsel for collateral review of a conviction. Pennsylvania v. Finley, 481 U.S. 551, 107 S.Ct. 1990, 95 L.Ed.2d 539 (1987). The Sixth Amendment right to effective assistance of counsel does not extend to state post-conviction relief actions. Coleman v. Thompson, 501 U.S. 722, 111 S.Ct. 2546, 115 L.Ed.2d 640 (1991). Therefore, "the contention that prior post-conviction relief counsel was ineffective is not *per se* a 'sufficient reason' warranting a successive post-conviction relief application under '17-27-90.'" Aice, 305 S.C. 448, 451, 409 S.E.2d 392, 394 (1991).

The only recognized exception to the rule barring claims of ineffective assistance of post-conviction relief counsel is found in Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). Austin recognizes a general exception to this rule where prior post-conviction relief counsel fails to appeal the denial of the application. Id. Austin “is limited to its particular factual situation.” Aice, 305 S.C. at 452, 409 S.E.2d at 394. Pursuant to Austin, a post-conviction relief applicant may petition the South Carolina Supreme Court for discretionary review of the dismissal of their application. Here, Applicant was afforded appellate review of his initial post-conviction relief application. Therefore, this Court finds this Application should be summarily dismissed for failure to state a claim upon which relief can be granted.

This Court finds that the current Application for post-conviction relief must also be summarily dismissed because it is successive to Applicant’s prior two 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 the 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 two applications 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 applications 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, 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, 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 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.

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 May 12, 2004. This Application was filed on February 26, 2013, which was more than seven years beyond the time that the statutory filing period had expired.

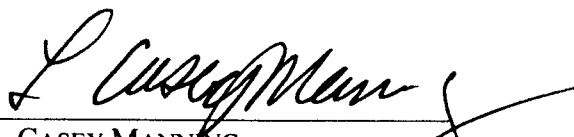
A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. §17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary 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 is summarily dismissed for failure to state a claim upon which relief can be granted, failure to file within the time mandated by statute and for being successive.

Pursuant to S.C. Code Ann. § 17-27-70(b), the Court intends to dismiss this Application with prejudice unless Applicant provides specific reasons, factual or legal, why the Application should not be dismissed in its entirety. Applicant is granted twenty days from the date of service of this Order upon him to show why this Order should not become final. Applicant shall file any reasons he may have, factual or legal, with the Richland County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
Attn: Megan E. Harrigan, Esquire
P.O. Box 11549
Columbia, South Carolina 29211

AND IT IS SO ORDERED this 5 day of December, 2013.


L. CASEY MANNING
Chief Judge for Administrative Purposes
Fifth Judicial Circuit

Columbia, South Carolina.

Ray Anthony Harrison # 301982
Lee County, CI Kershaw North 2221
990 Wisacky Hwy
Bishopville SC 29010

2013-CP-40-01198

Jeanett W. McBride
Clerk of Court
Richland County
P.O. Box 2766
Columbia, SC 29202

December 30 2013

Dear Ms. McBride:

I am writing this letter to again asking about two order, that I have send to your office, P.C.R. Case # 2013-CP-40-01198. I send a motion to respond to the Conditional order of dismissal And a motion To Support the Respond to the Conditional order of dismissal on August 11, 2013. I ask that you send the Attorney General a filed copy in send me a copy back. I have not received a copy at all and now the Attorney General tell me they never received copy would please send a copy to me and the Attorney General.

Sincerely

Ray Anthony Harrison

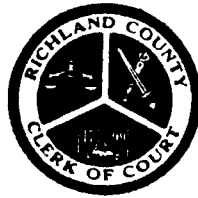
JEANETTE W. McBRIDE
Clerk of Court

ANNE G. KELLY
Chief Deputy Clerk of Court

RICHLAND COUNTY CLERK OF COURT
Richland County Judicial Center
1701 Main Street, Room 205
Columbia, S. C. 29201

MAILING ADDRESS:
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COLUMBIA, S.C. 29202-2766

TELEPHONE:
Phone: (803) 576-1950
Fax: (803) 576-1785
TDD (803) 748-4999



Ray Anthony # 301982
Lee County Correctional Inst.
990 Wisacky Hwy.
Bishopville, SC 29010

We have received your inquiry and respond as follows:

- We were unable to find a case with the name(s) and/or case number that you provide. If the case is a Richland County Case, please provide us with as much information as possible. (For example: a list of the **full** names of **ALL** parties in the case number and approximate filing date).
- The document you requested was not in the referenced case file. If the document was a Proposed Order, you may want to contact the Chief Administrative Judge or the Judge to whom you proposed this Order.
- The record you requested is sealed by Court Order. In order to obtain a copy, please contact the Chief Administrative Judge.
- In order to obtain a transcript, send a written request to South Carolina Court Administration at 1015 Sumter Street, Suite 200, Columbia, SC 29201. You need to provide the case number, the Judge's name and the date of the trial. If you have any questions, call (803) 734-1800.
- A \$5.00 money order or law firm check and a self-addressed stamped envelope are required for copies of all documents that are less than 30 pages. For documents over 30 pages, please contact this office for an exact amount.
- This office is not permitted to provide legal advice or legal forms. Please contact an attorney to assist you.
- This office cannot assist you with your request. For assistance, please contact: _____
- Other: **This office does not FORWARD any documents out of office. You need to forward the filings.**

Sincerely,
Civil Records



ALAN WILSON
ATTORNEY GENERAL

December 2, 2013

The Honorable L. Casey Manning
P O Box 192
1701 Main Street, Room 214
Columbia, SC 29202-0192

Re: Ray Anthony Harrison, #301982 v. State of South Carolina
2013-CP-40-1198

Dear Judge Manning:

Our office previously submitted a proposed Conditional Order of Dismissal to your chambers on July 25, 2013, but a filed copy has yet to be received by our office. Our office confirmed with the Richland County Clerk of Court and did not receive a copy of the Order. Therefore, enclosed please find a proposed original **Conditional Order of Dismissal** in the above-captioned case. If this Order meets with your approval, please sign it and forward it to the Richland County Clerk of Court for filing.

Sincerely,

Megan E. Harrigan
Assistant Attorney General

MEH/ko
Enclosures

cc: Ray Anthony Harrison, #301982

Mr. Ray Anthony Harrison # 301982
Broad River Ct SA-230
4160 Broad River Road
Columbia, South Carolina 29210

NO # 2013-CP-40-01198

August 9, 2013

Ms. Jeanette W. Mc Bride
Clerk of Court
Richland County
P.O. Box 2766
Columbia, South Carolina 29202

Dear Ms. Mc Bride,

Would you please send this responds
to the conditional order of dismissal to the Attorney General Ms. Megan
E. Harrigan Esquire. And you please returned or filed copy back to the
Applicant. And motion in support why conditional order should not become final but
why he should be granted relief. Sincerely,
Ray Anthony Harrison

STATE OF South Carolina
County of Richland

Ray Anthony Harrison, # 301982,
Applicant,

v.

State of South Carolina,

Respondent

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Case No. 2013-CP-40-01198

THE Responds To THE Conditional order
of Dismissal

2013 MAR 12 11:11:21
COURT CLERK
COURT HOUSE

This matter comes before this Court by way of an application for post-conviction relief filed February 26, 2013. In its Responds To The Conditional order of Dismissal the Applicant requested that Application be granted the relief in Application.

Procedural History

Before this Court are the records of the Richland County Clerk of Court regarding the subject convictions, Applicant's record from the South Carolina Department of Corrections, appellate records, from Applicant's previous applications for post-conviction relief. THE Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. THE Applicant was indicted at the May, 2003 term of the Richland County Grand Jury for twelve counts of armed robbery (03-GS-40-1575, 1578, 1581, 1583, 1584, 1738, 1777, 1778, and 04-GS-40-9177, 9294), five counts of kidnapping (03-GS-40-1737, 1781, and 04-GS-40-0481, 0482, 1577), burglary - second degree (03-GS-40-1573), two counts of carjacking (03-GS-40-1576, 1736, 1779, and 04-GS-40-9178), possession of a firearm during the commission of a crime (03-GS-40-1780), two counts of grand larceny of a vehicle (03-GS-40-1782 and 04-GS-40-1650), assault with intent to kill (04-GS-40-0478), attempted armed robbery (04-GS-40-0489), attempted escape (04-GS-40-2799), and one count of escape (04-GS-40-8963). Applicant waived presentment and was directly indicted for one additional count of escape (04-GS-40-6507). Applicant was represented by Fielding Pringle, Esquire. On May 12, 2004, the Applicant pled guilty to the charges. He was sentenced by the Honorable G. Thomas Cooper Jr. to an aggregate period of confinement of thirty (30) years. The Applicant did not appeal his convictions or sentences.

Subsequently, Applicant filed his first application for PCR on April 19, 2005 (2005-CP-40-01814). THE APPLICANT raised the following ground for relief:

1. Ineffective assistance of Counsel in that counsel failed to investigate the circumstances of each of the crimes;
2. Ineffective assistance of Counsel in that counsel failed to advise me of my right to appeal;
3. Lack of subject matter / personal Jurisdiction; and
4. Defective / Perjury warrants.
5. unknowingly, involuntary and forced guilty Plea

THE Respondent made its Return on October 19, 2005. An evidentiary hearing was convened at the Richland County Courthouse on January 11, 2007. THE APPLICANT was present at the hearing and was represented by Charlie J. Johnson JR. Esquire. On April 24, 2007, Honorable L. Casey Manning filed an Order of dismissal, in which he denied relief and dismissed the Application with PreJudice.

THE unknowingly and involuntary of guilty Plea, the issue was never rule on by the PCR Court. Applicant filed a Pro-se 59(c) motion to try in get a ruling or the PCR Court to address the Substance of the issue, but APPLICANT was represented by Charlie J. Johnson who would not put the 59(c) motion in for APPLICANT. THE Honorable L. Casey Manning dismiss APPLICANT PCR without making specific findings of fact, and state expressly its conclusions of law, relating to each issue presented. Per § 17-27-80;

Applicant timely filed a notice of Appeal. Assistant Appellate Defender Kathrine H. Hudgins represented him. On March 21, 2008, Hudgins filed a Johnson Petition for Writ of Certiorari and Petition to be Relieved as Counsel. THE South Carolina Supreme filed an order on September 4, 2008, in which it denied Certiorari and granted Counsel's Petition to be relieved. THE remittitur was issued on September 25, 2008.

The South Carolina Supreme Court's order denying the Applicant's writ of Certiorari from the PCR Court's order of dismissal, however it did not provide the bases for its denial. Accordingly, it was not clear from the face of the order whether the denial was based on application or federal Constitutional law.

The Applicant filed a federal Petition for Habeas Corpus on November 3, 2008. He raised the following grounds for relief.

1. Erroneous sentencing Advice.
2. Unknowingly, involuntary and forced guilty Plea.
3. Failure to investigate.
4. Failure to object to indictment being quashed before Sentencing Judge

On February 17, 2009, the Respondent filed a motion for Summary Judgment. The United States Magistrate Judge Paige J. Gossett filed a Report and Recommendation on August 20, 2009, suggesting that Respondent's motion for Summary Judgment be granted and Petitioner's motion to dismiss be denied. On September 9, 2009, the United States District Court adopted the Report and granted Respondent's motion for Summary Judgment and dismissed Applicant's Petition.

Applicant filed a second application for Post-Conviction relief on May 27, 2010 (2010-CP-400-35221). Respondent made a timely Return and motion to Dismiss, arguing that the Court should summarily dismiss the Application as untimely and successive to his previous application. On June 9, 2011 the Honorable ALISON RENEER LEE scheduled hearing for second application for Post-Conviction relief. Ware Applicant argue his motion for relief or trial. On August 4, 2011, the Honorable James R. Barber, III, denied and dismissed this second Post-Conviction relief action only letting the Applicant argue the conditional order of dismissal and not the rule 91(c). The Honorable James R. Barber III dismiss Applicant PCR without making specific findings of fact, and state expressly it's conclusion of law, relating to each issue presented. Per 8 17-27-80.

1 In Applicant second application for Post-Conviction relief filed on May 27, 2010 (2010 CP-400-3522), THE Applicant raised the following ground for relief:

1. "Violation of Article 1, Section 14 of S.C. Constitution."
2. "Violation of Due Process rights."
3. "Ineffective Assistance of P.C.R. Attorney."

None of these ground for relief was argue at PCR hearing because Judge Jame R. Barber III denied applicant the right to, only letting him argue the COD at PCR hearing because of this violation of due process of law applicant should be above to again raised any ground for relief in his first, second and current Post-Conviction relief application as following:

1. Ineffective assistance of Counsel in that Counsel failed to investigate the Circumstances of each of the Crimes;
2. Failure to object to indictment being quashed before Sentencing Judge;
3. Unknowingly, involuntary guilty Plea;
4. Erroneous Sentencing Advise;
5. Lack of subject matter / personal Jurisdiction;

THE Applicant should be above to raise any issue available to him, for PCR Judge violating applicant due process of law. Judge ignored all arguments and address the dismissal on no grounds, which was a Procedural Violation on the Judge Part.

This Application for Post-Conviction was filed because the Applicant issue's was not Preserve for appellate review on all claims.

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

1. "Denied effective assistance of counsel"
2. "Ineffective assistance of PCR Counsel"
3. "Plea Court lacked Subject matter Jurisdiction to hear Applicant's Case"
4. "Newly discovered evidence could not have been discovered prior to Plea by the exercise of due diligence."

Findings of Fact and Conclusion of Law

THE Applicant finds that the current application for post-conviction relief shall be granted because the Applicant is entitled to a new trial based upon newly discovered evidence in the issue does have merit. A defendant requesting a new trial base on after discovered evidence must show that the evidence:

(1) Is such as would probably change the result if a new trial was granted; THE Applicant will show the Court's why it would change the result if a new trial is granted; At this time of applicant guilty Plea to the Court of general sessions. Applicant was a Juvenile Commitment under the family Court rules in Jurisdiction. THE result would change if a new trial is granted because (1) There was never a waiver motion of applicant being waive to adult from Juvenile family Court; (2) There nothing in the record to stated the transfer Jurisdiction child because applicant was 16 year's old at time of crime's; nothing in the record saying ware the prosecutive investigate case:

R
Exhibit 1115
of Page 6

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO RICHLAND COUNTY
L. CASEY MANNING, CIRCUIT COURT JUDGE

RAY HARRISON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

JOHNSON PETITION FOR WRIT OF CERTIORARI

KATHRINE H. HUDGINS
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR PETITIONER.

Exhibit (2)
of Page 6

ARGUMENT

The PCR judge erred in refusing to find counsel ineffective for failing to investigate.

Harrison pled guilty to 30 separate indictments. During the PCR hearing Harrison testified that trial counsel was ineffective in failing to do legal investigation. (App. p. 164, lines 8-9). PCR counsel asked trial counsel if she had investigated each charge specifically. (App. p. 157, lines 10-12). Trial counsel responded that she reviewed the discovery and was "very familiar with and informed about each and every charge." (App. p. 157, lines 13-17). When asked about hiring an investigator, trial counsel responded, "I, I don't, I mean, we have an investigator in the office. I don't know that I had these charges investigated, you know, and prepared for trial because we ultimately we decided pretty quickly that it was not going to trial the client and I." (App. p. 158, lines 2-6). Harrison testified that he was with the people when they committed the crimes but he did not know that they were going to commit crimes. (App. p. 166, lines 11-20). Harrison further testified that, "Yeah, but I would have took my chances going to trial because I know if she would have done the proper investigation half the charges would have been dropped or squashed or thrown out." (App. p. 172, lines 10-13). Counsel was ineffective in failing to investigate all of the charges.

A criminal defense attorney has a duty to conduct a reasonable investigation. Ard v. Catoe, 372 S.C. 318, 642 S.E.2d 590 (2007); citing Thompson v. Wainwright, 787 F.2d 1447, 1450 (11th Cir. 1986); see also Strickland v. Washington, 466 U.S. 668, 691, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). "Moreover, while the scope of a reasonable investigation depends upon a number of issues, 'at a minimum, counsel has a duty to interview potential witnesses and to make an independent investigation of the facts and circumstances of the case.'" Ard v. Catoe, 372 S.C. at

Exhibit (3)
of Page 6

331, 642 S.E.2d at 597 (2007) quoting Troedel v. Wainwright, 667 F.Supp. 1456, 1461 (S.D. Fla. 1986), aff'd 828 F.2d 670 (11th Cir. 1987). The record fails to establish that trial counsel, at a minimum, interviewed potential witnesses and independently investigated the facts and circumstances of each of the numerous charges. The PCR judge erred in refusing to grant relief.

(1) S.C 1978 where defendant was 16 years of age at time of charged offense of armed Robbery but turned 17 years of age Prior to final disposition of charge in family Court. Since Jurisdiction has not been relinquished in favor of another Court under an applicable statute charge against defendant should have been handle under statute dealing with "child," not statute relating to youthful offender's Code 1976 14-21-510 (A) (5) State v. England, 245 S.E.2d 608. 271. S.E. 129. Because of this if new trial was granted the Circuit Court would be without Jurisdiction to try the Applicant, in the applicant would be sentence as a Juvenile.

(2) Has been discovered since the trial;

The applicant will show the Court how this has been discovered since the trial; see Exhibit (A) letter from Plea Counsel April 18, 2013 Sending Applicant a copy of his Juvenile filed. See Exhibit (B) Juvenile Commitment order to the family Court; See Exhibit (C) Date of the applicant Plea May 12, 2004; See Exhibit (D) order from the Juvenile Parole Board releasing applicant to the South Carolina Department of Corrections on August 10, 2004;

(3) Could not by the exercise of due diligence have been discovered before trial; The applicant will show this Court why it could not by the exercise of due diligence before trial. Page 157 line 13-17 were applicant Plea Counsel when asked about hiring an investigator; trial Counsel responded, "I don't I mean we have an investigator in the office. I don't know that I had these charge or case investigated, applicant Plea Counsel testified that she did not investigate applicant case she ultimately decided the case was not going to trial. Counsel was ineffective in failing to investigate Ard v. Coche, 372 S.C 318, 642 S.E. 2d 590 (2007); Thompson v. Wainwright 787 F. 2d 1447, 1450 (11th Cir 1986); See also Strickland v. Washington 466 U.S. 668 691. 104 S. Ct 2052 80 L. Ed 2d 674 (1984) Trammel v. Wainwright 667 F. Supp 1456, 1461 LSO Fla 19761;

Exhibit (A) ONE

1701 MAIN STREET
POST OFFICE BOX 192
COLUMBIA, SC 29201

RICHLAND COUNTY PUBLIC DEFENDER
RICHLAND COUNTY JUDICIAL CENTER
Suite 403-B

PHONE (803) 929-6150
FAX (803) 929-6156
TDD # (803) 748-4999

April 18, 2013

Ray Harrison
#301982
BRCl 4460 Broad River Road
Columbia, SC 29210

Re: copy of Juvenile File

Dear Mr. Harrison,

Ms. Pringle requested that I send you a copy of your juvenile file with this office. I have enclosed everything that we have.

Sincerely,



Teresa Grissom
Paralegal

/tg

SEE Exhibit's (1) ONE

Date Commitment Order JUNE 26, 2003
Family Court Juvenile

Date Released To: South Carolina Department
of Corrections August 10, 2004

Date of Plea May 12, 2004

Court had NO Jurisdiction to try Juvenile

Exhibit (B) ONE

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
IN THE INTEREST OF:)
Ray Anthony Harrison)
A Minor Under the Age of Seventeen (17) Years)

IN THE FAMILY COURT
FIFTH JUDICIAL CIRCUIT

03-JU-40-857

COMMITMENT ORDER

03 JUN 26 AM 10:37
BANK OF AMERICA
CC, P, G, S
& FAMILY COURT

HEARING DATE: 6-26-03

ATTORNEY FOR SOLICITOR: Karen Ayers

JUDGE: Riddle

ATTORNEY FOR JUVENILE: Dora Green

A verified petition was filed in this Court alleging that the above minor was delinquent in that the child committed the offense(s) of Grand larceny of a motor vehicle

An adjudicatory hearing was held on June 26, 2003. The minor was presented by Dora Green, Esquire. The minor was adjudicated delinquent of the offense(s) of: Grand larceny of a motor vehicle

As a result thereof, I find that Ray Anthony Harrison is a suitable person to be committed to the South Carolina Department of Juvenile Justice.

THEREFORE, IT IS ORDERED THAT Ray Anthony Harrison shall be committed to the South Carolina Department of Juvenile Justice for an indeterminate period of time not to exceed his/her twenty-first (21st) birthday.

IT IS FURTHER ORDERED THAT the minor's commitment to the Midlands Evaluation Center is waived at this time. Judge Riddle reviewed his prior HEC report.

AND IT IS SO ORDERED.

Luli K. Riddle
FAMILY COURT JUDGE

Columbia, South Carolina

This 26 day of June, 2003

It is further ordered that Ray Anthony Harrison shall be returned to the Allen S. Allen Detention Center upon his release from Abnormal Services classes

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF RICHLAND)	5TH JUDICIAL CIRCUIT
THE STATE)	TRANSCRIPT OF RECORD
-VS-)	
RAYMOND HARRISON,)	
<u>DEFENDANT.)</u>	

MAY 12, 2004
 COLUMBIA, SOUTH CAROLINA

B E F O R E :

THE HONORABLE G. THOMAS COOPER, JR., JUDGE

A P P E A R A N C E S :

LUCK CAMPBELL, ASSISTANT SOLICITOR
 ATTORNEY FOR THE STATE

FIELDING PRINGLE, ASSISTANT PUBLIC DEFENDER
 ATTORNEY FOR THE DEFENDANT

SHARON L. VIZER-HANKS
 CIRCUIT COURT REPORTER

*1170
 11/28 changes*

Exhibit CD ONE

STATE OF SOUTH CAROLINA
BOARD OF JUVENILE PAROLE

CERTIFICATE OF UNCONDITIONAL RELEASE

KNOW ALL MEN BY THESE PRESENTS THAT

Ray Harrison

ID#: 225037

IS ELIGIBLE TO BE RELEASED, AND IT BEING THE OPINION OF THE Board of Juvenile Parole that the release of this juvenile is compatible with the welfare of society, and it further appearing that the Board is satisfied that this Juvenile will not be a public charge on release.

MAY 18

IT IS THEREFORE ORDERED THAT

Said Juvenile be released this 10th day of August, 2004; however, this release shall not prevent the delivery of this Juvenile to the authorities of Federal Government or any State otherwise entitled to his/her custody.

IN WITNESS WHEREOF the Board of Juvenile Parole has caused this Certificate to be executed the day and year first herein above written.

RELEASED TO:
South Carolina Department of Corrections

By Order of:
State of South Carolina
Board of Juvenile Parole

Duncan M. August
Board Chairman

ON: August 10, 2004

Exhibit P-14



State of South Carolina
Board of Juvenile Parole

Applicant has showed the Court that Plea Counsel did not investigate applicant case at all before trial; doing plea; or after plea; Applicant has shown evidence three reasons why he should be given a new trial, how it would change the outcome if a new trial is granted.

This court also finds that the Current application for Post-conviction relief must be summarily dismissed because ineffective assistance of Counsel on his prior Post-conviction relief application is not a ground for relief.

The applicant will show the Court that in his prior Post-conviction relief application ineffective assistance of Counsel was a ground for relief, but not rule on by court. Applicant also will show the Court why Second and Current PCR is not successive under 17-27-90."

Applicant prior Post-conviction relief application was filed because applicant PCR Counsel failed to file a Rule 69(e) motion, in the courts dismiss applicant applications without making specific findings of fact, and stating expressly it's conclusion of law, relating to each issue presented. Per § 17-27-80.

The second exception that the South Carolina Supreme Court carved out "to correct unfairness" was a finding that PCR Counsel was ineffective in failing to file a rule 69(e) SCRPC motion, when the order failed to address all the issue raised at the hearing, in *Pruitt v. State*, 423 S.E.2d 124 (1992) The Court in *Pruitt*, Remanded for new (PCR) hearing because the PCR order failed to address issue raised in PCR application about which evidence was presented during the PCR hearing.

"Even if his application is successive, the unique combination of facts in this case entitle him to the relief granted below. See *Case v State*, 274 S.C. 474, 289 S.E.2d 392 (1991), the dissent states: Successive PCR application could not have been raised in a previous application for Post-conviction relief (PCR) on the ground that his

In applicant's current Post-Conviction relief application he should be able to rely on any available ground for relief of ineffective assistance of trial and direct appeal counsel, by through and under claims of ineffective PCR-PCR-APPEAL counsel and denial of due process of law, because court dismiss application without making specific findings of facts and stating expressly its conclusion of law relating to each issue presented Per § 14-27-80.

under 14-27-45(L) 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 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.

Applicant has showed that in his newly discovered issue on the current application.

CONCLUSIONS OF LAW

When a case arises in a state court and involves questions of the constitution, it is the duty of the court to follow and enforce the national [Constitution] law; for the Constitution explicitly and emphatically requires that the "Judge" in every state shall be bound there by, anything in the Constitution or laws of any state to the contrary notwithstanding." U.S. Const. ART. VI

Therefore to allow this conviction to remain would in effect insulate the integrity of which the laws and Constitution of S.C and U.S was built upon. For the foregoing reason, it is respectfully ask that this motion be granted an applicant be giving the relief in the application.

State of South Carolina
County of Richland

Ray Anthony Harrison, 301982
Applicant,

v.s

State of South Carolina
Respondent.

In The Court of Common Pleas
5th Circuit

Case # 2013-CP-40-01198

Affidavit of Service by mail

1. I am the applicant in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the records to the Conditional order of dismissal in the above-captioned matter on the following person's by depositing same in the United States mail, Postage Prepaid:

Office of the Attorney General
Attn: Megan E. Harrigan, Esquire
P.O. Box 11549
Columbia, South Carolina 29211

2013 AUG 12 AM 11:21
JAMES HARRISON
C.C.P. & S.

Date: this 9th August, 2013

s/ Ray Anthony Harrison
Ray Anthony Harrison
Applicant.