

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)
)
Willie Jerome Lopez,)
S.C.D.C. No. 275027,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
2015-CP-39-0501

2015 SEP 23 PM 1:23

FINAL ORDER OF DISMISSAL

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed April 16, 2015. The Respondent made its return on July 28, 2015, 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, this Court issued a Conditional Order of Dismissal signed July 30, 2015 and filed August 3, 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 August 13, 2015, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

In a document captioned "Applicants Responce to Conditional Order of Dismissal" and filed August 24, 2015, the Applicant argues "counsel's belated presentation of Brady material and failure to give a objection to the use of a prior uncounseled conviction to enhance the



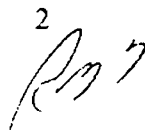
petitioner's current offense, significantly limited his ability to know whether he could plea an acquittal or not..." The Applicant also argues his first PCR attorney failed to "give a jus actionis objection" regarding the issue of an involuntary guilty plea.

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 November 20, 2008. As this action was filed on April 16, 2015, 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 second 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 9, 2009. 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 has failed to show why he could not have raised his allegations of ineffective assistance of plea counsel at his first PCR hearing. Further, while the Applicant cites Martinez v. Ryan, ___ U.S. ___, 132 S. Ct. 1309 (2012) to support his claim that his first PCR attorney was ineffective, the South Carolina Supreme Court has found that "the holding in Martinez is limited to federal habeas corpus review and is not applicable to state post-conviction relief actions." Kelly v. State, 404 S.C. 365, 745 S.E.2d 377 (2013).

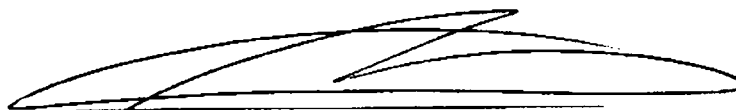
IT IS THEREFORE ORDERED that, for the reasons set forth in this Court's

2


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 10 day of Feb, 2015.



Robin B. Stilwell
Chief Administrative Judge
Thirteenth Judicial Circuit

61111E, South Carolina.

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF PICKENS)

2015 AUG 3) AM 11 02

Willie Jerome Lopez, 275027)

CASE NO.
2015-CP-39-0501

Plaintiff)

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA)

v.)

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

State Of South Carolina

Defendant.

✓ Mailed NB ✓ emailed

Plaintiff's Attorney: Willie Jerome Lopez, 275027, Bar No. Address: Allendale Cl PO Box 1151 Fairfax SC 29827 phone: fax: e-mail: other:	Defendant's Attorney: Karen C. Ratigan, Sadag, Bar No. 68331 Address: Post Office Box 11549 Columbia SC 29211-1549 phone: (803) 734-3737 fax: (803) 734-4113 e-mail: other:
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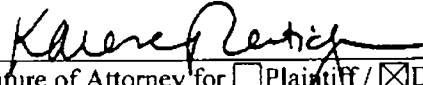
- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

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

July 28, 2015
 Date submitted

SECTION III: Motion Fee

- PAID - AMOUNT:
 EXEMPT:
- 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, SCRCP)
 - 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: _____