STATE OF SOUTH CAROLINA COUNTY OF LAURENS	)	IN THE COURT OF COMMON PLEAS EIGHTH JUDICIAL CIRCUIT
Tyri Landron, #309930 Applicant, v. State of South Carolina, Respondent.	)	2013-CP-24-1371 **FINAL ORDER OF DISMISSAL**

FILED COMMON PLEAS
8TH JUDICIAL CIRCUIT
GREENWOOD, S.C.

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed December 31, 2013. The Respondent (the State) made its Return and Motion to Dismiss on March 7, 2014, 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 dated March 10, 2014, 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 is an Affidavit of Service dated June 4, 2014, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

In a document titled "Response to Conditional Order of Dismissal" and sent on June 5, 2014, the Applicant argues he should be granted an evidentiary hearing because when he transferred correctional institutions, he discovered different case law which he claims supports his claims of ineffective assistance of counsel. This Court has reviewed the Applicant's response to the State's

motion to dismiss in its entirety, in conjunction with the original pleadings, and finds that a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

First, while the first correctional institution may not have had computers for the Applicant to use to research case law, the case law was certainly already in existence and could have been discovered by other means, including outside of the institution. Therefore, this "evidence" is not newly discovered pursuant to S.C. Code Ann. § 17-27-45(c).

Second, the Applicant alleges in this application that he is being held unconstitutionally because he has: "Newly Discovered evidence of ineffective assistance of counsel"; "Counsel's failure to articulate a 4th Amendment claim"; "Officer's violate plaintiff's 4th Amendment"; and "Officer's didn't have reasonable suspicion for traffic stop." In his 2012 PCR application he alleged: "Trial counsel failed to properly investigate the case in which there was an (sic) clear violation of my forth (sic) amendment (1) never should've been pulled over (2) never should've been subject to pat-down (3) pat-down was beyond the plain-feel doctrine (4) I should've not been order to exit vehicle." Clearly, the Applicant raised this same issue in a previous application.

Additionally, 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 he challenges in this Application on October 25, 2009. This Application was filed on December 31, 2013, which was well after the statutory filing period had expired. This Court finds the Applicant has provided no sufficient reason why he failed to file his application within the statute of limitations.

This Court finds that the doctrine of *res judicata* bars the Petitioner's claims. *Res judicata* prohibits subsequent actions by the same parties on the same issues. Bell v. Bennett, 307 S.C. 286,

414 S.E.2d 786 (Ct. App. 1992). A final judgment on the merits in a prior action bars subsequent consideration of those issues in a new action. Foran v. USAA Casualty Ins. Co., 311 S.C. 189, 427 S.E.2d 918 (Ct. App. 1993). *Res judicata* also bars any issues that could have been raised in the former action. Id.

The Applicant had a full opportunity to litigate all allegations regarding ineffective assistance of counsel in both the state and federal courts. Specifically, the Applicant raised ineffective assistance of counsel in his 2012 PCR and 2103 Federal Habeas Corpus applications. The Applicant continues to raise the same meritless claims by repeated collateral attacks on his convictions. The public interest in finality of judgments requires that litigation must eventually come to an end. This Court finds these claims are barred by *res judicata.*

Accordingly, this Court finds no reason why the Conditional Order of Dismissal should not become final. This Court also finds an evidentiary hearing is unnecessary to decide this case.

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

This Court hereby notifies the Applicant that he must file and serve a Notice of Appeal within thirty (30) days of the service of this Order to secure appellate review. See Rule 203, SCACR. The Applicant's attention is directed to Rule 243, SCACR., for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this 2nd day of July, 2014.

Frank R. Addy, Jr.
Chief Administrative Judge
Eighth Judicial Circuit

Greenwood, South Carolina.

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 William D. Jackson *(Server)* as his duly authorized agent for the purpose of making service on the below named individual.

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

On this 4th day of June, 2014, I served the Conditional Order of Dismissal, on *Inmate* Tyri Landron, ***SCDC Inmate*** #309930, by delivering personally and leaving a copy of same at Fairfield County Detention Center, Winnsboro South Carolina.

I am not a party to this action.

s/
SCDC Server

SWORN TO AND SUBSCRIBED BEFORE ME
this 13th day of June, 2014.

Notary Public for South Carolina
My commission expires: Aug 7th 2023.

ACCEPTANCE OF SERVICE

Service of a copy of the within Legal Pleadings is accepted at the Fairfield County Detention Center. Fairfield County, SC this 4th day of June, 2014.

s/
Inmate SCDC#

2013-CP-24-1371

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_____ _____
Inmate SCDC#

2013-CP-24-1371

ALAN WILSON
ATTORNEY GENERAL

RECEIVED
SEP - 3 2014
GENERAL COUNSEL
Fairfield Co
DF

August 29, 2014

Christina Kellett
Department of Corrections
4444 Broad River Road
Columbia SC

Re: Tyri Landron v. State of South Carolina 309930
2013-CP-24-1371

Dear Ms. Kellett:

Enclosed please find a Final Order of Dismissal on the above referenced matter. Please serve a copy on the inmate and return the enclosed affidavit of service to me.

Thank you for your cooperation in this matter and if you have any questions, please feel free to contact me.

Sincerely,

J. Rutledge Johnson
Assistant Attorney General

JRJ:cey
Enclosure

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