

RECEIVED

APR 21 2015

16 April 2015

S.C. Supreme Court

Ridgeland Correctional Institution
Savannah 'B' Unit, Room 11
Post Office Box 2039
Ridgeland, South Carolina 29936

Clerk Daniel Shearouse
Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

Re: Daniels v. State, 2014CP06173

Dear Sir:

Therein enclosed please find for filing and processing:

1. Notice of appeal;
2. Proof of service;
3. Order(s) to be challenged on appeal;

/s/ Brian D. ...

RECEIVED

APR 21 2015

S.C. Supreme Court

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM BARNWELL COUNTY

DOYET A. EARLY, III, CIRCUIT COURT JUDGE

2014CP0600173

BRIAN DANIELS,

Appellant,

v.

STATE OF SOUTH CAROLINA,

Respondent.

NOTICE OF APPEAL

Brian Daniels appeals the 3-20-15 'Final Order of Dismissal' of the Honorable Doyet A. Early, III where he received written notice of entry of same on 3-31-15.

April 17, 2015

Brian Daniels
Brian Daniels, 253205
RCI, SB-11, POB 2039
Ridgeland, S.C. 29936

Other Counsel of Record:

Justin Hunter, Esq.
Attorney General Office
POB 11549
Columbia, S. C. 29211

Rhonda McElveen
Clerk of Court
POB 723
Barnwell, S.C. 29812

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal From Barnwell County

Doyet A. Early, III, Circuit Court Judge

2014CP0600173

Brian Daniels, Appellant,

v.

The State, Respondent.

PROOF OF SERVICE

I certify that I have served the 'Notice of Appeal' on the government's (State's) attorney by depositing a copy of it in the U.S. Mail, postage prepaid, to Justin Hunter and Clerk of Court of Barnwell Court at the address(es) set forth above herein (see reverse side) this 17th day of April 2015.

s/ Brian Daniels

Brian Daniels

STATE OF SOUTH CAROLINA)
 COUNTY OF BARNWELL)
)
 Brian Daniels, #253205)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE SECOND JUDICIAL CIRCUIT

Case No. 2014-CP-06-173

FINAL ORDER OF DISMISSAL

FILED FOR RECORD
 2015 MAR 26 PM 1:20
 MURRAY A. D. HANDELVEEN
 CLERK OF COURT
 BARNWELL COUNTY, S.C.

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed April 25, 2014. The Respondent made its return on December 18, 2014, requesting the application be summarily dismissed based upon statute of limitations, successiveness, and the doctrine of *res judicata*.

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 December 19, 2014 and filed January 5, 2015, 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 February 10, 2015, serving the above mentioned Conditional Order of Dismissal on the Applicant.

In a document captioned "Objection(s) to Proposed and/or Conditional Order of Dismissal" filed January 29, 2015 and February 2, 2015, the Applicant argues that the application should not be dismissed as successive, untimely, and barred by the doctrine of *res judicata* because prior PCR Counsel from his 1999-CP-06-194 application did not adequately raise his claim of ineffective assistance of counsel. Specifically, Applicant argues his defense

Handwritten signature and initials in the bottom right corner of the page.

counsel failed to pursue a preponderance of evidence hearing on one-fourth parole eligibility on the voluntary manslaughter conviction. Additionally, Applicant objects to the COD where the solicitor office is shown as the only witness before the Barnwell County Grand Jury on or about 1-26-98. Furthermore, Applicant objects to the COD "for community supervision program was not part of his guilty plea and trial judge did not sentence him to community supervision program."

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 pled guilty on October 6, 1998. As this action was filed on April 25, 2014, it was clearly filed outside the expiration of the statute of limitations. See S.C. Code Ann. § 17-2745(a) (Supp.2003). This is the Applicant's **sixth** 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 May 1, 2000. 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.'").

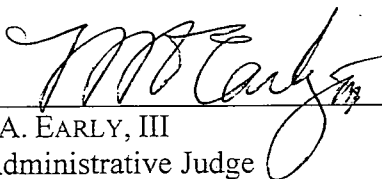
This Court notes Applicant filed a motion for recusal due to this Court ruling on his prior PCR applications. However, this Court finds Applicant has failed to allege any meritorious reason as to why this Court should recuse himself from ruling on his sixth PCR application. This Court notes, Pursuant to Canon 3(E)(1)(a) of Rule 501, SCACR, a judge should disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be

Handwritten signature and the number 2.

questioned. It is not enough for a party seeking disqualification to simply allege bias or prejudice. The party must show some evidence of that bias or prejudice. The alleged bias or prejudice must stem from an extra-judicial source and result in a decision based on information other than what the judge learned from his or her participation in the case as a judge. State v. Jackson, 353 S.C. 625, 627, 578 S.E.2d 744, 745 (S.C. Ct. App. 2003). Based off of the foregoing, this Court denies Applicant's motion for recusal.

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

AND IT IS SO ORDERED this 20 day of March, 2015.



DOYET A. EARLY, III
Chief Administrative Judge
Second Judicial Circuit Court

Bamberg, South Carolina.

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF BARNWELL)	FOR THE SECOND JUDICIAL CIRCUIT
)	
Brian Daniels, #253205,)	2014-CP-06-173
)	
Applicant,)	
)	
v.)	CONDITIONAL ORDER OF DISMISSAL
)	
State of South Carolina,)	
)	
Respondent.)	
_____)	

This matter comes before this Court by way of an application for post-conviction relief filed April 25, 2014. In its Return, Respondent requests that the action be summarily dismissed.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Barnwell County Clerk of Court. Applicant was indicted at the January 1998 term of the Barnwell County Grand Jury for Murder and Possession of a Knife During Commission of a Violent Crime (1998-GS-06-005). He was represented by Walter Bedingfield, Esquire. On October 6, 1998, Applicant pled guilty but mentally ill before the Honorable Costa Pleicones to voluntary manslaughter. Judge Pleicones sentenced Applicant to thirty year term of imprisonment. Applicant did not appeal his guilty plea or sentence.

1999-CP-06-194

Applicant filed his first post-conviction relief application filed August 13, 1999, alleging that he was being held in custody unlawfully due to the following allegations:

1. Ineffective Assistance of Counsel
 - a. counsel failed to investigate material facts of the case, and convey facts; counsel erroneously advised Petitioner; counsel's failure to prepare and erroneous advise to Petitioner caused Petitioner to plead guilty.
2. Involuntary Guilty Plea

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BARNWELL)
)
 BRIAN DANIELS, #253205)
 Plaintiff,)
 vs.)
 STATE OF SOUTH CAROLINA)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 SECOND JUDICIAL CIRCUIT
 CASE NO. 2014-CP-06-173
 MOTION AND ORDER INFORMATION
 FORM AND COVERSHEET

Plaintiff's Attorney: Brian Daniels, #253205, Bar No. _____ Address: Ridgeland Correctional Institution Ridgeland, SC 29936 Phone: _____ Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: Justin J. Hunter, Bar No. _____ Address: PO Box 11549 Columbia, SC 29211 Phone: _____ Fax _____ E-mail: _____ Other: _____
---	--

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)

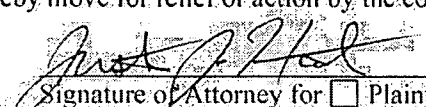
SECTION I: Hearing Information

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

December 18, 2014
 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

Collected by: _____ Date Filed: _____
 MOTION FEE COLLECTED: \$ _____
 CONTESTED - AMOUNT DUE: \$ _____

Applicant filed an amended application on October 5, 1999, alleging the following grounds:

1. Ineffective Assistance of Counsel
 - a. counsel was ineffective in that he was only visited two or three times during the eighteen months he was in the county jail, so he was not adequately prepared
 - b. Counsel had informed him that he had filed a Motion To Suppress the statement Petitioner had given, but he he[sic] did not [sic] the Motion.
 - c. Counsel never informed the Court that this was the first time Petitioner had been in trouble with any law enforcement.
 - d. Counsel did not inform Petitioner correctly as to the number of strikes he would have for the jury.
 - e. Counsel never requested a preliminary hearing which Petitioner wanted.
 - f. Counsel did not inform Petitioner that he would be subject to 85% of the time to serve if he was convicted or pled guilty.
 - g. Counsel informed Petitioner incorrectly as to when I would be eligible for parole.
 - h. Counsel incorrectly informed Petitioner that if he proceeded to trial and did not plead guilty, that he would probably get a life sentence.
 - i. Counsel informed Petitioner that if he pled guilty but mentally ill, he would be able to serve his time on Bull Street at the State Mental Institution and he therefore was induced to plead guilty against his will, and there was not a knowing waiver of his right to trial by jury.

Respondent made its return on October 25, 1999. An evidentiary hearing was convened on May 1, 2000, at which Applicant was present and represented by Thomas Weeks, Esquire. In a written Order filed January 18, 2001, the Honorable Thomas W. Cooper, Jr., denied and dismissed the application with prejudice.

A timely notice of appeal was filed. In a written Order, dated February 6, 2002, the South Carolina Supreme Court denied the petition for writ of certiorari. The Remittitur was issued on February 22, 2002.

2002-CP-06-218

2

Subsequently, Applicant filed a second application for post-conviction relief on August 16, 2002, entitled in the document "Petition for Writ of Habeas Corpus," wherein he alleges the following:

1. Ineffective Assistance of Counsel
 - a. Petitioner was denied his right to the effective assistance of counsel where his attorney improperly advised petitioner regarding parole eligibility.
 - b. Counsel was ineffective for failing to file a pre-trial motion to suppress an alleged inculpatory statement made by Petitioner after informing Petitioner he would file such motion.
2. Ineffective Assistance of Counsel/Involuntary Plea
 - a. Counsel was ineffective when he misinformed petitioner regarding the number of peremptory challenges he would have during jury selecting, which helped to induce petitioner's guilty plea.

Respondent filed a return and motion to dismiss on October 21, 2002. On January 9, 2003, the PCR court held an evidentiary hearing at which Applicant was present and testified and was represented by Ed Smith, Esquire. At the hearing, both Respondent and Applicant's counsel agreed that Applicant's filing should be construed as a PCR application and the court made its ruling accordingly. The PCR court denied and dismissed Applicant's application by order filed February 28, 2003. Specifically, the PCR court ruled that Applicant's 2002 PCR Action was successive to his prior PCR application. Applicant did not appeal the PCR court's decision in this matter.

3

EARLY

2004-CP-06-22

Applicant filed his third application for post-conviction relief on February 5, 2004. In this application, Applicant alleged the following grounds for relief:

1. Ineffective Assistance of PCR Counsel
 - a. Failing to file an appeal.

Counsel for Applicant, J. Martin Harvey, Esquire, filed an amended application on July 15, 2005. On August 18, 2005, the PCR court held an evidentiary hearing at which Applicant was present and testified. The PCR court granted Respondent's motion and denied and dismissed Applicant's application for post-conviction relief by order filed October 6, 2005. Specifically, the PCR court ruled that Applicant's 2004 PCR Action was successive and time barred. Additionally, the PCR court found that Applicant was not entitled to a belated review of the denial of his 2002 PCR Action pursuant to Austin v. State, 409 S.E.2d 395 (1991).

A Notice of Appeal was filed on behalf of Applicant on October 13, 2005. On March 3, 2006, Applicant's counsel filed a Johnson petition for a writ of certiorari and a petition to be relieved as counsel. Applicant filed a pro se response. Respondent filed a letter return. By order filed September 10, 2007,¹ the South Carolina Court of Appeals denied Applicant's petition for a writ of certiorari. The Remittitur was issued on September 26, 2007.

EARLY 2004-CP-06-133

4
Applicant filed his fourth post-conviction relief application/second state habeas corpus on June 15, 2004, alleging that he was being held in custody unlawfully based on the following allegations:

1. Attorney improperly advised Petitioner regarding parole eligibility
2. Counsel was ineffective for failing to file a pre-trial motion to suppress an alleged inculpatory statement made by Petitioner after informing Petitioner he would file such motion; and counsel was ineffective when he misinformed Petitioner regarding the number of peremptory challenges he would have during jury selecting, which helped induce Petitioner's guilty plea.

¹ The Order contains a file date of September 10, 2007 on page one, but a signature date of September 11, 2007 on page two.

Applicant filed an amended application on July 15, 2005, alleging the following allegations:

1. Applicant was denied the opportunity to appeal the denial of his previous petition for post-conviction relief because appointed counsel failed to file a Notice of Appeal even after being instructed to do so
2. The Court of General Sessions of Barnwell County did not have subject matter jurisdiction to hear Petitioner's plea; and
3. Applicant received ineffective assistance of counsel.

Respondent filed a return and motion to dismiss on December 31, 2006. In a conditional order of dismissal filed January 23, 2007, the PCR court summarily dismissed Applicant's document captioned "Petition for Writ of Habeas Corpus." Additionally, the PCR court found that, construing Applicant's filing as a PCR application, it was dismissed as successive and time barred and barred by the doctrine of res judicata. In response to the conditional order of dismissal, Applicant filed a "Motion to Alter or Amend Judgment." The PCR court issued a final order on April 17, 2007, in which it denied and dismissed Applicant's PCR application.

Applicant did not appeal the PCR court's decision in this matter.

5
EARLY 2008-CP-06-055

Subsequently, Applicant filed a fifth application for post-conviction relief on February 13, 2008, alleging that he was being held in custody unlawfully based on the following allegations:

1. Violation of Due Process and Equal Protection rights;
2. Ineffective Assistance of PCR and Appellate Counsel; and
3. "Statutory Rights to have issues ruled upon according to law deprived, § 17-27-80 & 90."

The Respondent made its Return and Motion to Dismiss on or about July 22, 2008. In a Conditional Order dated July 28, 2008, the Honorable Doyet A. Early, III, found that the application should be dismissed for being time barred and Applicant was given twenty days in which to respond. In his response dated August 13, 2008, Applicant alleged among other things that he received ineffective assistance of counsel because a defense of mental illness was not

raised. The PCR court issued a final order on October 21, 2008, in which it denied and dismissed Applicant's 2008 PCR application with prejudice..

A timely filed a Notice of Appeal on November 12, 2008. The South Carolina Supreme Court issued its Order of Dismissal in this appeal on December 1, 2008. In the Order, the Supreme Court noted that in the explanation required by Rule 227(c), SCACR, petitioner had failed to show that there was an arguable basis for asserting that the determination by the lower court was improper. The Remittitur was issued on December 19, 2008.

0:09-755-PMD-PJG

Applicant filed a petition for writ of habeas corpus on March 24, 2009. Applicant alleged the following grounds for relief:

1. Violations of Due Process rights and Equal Protection Rights to S.C. Code Ann. 17-24-10-20, and 30 as applicable.
2. Ineffective Assistance of 1st. PCR counsel and Appellate Court counsel for PCR Appeal.
3. Violations to the Grand jury Indicting Procedures in obtaining indictment against Petitioner.
4. Denied the right to proper sentence as is mandatory by 17-24-20, and 30.
5. Petition shows the court that the trial counsel erroneously advised him that he would have been entitled to parole if Petitioner did not get into any troubles while incarcerated.
6. Petitioner shows the court that the trial counsel incompetencies was clear and the lacking to perform his duties as the attorney of record in case matter, the trial counsel used unethical practices to promote the Petitioner to follow incorrect information that he gave to the Petitioner the entire time of his ineffective assistance services rendered to the Petitioner in his case matter at bar.

On July 2, 2009, the Respondent filed its return and motion for summary judgment. On January 22, 2010, the Honorable Paige J. Gossett issued a Report and Recommendation, recommending that Respondent's motion for summary judgment be granted and finding that Petitioner's claims were untimely. By Order dated March 19, 2010, the Honorable Patrick M. Duffy granted

Respondent's motion for summary judgment, dismissed Applicant's § 2254 petition, and denied a certificate of appealability.

Applicant filed a Notice of Appeal on March 19, 2010. The Fourth Circuit Court of Appeals issued an opinion denying a certificate of appealability and dismissed the appeal on June 28, 2010.

II.

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

1. "Court of General Sessions was not authorized to conduct October 1998 term."
2. Due process violation
3. Sentence violates separation of powers and or cruel and unusual punishment clause.

Applicant filed an amended PCR application on July 14, 2014, alleging the following grounds:

1. The Court of General Sessions was not authorized to conduct October term of court.
 - a. "According to § 14-5-630(3) of S.C. Code Ann. 1995 'The court of general session for Barnwell County shall be held at Barnwell on the second Monday in September for a term of one week...' There simply is no provision for the October 6, 1998 term of Court of General Sessions for Barnwell County..."
2. Due Process Violation.
 - a. "Applicant's exhibit 1 and 2 show the February and September 1998 terms of the Court of General Sessions for Barnwell County so how could the Court of General Sessions for Barnwell County convene lawfully in October 1998? By subjecting applicant to a trial judge who acted without jurisdiction."
3. Sentence Violates separation of powers and or cruel and unusual punishment and or due process clauses.
4. Guilty plea bargain violation.
 - a. "Applicant was sentenced to a no parole offense is subject to community supervision program (CSP) when he completes the 30 years incarceration where CSP was not part of the trial judge's sentence...."

Applicant filed a "Second Amended Application" on September 15, 2014, alleging the following grounds:

1. "Court did not have jurisdiction for 10-6-98 term;"
2. "Indictment 98-GS-06-005 is flawed where no witness(es) appeared before grand jury no jurisdiction;"
3. "Circuit Court judge had no power;"
4. "CSP due process violation;"
5. "CSP separation of power(s) violation;" and
6. "Due Process contract violation Hooks v. State, 577 S.E.2d 211 (2003)."

Applicant filed another amended PCR application on November 20, 2014, alleging the following grounds:

1. "Ineffective [actual] assistance of criminal defense counsel according to title 17-27-90."
 - a. "...criminal defense attorney mis-advise Applicant concerning parole eligibility."
 - b. "[Counsel] was also ineffective for not pursuing or making a motion to the trial, sentencing Court for a preponderance of evidence hearing on the fact the victim was a 'household' family member pursuant to section 16-25-90. Had he made this motion concerning the sentencing, the advice concerning parole eligibility would not have been erroneous. State v. Hawes, 730 S.E.2d 904 (2012) also see title 24-21-645 of S.C. Code Ann. (1996 Supp.)."

Before this Court are the records of the Barnwell County Clerk of Court regarding Applicant's convictions, Applicant's records from the South Carolina Department of Corrections, Applicant's prior PCR and appellate records, Applicant's current PCR Application and Respondent's Return and Motion to Dismiss.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Statute of Limitations

This Court 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 judgment 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). Applicant pled guilty to the offense he challenges in this Application on October 6, 1998. Therefore, the Applicant had to file his application by October 7, 1999. This application was filed April 25, 2014, which was well after the statutory filing period had expired.

Summary dismissal of a PCR application is appropriate when the application is filed after the statutory filing period. Leamon v. State, 363 S.C. 432, 611 S.E.2d 494 (2003). 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, Applicant failed to file within the time mandated by the Post-Conviction Procedure Act and Applicant's post-conviction relief application must be summarily dismissed.

Successiveness

Additionally, this Court finds that the application should be summarily dismissed because it is successive to the previous application for post-conviction relief. Successive applications for post-conviction relief are disfavored. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980). S.C. Code Ann. § 17-27-90 (1985) states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or

knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence, or in any other proceeding the 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.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." [Emphasis in original]. Id., 305 S.C. at 450, 409 S.E.2d at 394. If the applicant could have raised these allegations in a previous application, then the applicant may not raise those grounds in successive applications. Id. The applicant bears the burden of showing that the allegations could not have been raised previously. Land, 274 S.C. 243, 262 S.E.2d 735 (1980). In regards to the allegations set forth in Applicant's current PCR action, these are the same allegations raised by Applicant in Applicant's previous PCR actions and are therefore successive in nature and must be dismissed.

Res Judicata

This Court further 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.

Applicant had a full opportunity to litigate all allegations regarding ineffective assistance of counsel, subject matter jurisdiction and due process violation in his five previous PCR actions and in his Federal Habeas Corpus action. 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. Pursuant to Rule 12(b)(6), SCRCP, the Court summarily dismisses these claims as barred by *res judicata*.

[signature to follow]

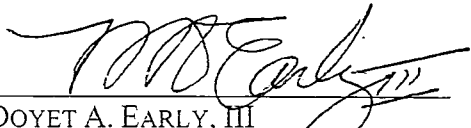
CONCLUSION


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*.

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, factual or legal, with the Barnwell County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
Attn: Justin Hunter, Esquire
P.O. Box 11549
Columbia, South Carolina 29211

AND IT IS SO ORDERED this 19 day of Dec, 2014.


DOYET A. EARLY, III
Chief Judge for Administrative Purposes
Second Judicial Circuit


Bamberg, South Carolina.

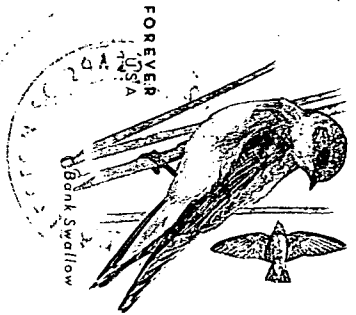
Brian Daniels, #33205
P.O. Box 2039
Ridgeland, S.C. 29936

**RIDGELAND CORRECTIONAL
INSTITUTION**

APR 17 2015

MAILROOM

Legal MAIL



HON. DANIEL SHEAROSE, CLERK
SOUTH CAROLINA SUPREME COURT
POST OFFICE BOX 11330

COLUMBIA, SOUTH CAROLINA 29211
2921141330 E099

© USPS 2012

THIS ENVELOPE IS RECYCLABLE AND MADE WITH 30% POST CONSUMER CONTENT

**RIDGELAND CORRECTIONAL INSTITUTION
S.C. DEPARTMENT OF CORRECTIONS**

THE DEPARTMENT OF CORRECTIONS HAS NEITHER
CENSORED NOR INSPECTED THIS ITEM. THEREFORE
THE DEPARTMENT DOES NOT ASSUME RESPONSIBILITY
FOR ITS CONTENTS.

