

LETTER TO THE SUPREME COURT
CLERK FILING THE NOTICE OF APPEAL

March 28, 2016

The Honorable Shearouse
Clerk of S.C. Supreme Court
P.O. Box 11330
Columbia, S.C. 29211

RE: CHARLES M. DOMINICK V. STATE OF SOUTH
CAROLINA (2014-CP-42-4530)

Dear Mr. Shearouse:

Enclosed for filing is a Notice of Appeal in the above case. Also enclosed are the following:

- (1) Proof of Service of the NOA
- (2) A copy of Order to be challenged on Appeal.
- (3) 243(c) Explanation.
- (4) Affidavit Statement.
- (5) Copy of envelope when received order.

Charles Dominick
Charles M. Dominick, #334038

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MAR 31 2016

S.C. SUPREME COURT

NOTICE OF APPEAL FROM FILING
A POST-CONVICTION RELIEF APPLICATION

THE STATE OF SOUTH CAROLINA
SUPREME COURT

APPEAL FROM SPARTANBURG COUNTY
COURT OF COMMON PLEAS

HONORABLE J. MARK HAYES, II

C/A - 2014-CP-42-4530

Charles M. Dominick appeals his denial of his PCR filing in this case, see case number. This appeal is taken from the Order of Dismissal of Honorable Mark Hayes, II dated Feb. 26, 2016, which denied appellant's PCR action. Appellant received written notice of entry of this Order on March 14, 2016.

Charles Dominick
Charles M. Dominick, #334038

PROOF OF SERVICE OF NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA

SUPREME COURT

APPEAL FROM SPARTANBURG COUNTY

COURT OF COMMON PLEAS

C/A - 2014-CP-42-4530

PROOF OF SERVICE

I, Charles M. Dominick, #334038, certify that I have served the Notice of Appeal on the Respondent's (Attorney General and the S.C. Supreme Court) by depositing a copy of the same in the Perry mailroom hands for mailing, postage prepaid addressed as follows:

Daniel Shearouse
Clerk of South
Carolina Supreme Court
P.O. Box 11330
Columbia, S.C. 29211

Alicia A. Olive
Asst. Att. General
P.O. Box 11549
Columbia, S.C. 29211

I, Charles M. Dominick, #334038, certify and verify under the penalty of perjury that the foregoing is true and correct.

Charles Dominick
Charles M. Dominick, #334038

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

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

Charles M. Dominick, #334038,)

Case No. 2014-CP-42-4530)

Applicant,)

FINAL ORDER OF DISMISSAL)

v.)

State of South Carolina,)

Respondent.)

CLERK OF COURT
SPARTANBURG COUNTY
2016 FEB 26 PM 3:44
M. HOPE BLACKBERRY

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed November 4, 2014. The Respondent made its return on or about April 22, 2015, requesting the application be summarily dismissed based upon expiration of the statute of limitations, the presumption against successive applications, and for failure to make a *prima facie* showing that he is entitled to relief based on newly discovered evidence.

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 and filed April 30, 2015, 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 August 27, 2015, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

Applicant filed a document titled "Applicants Objection/Answer to the Conditional Order of Dismissal" on June 9, 2015, in which Applicant argues his post-conviction relief attorney "misinformed Applicant that he did not have any witnesses that would testify upon his behalf." Applicant also argues that he "met 'all' 5 points of newly discovered evidence," and refers to a

document titled "Affidavit Statement," in support of that argument, which is attached to his PCR application.

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.

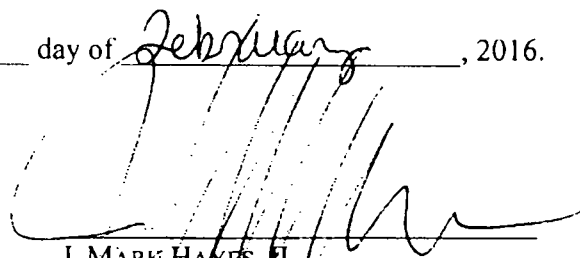
This Court notes the Applicant was pleaded guilty and was sentenced on April 6, 2007, and did not appeal his guilty plea or sentence. As this action was filed on November 4, 2014, it was clearly filed outside the expiration of the statute of limitations. See S.C. Code Ann. § 17-2745(a) (Supp.2003). This is the Applicant's 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 September 13, 2010. 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.'").

CLERK OF COURT
SPARTANBURG COUNTY
2016 FEB 26 PM 3:44
M. HOPE BLACKLEY

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 hereby advises the Applicant that he must file and serve a Notice of Appeal within 30 days of the service of this Order to secure appellate review. See Rule 203, SCACR. Applicant's attention is directed to Rule 243, SCACR., for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this 26 day of February, 2016.



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

Spartanburg, South Carolina.

CLERK OF COURT
SPARTANBURG COUNTY
2016 FEB 26 PM 3:44
M. HOPE BLACKLEY

M. HOPE BLACKLEY
Clerk of Court, Spartanburg County
Post Office Box 3483
Spartanburg, South Carolina 29304-3483

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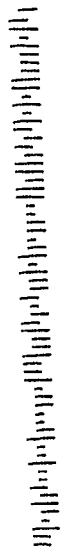
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Judge
Court
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et forth in the Court's
elief is hereby **DENIED**
erve a Notice of Appeal
See Rule 203, SCACR.
res following the filing

Charles Dominick # 334038
Perry Correctional Institution
430 Oaklawn Road
Pelzer, S.C. 29669

AMS

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MAR 28 2016

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