

STATE OF SOUTH CAROLINA CLERK OF COURT IN THE COURT OF COMMON PLEAS
COUNTY OF PICKENS PICKENS COUNTY SOUTH CAROLINA 2014 CR-39-0063

2014 OCT -1 A 9: 20

Larry Norman Gambrell,
S.C.D.C. No. 209770,

Applicant,

v.

State of South Carolina,

Respondent.

FINAL ORDER OF DISMISSAL

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed January 15, 2014. The Respondent made its return on June 27, 2014, 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 July 1, 2014 and filed July 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 by reference is an Affidavit of Service dated July 23, 2014, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

In a document captioned "Applicant's Memorandum of Law in Opposition to Respondents' Motion to Dismiss" and dated July 14, 2014, the Applicant argues he "had known juror, John Head all of his life" and that the Applicant "has a warrant for larceny from 1982 from



the City of Central South Carolina the victim is John Head.” The Applicant stated it “was well established in Applicants first P.C.R. hearing . . . that juror John Head and Applicant have known each other most of their lives.” The Applicant argues his rights have been violated “as a result of the P.CR court’s interference that impeded Applicants P.C.R. counsel’s . . . ability to raise and develope the facts.” (emphasis in original).

This Court has reviewed the Applicant’s response to the Conditional Order of Dismissal in its entirety,¹ 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 convicted and sentenced on March 1, 1994 and the South Carolina Supreme Court dismissed the subsequent appeal on October 5, 1995. As this action was filed on January 15, 2014, 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 April 28, 1997. 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 the Applicant’s allegation of juror misconduct was raised in both his first PCR action and at his first PCR hearing and he has failed

¹ This Court notes the Applicant also submitted a document captioned “Petition for Writ of Certiorari” and dated August 4, 2014. This appeal, however, was premature as it was submitted in response to a conditional order of dismissal.

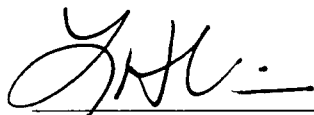


to demonstrate that his Court should disregard both the expiration of the statute of limitations and the presumption against successive PCR applications.

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 25 day of Sept., 2014.



Letitia H. Verdin
Chief Administrative Judge
Thirteenth Judicial Circuit

Greenville South Carolina.

