

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):
SCRCP (Vol. Nonsuit); Rule 43(k), SCRCP (Settled); Other: _____
 Rule 12(b), SCRCP; Rule 41(a),
- ACTION STRICKEN (CHECK REASON):
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other: _____
 Rule 40(j) SCRCP; Bankruptcy:
- 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 27th 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.
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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.



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

Pursuant to Rule 4(d)(2) of the South Carolina Rules of Civil Procedure, the Director of the South Carolina Department of Corrections has designated SGT. JASON WATKINS (Server) as his duly authorized agent for the purpose of making service of the process on the below named individual.

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

On this 28th day of October 2013, I served the Conditional Order of Dismissal, on Inmate **John Willis Goldsmith, SCDC Inmate #281165**, by delivering personally and leaving a copy of the same at **Tyger River Correctional Institution, 200 Prison Rd, Enoree, SC 29335**. Deponent is not a party to this action.

s/ [Signature] ACCO
SCDC Server

SWORN TO AND SUBSCRIBED BEFORE ME

this 28th day of October, 2013

[Signature] (L.S.)
Notary Public for South Carolina

My Commission Expires: 1-14-2019

ADMISSION OF SERVICE

Service of a copy of the within Conditional Order of Dismissal is admitted at the South Carolina Department of Corrections (Tyger River Correctional Institution), 200 Prison Rd, Enoree, SC 29335, Spartanburg County, SC this 28th day of October, 2013.

s/ [Signature]
Inmate
SCDC Inmate #: 281165