

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )  
 )  
 Isiah James, Jr., )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 South Carolina Department of Probation, )  
 Parole and Pardon Services, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 FIFTH JUDICIAL CIRCUIT  
**Indictment No.: 05-CP-40-1931**

ORDER

2016 APR 11 AM 11:33  
 JEANETTE W. MORRIS  
 C.C.P. & G.S.  
 RICHLAND COUNTY  
 FILED

This matter comes before me upon motion of Summary Judgment filed by the Defendant dated October 30, 2015. The Defendant requested this Court dismiss the Plaintiff's motion pursuant to Rule 60(b) of the South Carolina Rules of Civil Procedure, and a previously filed petition for writ of habeas corpus. This Court grants the Defendant's motion to dismiss, regarding both matters.

**PROCEDURAL HISTORY**

On June 18, 1979, the Plaintiff appeared before the Honorable Dan F. Laney for two counts of voluntary manslaughter and one count of armed robbery. The Plaintiff was sentenced to a thirty (30) year period of incarceration for each count of voluntary manslaughter; and twenty-five (25) years imprisonment for armed robbery. The sentencing Court ordered that each of these offenses were to be served consecutively. The Plaintiff initially became eligible for parole on February 17, 1988, upon conclusion of his initial appearance he was denied parole. Since this initial appearance the Appellant has appeared before the Board numerous times each resulting in a denial of parole.

The Plaintiff later filed a summons and complaint against the Defendant. Within this complaint the Plaintiff alleged that only allowing him biannual appearances before the Board denied his Constitutional rights, and, violated ex post facto. The Defendant later filed a motion for summary judgment. On March 29, 2006, the Honorable Alison Renee Lee issued an order granting the Defendant's motion for summary judgment. The Plaintiff later filed a notice of appeal before the South Carolina Court of Appeals. In the case of *James v. S.C. Dept. of Probation, Parole and Pardon Services*, 376 S.C. 392, 656 S.E.2d 399 (2008) the Court of Appeals decided that subjecting the Plaintiff to biannual hearings was the law at the time the Plaintiff committed the offense, so there exist no violation of ex post facto.

Upon being denied this avenue of relief, the Plaintiff later filed a petition for writ of habeas corpus in United States District Court. Another motion for summary judgment was filed and granted by the Honorable Terry L. Wooten, United States District Court Judge.

The Plaintiff have since filed a motion for relief under rule 60(b)(5) of the South Carolina rules of Civil Procedure, and another petition for habeas corpus. The Plaintiff argues that he is entitled relief pursuant to rule 60; he further argues that the Sumter Court of General Sessions did not have jurisdiction over his case at the time of his conviction. This Court disagrees.

### **ARGUMENTS**

The Defendant has shown that there exist no facts presented by the Plaintiff that will constitute a cause of action. The Plaintiff argues that he is entitled relief pursuant to Rule 60(b)(5) of the South Carolina Rules of Civil Procedure, which states:

On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, proceeding for the following reasons...(5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application.

Rule 60(b)(5)SCRCP

The Plaintiff argues that he should be relieved from judgment due to a prior decision of the Supreme Court. The decision that the Plaintiff is referring does not pertain to the instant case. The South Carolina Supreme Court never granted certiorari, and the Court of Appeals affirmed the decision of Judge Lee. This rule does not apply due to the decision of Judge Lee never being reversed or discharged. So this Court respectfully grants the Defendant's motion.

The Plaintiff is also not entitled relief pursuant to Rule 60 due to the length of time expired from the Court's decision to the filing of the motion. Pursuant to rule 60, the "motion shall be made within a reasonable time." Rule 60 SCRCP. Nine years have elapsed, this cannot be considered reasonable when seeking relief.

The Plaintiff also seeks habeas corpus relief. He alleges that the Sumter County Court of General Sessions did not have jurisdiction of his criminal offense at the time of his conviction. The Plaintiff was indicted by the Sumter County Grand Jury for the offenses of armed robbery, and murder, this gives the Circuit Court jurisdiction over the prosecution of this case. All cases in which bills of indictment are so found shall stand for trial by the county court as though found by the grand jury while in attendance upon the county court. S.C. Code Ann. §14-9-210 (Supp. 1962)

The Plaintiff has not revealed any injustice committed upon his final verdict or sentence. The Court sitting in its original jurisdiction will grant habeas corpus to correct only infractions which in the setting constitute a denial of fundamental fairness shocking to the universal sense of justice. *Wilson v. Moore*, 178 F.3d 266 (1999). There exist no unfairness or violation of law in the prosecution, conviction or sentence of the Plaintiff in Sumter County.

**SCANNED**

As previously stated, the Plaintiff made the identical motion in United States District Court, which has been resolved by the Honorable Terry Wooten, United States District Court Judge. Due to this matter being resolved previously the Plaintiff's petition is also subject to res judicata.


Res judicata bars subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of a prior action between those parties. *Plum Creek Dev. Co. v. City of Conway*, 334 S.C. 30, 512 S.E.2d 106 (1999); *Sub-Zero Freezer Co. v. R.J. Clarkson Co.*, 308 S.C. 188, 417 S.E.2d 569 (1992). Under the doctrine of res judicata, "[a] litigant is barred from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit." *Plum Creek supra* (quoting, *Hilton Head Center of South Carolina, Inc. v. Public Service Comm'n of South Carolina*, 294 S.C. 9, 11, 362 S.E.2d 176, 177 (1987)). To establish res judicata, the Defendant must prove the following three elements: (1) identity of the parties; (2) identity of the subject matter; and (3) adjudication of the issue in the former suit. *Plum Creek, supra Riedman Corp. v. Greenville Steel Structures, Inc.*, 308 S.C. 467, 419 S.E.2d 217 (1992); *Sealy v. Dodge*, 289 S.C. 543, 347 S.E.2d 504 (1986). This issue was heard in United States District Court between these identical parties and ultimately resolved.

This Court finds that the petitioner has failed to reveal that he is entitled a judgment as a matter of law. A summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions to file, together with affidavits if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. Rule 56 SCRPC.

**SCANNED**

This Court finds that the Defendant's motion for summary judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure is hereby **granted**.

AND IT IS SO ORDERED this 29 day of March, 2016

  
\_\_\_\_\_  
The Honorable Cordell J. Maddox, Jr.  
Circuit Court Judge

SCANNED

# The South Carolina Court of Appeals

Isiah James, Jr., Appellant,

v.

South Carolina Department of Probation, Parole and  
Pardon Services, Respondent.


Appellate Case No. 2016-000146

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## ORDER

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Appellant is attempting to appeal the circuit court's order, which held that the Parole Board failed to consider the appropriate criteria for parole determinations and remanded the case to the Parole Board for a new determination regarding Appellant's parole. Because Appellant is not aggrieved by the circuit court's order, this appeal is dismissed. *See* Rule 201(b), SCACR ("Only a party aggrieved by an order, judgment, sentence, or decision may appeal."). The remittitur will be sent as provided in Rule 221, SCACR.

  
FOR THE COURT

Columbia, South Carolina

cc:  
Isiah James, Jr., #96883  
Tommy Evans, Jr., Esquire

**FILED**  
