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WATTS

& ASSOCIATES

June 2, 2016

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JUN 06 2016

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

S.C. SUPREME COURT

RE: Terrance L. Robinson, Petitioner v. State of South Carolina, Respondent
Case No. 2012-CP-16-0141

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 Notice of Appeal on the Respondent.
- (2) A copy of the Order of Dismissal which is to be challenged on appeal.
- (3) This appeal is being filed with the Supreme Court due to the denial of relief and dismissal of Petitioner's Post-Conviction Relief action.

Sincerely,

W.S. Watts, III
508 S. Fourth Street
Hartsville, SC 29550
Attorney for Petitioner

cc: Jessica E. Kinard
PO Box 11549
Columbia, SC 29211-1549
Attorney for Respondent

Appellate Defense
PO Box 11589
Columbia, SC 29201

Karl H. Smith

W.S. 'Trey' Watts III

508 South Fourth Street Hartsville, South Carolina 29550

Ph: (843) 332 - 4700 or (888) 332 - 4703

Fax: (843) 332 - 0048

www.hartsvillesclaw.com

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM DARLINGTON COUNTY
Court of Common Pleas

HONORABLE ROGER E. HENDERSON, Circuit Court Judge

Case No. 2012-CP-16-141

TERRANCE L. ROBINSON

Petitioner,

v.

STATE OF SOUTH
CAROLINA,

Respondent.

NOTICE OF APPEAL

Terrance L. Robinson appeals the Honorable Roger E. Henderson's May 19, 2016, Order denying post-conviction relief to the Petitioner. Undersigned counsel received a copy of the Full Order on May 31, 2016, from Jessica E. Kinard, Assistant Attorney General. A copy of the Order on appeal is attached to this notice.

June 2, 2016

Respectfully submitted,



W.S. Watts, III
508 S. Fourth Street
Hartsville, SC 29550
Attorney for Appellant

Other Counsel of Record:
Jessica E. Kinard
PO Box 11549
Columbia, SC 29211-1549
Attorney for Respondent

Appellate Defense
PO Box 11589
Columbia, SC 29201

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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM DARLINGTON COUNTY
Court of Common Pleas

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HONORABLE ROGER E. HENDERSON, Circuit Court Judge JUN 06 2016

Case No: 2012-CP-16-141

S.C. SUPREME COURT

TERRANCE L. ROBINSON

Petitioner,

v..

STATE OF SOUTH CAROLINA,

Respondent.

CERTIFICATE OF SERVICE

I, the undersigned an employee of Smith Watts & Associates, hereby certify that I have this
3rd day of JUNE, 2016, served a true copy of the Notice of Appeal by regular US mail to:

Jessica E. Kinard, Assistant Attorney General
PO Box 11549
Columbia, SC 29211-1549
Attorney for Respondent



Page A. Fowler

Hartsville, South Carolina
June 3, 2016

STATE OF SOUTH CAROLINA)
COUNTY OF DARLINGTON)

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

Terrance L. Robinson,)

Case No. 2012-CP-16-141)

Applicant,)

ORDER OF DISMISSAL

(Ends action)

v.)

State of South Carolina,)

Respondent.)

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed January 13, 2012. The Respondent made its Return and Motion to Dismiss on March 9, 2012, requesting that the Application be summarily dismissed based upon the expiration of the statute of limitations and the presumption against successive PCR applications. A hearing was held by this Court on January 11, 2016, at which the Applicant was present via telephone; his attorney, W.S. Watts, III, Esquire was present; and Jessica E. Kinard was present on behalf of the Respondent.

L

Applicant is presently confined in the Federal Bureau of Prisons on unrelated charges. On July 23, 1992, Applicant waived presentment of indictments for possession of crack cocaine (1992-GS-16-0268) and trafficking cocaine (1992-GS-16-1658) and pled guilty to those charges. The Honorable Edward B. Cottingham sentenced Applicant to concurrent terms of one (1) year for possession of crack cocaine and five (5) years for trafficking cocaine. Applicant did not appeal his plea of sentence. The South Carolina Department of Corrections released Applicant on March 31, 1995

Applicant filed his first post-conviction relief action on August 6, 2009 (2009-CP-16-568). In that application, Applicant alleged the following grounds for relief:

1. Lack of jurisdiction.
2. Invalid indictments.
3. Ineffective assistance of counsel.

TRUE CERTIFIED COPY,

Scott E. Suggs
CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

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JAN 10 2012
AM 10:02
CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

Respondent made a Return and Motion to Dismiss on or about October 30, 2009, requesting the application be dismissed as untimely and barred by the doctrine of laches. The Honorable Paul M. Burch issued a conditional order of dismissal on November 5, 2009. Applicant did not timely serve a response to the conditional order, and Judge Burch issued a final order of dismissal on January 29, 2010. Applicant appealed Judge Burch's dismissal, but the South Carolina Supreme Court dismissed the appeal on September 9, 2010. The Supreme Court returned the remittitur to the circuit court on September 28, 2010.

Applicant filed the current post-conviction relief application on January 13, 2012. He alleges the following grounds for relief:

1. Lack of jurisdiction.
2. Invalid indictments.
3. Ineffective assistance of counsel.

Respondent made its Return and Motion to Dismiss on or about March 14, 2012, requesting the application be denied and dismissed as untimely, barred by the doctrine of laches, and successive. Judge Burch issued a Conditional Order of Dismissal on March 23, 2012. Judge Burch issued a Final Order of Dismissal on April 17, 2012. On August 15, 2012, the Judge Burch issued an order vacating the final order because the conditional order was not served on Applicant's counsel. Applicant's counsel filed a timely reply to the conditional order. Respondent filed another motion to dismiss on December 22, 2014, scheduling the matter for a hearing on January 20, 2015. The matter was continued several times in attempts to have the Applicant present, and eventually heard on January 11, 2016 with Applicant participating via telephone pursuant to agreement of the parties and court.

II.

The grounds for dismissal that were presented by Respondent were that this application is successive to a prior application; it was untimely filed, in that it was filed after the expiration of the statute of limitations; and that the doctrine of laches should prevent the Applicant from receiving relief,


as his application was filed over nineteen (19) years after he pled guilty. Applicant asserted that there was newly-discovered evidence that should be considered by the Court, because he had learned that he was "overcharged" – the weight of drugs that he pled to was actually greater than what he possessed at the time of his arrest, and he pled before the analysis was completed, which he alleged was ineffective assistance of plea counsel. Respondent objected to entry of this information because it was not presented in his application.

After hearing the arguments of counsel, this Court agrees with Respondent that this matter is not appropriate for a merits hearing due to the grounds provided in the motion to dismiss. Furthermore, this Court does not find that the newly-discovered evidence claim has validity, as Applicant was not required to plea before the analysis of the drugs in his possession was returned. More importantly, Applicant knew that the analysis had not come back at the time of the plea, so this information is not newly-discovered.

IT IS THEREFORE ORDERED THAT:

1. The motion to dismiss is granted; and
2. The Application for Post-Conviction Relief is denied and dismissed with prejudice.

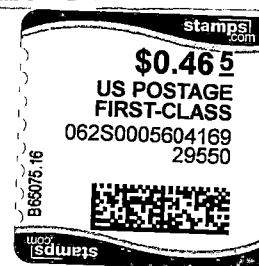
AND IT IS SO ORDERED this 19th day of May, 2016.


THE HONORABLE ROGER E. HENDERSON
Presiding Judge in the Court of Common Pleas
Fourth Judicial Circuit

Darlington, South Carolina

Smith Watts & Associates
508 South Fourth Street
Hartsville, SC 29550

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SC 290
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The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

29211-133030

