

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF Darlington )  
 )  
 Charles Jordan )  
 \_\_\_\_\_ )  
 Plaintiff, )  
 vs. )  
 )  
 State of South Carolina )  
 \_\_\_\_\_ )  
 Defendant. )

IN THE COURT OF COMMON PLEAS  
 4th JUDICIAL CIRCUIT

CASE NO.: 2013-CP-16-678

MOTION AND ORDER INFORMATION  
 FORM AND COVERSHEET

**RECEIVED**

JUL 17 2015

Plaintiff's Attorney: Pro Se, Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: <b>SC Court of Appeals</b> Joshua L. Thomas, Bar No. 100777 Address: PO Box 11549 Columbia, SC 29211 Phone: _____ Fax _____ 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.

\_\_\_\_\_ *Joshua L. Thomas* \_\_\_\_\_ **6/29/15**  
 Signature of Attorney for  Plaintiff /  Defendant 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: \$ \_\_\_\_\_

STATE OF SOUTH CAROLINA )  
COUNTY OF DARLINGTON )

IN THE COURT OF COMMON PLEAS  
FOR THE FOURTH JUDICIAL CIRCUIT

Charles Jordan, )

Case No. 2013-CP-16-678

Applicant, )

**FINAL ORDER OF DISMISSAL**

v. )

State of South Carolina, )

Respondent. )

---

This matter comes before the Court pursuant to an Application for Post-Conviction Relief filed August 9, 2013. Respondent made a timely Return and Motion to Dismiss on or about March 12, 2015, requesting the Application be summarily dismissed as successive, untimely, and failing to state a claim upon which relief could be granted. Pursuant to this motion, the Court reviewed the pleadings in this matter and all of the records attached thereto. The Court issued a Conditional Order of Dismissal, filed on March 25, 2015, provisionally denying and dismissing this action, while giving Applicant twenty (20) days from the date of service of said order to show why the dismissal should not become final. Attached to this final order and incorporated herein by reference is the Affidavit of Personal Service, dated April 28, 2015, of the above-mentioned conditional order on Applicant.

Applicant filed an objection to the conditional order on March 31, 2015. In that filing, Applicant alleges he learned of the case of State v. Smalls, 354 S.C. 498, 581 S.E.2d 850 (Ct. App. 2003), rev'd 364 S.C. 343, 613 S.E.2d 754 (2005), overruled by State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005), in the Spring of 2010, and that his trial counsel and post-conviction

relief counsel were ineffective in failing to argue that case at trial and at his initial post-conviction relief hearing. He also reasserts the grounds for relief contained in his application.

Applicant filed a Motion for Summary Judgment on April 7, 2015. In that motion, Applicant argues Smalls, supra, entitles him to relief in this case.

The Court has reviewed the original pleadings, Applicant's submissions, and all relevant documents. The Court finds Applicant has not shown a sufficient reason why the application was not successive, untimely, and fails to state a claim upon which relief could be granted. Specifically, the Court notes Applicant's reliance on Smalls, 354 S.C. 498, 581 S.E.2d 850, is misplaced where the Supreme Court reversed that opinion, 364 S.C. 343, 613 S.E.2d 754, and later overruled it entirely, Gentry, 363 S.C. 93, 610 S.E.2d 494. Furthermore, Applicant is not entitled to an untimely and successive filing simply because he has recently discovered case law that was published and available at the time of his prior collateral actions. See, e.g., Marsh v. Soares, 223 F.3d 1217, 1220 (10th Cir. 2000) ("[I]t is well established that 'ignorance of the law, even for an incarcerated pro se petitioner, generally does not excuse prompt filing.'" (quoting Fisher v. Johnson, 174 F.3d 710 (5th Cir. 1999))). Finally, the Court notes Applicant raised the issue of subject matter jurisdiction in his second application, and cannot attempt to relitigate that issues in a third application. Accordingly, the Court finds Applicant has not demonstrated sufficient reason why the conditional order 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 Post-Conviction Relief is hereby **denied and dismissed with prejudice**.

This Court notes Applicant must file and serve a notice of intent to appeal within thirty (30) days from receipt of this order to secure the appropriate appellate review. See Rule 203, SCACR, Rule 71.1(g), SCRCP, and Bray v. State, 366 S.C. 137, 620 S.E.2d 743 (2005), for the obligation of Applicant's counsel to file and serve notice of appeal. The Applicant's attention is also directed to Rule 243, SCACR, for appropriate procedures after notice has been timely filed.

**IT IS SO ORDERED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.**

\_\_\_\_\_  
THE HONORABLE PAUL M. BURCH  
Chief Judge for Administrative Purposes  
Fourth Judicial Circuit

\_\_\_\_\_, South Carolina





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JUL 17 2015

SC Court of Appeals

ALAN WILSON  
ATTORNEY GENERAL

June 29, 2015

The Honorable Paul M. Burch  
Post Office Box 276  
Pageland, South Carolina 29728

RE: Curtis L. Bradford, #180763 v. State of South Carolina  
Case No. 2013-CP-17-458

~~Charles Jordan v. State of South Carolina~~  
~~Case No. 2013-CP-16-678~~

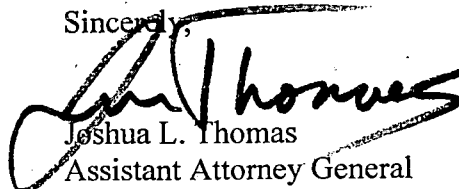
Kwame Lilly, #301368 v. State of South Carolina  
Case No. 2013-CP-34-265

Dear Judge Burch,

Please find enclosed the proposed Final Order of Dismissal in the above captioned cases. If these orders meet with your approval, please sign the same and return to me in the enclosed envelope. By copy of this letter, we are serving each pro-se applicants with a copy of the order in his case.

Thank you for your attention to this matter. As always, please contact me if you have any questions or concerns.

Sincerely,

  
Joshua L. Thomas  
Assistant Attorney General

JLT/jlt

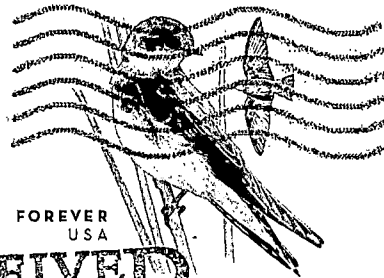
Enclosures

CC: Curtis L. Bradford, #180763  
~~Charles Jordan~~  
Kwame Lilly, #301368

Mr. Charles Jordan  
7901 Farrow Rd  
Bldg. 3, 3rd Floor  
Columbia, S.C. 29203

COLUMBIA SC 290

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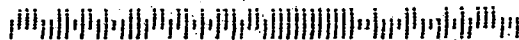
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South Carolina Court of Appeals JUL 17 2015  
Jenny ABBott Kitchings, Clerk KSC Court of Appeals  
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