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OCT 13 2015

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT
George C. James, Jr., Chief Administrative Judge

Case No. 2015-CP-31-0068

Thomas Lowery, 83240,

Appellant,

v.

State of South Carolina,

Respondent.

NOTICE OF INTENT TO APPEAL

Notice is hereby given that Thomas Lowery, the Appellant above-named, hereby appeal to the South Carolina Supreme Court from Chief Administrative Judge George C. James, Jr., Final Order of Dismissal entered in on an application for post-conviction relief on the 24 day of August 2015, in which the Appellant received on September 15, 2015.

s/ *Thomas Lowery*
Thomas Lowery, 83240
KER.CI/HD235
4848 Goldmine Hwy.
Kershaw, SC 29067

October 1, 2015

NOTE: Final Order of Dismissal Attached.

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PROOF OF SERVICE

Appellant, Thomas Lowery, 83240, do under oath says that he did mail from Kershaw Correctional Institution mail services his Notice of Intent to Appeal, and his Explanation why the appeal should be accepted and granted by the State Supreme Court on the 1st day of October, 2015, by depositing a copy of the same in the U.S. Mail, postage prepaid to the following: Patrick L. Schmeckpeper

PCR Division
P.O. Box 11549
Columbia, SC 29211

James I. Davis,
Lee County Clerk of Court
P.O. Box 387
Bishopville, SC 29010

By my signature below I affirm the same.

s/ *Thomas Lowery*
Thomas Lowery, 83240
KER.CI-HD235
4848 Goldmine Hwy.
Kershaw, SC 29067

October 1, 2015

STATE OF SOUTH CAROLINA

JUDGMENT IN A CIVIL CASE

COUNTY OF LEE

CASE NO: 2015CP3100068

IN THE COURT OF COMMON PLEAS

Thomas Lowery vs. State Of South Carolina

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.
- 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; Statement of Judgment by the Court:

Dated at Bishopville, South Carolina, this 10th day of September, 2015.

Court Reporter:

PRESIDING JUDGE -

This judgment was entered on the 10th day of September, 2015, and a copy mailed first class this 10th day of September, 2015, to attorneys of record or to parties (when appearing pro se) as follows:

Thomas Lowery ,

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

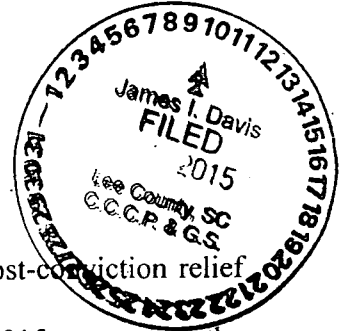
James I Davis - Clerk of Court

STATE OF SOUTH CAROLINA)
COUNTY OF LEE)
))
Thomas Lowery, #83240)
))
Applicant,)
))
v.)
))
State of South Carolina,)
))
Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Case No. 2015-CP-31-0068

FINAL ORDER OF DISMISSAL



This matter comes before the Court by way of an application for post-conviction relief (PCR) filed March 19, 2015. The Respondent made its return on June 2, 2015, requesting the application be summarily dismissed based upon statute of limitations, successiveness, doctrine of *laches*, and 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 June 3, 2015 and filed June 19, 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 July 16, 2015, serving the above mentioned Conditional Order of Dismissal on the Applicant.

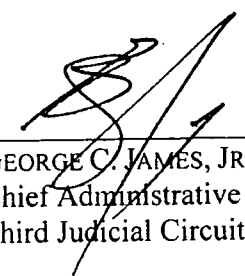
In a document captioned "Petition for Immediate Release from Custody" and filed on July 24, 2015, the Applicant argues that he should be immediately released because the plea judge failed to sweat the defendants and witnesses. As a result, Applicant argues the plea court did not have the jurisdiction to accept the plea. Applicant further claims that the prosecutors withheld favorable evidence regarding Applicant's competency.

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.

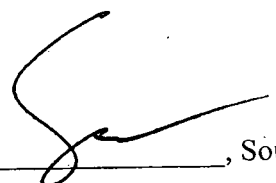
This Court notes the Applicant pled guilty and was sentenced on September 8, 1976.. As this action was filed on March 19, 2015, it was clearly filed outside the expiration of the statute of limitations. See S.C. Code Ann. § 17-2745(a) (Supp.2003). This is the Applicant's fourth application for post-conviction 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 the evidentiary hearing for his first PCR application on November 10, 1978. 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.'").

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 24 day of August, 2015.



GEORGE C. JAMES, JR.
Chief Administrative Judge
Third Judicial Circuit Court


_____, South Carolina.

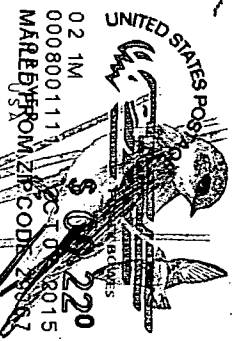
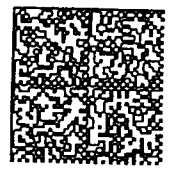
THOMAS LOWERY 083240
KERSHAW, C. I. HD 235
1848 Goldmine Hwy
KERSHAW, S.C. 29067

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OCT 07 2015

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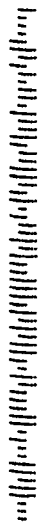
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Bank Swallow

S.C. Supreme Court
Daniel E. Shearouse, Clerk of Court
P.O. BOX 11330
Columbia, S.C. 29211

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