

LAWRENCE BARRETT #299823
McCORMICK CORR. INSTITUTION
386 REDEMPTION WAY
McCORMICK, S. C. 29899

RECEIVED

MAY 3, 2016

MAY - 5 2016

SC SUPREME COURT

THE HONORABLE DANIEL E. SHEARHOUSE, CLERK OF COURT
S.C. SUPREME COURT
P.O. BOX 11330
COLUMBIA, S.C. 29211

RE; BARRETT VS. STATE
NOTICE OF APPEAL

DEAR MR. SHEARHOUSE;

ENCLOSED FOR FILING IS MY :NOTICE OF INTENT TO APPEAL: WITH ORDER
ATTACHED. WITH KIND REGARDS,

RESPECTFULLY,

Lawrence Barrett

RECEIVED

MAY - 5 2016

SC SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM CHARLESTON COUNTY

THE HONORABLE KRISTI LEA HARRINGTON, CIRCUIT COURT JUDGE


CASE No: 2015-CP-10-2766

LAWRENCE BARRETT, #299823,.....APPELLANT

VS.

STATE OF SOUTH CAROLINA,.....RESPONDENT

PLEASE BE ADVISED THAT LAWRENCE BARRETT , #299823, HEREBY SERVES NOTICE OF HIS INTENT TO APPEAL THE FINAL JUDGMENT OF THE HONORABLE KRISTI LEA HARRINGTON, CIRCUIT COURT JUDGE, DATED APRIL 11, 2016 . FILED APRIL 20, 2016; AND RECEIVED BY APPELLANT ON APRIL 29, 2016.


LAWRENCE BARRETT APPELLANT
McCORMICK CORR. INSTITUTION
386 REDEMPTION WAY
McCORMICK, S.C. 29899

DATED May 3, 2016

The State of South Carolina
In the Supreme Court

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MAY 25 2016

SO SUPREME COURT

Appeal from Charleston County
The Honorable Kristi Lea Harrington, Circuit Court Judge
Case No.: 2015-CP-10-2766

Lawrence Barrett, #209823, Appellant,
Vs.

State of South Carolina, Respondent.

Affidavit of Service

Now comes Affiant Lawrence Barrett who first being duly sworn, hereby deposes and says I placed originals of my "Notice of Appeal" in sealed, postage prepaid envelopes addressed as described below and deposited same in the McCormick CE Mail Room on this 3 day of MAY, 2016:

1. The Honorable Daniel Shearhouse, P.O. Box 11330, Columbia SC 29211;
2. The Honorable Julie J. Armstrong, 100 Broad Street, Suite 106, Charleston, SC 29401-2258; and,
3. J. Rutledge Johnson, Esq., P.O. Box 11549, Columbia SC 29211.

St. Lawrence Barrett
Affiant

Sworn to and subscribed before me
this 03 day of May, 2016.

J. Franklin
Notary Public
My Commission Expires: 12-16-2019

CC
AT
AG
Sol
BS

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
)
Lawrence Barrett, #299823,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

2015-CP-10-2766

FINAL ORDER OF DISMISSAL

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This matter comes before the Court by way of an application for post-conviction relief (PCR) filed May 14, 2015. The Respondent made its return on or about August 18, 2015, requesting the application be summarily dismissed based upon the expiration of the statute of limitations, the presumption against successive PCR applications, and failure to state a claim for which relief can be granted.

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 August 24, 2015 and filed August 27, 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 a Certificate of Service dated September 10, 2015, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

In a document titled "Applicant's Objection to Conditional Order of Dismissal," dated September 8, 2015, Applicant argues that "an Application for Post-Conviction Relief is the appropriate remedy through which to seek a reduction in his overall sentence by 1 year and 4 months."

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.

Applicant has failed to make a *prima facie* showing that he is entitled to relief based on newly discovered evidence. An applicant requesting a new trial based on after-discovered evidence must show that the evidence: (1) would likely change the result if a new trial was had; (2) has been discovered since the trial; (3) could not, by the exercise of reasonable diligence, have been discovered before the trial; (4) is material to the issue of guilt or innocence; and (5) is not merely cumulative or impeaching. Hayden v. State, 278 S.C. 610, 611-12, 299 S.E.2d 854, 855 (1983). This Court finds that Applicant cannot show that the issue of credit for time served is material to the issue of guilt or innocence nor does this Court believe it would change the result if a new trial was had. Applicant has entirely failed to make a showing that he is entitled to relief based on the information set forth and, therefore, he is not entitled to an evidentiary hearing in the matter. Accordingly, this matter must be summarily dismissed with prejudice.

Post-conviction relief is a proper avenue of relief only when the Applicant mounts a collateral attack challenging the validity of his conviction or sentence. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). A credit-related claim or challenge to other conditions of confinement are administrative matters and, thus, cannot be raised in a post-conviction relief proceeding. Id. Likewise, a challenge to the conditions upon which parole eligibility is determined or decided is not cognizable in a post-conviction relief application. Jernigan v. State, 340 S.C. 256, 531 S.E.2d 507 (2000).

Here, the Applicant complains that the South Carolina Department of Corrections is not calculating his credit for time served correctly. The statutory right to sentence related credits is a

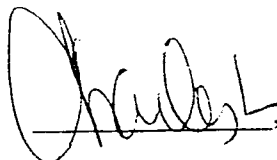
protected "liberty" interest under the Fourteenth Amendment, entitling an inmate to minimal due process to ensure the state-created right was not arbitrarily abrogated. Wolff v. McDonnell, 418 U.S. 539, 94 S.Ct. 2963, 41 L.Ed.2d 935 (1974). However, because SCDC's disciplinary and grievance procedures are consistent with the standards delineated in Wolff v. McDonnell, supra, inmates may seek review of such claims under the Administrative Procedures Act (APA). Al-Shabazz, supra.

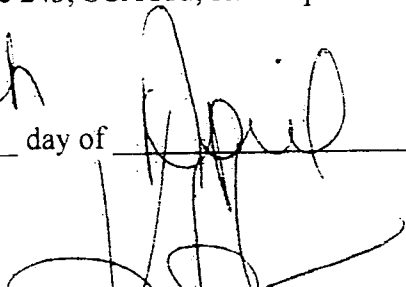
This Court finds that Applicant's allegation concerns matters which should first be raised through SCDC's disciplinary or the grievance procedure. If the Applicant is dissatisfied with the decision rendered by SCDC, then he may seek review of the decision under the APA. Therefore, this claim is not proper for post-conviction relief and this application for post-conviction relief should be summarily denied and dismissed.

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 thirty (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 11th day of April, 2016.

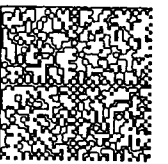

_____, South Carolina.



KRISTI LEA HARRINGTON
Circuit Court Judge
Ninth Judicial Circuit Court

LAWRENCE BARRETT #299823
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