

MARCH 10, 2015

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S.C. Supreme Court

SUPREME COURT CLERK OFFICE

P.O. Box 11330

COLUMBIA, SOUTH CAROLINA 29211

RE: LAQUAN D COLLIER #260292 V. STATE

APPELLATE CASE NO. 2015-000426

LOWER COURT CASE No. 2014CP4601458

DEAR CLERK

IN CLOSED OR COPY'S OF ALL LEGAL <sup>DOCUMENTS</sup> ~~DOCUMENT~~

SHOWING WRITTEN NOTICES, AND ORDERS FROM  
THE COURT'S <sup>DEALING</sup> ~~DEAL~~ WITH THIS MATTER OR  
LOWER COURT. ERRORS IN TIME AND DATES,  
ETC.

Truly Yours

LAQUAN COLLIER  
#260292



**CLERK OF COURT'S OFFICE**

*Post Office Box 649, York, South Carolina 29745-0649*

January 2, 2015

Laqwan D Collier 260292  
Leiber Correctional Institute AM 123  
PO Box 205  
Ridgeville, SC 29472

Dear Mr. Collier:

The Clerks office is in receipt of your letter requesting a copy of the Final Order in your case. We have not received the Order for filing in the Clerk of Courts office. I hope this has been of assistance to you.

Sincerely,

Clerk of Court  
Civil Division

JANUARY 5, 2015

THE HONORABLE DAVID HAMILTON  
CLERK OF COURT, YORK COUNTY)  
POST OFFICE BOX 649  
YORK SC 29745

DAVID HAMILTON  
C.C.C.F. & G.S.  
YORK COUNTY, SC

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2015 JAN - 2 PM 3:43

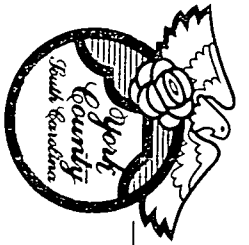
RE: LAQUAN D. COLLIER V. STATE OF SOUTH CAROLINA  
2014-CP-46-1458

THIS LETTER IS CONCERNING MY FINAL ORDER TO THE ABOVE  
CASE 2014-CP-46-1458 I HAVE RECEIVED THE CONDITIONAL ORDER  
OF DISMISSAL ON 8-2-14 BUT I HAVE YET NOT SEEN OR RECEIVED  
THE FINAL ORDER AND YES THEM DOCUMENTS IS NEEDED.

SINCERELY,

  
MR. LAQUAN D. COLLIER





CP

P.O. Box 649, York, South Carolina 29745-0649

**CLERK OF COURT'S OFFICE**

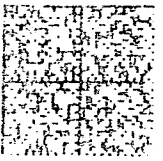
*W. DeWitt*

Laqwan Demetrius Collier 260292  
Broad River Correctional Institute  
4460 Broad River Road  
Columbia, SC 29209

**RECEIVED**

FEB 23 2015

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LAQUAN D. COLLIER #260292

APPLICANT

VS.

STATE OF SOUTH CAROLINA

RESPONDENT

2014-CP-46-1458

AFFIDAVIT OF SERVICE

BY MAIL

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

COLUMBA S.C 29209

DATED THIS 9TH DAY 2ND MONTH OF 2015



16  
KT

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), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  
 Rule 43(k), SCRPC (Settled);  Other: \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j) SCRPC;  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*  
Circuit Court Judge

2113  
Judge Code

8/2/2014  
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

**ATTORNEY(S) FOR THE PLAINTIFF(S)**

James Rutledge Johnson PO Box 11549 Columbia, SC  
29211

**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.

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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

#2  
2011

M. CRAWFORD  
vs  
WASHINGTON  
541 U.S. 36,  
124 S.Ct. 135

“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 ruling(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.

O HIO V. ROBERTS, 448 U.S. 56, 100 S.Ct. 2531,  
65 L.Ed 2d 597

#3  
[Signature]

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), SCRPC, 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.

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.

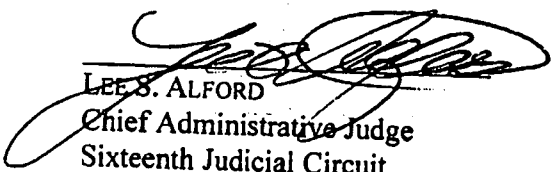
A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary 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 2<sup>nd</sup> day of August, 2014.

  
LEE S. ALFORD  
Chief Administrative Judge  
Sixteenth Judicial Circuit

York, South Carolina

H6  
10/10

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)

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- 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

FINAL ORDER OF DISMISSAL

This order  ends  does not end the case.  
Additional Information for the Clerk: \_\_\_\_\_

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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.**



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.

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.

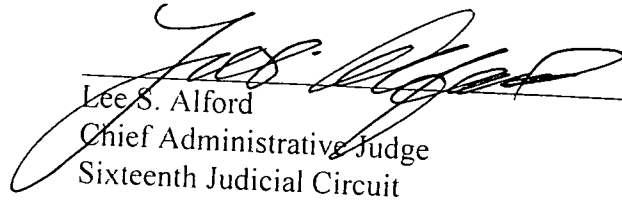
The Applicant raised this exact issue in his 2008 PCR and 2012 Federal Habeas Corpus actions. See Respondent's "Report and Recommendation" C/A No. 3:12-2582-CMC-JRM. The public interest in finality of judgments requires that litigation must eventually come to an end. Pursuant to Rule 12(b)(6), SCRCP, the Court summarily dismisses these claims as barred by *res judicata*. Accordingly, this Court finds no reason why the Conditional Order of Dismissal should not become final.

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.

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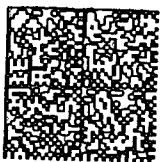
AND IT IS SO ORDERED this 22<sup>nd</sup> day of December, 2014.

  
Lee S. Alford  
Chief Administrative Judge  
Sixteenth Judicial Circuit

Yace, South Carolina.

#3  
2016

Mr. LAWMAN D COLLIER #260292  
3.R.C.I ~~111111~~ WHT # 167  
4960 BROAD RIVER ROAD  
COLUMBIA S.C 29210



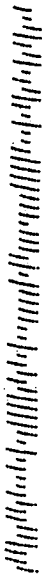
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CLERK OF COURTS  
POST OFFICE BOX 11330  
COLUMBIA SOUTH CAROLINA 29211

**FOR LEGAL USE ONLY**

THE DEPARTMENT OF CORRECTIONS HAS NOT  
INSPECTED OR CENSORED THIS ITEM, THEREFORE, THE  
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BROAD RIVER CORRECTIONAL INSTITUTION  
S.C. DEPARTMENT OF CORRECTIONS