FEBRUARY 23, 2015

THE SUPREME COURT CLERK
POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

RE: LAQUAN D. COLLIER #260292
2014-CP-46-1458

DEAR CLERK

THERE HAS BEEN A MISUNDERSTANDING APPLICANT HAD 30 DAYS TO APPEAL JUDGE LEE S. ALFORD DECISION APPLICANT SENT NOTICE OF APPEAL TO WRONG COURT CLERK OFFICE ON 2/9/15 ENCLOSED IS ENVELOPE ALONG WITH NOTICE OF APPEAL DATED AFFIDAVIT OF SERVICE

THANKS
TRULY YOURS

OFFICE OF
CLERK OF COURT
DAVID HAMILTON
POST OFFICE BOX 649
YORK, SOUTH CAROLINA 29745
(803) 684-8507

TO: Jaquan D. Collier 240292

FROM: DAVID HAMILTON, YORK COUNTY CLERK OF COURT

RE: POST CONVICTION RELIEF
WRIT OF HABEAS CORPUS

_____ All correspondence concerning your PCR application must be presented to our office by your appointed attorney.

_____ All PCR's are scheduled directly by the Office of the Attorney General, you may contact them at: PO Box 11549, Columbia, SC 29211.

_____ When filing your PCR application be sure to complete the verification form in full, otherwise the document cannot be filed in our office.

_____ When requesting transcripts from your proceedings you will need to contact the South Carolina Court Administration, 1015 Sumter Street, Suite 200, Columbia, South Carolina 29201.

_____ If you have any question concerning matters in your case and an attorney has been appointed, you must contact your attorney.

_____ You have filed a PCR application and requested that an attorney be appointed to represent you. Please be advised that pursuant to a memorandum issued by Chief Justice Toal dated January 12, 2004 the Clerk of Courts office is not to appoint an attorney until directed to do so by the Office of the Attorney General.

_____ Your PCR was filed on _____ and is being processed.

_____ Requires original signature on filings

_____ Must submit a Motion to Proceed in Forma Pauperis before case can be filed

✓ Other If you are trying to appeal the decision of Judge Alford your document would be filed in the Supreme Court Thank You

*** If your paperwork has been returned by our office, please address the checked items and return to our office for proper handling. ***

York County Clerk of Court
P. O. Box 649
York, SC 29745

LAQUAN D. COLLIER #260292)
APPLICANT)
) 2014-CP-46-1458
V.)
) AFFIDAVIT OF SERVICE
STATE OF SOUTH CAROLINA) BY MAIL
RESPONDENT)
)

I HAVE THIS DAY 2-9-15 SERVED A COPY OF THE NOTICE OF APPEAL IN THE ABOVE-CAPTIONED MATTER ON THE FOLLOWING PERSON(S) BY DEPOSITING SAME IN THE UNITED STATES MAIL, POSTAGE PREPAID:

LAQUAN D. COLLIER #260292
4460 BROAD RIVER RD
COLUMBIA S.C 29209

DATED THIS 9TH DAY 2ND MONTH OF 2015

APPEAL TO YORK COUNTY

LEE S. ALFORD CHIEF ADMINISTRATIVE JUDGE

LAQUAN D COLLIER

APPELLANT

V.

THE STATE OF CAROLINA

RESPONDENT

NOTICE OF APPEAL

MR. LAQUAN COLLIER

APPELLANT

2014-CP-46-1458

THIS APPEAL IS PURSUANT TO RULE 60(B)5. ~~SCRCP.~~ AND 203 ~~205, AND~~ RULE 243 SCACR TO SHOW REASON FOR APPEAL THIS MATTER COMES BEFORE THE COURT UNDER RULE 60(B)5. IN STATE V. DANIEL D'ANGELO JACKSON CASE NO. 2012-199366 RULE 60(B) 5. TO SHOW THAT JUDEMENT HAS BEEN SATISFIED, RELEASED, OR OTHERWISE VACATED, OR IT IS NO LONGER EQUITABLE THAT THE JUDEMENT SHOULD HAVE PROSPECTIVE APPLICATION SO THEREFORE APPLICANT SOULD HAVE A NEW TRIAL UNDER CONFRONTATION CLAUSE APPLICANT SIXTH AMEND TO THE U.S CONSTITUTION HAS BEEN VIOLATED. IN DANIEL D'ANGELO JACKSON #2011-199366 S.E 2d 2014 WL 5654283 S.C App. 2014 THE CONFRONTATION CLAUSE WAS RULED ON AND REV. AN THAT CASE

The Confrontation Clause Dictates that when two (2) Defendants are tried jointly, the pretrial confession of one cannot be admitted against the other unless the confessing Defendant takes the stand.

Collier argues the admission of Cokley's statements Violated his rights of confrontation. He contends that even as redacted, the statements allowed the jury to refer that Cokley was reffering to Collier. The Law requires a court to carefully analyze "The exact words used for redaction... In context to determine wheather the reference to the Defendant was adaquatly obscured" to avoid a Bruton Violation. STATE V. HOLDER, 382 S.C 278, 285 n. 3, 676 S.E. 2d 690, 694 n. 3 (2009); See id. Explaning "The use of 'The other guy' has been upheld as a proper substitution in previous cases." But "There could be some instances where this Identical phrase would not be a sufficent Redaction citing: STATE V. VINCENT, 131 wash. App. 147, 120 R.3d 120, 123-24 2005 as the first circuit stated.

The confrontation clause of the sixth (6) Amendment to the U.S. constitution guarantees a criminal Defedant the right to confront and cross-examine the witnesses against him, and the Fourteenth (14) Amendment applies this right to the states. U.S constitution Amendments VI and XIV; STATE V. HENSON, 407 S.C 154, 161, 754 S.E. 2d 508, 512 (2014). In a trial, Joint trial, Amission of a non-testifying coDefedants confession that Incriminates

another Defedants violates the other Defendants right of confrontation. BRUTON, 391 U.S at 126 88, S. CT at 161-62, 754 S.E 2d at 512. Such an confession may be admitted in evidence, with an appropriate limiting Instruction, only If It is redacted so that It does not incriminate the other defendant on Its face, either explicitly or by obvious and Immediate Implication. Gray v. MaryLand 523, US 185, 192, 118 S. Ct 1151, 140 L.E.d 2d 294, 301 (1998); HENSON, 407 SC at 161-64 754 S.E 2d at 512-13. See also RICHARDSON V. MARSH, 481 US 200, 211 S CT 1702, 1709, 95 L.Ed. 2d, 176, 188 (1987). C Holding a non-testifying codefendants confession can be admitted only if it "Is Redacted to eliminate not only the defendants name, But any reference to his/her existence.

The application of BRuton, Richardson and gray to Redacted statement that employ phraseology such as "other Individuals" or "Another person" requires careful attention to... the text of the statement itself and to the context in which it is Proffered. The mere fact that the other defendants were on trial for the same charges to which the declarant confessed is insufficient, In and of Itself, to render the use of neutral pronouns an Impermissable means of redaction. A particular case may Involve numerous events and actors, such that no direct inferance Plausibly can be made that a nutral phrase like "Another Person" refers to a specific co-defendant. A differant case may involve so few Defedants that the statement leaves little doubt in the listeners mind about the Identity of "Another person".

In Short, each case must be subjected to Individualized Scrutiny.

U.S v. VEGA MOLINA, 407 F.3d 511, 520-21 (1st circuit) 2005 (Internal citation omitted); see also (Richardson, 481 U.S at 214, 107, S.Ct at 1711, 95 L.Ed 2d A 190 (STEVENS J. DISSENTING) "Bruton has always required trial Judges to Answer the Question wheather a particular confession Is or Is Not "Powerfully Incriminating" on a case-by-case Basis); FOXWORTH v. ST. AMAND, 570 F. 3d 414, 433 (1st circuit 2009) stating "An Inquiring court must judge the efficicacy of Redaction on a case-by-case basis, Paying careful attention to both a statements text and the context in which it is offerd.

Evaluating the content of COKEeys Redacted statements In context, we find the admission of the statements violated COLLIER's right to confront and cross-examine COKLey's

COKLey's redacted statement contains one specific Detail about the person he reffered to as "Another person" and "The other person", and because of that detail the reference to [colliers] was [not] adequatly obscured." HOLDER, 382 S.C at 285 n.3, 676 S.E 2d at 694 R.3, and the statement [Left] Little doubt In the Listeners mind about the Identity of "Another Person" VEGA MOLINA, 407 F. 3d at 520 In his fifth(5) statment.

The evidence In this case meets the Gray standard

For a Bruton violation because the statement obviously refers [RED] directly to someone, "~~And the Holiday Inn~~ "AND THE HOLIDAY INN MURDER reference would cause the jury to immediatly infer it was Collier."

The State Argues, however that the statments Do not Incriminate COLLIER on their face. It contends a juror hearing only the statements would not be able to identify Collier as the person Cokley describes, and Instead would have to link other evidence such as the surveillence video and testimony of other crimes and from that linkage Draw an Infrence that "Another person was Collier. The state maintains this necessity Removes collier's case from the Scope of Bruton and Subsequent cases. The states argument Is based on passages from the decisions of the Supreme Court, such as "The Rule announced in bruton is a 'narrow' one that applies only when the statement implicates the defendant on its face. Holder, 382 S.C at 284, 676, S.E. 2d 207-08, 107 S.CT at 1707 L.ed. 2d at 185-86"

STating "In Richardson, the Supreme court remarked that the rule announced in Bruton . . . Does not apply where the statement becomes incriminating only when linked to other evidence introduced at Trial, such as the defendants own testimony. RICHARDSON, 481 U.S at 208-09, 107 S.Ct at 1707-08 95 L.ed 2d at 186-87. Distinguishing "evidence Requiring linkage "from" evidence Incriminating on its face", and deciding to extend Bruton

to confessions that incriminate only by Inference from other evidence. We find the admission of Coklex's statement violated Bruton even under the reasoning of Richardson and Holder.

It has been agreed upon that, because the State Redacted Cokly's statement to remove Collier's name, A juror hearing the statements would have to consider evidence outside the four corners of the statements, and draw an inferance from the statements in combination with the other evidence. That Cokly was reffering to Collier. As our Supreme court explained in Henson, However, "Richardson did not turn on whether the confession admitted required an inferance in order to Incriminate the defendant, but on the kind of inference reQuird. 407 S.C at 164, 754, S.E 2d at 513 (Emphasis Added). In Gray, the supreme court defined the kind of inference required for a Bruton Violation, Holding the addmission of a codefendants statement violates Bruton when the "statements" despite redaction, obviously refers directly to someone, often obiviculsy the defendant, and which Inuolve inferences that a jury ordinarily could make immediatly." 525 U.S. at 196, 118 S.CT at 1157, 140 L.E.d 2d AT 303.

THIS CASE NEEDS TO BE RULED ON AND REV. REMAND FOR A NEW TRIAL

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RT

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2014CP4601458

Laqwan Demetrius Collier 260292	South Carolina State Of
PLAINTIFF(S)	DEFENDANT(S)
Submitted by: J. Rutledge Johnson	Attorney for: ☐ Plaintiff ☒ Defendant ☐ 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. ☐ See Page 2 for additional information.

☐ ACTION DISMISSED (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____

☐ ACTION STRICKEN (*CHECK REASON*): ☐ Rule 40(j) SCRCP; ☐ 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: _____

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

CONDITIONAL ORDER OF DISMISSAL

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT 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 (List amount(s) below)
n/a	n/a	n/a

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.**

S/ Lee S. Alford	2113	8/2/2014
Circuit Court Judge	**Judge Code**	**Date**

For Clerk of Court Office Use Only

This judgment was entered on **August 19, 2014**, and a copy mailed first class or placed in the appropriate attorney's box on **August 19, 2014**, to attorneys of record or to parties (when appearing pro se) as follows:

Laqwan Demetrius Collier Leiber Correctional Institute Am 123 PO Box 205 Ridgeville, SC 29472	**James Rutledge Johnson** PO Box 11549 Columbia, SC 29211
ATTORNEY(S) FOR THE PLAINTIFF(S)	**ATTORNEY(S) FOR THE DEFENDANT(S)**

	David Hamilton
Court Reporter	**David Hamilton - Clerk of Court**

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

Laqwan Demetrius Collier, #260292,

Applicant,

v.

State of South Carolina,

Respondent.

2014-CP-46-1458

CONDITIONAL ORDER OF DISMISSAL

This matter comes before this Court by way of an application for post-conviction relief filed May 5, 2014. The Respondent made its return and motion to dismiss on July 18, 2014.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the York County Clerk of Court. Applicant was indicted at the September 2003, term of the York County Grand Jury for Murder and Possession of a Weapon During the Commission of a Violent Crime (2003-GS-46-3189), Attempted Armed Robbery (2003-GS-46-3190) and Conspiracy to Commit Armed Robbery (2003-GS-46-3191). Stephen D. Schusterman, Esquire, represented him. On September 23, 2005, Applicant underwent trial, pursuant to which he was found guilty as indicted. The Honorable Steven H. John sentenced him to confinement for a period of fifty (50) years for Murder, five (5) years for Possession of a Weapon During the Commission of a Violent Crime (concurrent to the Murder sentence), twenty (20) years for Attempted Armed Robbery (consecutive to the Murder sentence), and five (5) years for

Conspiracy to Commit Armed Robbery (to run concurrent to the Murder sentence).

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. A brief was filed on the Applicant's behalf pursuant to Anders v. California, 386 U.S. 738 (1967). The South Carolina Court of Appeals dismissed the Applicant's appeal. State v. Collier, Op. No. 2008-UP-531 (S.C. Ct. App. filed September 11, 2008). The Remittitur was sent on April 27, 2009.

2008-CP-46-4427

The Applicant subsequently filed an application for post-conviction relief (PCR) on November 12, 2008. The State made its Return on May 19, 2009. The Applicant alleged ineffective assistance of trial counsel, trial court errors of law, due process violations and Ineffective Assistance of Appellate counsel. An evidentiary hearing was convened on February 5, 2010. The Applicant was present at the hearing and represented by Leah B. Moody, Esquire. The Honorable Brooks P. Goldsmith denied and dismissed with prejudice the Applicant's application by written Order dated March 30, 2010.

A notice of appeal was filed on Applicant's behalf and an appeal perfected pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988). The South Carolina Court of Appeals denied the Petition for Writ of Certiorari on August 10, 2012. The Remittitur was issued on August 29, 2012.

3:12-2582-CMC-JRM

The Applicant then filed a Petition for Writ of Habeas Corpus in the Federal District Court for the District of South Carolina on September 17, 2012. The Applicant argued, *inter alia*, trial court error for "[t]he trial judge error(sic) when he allow(sic) my codefendant statements into our joint trial as evidence against me, me neither my codefendant took the stand in our joint trial" and

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""Error" Due Process of Law" for "[w]hen the trial judge allowed the state to introduce detailed evidence of past act's(sic) and bad act's(sic) crimes those post act's(sic) were either irrelevant, prejudicial and the effect of the evidence outweighed it's probative value." The State filed its Return and Memorandum of Law in Support of Motion for Summary Judgment on January 14, 2013. On July 24, 2013, the Honorable Joseph R. McCrorey issued a Report and Recommendation, recommended the State's Motion for Summary Judgment be granted. On August 19, 2013, the Honorable Cameron M. Currie issued an order, adopting the Report and Recommendation and dismissing the petition with prejudice. Judge Currie's order also denied a certificate of appealability. The Applicant then appealed this ruling to the United States Court of Appeals for the Fourth Circuit. The Fourth Circuit denied appealability on November 26, 2013.

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

1. "Ineffective Assistance of Counsel on Bruton"
2. "Ineffective ruleing(sic) of trial judge on Bruton issue"
3. "Due Process of law on Lyle's(sic) issue"

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court finds that the current application for post-conviction relief must be summarily dismissed because the doctrine of *res judicata* bars the Applicant'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.

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The Applicant had a full opportunity to litigate all allegations regarding ineffective assistance of counsel in his 2003 PCR action and in his pending Federal Habeas Corpus action. The public interest in finality of judgments requires that litigation must eventually come to an end. Pursuant to Rule 12(b)(6), SCRCP, the Court summarily dismisses these claims as barred by *res judicata*.

This Court also finds that the current application for post-conviction relief must be summarily dismissed because it is successive to his prior application 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 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 application for post-conviction relief and thus the current application is successive and barred under S.C. Code § 17-27-90. The Applicant has failed to establish sufficient reason why he could not have raised his current allegations in his previous application for post-conviction relief; therefore, he has failed to meet the burden imposed upon him.

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Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980); Aice v. State, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 420 S.E.2d 834 (1992).

This Court additionally finds 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 judgement 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 September 23, 2005. The Remittitur after the Applicant's unsuccessful appeal was issued on April 27, 2009. Therefore, the Applicant had to file his application by April 28, 2010. This Application was filed on May 5, 2014, which was well after 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 file within the time mandated by statute, for being successive and for being barred by *res judicata*.

CONCLUSION

Pursuant to S.C. Code Ann. § 17-27-70(b), the Court intends to dismiss this Application with prejudice unless the Applicant provides specific reasons, factual or legal, why the Application should not be dismissed in its entirety. The Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final. The Applicant shall file any reasons he may have with the York County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
Attn: J. Rutledge Johnson, Esquire
P.O. Box 11549
Columbia, South Carolina 29211

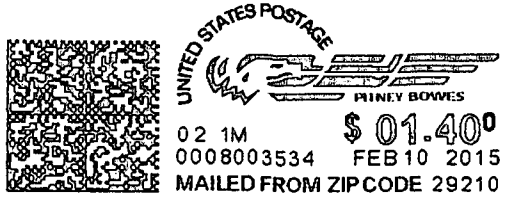
AND IT IS SO ORDERED this 2nd day of August, 2014.

LEE S. ALFORD
Chief Administrative Judge
Sixteenth Judicial Circuit

York, South Carolina

#6

MR. LAQUAN D. COLLIER #260292
4460 BROAD RIVER RD BR. C.I
COLUMBA S.C 29209



Civil

YORK COUNTY SOUTH CAROLINA
CLERK OF COURT OFFICE
P.O BOX 649 YORK,
SOUTH CAROLINA 29745-0649