

Exhibit A

2015 FEB 5 PM 4 04

RE: PCR Application

CLERK OF COURT  
PICKENS COUNTY  
SOUTH CAROLINA

TO: Clerk of Court,

Please find a PCR application along with a 4 page attachment. I request a clock stamped copy to be sent to:

LARRY NORMAN GAMBRELL #209770  
LIEBER CORRECTIONAL INSTITUTE SB-\*11  
P.O Box #205  
RIDGEVILLE S.C 29472

Respectfully Submitted,  
x Larry Gambrell  
DATED: Feb. 2. 2015

Ridgeville S.C.  
2-2-2015

2015 FEB 5 PM 4 04

FORM 5

STATE OF SOUTH CAROLINA  
CLERK OF COURT  
PICKENS COUNTY  
COUNTY OF PICKENS

IN THE COURT OF COMMON PLEAS

# 209770  
LARRY NORMAN GAMBRELL  
Full name and prison number (if any) of Applicant.

2015-CP-39- 172

v.

APPLICATION FOR

State of South Carolina

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and veified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make ch to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exerce care to assure that all answers are true and correct.

If the application is taken in forma pauperis it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay thfees and costs of the proceedings. When the application is completed the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention L.C.I. PO. Box #205 Ridgeville SC 29472
2. Name and location of Court which imposed sentence Court of General Sessions
3. Name(s) of co-defendant(s) (if any) Pickens South Carolina
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 93-1783 CSC - 93-1784 A/A w/intent to commit CSC
  - (b) 93-1785 Kidnapping - 93-1786 Kidnapping - 93-1787 ABWIK
  - (c) 93-1788 Burglary - 93-1789 Burglary of a dwelling
5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) Feb 28 1994 (2) life sentences and (90) years
  - (b) \_\_\_\_\_

(c) \_\_\_\_\_

6. Check whether a finding of guilty was made:

(a) after a plea of guilty \_\_\_\_\_

(b) after a plea of not guilty  \_\_\_\_\_

(c) after a plea of nolo contendere \_\_\_\_\_

7. Did you appeal from the judgment of conviction or the imposition of sentence?

yes \_\_\_\_\_

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. S.C. Supreme Court \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(b) the result in each such Court to which you appealed:

i. Denied \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(c) the date of each such result:

i. Oct. 5 1995 \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. Memorandum Opinion No. 95-No-312 \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) \_\_\_\_\_

(b) \_\_\_\_\_

(c) \_\_\_\_\_

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) See Attachment #1
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) See Attachment #1
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? yes
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? unknown
- (d) any other petitions, motions or applications in this or any other Court? yes

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- ~~(a) the specific nature thereof:~~ Due to lack of prior documents
  - i. it is nearly impossible to summarize
  - ii. prior actions with exacting accuracy.
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_

(b) the name and location of the Court in which each was filed:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(c) the disposition thereof:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

- iv. \_\_\_\_\_
- (d) the date of each such disposition:
  - i. June 12, 1997
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

\_\_\_\_\_

15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
    - i. \_\_\_\_\_
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (b) the proceedings in which each ground was raised:
    - i. \_\_\_\_\_
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? yes
- (b) your trial, if any? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? \_\_\_\_\_

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
  - i. William Godfrey, Esquire
  - ii. Robert M. Dudek Appellate Defender
  - iii. Patti Brady
- (b) the proceedings at which each such attorney represented you:
  - i. Trial and Sentencing
  - ii. Direct Appeal
  - iii. PCR

19. State clearly the relief you seek in filing this application:

Reverse Conviction, vacate Sentence, Remand or Acquittal

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA

2015 FEB 5 PM 4 04

VERIFICATION

County of

CLERK OF COURT  
PICKENS COUNTY

I, \_\_\_\_\_, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

LARRY GAMBRELL / 2-3-15

SWORN to and subscribed before me this 2<sup>nd</sup>  
day of Feb, 2015

Ludhean Bryant (L.S.)  
Notary Public

My Commission Expires: May 26, 2020

APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF

2015 FEB 5 PM 4 05

CLERK OF COURT  
PICKENS COUNTY  
SOUTH CAROLINA

I, \_\_\_\_\_, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Larry Gambrell

Applicant

SWORN or affirmed to and subscribed before me this  
2<sup>nd</sup> day of Feb, 2015.

Ludrean Bryant  
Notary Public

My Commission Expires: May 26, 2020

10(a). Applicant was denied a fair trial due to the intentional concealment of facts by an officer of the court, Applicant was unaware of omissions when they occurred and was unable to challenge in one proceeding therefore subject to fraud upon the court.

11(a). Supporting facts: The prosecutors conscious wrongdoing which is properly characterized as a deliberate scheme to defraud. See *Chewning v. Ford Motor Company*, 354 S.C. 72, 579 S.E.2d 605, (S.C. 2003). Counsel's acts or omissions included but are not limited to the following:

D. During the sentencing phase the prosecutor intentionally omitted prior conviction in which is directly connected to juror misconduct.

10(b). Applicant was denied the right to a trial by an impartial and objective jury consisting of twelve jurors — guaranteed by the Sixth Amendment to the United States Constitution, during all phases of his trial.

11(b). Supporting facts: Applicant sat through

(1)

his entire trial with eleven impartial and objective jurors which is per-se both unreasonable and unconstitutional. See McCoy v. State, 401 S.C. 363, 737 S.E. 2d 623, (S.C. 2013).

Juror acts or omissions included but not limited to the following:

① When trial court instructed prospective jurors during voir dire to stand up regarding prior legal issues, juror who had applicant arrested and convicted for grand larceny did not stand.

② Juror who was in direct contempt of court was impaneled and participated through all phases of trial was prejudicial and unreasonable.

10.(c). Applicant in his first collateral attack, his first PCR, was denied effective assistance of counsel, violating his Sixth and Fourteenth Amendments to the United States Constitution - during his PCR hearing.

11(c). Supporting facts: Appointed counsel was replaced approximately twenty-four  
②

hours prior to PCR hearing. See U.S. vs. Cronin, 466 U.S. 648, 104 S.Ct. 2039, 80 L.Ed.2d 657, (1984). Counsel's performance was impeded when PCR judge ignored request for continuance and proceeded with hearing which deprived applicant fair hearing, included but not limited to, the following:

- ① Counsel was denied time to investigate, develop, and present all available, relevant and admissible evidence.
- ② Counsel who was woefully unfamiliar with case requested time to investigate missing court documents was ignored by PCR judge.
- ③ Applicant claims in the context of this case, in which, the surrounding circumstances made it so unlikely that any lawyer could provide effective assistance that ineffectiveness is properly presumed.
- ④ Applicant contends he was deprived of his "one bite of the apple"

Applicant respectfully requests this court to grant leave to amend PCR application according to additional information which is revealed through discovery.

I LARRY NORMAN GAMBREL state pursuant to 28 U.S.C 1746 under penalty of perjury that the foregoing is true and correct.

x Larry Gambrell

DATED: Feb. 2. 2015

Exhibit B

mes Howard  
MS Macell Honey Rd  
-eer SC 291651

**RECEIVED**  
AUG 06 2015  
MAIL ROOM  
LIBER CL

*148*

**FIRST CLASS**

Larry Norman Gambrell  
LC I Stone B-414  
136 Wellborn Dr  
P.O. Box 205  
Ridgelyville SC 29147a

# 2097770

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.

**CERTIFIED MAIL**



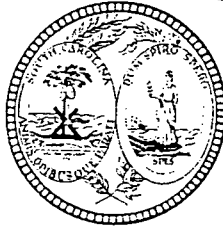
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EXHIBIT # 1



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

December 21, 1995

2015 AUG 13 AM 11 29  
CLERK OF COURT  
PICKENS COUNTY  
SOUTH CAROLINA

Honorable Oliver A. Nealy  
Clerk of Court, Pickens County  
Post Office Box 215  
Pickens, South Carolina 29671

Re: Larry Norman Gambrell, 209770 v. State  
95-CP-39-711

Dear Mr. Nealy:

The above-referenced individual has filed an Application for Post-Conviction Relief in the Circuit Court and needs to have an attorney appointed to represent him. If you will appoint an attorney and let me know his or her name, I will send him or her a copy of our file in this matter.

If you have any questions with regard to this matter, please let me know.

Sincerely,

*Matthew M. McGuire*  
Matthew M. McGuire  
Assistant Attorney General

cgl: 12-22-95

*I appoint Cheryl Garon to represent  
the defendant, Larry Norman Gambrell.*

*Thank you.*  
**(1)**

EXHIBIT # 2

TELEPHONE (864) 898-5866  
FAX (864) 898-5863

Office of Clerk of Court

PICKENS COUNTY  
OLIVER A. NEALY, CLERK  
P. O. BOX 215  
PICKENS, S. C. 29671

CIVIL RECORDS 898-5862  
CRIMINAL RECORDS 898-5864  
FAMILY COURT 898-5560

September 5, 1996

Mr. Matthew M. McGuire  
Assistant Attorney General  
P O Box 11549  
Columbia, SC 29211-1549

RE: Case #95-CP-39-711 (Larry Norman Gambrell)

Dear Mr. McGuire:

The attorney for Mr. Gambrell has been changed to Bill Godfrey after being informed that Cheryl Aaron was the prosecuting attorney in this case. Please reflect your records to show this.

Sincerely,

Oliver A. Nealy  
Clerk of Court

OAN:cwp

Copy with File

2015 AUG 13 AM 11 29  
CLERK OF COURT  
PICKENS COUNTY  
SOUTH CAROLINA

2015 AUG 13 AM 11 29

CLERK OF COURTS  
PICKENS COUNTY  
SOUTH CAROLINA

Patti Brady

appointed and  
informed 1/29/97

rh

JUDGMENT IN A CIVIL CASE

STATE OF SOUTH CAROLINA  
COUNTY OF PICKENS

CASE NO. 95 -CP-39- 677 711

I. THE COURT OF COMMON PLEAS

Larry Norman Campbell

State of South Carolina

FEB 4 9 02 AM '97  
CLERK OF COURT  
OLIVER NEALY  
SOUTH CAROLINA  
2015 AUG 1 9 29 AM '15

PLAINTIFF(S)

DEFENDANT(S)

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;  Other-

IT IS ORDERED AND ADJUDGED:  See attached order;  Statement of Judgment by the Court:

Continued. Mr. Brady was recently appointed to case.

Dated at PICKENS, South Carolina, this 3rd day of February, 19 97.

S. L. [Signature]  
PRESIDING JUDGE

This judgment was entered on the 3rd day of February, 19 97 and a copy mailed first class this follows: to attorneys of record or to parties (when appearing pro se) as follows:

Patty Brady

Jessie H. Cosby

ATTORNEY(S) FOR THE PLAINTIFF(S)

4

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

LARRY NORMAN GAMBRELL - CROSS-EXAMINATION BY MS. COSBY

1 Q. Did you have an occasion to talk with me last  
2 night?

3 A. Yes, ma'am.

4 Q. Did you fully understand our conversation?

5 A. Yes, ma'am.

6 Q. You understood that I've read the transcript  
7 you had in this trial?

8 A. Yes, ma'am.

9 Q. Are there any other complaints other than the photo  
10 lineup, the serology versus DNA and your ability to take the  
11 stand, those three things? Excuse me, those four things, the  
12 seating of the juror, John R. Head. Any other complaints you  
13 have against Mr. Godfrey?

14 A. No, ma'am.

15 Q. Any other complaints against Ms. Aaron?

16 A. I can't understand why she waited -- I had her  
17 twice. Once through the trial, and the night before I went  
18 to trial she disappeared. Then they appointed me her for  
19 this hearing, and then the night before I come to this  
20 hearing, she disappears again. I just don't understand.

21 MS. BRADY: Thank you, Mr. Gambrell. Please answer  
22 any questions Ms. Cosby has for you.

23 CROSS-EXAMINATION

24 BY MS. COSBY:

25 Q. Mr. Gambrell, your complaint to Ms. Aaron is

CLERK OF COURT  
FORSYTH COUNTY  
SOUTH CAROLINA

2015 AUG 13 AM 11 29

Exhibit C

2015 AUG 3 AM 11 04

CLERK OF COURT  
STATE OF SOUTH CAROLINA PICKENS COUNTY IN THE COURT OF COMMON PLEAS  
SOUTH CAROLINA 2015-CP-39-0172

COUNTY OF PICKENS )  
)  
)  
Larry Norman Gambrell, )  
S.C.D.C. No. 209770, )  
)  
Applicant, )  
)  
v. )  
)  
State of South Carolina, )  
)  
Respondent. )

**CONDITIONAL ORDER OF DISMISSAL**

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed February 5, 2015. The Respondent made its Return, requesting the application be summarily dismissed.

I.

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Pickens County. The Applicant was indicted at the October 1993 term of the Pickens County Grand Jury for first-degree criminal sexual conduct (CSC) (1993-GS-39-1783), assault with intent to commit first-degree CSC (1993-GS-39-1784), two counts of kidnapping (1993-GS-39-1785, -1786), assault and battery with intent to kill (ABWIK) (1993-GS-39-1787), and two counts of first-degree burglary (1993-CP-39-1788, -1789). He was represented by E.P. "Bill" Godfrey, Esquire.

After the State called the case to trial, the Applicant was found guilty. On March 1, 1994, the Honorable C. Victor Pyle, Jr. sentenced him to concurrent sentences of 30 years for first-degree CSC, 30 years for assault with intent to commit first-degree CSC, 10 years for each

count of kidnapping, 10 years for ABWIK, and life imprisonment for each count of first-degree burglary.

A notice of appeal was filed at the South Carolina Supreme Court. Robert M. Dudek, Esquire of the South Carolina Office of Appellate Defense perfected the appeal in the form of an Anders<sup>1</sup> brief. The Supreme Court dismissed the appeal. State v. Gambrell, Op. No. 95-MO-312 (S.C. Sup. Ct. filed October 5, 1995).

**1995-CP-39-0711**

The Applicant filed a PCR application on December 14, 1995 (1995-CP-39-0711). The Applicant raised the following issues:

1. Ineffective assistance of counsel:
  - a. Lack of preparation.
  - b. Failure to vigorously cross-examine witnesses.
  - c. Lack of communication with the Applicant.
  - d. Failure to develop exculpatory forensic evidence of blood samples and semen stains.

In an "Amendment to Application for Post-Conviction Relief" filed July 12, 1996, the Applicant made the following allegations:

1. Denial of due process.
2. "[O]ne juror knew the Applicant and Applicant knew him and that there has been conflict between Applicant and this alleged juror."
3. "[T]he alleged juror was prejudicial and as well as bias toward the Applicant."
4. Trial counsel "knew that the Applicant knew the alleged juror as well as the juror knowing the Applicant."
5. Trial counsel "should of brought these issues up concerning the alleged juror to the trial courts attention and should have motioned the court for a mistrial."

An evidentiary hearing was held on April 28, 1997 at the Pickens County Courthouse.

---

<sup>1</sup> Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).

Patti Brady, Esquire represented the Applicant. The Honorable Thomas L. Hughston, Jr. denied and dismissed the PCR application by order filed June 12, 1997.

The Applicant filed a notice of appeal. Tara S. Taggart, Esquire of the South Carolina Office of Appellate Defense perfected the appeal. The South Carolina Supreme Court denied the petition for writ of certiorari on November 5, 1999.

### **Federal Habeas Corpus**

The Applicant filed a petition for writ of habeas corpus in the United States District Court for the District of South Carolina (9:00-0593-23RB). The Respondent submitted a motion for summary judgment on May 15, 2000. The Honorable Wallace W. Dixon, United States Magistrate Judge, issued a report and recommendation to grant the motion for summary judgment dated October 13, 2000. On March 29, 2001, the Honorable Patrick M. Duffy, United States District Judge, issued an order granting the motion for summary judgment.

The Applicant filed a notice of appeal at the United States Court of Appeals for the Fourth Circuit. In an opinion filed February 12, 2003, the Court of Appeals dismissed the appeal because it was not timely filed.

### **2014-CP-39-0063**

The Applicant filed a PCR application on January 15, 2014 (2014-CP-39-0063). The Applicant raised the following issue:

1. Juror misconduct.
  - a. "Fact issue remained whether claim of juror misconduct in failing to disclose during voir dire that his father had in fact filed an arrest warrant against [the Applicant]."

In an "Amendment to P.C.R." filed on February 3, 2014, the Applicant made the

following allegation:

1. Miscarriage of justice established because of juror misconduct.

In a "Brief Upon a Non Waiver of Juror Misconduct Issue 17-27-90" filed February 14, 2014, the Applicant made the following allegation:

1. "[D]id not knowingly and intelligently waive juror misconduct issue pur to 17-27-90 PCR statute."

The Honorable Letitia H. Verdin issued a conditional order dismissing the case that was filed July 10, 2014. Though the Applicant filed a response to the conditional order, Judge Verdin issued a final order of dismissal on October 1, 2014.

The Applicant filed a timely notice of appeal. The South Carolina Supreme Court required the Applicant – pursuant to Rule 243(c), SCACR – to show an arguable reason why the denial of his application was improper. In an order of dismissal dated December 30, 2014, the Supreme Court found the Applicant failed to meet his burden in this regard. The remittitur was issued January 15, 2015.

## II.

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

1. Denial of a fair trial "due to the intentional concealment of facts by an officer of the court."
  - a. "During the sentencing phase the prosecutor intentionally omitted prior conviction in which is directly connected to juror misconduct."
2. Denial of a fair trial "by an impartial and objective jury consisting of twelve jurors."
  - a. "When trial court instructed prospective jurors during voir dire to stand up regarding prior legal issues, juror who had applicant arrested and convicted for grand larceny did not stand."
  - b. "Juror who was in direct contempt of court was impaneled and

participated through all phases of trial was prejudicial and unreasonable.”

3. Denial of effective assistance of counsel at the first PCR hearing.
  - a. “Counsel was denied time to investigate, develop, and present all available, relevant and admissible evidence.”
  - b. “Counsel was woefully unfamiliar with case requested time to investigate missing court documents was ignored by PCR judge.”

### III.

This Court finds this matter should be summarily dismissed because the Applicant has failed to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §§ 17-27-10, et. seq. (2003). Specifically, South Carolina 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 Applicant was convicted of the offenses he challenges in this application on March 1, 1994 and the Supreme Court denied the subsequent appeal on October 5, 1995. This application was filed on February 5, 2015, which was several years after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. See McDonnell v. Consolidated Sch. Dist. Of Aiken, 315 S.C. 487, 489, 445 S.E.2d 638, 639 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (2003) 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 that the moving party is entitled to judgment as a matter of law.”

### IV.

This Court further finds the current application should also be dismissed because it is

successive to the previous applications for post-conviction relief. Successive applications for post-conviction relief are disfavored. See Land v. State, 274 S.C. 243, 246, 262 S.E.2d 735, 737 (1980). South Carolina Code Ann. § 17-27-90 (2003) 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, 450, 409 S.E.2d 392, 394 (1991). Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." Id. (emphasis in original). 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. Id.

As the Applicant has failed to present any reasons why he could not have raised the current allegations in his previous PCR applications, the application is dismissed.

V.

This Court finds the Applicant's contention that he received ineffective assistance of counsel on his prior PCR application is not a ground for relief. There is no constitutional right to appointed counsel for collateral review of a conviction. Pennsylvania v. Finley, 481 U.S. 551, 107 S. Ct. 1990 (1987). The Sixth Amendment right to effective assistance of counsel does not

2015 AUG 3 AM 11 04

CLERK OF COURT

PICKENS COUNTY

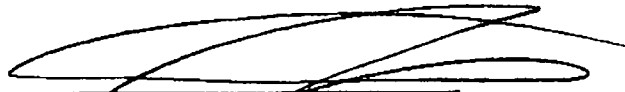
SOUTH CAROLINA

extend to state post-conviction relief actions. Coleman v. Thompson, 501 U.S. 722, 111 S. Ct. 2546 (1991). Therefore, "the contention that prior PCR counsel was ineffective is not per se a 'sufficient reason' warranting a successive PCR application under § 17-27-90." Aice v. State, 305 S.C. 448, 451, 409 S.E.2d 392, 394 (1991).

VI.

Based upon its review of the pleadings in this matter, this Court expresses its intent to summarily dismiss this matter unless the Applicant advises this Court with specific reasons, factual or legal, why it should not dismiss the matter 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 by filing any reasons he may have with the Clerk of Court for Pickens County, South Carolina, and also by filing a copy of his reasons with the Office of the Attorney General, Attn: Karen C. Ratigan, Post Office Box 11549, Columbia, South Carolina, 29211.

AND IT IS SO ORDERED this 30 day of JULY, 2015.



Robin B. Stilwell  
Chief Administrative Judge  
Thirteenth Judicial Circuit

Columbia South Carolina.

Exhibit D

STATE OF SOUTH CAROLINA }  
COUNTY OF PICKENS }

IN THE COURT OF COMMON PLEAS

Larry Norman Gambrell # 209770 }  
Applicant,  
v.  
State of South Carolina,  
Respondent

C/A: 2015-CP-39-172

CERTIFICATE OF  
SERVICE

2015 AUG 13 AM 11 29  
CLERK OF COURT  
PICKENS COUNTY  
SOUTH CAROLINA

Pursuant to 28 U.S.C § 1746 I declare  
under penalty of perjury that the follow-  
ing is true and correct.

\* Larry Gambrell

DATE: Aug. 10. 15

I Larry Norman Gambrell placed in the  
U.S Mail a copy of Response to Condition-  
al Order of Dismissal to:

Clerk of Court  
Pickens County  
P.O. Box # 215  
Pickens, S.C 29671

Karen C. Ratigan, SADAG  
and P.O. Box # 11549  
Columbia, S.C 29211-1549

from:

Lieber C.I., Stono-B- #14, P.O. Box # 205  
Ridgville, S.C 29472 on Aug. 10. 2015.

STATE OF SOUTH CAROLINA }  
COUNTY OF PICKENS }

IN THE COURT OF COMMON PLEAS

Larry Norman Gambrell #209770

Applicant,

v.

State of South Carolina

Respondent.

C/A : 2015-CP-39-172

RESPONSE TO  
CONDITIONAL ORDER  
OF DISMISSAL

CLERK OF COURT  
PICKENS COUNTY  
SOUTH CAROLINA

2015 AUG 13 AM 11 29

Pursuant to 28 U.S.C § 1746 I declare under penalty of perjury that the following is true and correct.

x Larry Gambrell

DATE: Aug. 10. 15

This matter comes before the Court by way of the above mentioned (P.C.R) filed Feb. 5. 2015. The Applicant is now responding to Respondents Conditional order to Dismiss, requesting the relief be granted and not dismissed.

I.

The Respondent failed to mention that Cheryl Aaron was appointed counsel prior to E.P. "Bill" Godfrey to defend applicant at trial.

(1.)

On or about July 30, 2015 the Applicant received documents from his file from the Pickens County, Clerk of Court.

1995 - CP-39-0711

On Dec. 14, 1995 the above mentioned case was filed.

On Dec. 21, 1995, Matthew M. McGuire, A.A.G. notified Oliver A. Nealy, Clerk to appoint the Applicant an attorney.

On Dec. 22, 1995, Cheryl Aaron was appointed to represent Applicant. See Ex.#1.

On Sept. 5, 1996, After 9 1/2 months the appointed counsel Cheryl Aaron was, in fact, the prosecuting attorney in this case. See Ex.#2.

This Applicant contends at this point his trial and PCR was prejudiced in conflict of interest of the greatest magnitude.

The Applicant in this case contends that between Dec. 22, 1995 to Jan. 29, 1997 the prosecuting attorney did in fact undermine the outcome of Applicants trial and P.C.R. in which sufficient evidence provided is proof without any refuting evidence in either trial transcript or P.C.R. transcript.

Patti Brady was appointed on Jan. 29, 97  
See Ex. #3.

On Feb. 3<sup>rd</sup> 1997 Ms. Brady was given a continuance by The Honorable Thomas L. Hughston Jr. See Ex. #4

## II.

The Applicant has advised this Court with specific reasons why it should not dismiss this matter. Furthermore, the Applicant does object to any or all allegations set forth in the Respondents Motion to Dismiss.

CONCLUSION

The Applicant in this case would like to reflect the record, See Ex. #5 Tr. pg. 18 Ins. 15-20.

The Applicant simply "cannot understand"

The Applicant at two different times confided in an attorney who prosecuted him.

This case demands in the "interest of justice" to grant the relief requested.

x Larry Gambrell

DATE: Aug 10, 15

Exhibit E

CLERK OF COURT  
PICKENS COUNTY  
SOUTH CAROLINA

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF PICKENS )  
 )  
Larry Norman Gambrell, )  
S.C.D.C. No. 209770, )  
 )  
Applicant, )  
 )  
v. )  
 )  
State of South Carolina, )  
 )  
Respondent. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
2015-CP-39-0172

2015 SEP 23 P 1:23

**FINAL ORDER OF DISMISSAL**

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed February 5, 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 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 "Response to Conditional Order of Dismissal" and filed August 13, 2015, the Applicant argues there was a conflict of interest in his case because the prosecuting attorney had been previously appointed to represent him on these charges.

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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 March 1, 1994 and the South Carolina Supreme Court dismissed the appeal on October 5, 1995. As this action was filed on February 5, 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 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 April 28, 1997. 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 finds this includes the issue raised in the "Response to Conditional Order of Dismissal" regarding an alleged conflict of interest.<sup>1</sup>

**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

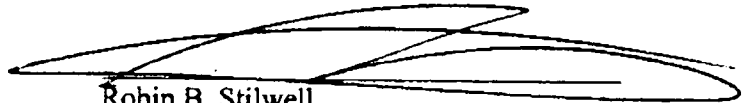
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<sup>1</sup> This Court further finds the Applicant has failed to meet his burden of proving there was an actual conflict of interest in his case.

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R 9

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 12 day of Feb, 2015.



Robin B. Stilwell  
Chief Administrative Judge  
Thirteenth Judicial Circuit

G. K. ..., South Carolina.