

Rec 6/2/15

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 Ronnie Harris,)
 SCDC# 294716)
)
 Applicant,)
)
 vs.)
)
 State of South Carolina,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS
 THIRTEENTH JUDICIAL CIRCUIT


**ORDER DENYING APPLICANT'S
 MOTION TO ALTER OR AMEND**

FILED-CLERK OF COURT
 GREENVILLE CO. S.C.
 PAUL B. WICKENSIMMER
 2015 MAY 26 PM 10 43

Case No.: 2014-CP-23-3759

This matter comes before the Court pursuant to the Applicant's Motion to Alter or Amend filed May 7, 2015. After having carefully considered the same, this Court hereby respectfully denies the Motion.

AND IT IS SO ORDERED.


 ROBIN B. STILWELL
 THIRTEENTH JUDICIAL CIRCUIT

May 26, 2015
 Greenville, South Carolina

Received 6/2/15 @ KCE
 RH.

III

REC-123/S

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

Ronnie Harris,
S.C.D.C. No. 294716,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
2014-CP-23-3759

FILED - CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMMER
2015 FEB 16 PM 4 44

FINAL ORDER OF DISMISSAL

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed July 8, 2014. The Respondent made its return on December 5, 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 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 15, 2015, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

In a document captioned “Applicant’s Response to Conditional Order of Dismissal” and filed February 16, 2015, the Applicant argues he filed an application under the Access to Justice

1
RBS

III
DNA evidence was destroyed during
Pending action
Re: 4/23/15 of his PCR

Post-Conviction DNA Testing Act and learned at a court hearing on the matter on November 18, 2013 that the DNA evidence from his 2003 trial had been destroyed after his first PCR hearing in 2005. The Applicant argues his PCR application is timely because his two prior PCR applications, petition for writ of habeas corpus in federal court, and action under the DNA Testing Act tolled the statute of limitations. The Applicant argues this is newly-discovered evidence and that the decision in his DNA Testing Act case "opened the door allowing this application for post-conviction relief to be filed."

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 July 15, 2003 and the South Carolina Court of Appeals dismissed the subsequent appeal (at the Applicant's request) on April 15, 2004. As this action was filed on July 8, 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 third 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 February 16, 2005. 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.'"). The Applicant's numerous collateral attacks of his conviction did not serve to toll the one-year statute of limitations.

This Court finds the Applicant's allegation of newly-discovered evidence is without

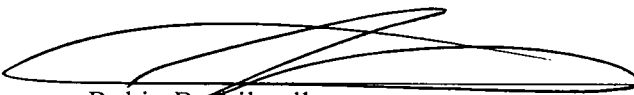
REC 11/23/15 - TIT

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).

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 13 day of APR, 2015.



Robin B. Stilwell
Chief Administrative Judge
Thirteenth Judicial Circuit

GUILLE, South Carolina.