

THE STATE OF SOUTH CAROLINA

In the Supreme Court

RECEIVED

APPEAL FROM SPARTANBURG COUNTY

Court of Common Pleas

MAR 03 2016

S.C. SUPREME COURT

J. Mark Hayes, II, Circuit Court Judge

Case No. 2013-CP-42-3931

Willie Junior Hines Appellant,

v.

State of South Carolina Respondent

NOTICE OF APPEAL

Willie Junior Hines appeals the order of the Honorable J. Mark Hayes II dated January 26, 2016 denying and dismissing with prejudice Post-Conviction Relief and The order dismissing Rule 59(B) dated February 17, 2016 (see exhibits A & B attached).

February 29, 2016

Willie Hines

Willie J. Hines

Other Counsel of Record

Perry Correctional Inst.

Alicia A. Olive

430 Oaklawn Road

Office of the Attorney General

Pelzer S.C. 29669

P.O. Box 11549

Columbia, SC 29211

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS)
FOR THE SEVENTH JUDICIAL CIRCUIT)

Willie Junior Hines, #240466,)

Case No. 2013-CP-42-3931)

Applicant,)

FINAL ORDER OF DISMISSAL)

v.)

State of South Carolina,)

Respondent.)
_____)

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed September 19, 2013. The Respondent made its return on or about April 8, 2014, requesting the application be summarily dismissed based upon expiration of the statute of limitations, successiveness, and *res judicata*.

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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 December 3, 2014, and filed December 4, 2014, provisionally denying and dismissing this action, while giving the Applicant 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 December 16, 2014, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

Applicant filed a document titled "Response and Objection to Conditional Order of Dismissal; Motion to Restrict Future Filings; Return and to Dismiss; and Order Restricting Future Filings" on April 24, 2014, and refiled the same document under the title "Applicant's Objection to Respondent's Conditional Order of Dismissal" on January 5, 2015. In these filings,



Applicant alleged that the Court of Appeals erred in dismissing his appeal and that he should have been parole eligible after 20 years.

Applicant subsequently filed a document captioned "Petitioner's Motion to Alter, Amend or Set Aside Judgement" on April 13, 2015, in which he argued the Court should grant him an opportunity to present evidence as to why he is entitled to relief. In the document, Petitioner alleged he was sentenced outside of the applicable sentencing guidelines range and is being held improperly. Because this matter has not reached its final judgment, a motion to alter or amend judgment pursuant to Rule 59(e), SCRCF, is premature. See Rule 54(a), SCRCF. As a result, this Court interprets Applicant's motion pursuant to Rule 59(e) as an additional response to the Conditional Order of Dismissal.

This Court has reviewed Applicant's responses to the Conditional Order of Dismissal in their 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 finds Applicant's replies do not give rise to any genuine issue of material fact that would require an evidentiary hearing and therefore have failed to provide sufficient reasons why the Conditional Order of Dismissal should not become final.

This Court notes Applicant pleaded guilty and was sentenced on February 25, 1997. Applicant did not appeal his conviction, so he was therefore required to file his application on or before February 25, 1998. This action was filed on September 19, 2013—more than 15 years beyond the expiration of the statute of limitations, and is therefore time-barred. See S.C. Code Ann. § 17-27-45(a). Applicant has failed to present any legitimate reasons why these issues were not raised within the statute of limitations for filing a PCR application pursuant to S.C. Code. § 17-27-45(a).



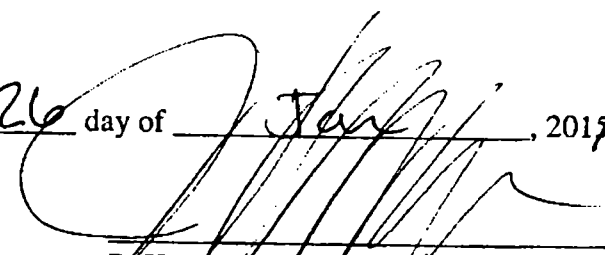
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Furthermore, this is Applicant's fourth application for PCR. This Court notes successive PCR applications are disfavored. See Land v. State, 274 S.C. 243, 246, 262 S.E.2d 735, 737 (1980). This Court finds Applicant had the opportunity to litigate all issues related to his case at the evidentiary hearing for his first PCR application on March 29, 2000, and again on October 25, 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.’”).

This Court also denies Applicant's motion for default. For an applicant to be granted default judgment in post-conviction relief he must show prejudice from the State's delay in failing to timely answer his Application. See Kneece v. State, 269 S.C. 177, 236 S.E.2d 745 (1977); Herring v. State, 262 S.C. 597, 206 S.E.2d 885 (1974). To show prejudice, an Applicant must show that his application has merit. Herring, 262 S.C. at 598, 206 S.E.2d at 886. Furthermore, compliance with the statutory time limits is discretionary with the trial court. Guinyard v. State, 260 S.C. 220, 195 S.E.2d 392 (1973). This Court finds that Applicant has failed to demonstrate the requisite prejudice or merit to his application. Therefore, the motion for default judgment is denied.

IT IS THEREFORE ORDERED that Applicant's motion for default judgement is hereby **DENIED**, and 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 26 day of July, 2017.


B. KEITH KELLEY, J. Mark Hayes, II
Chief Administrative Judge
Seventh Judicial Circuit Court


J. Mark Hayes, II
South Carolina.

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
IN THE SEVENTH JUDICIAL CIRCUIT

Willie Junior Hines, #240466,)
)
Applicant,)

Case No.: 2013-CP-42-3931

vs.)

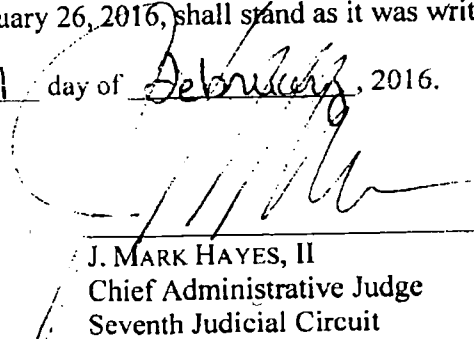
**ORDER DENYING RULE 59(e), SCRPC
MOTION TO ALTER OR AMEND**

State of South Carolina,)
)
Respondent.)

This matter comes before the Court by way of Applicant's *pro se* document titled "Petitioner's Motion to Alter, Amend and/or Reconsider Judgement." Respondent made its Return to this Motion on February 12, 2016.

The Final Order of Dismissal in this matter was signed by the undersigned on January 26, 2016. After careful consideration of all the evidence and submissions of the parties, including Applicant's response and objections, this Court is not persuaded to alter or amend the judgment. This Court further finds that pursuant to Rule 59(f), SCRPC, oral argument would not aid in the reconsideration of the original judgment. Therefore, this Court finds that the original Final Order of Dismissal, which was signed and filed January 26, 2016, shall stand as it was written.

AND IT IS SO ORDERED this 17 day of February, 2016.



J. MARK HAYES, II
Chief Administrative Judge
Seventh Judicial Circuit

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Spartanburg South Carolina



ALAN WILSON
ATTORNEY GENERAL

February 8, 2016

The Honorable Daniel E. Shearouse
Clerk, South Carolina Supreme Court
Post Office Box 11330
Columbia, SC 29211

RE: Willie Junior Hines v. State of South Carolina
Appellate Case No. 2015-002179

Dear Mr. Shearouse:

As directed in the Court's letter of December 8, 2015, this is to provide the Court with an update on the status of Mr. Hines' post-conviction relief action in the Court of Common Pleas in the Seventh Judicial Circuit. On January 26, 2016, the Honorable J. Mark Hayes, II signed and filed a Final Order of Dismissal in Mr. Hines' post-conviction relief action, case number 2013-CP-42-3931. That Order was forwarded to Mr. Hines via U.S. Mail on January 26, 2016.

If I may be of any further assistance in this matter, please do not hesitate to contact me at (803) 734-3737.

Sincerely,

Alicia A. Olive
Assistant Attorney General
Bar No. 102089

cc: Mr. Willie Junior Hines, 00240466

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State of South Carolina Respondent.

PROOF OF SERVICE

I certify that I have served the notice of Appeal on the State of South Carolina by depositing a copy of it in the United States Mail, postage pre-paid, on February 29, 2016, addressed to its attorney of record Alicia A. Olive, Office of the Attorney General, P.O. Box 11549, Columbia, S.C. 29211.

Willie J. Hines

February 29, 2016.

Willie J. Hines

Perry Correctional Inst.
430 Oaklawn Road
Pelzer S.C. 29669

SWORN TO and Before me this 29

day of February 2016.

Notary: Tamara Conwell

Expire: ~~My Commission Expires~~
~~September 25, 2023~~

Willie J. Hines

Willie J. Hines # 240466

2016

Willie Junior Hines # 240466
Q4B-722
Perry Correctional Institution
430 Oaklawn Road
Pelzer SC 29669

RECEIVED

FEB 29 2016

P.C.I. MAILROOM

CDC

FEB 17 '16

MISSARY

Honorable Daniel E. Shearouse
Clerk, South Carolina Supreme Court
Post Office Box 11330
Columbia, SC 29211