

Albert William Anders, 131939
386 Redemption Way
McCormick, S.C. 29899

Date 3-26-2015

2014-CP-23-2209

Dear Honorable Daniel E. Starks
of South Carolina Supreme Court:

Enclosed Please Find For Filing with
Your office of the South Carolina Supreme
Court." Written explanation, along with
AFFIDAVIT of SERVICE:

It would be a great Honor if
You would Please returned to me
a clocked-dated stamped copy:

Respectfully submitted
by Albert Anders

CC: A: W: A:
CC: H: D: E: S: S: C:

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM GREENVILLE COUNTY
COURT OF COMMON PLEAS CIRCUIT COURT
HONORABLE ROBIN B. STILWELL

CASE/NO. 2014-CP-23-2209

Albert William Anders, Appellant

VS

State of South Carolina Respondent

Notice of Appeal

I Albert Williams Anders, 131939 Appealing
the denial Final order of Dismissal in the above
case, The decision was ordered by the Honorable
Honorable Robin B. Stilwell on Feb 27th 2015
and was received by Albert William Anders on
March 9, 2015.

Date 3-26 2015

sl Albert Anders
306 Redemption way
McCormick S.C. 29819
Pro se Appellant

other counsel of
Record:
Ms. Karen C. Ratigan
Assistant Attorney General

THE STATE OF SOUTH CAROLINA
In the Supreme Court

Appeal From Greenville County
Court of Common Pleas Circuit Court
Honorable Robin B. Stilwell

CA/Not 2014-CP-23-2209

Albert William Anders Appellant

vs

State of South Carolina Respondent

Affidavit of Service

I, Albert William Anders, hereby serving a true copy of Notice of Appeal Attach Written Explanation by placing a true copy in the United States mail, postage prepaid on, _____ 2015 address to Respondent's Karen C. Rattigan assistant Attorney of Office of the Attorney General of Records Post Office Box 11549 - Columbia SC 29211-154, Honorable Letitia H. Verdine Administrative Judge 13th Judicial Circuit Chief 305 East North Street Suite 318 Greenville, S.C. 29601. By placing a true copy in the United States mail.

Sworn before me this
Day, 26 of March 2015
Notary J. Franklin
Expires 12.16.2019

s/ Albert Anders
Albert W. Anders
306 Redemptor Way
McCormick, SC 29889

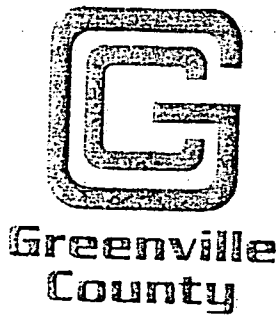


EXHIBIT (A)
Office of the Clerk of Court
Greenville, South Carolina

Paul B. Wickensimer
Clerk of Court

Circuit Court Division
Greenville County Courthouse
305 East North Street
Greenville, South Carolina 29601
(864) 467-8551 FAX (864) 467-8540

RECEIVED

APR 01 2015

S.C. Supreme Court

January 28, 2014

Albert W. Anders #131939
McCormick Correctional Inst.
386 Redemption Way
McCormick, SC 29899

Dear Mr. Anders:

We are in receipt of your letter postmarked 1/16/2014. Enclosed please find the copies you requested for the warrant/indictment numbers you provided. With this mailing you have received copies of all the documents filed with the Clerk of Court's Office as of today's date for the warrant/indictment numbers you provided.

Sincerely,
Clerk of Court
Greenville County General Sessions

STATE OF SOUTH CAROLINA
COUNTY OF Greenville

AFFIDAVIT

Exhibit (B)

Personally appeared before me, judge of the Court, one Paul Green Greer PD
who being duly sworn, deposes and says that Albert W. Anders (name of defendant) did within this County
and State on 8-31 19 85 violate the criminal laws of the State of South Carolina [or ordinance of the municipality
of _____] in the following particulars:

DESCRIPTION OF OFFENSE

murder

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that
such probable cause is based on the following facts:

Affiant states that he has statements from
two witnesses that the above defendant did
take a shot gun and shoot victim, Randal
Bruce Leonard. Incident occurred 405 Parker
Street Greer, SC. Victim died during surgery at
Memorial Hospital.

B 411303

Sworn to and Subscribed before me,

This 31 day of Aug, 19 85

Paul Green
Signature of Affiant

Address Greer P.D.

Phone: 811-6433

Amy Chulman (L.S.)
Signature of Issuing Judge

Address _____

Phone: _____

STATE OF SOUTH CAROLINA ARREST WARRANT

COUNTY OF Greenville

[for MUNICIPALITY OF _____]

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE, COUNTY OR MUNICIPALITY, OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that Albert W. Anders
(name of defendant) did on 8-31 19 85 violate the criminal laws of the State of South Carolina [or ordinance
of the municipality of _____] as set forth below:

DESCRIPTION OF OFFENSE

murder

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be
dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon
thereafter as is practicable.

685-030058

Done at Greenville S. C.
on 8-31 19 85

Amy Chulman (L.S.)
Signature of Judge

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

Albert William Anders, 131939)

Plaintiff)

v.)

State Of South Carolina)

Defendant.)

IN THE COURT OF COMMON PLEAS

CASE NO.
2014-CP-23-2209

MOTION AND ORDER FOR INFORMATION
FORM AND COVER SHEET

FILED - CLERK OF COURT
GREENVILLE COUNTY
PAUL B. WICKENS
MAR 3 AM 11:25

Plaintiff's Attorney: Albert William Anders, 131939, Bar No. Address: MCI 386 Redemption Way McCormick SC 29899 phone: fax: e-mail: other:	Defendant's Attorney: Karen C. Ratigan, Sadag, Bar No. 833 Address: Post Office Box 11549 Columbia SC 29115 phone: (803) 734-3737 fax: (803) 734-3737 e-mail: other:
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MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

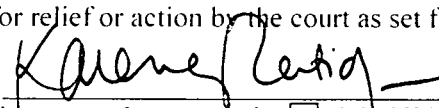
Nature of Motion: _____

Estimated Time Needed: _____ Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

Written motion attached
 Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.


 Signature of Attorney for Plaintiff / Defendant

February 17, 2015
 Date submitted

SECTION III: Motion Fee

PAID - AMOUNT: _____
 EXEMPT:

(check reason)

Rule to Show Cause in Child or Spousal Support
 Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRPC)
 Proposed order submitted at request of the court: or,
 reduced to writing from motion made in open court per judge's instructions
 Name of Court Reporter: _____
 Other: _____

JUDGE'S SECTION

Motion Fee to be paid upon filing of the attached order.
 Other: _____

JUDGE: _____
 CODE: _____ Date: _____

CLERK'S VERIFICATION

Date Filed: _____

Collected by: _____

MOTION FEE COLLECTED: _____
 CONTESTED - AMOUNT DUE: _____

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 Albert William Anders,)
 S.C.D.C. No. 131939.)
)
 Applicant.)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
)

IN THE COURT OF COMMON PLEAS
 2014-CP-23-2209

FINAL ORDER OF DISMISSAL

FILED - CLERK OF COURT
 GREENVILLE CO. S.C.
 PAUL B. WICKENSIMMER
 2015 MAR 3 AM 11 25

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed April 16, 2014. The Respondent made its return on December 3, 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, the Honorable Letitia H. Verdin – acting in her capacity as Chief Administrative Judge – issued a Conditional Order of Dismissal signed December 8, 2014 and filed December 23, 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 January 9, 2015, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

In a document captioned “Applicant Response Objections to Return and Motion to Dismiss” and with a proof of service dated December 15, 2014, the Applicant argues he has

AS

raised the issue of newly-discovered evidence. The Applicant argues – through a prison law clerk – that he obtained documents from the Greenville County Clerk of Court in February 2014 that indicate the victim died during surgery and not from a gunshot wound. The Applicant argues if he had known this information, he would have “request for a plea offer assault [sic] battery because the gun shot wound did not cause the death but by the discovery of the information cause of death was from the victim died during surgery.”

This Court has reviewed the Applicant’s response to the Conditional Order of Dismissal in its entirety, 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 3, 1986 and the South Carolina Supreme Court affirmed on April 27, 1987. As this action was filed on April 16, 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 fourth 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 a hearing for his first PCR application; however he chose to voluntarily withdraw that application.¹ 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 newly-discovered evidence is without

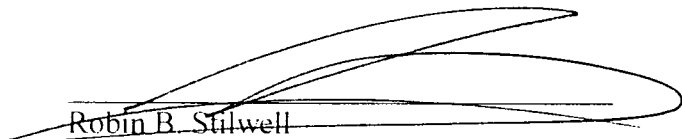
¹ The consent order of dismissal was filed on July 20, 1989.

merit. This Court finds the Applicant's alleged evidence has failed to prove any of the five (5) required elements of newly-discovered evidence. See Hayden v. State, 278 S.C. 610, 611-12, 299 S.E.2d 854, 855 (1983). The document referenced by the Applicant in his "Applicant Response Objections to Return and Motion to Dismiss" was the arrest warrant affidavit. This document clearly would have been available at the time of the Applicant's trial and would not have changed the outcome of that trial. This Court also does not find the Applicant to be persuasive in his argument that the victim's death during surgery (for the gunshot wound inflicted by the Applicant) puts the case in a different legal posture than if the victim had immediately died from the gunshot wound.

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 27 day of Feb, 2015.


Robin B. Stilwell
Chief Administrative Judge
Thirteenth Judicial Circuit

COLUMBIA, South Carolina.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Post Office Box 21787 - Columbia, South Carolina 29221

Pursuant to Rule 4(d)(2) of the South Carolina Rules of Civil Procedure, the Director of the South Carolina Department of Corrections has designated L.T. McCamy (Server) as his duly authorized agent for the purpose of making service of the process on the below named individual.

STATE OF SOUTH CAROLINA)

COUNTY OF McCormick)

AFFIDAVIT OF PERSONAL SERVICE

On this 9th day of January, 2015, I served the **Conditional Order of Dismissal**, on **Inmate Albert William Anders, SCDC Inmate # 131939**, by delivering personally and leaving a copy of the same at **McCormick Correctional Institution, McCormick**. Deponent is not a party to this action.

s/ L.T. McCamy

SCDC Server

SWORN TO AND SUBSCRIBED BEFORE ME

this 9th day of January, 2015

Stephanie Marshall (L.S.)

Notary Public for South Carolina

My Commission Expires: May 12, 2021

ADMISSION OF SERVICE

Service of a copy of the within **Conditional Order of Dismissal** is admitted at the South Carolina Department of Corrections McCormick **Correctional Institution**), McCormick, McCormick County, SC this 9th day of January, 2015.

s/ Albert Anders

Inmate
SCDC Inmate #: 131939

RECEIVED

MAR 26 2015

MCCI
MAIL ROOM

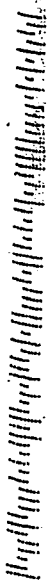
APR 19 2015

(106)

Albert Anderts #131939
MCCI #2A 172
B36 Redemption Day
McCormick, S.C., 29579

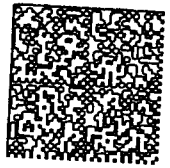
The Supreme Court of South Carolina
Daniel E. Stepphouse, Clerk of Court
Post Office Box 11830
Columbia, S.C., 29211

292118300



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MCI

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