

APPELLATE CASE NO 2014-001491

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① ORDER OF WILLIAM JEFFERY
YOUNG DISMISSING PCR

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S.C. SUPREME COURT

THANK you
MARCUS A JOSEPH
KIRKLAND Court of
Inst
4344 BROAD
RIVER Rd
Columbia SC
29210 Unit
F1 # 109

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) THIRD JUDICIAL CIRCUIT
 COUNTY OF CLARENDON) CASE NO.: 2013-CP-14-0109

Marcus A. Joseph,)
) Plaintiff)
)
 v.)
)
 South Carolina Department of)
 Corrections; State of South Carolina;)
 Municipality of Manning;)
) Defendants.)
 _____)

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 OF ORIGINAL FILED IN THIS OFFICE
ORDER
 DATE 6/9/14
Beulah G. Roberts
 CLERK OF COURT
 CLARENDON COUNTY, SC

2014 JUN -9 PM 12:57
 BEULAH G. ROBERTS
 CLERK OF COURT
 CLARENDON COUNTY, SC

This matter comes before the Court on cross motions, from the Plaintiff a Motion for Judgment, and from the Defendants a Motion to Dismiss. Mr. Joseph appeared before this Court on 4 June 2014 at the Clarendon County Court of Common Pleas in Manning, SC. Present at the hearing was Ms. Christy Scott, Esq, on behalf of the Defendants. Mr. Joseph appeared *Pro Se* at the hearing. This Court has reviewed the filings of each party and the arguments made at the hearing in making its decision.

Plaintiff argued that there was no formal indictment, or on the record waiver, in the underlying matter for which he is serving a Life Sentence after entering a plea of guilty plea in a Capital Murder prosecution against Plaintiff. Plaintiff alleged that the Public Index was evidence of this matter, and presented nothing further.

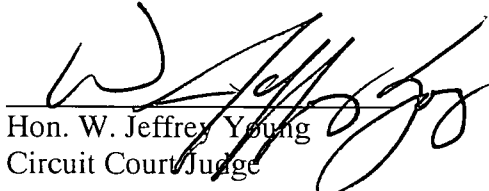
Defendant argued that the underlying conviction stemmed from a 1988 guilty plea upon which Plaintiff has had numerous Post Conviction Relief Applications, some of which had been based on alleged issues with the indictment. Defendant argued that accordingly, this filing was improper as it was a Post-Conviction Relief matter, is beyond the Statute of Limitations for Post-

Conviction Relief, and is violative of the statutory Uniform Post-Conviction Procedures as a successive application for relief.

This Court finds that Plaintiff is not entitled to judgment as a matter of law based on his filings and argument at the hearing. Further, this Court finds that Defendant's Motion to Dismiss is appropriate, as Plaintiff has already had his bite at the apple in filing previous Applications for Post-Conviction Relief, and that this filing, which alleges the same type of allegations raised before in those matters is successive and barred by res judicata. Finally, this Court finds that this action has been filed outside of the Statute of Limitations and is therefore untimely.

THEREFORE, this Court hereby DENIES each of the allegations of the complaint and DISMISSES the complaint with prejudice.

IT IS SO ORDERED.


Hon. W. Jeffrey Young
Circuit Court Judge

4 June, 2014
Sumter, South Carolina

MARCES A TOSTAT 147784
KIRKLAND Corrections Inst
4344 Broad River Rd
Columbia SC 29210

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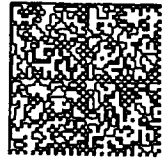
CLERK OF COURT

DANIEL SHAREHOUSE

SOUTH CAROLINA Supreme Court

P O Box 11330

Columbia SC 29211



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