

RECEIVED

JAN 30 2017

S.C. SUPREME COURT

THE HONORABLE DANIEL E. SHEAROUSE
CLERK, SUPREME COURT of South CAROLINA
P.O. Box 11330
Columbia, S.C. 29211

RE: OLAYINKA AJAMU BABATUNDE 290816 v STATE of South CAROLINA
2013-CP-40-05284

DEAR MR. SHEAROUSE

ENCLOSED FOR FILING IS A NOTICE OF APPEAL IN THE ABOVE
CASE, ALSO ENCLOSED ARE THE PROOF OF SERVICE OF THE NOTICE OF
APPEAL ON THE RESPONDENT AND A COPY OF THE ORDER OF JUDGMENT
WHICH IS TO BE CHALLENGED ON APPEAL.

SINCERELY,

JANUARY 25, 2017

cc: JESSICA E KINARD
ASSISTANT ATTORNEY GENERAL
P.O. Box 1549
Columbia, S.C. 29211-1549

OLAYINKA AJAMU BABATUNDE
430 OAKLAWN ROAD
PELZER, S.C. 29669

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM THE RICHLAND COUNTY COURT OF
COMMON PLEAS

DEANDREA G. BENJAMIN, CIRCUIT COURT JUDGE

CASE NO. 2013-CP-40-05284

RECEIVED

JAN 30 2017

S.C. SUPREME COURT

THE STATE..... RESPONDENT
OLAYINKA AJAMU BABATUNDE..... APPELLANT

NOTICE OF APPEAL

OLAYINKA AJAMU BABATUNDE APPEAL THE ORDER OF THE
HONORABLE DEANDREA G. BENJAMIN DATED 23, 2015, WHICH AFFIRMED
HIS CONVICTION IN MAGISTRATES (MUNICIPAL) COURT. APPELLANT RECEIVED
WRITTEN NOTICE OF THE ORDER ON JANUARY 4, 2017.

JANUARY 25, 2017

JESSICA E. KINARD
ASSISTANT ATTORNEY GENERAL
P.O. Box 11549
Columbia, S.C. 29211-1549

OLAYINKA AJAMU BABATUNDE
430 OAKLAWN ROAD
PELZER, S.C. 29669

PROOF of SERVICE of A NOTICE of APPEAL
THE STATE of South CAROLINA
IN THE COURT of Appeals
IN THE SUPREME COURT

RECEIVED

JAN 30 2017

APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS
DEANDREA G. BENJAMIN, Circuit Court Judge

S.C. SUPREME COURT

CASE No. 2013-CP-40-05284

STATE Respondent
v.
OLAYINKA AJAMU BABATUNDE Appellant

PROOF OF SERVICE

I CERTIFY THAT I HAVE SERVED THE NOTICE OF APPEAL ON THE HONORABLE DANIEL E. SHEAROUSE BY DEPOSITING A COPY OF IT IN THE UNITED STATE MAIL, POSTAGE PREPAID, JANUARY 25, 2017, ADDRESSED TO THE SUPREME COURT OF SOUTH CAROLINA, POST OFFICE BOX 11330 COLUMBIA, SOUTH CAROLINA, 29211.

OLAYINKA AJAMU BABATUNDE
PERRY CORRECTIONAL INSTITUTION
430 OAKLAWN ROAD
PELZER, SOUTH CAROLINA 29669

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Olayinka A. Babatunde, #270816,
aka Johnny McCoy,
aka Michael McCoy,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Case No.: 2013-CP-40-05284

FINAL ORDER OF DISMISSAL

RICHLAND COUNTY
FILED
2016 DEC 28 PM 3:50
JENNIFER M. HARRISON
CLERK, C.P. & G.S.

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed September 4, 2013. Respondent made its Return and Motion to Dismiss April 24, 2014, requesting that the Application be summarily dismissed. 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 filed June 10, 2014, 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 an Affidavit of Service dated June 25, 2014, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

Applicant submitted three (3) responses to the conditional order of dismissal, dated May 12, 2014; May 13, 2014; and June 30, 2014. These documents discuss, in detail, the issues that Applicant has been arguing since his conviction. Applicant prevailed in his first PCR action and received a belated appeal. Even though the Courts of this State have determined this matter to be finally adjudicated on procedural grounds, Applicant continues to argue that he deserves another attempt to find relief based on these claims. His direct appeal was affirmed by the Court of

Appeals, and a belated appeal was granted to review his first PCR action. This appeal was also ultimately dismissed. Simply put, Applicant has exhausted all avenues available to him in this State's judicial system. For this reason, this Court also issued an order restricting future filings that was filed on June 10, 2014, contemporaneously with the conditional order of dismissal in this action. Applicant has not filed or served any other documents in this action.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The following findings of fact and conclusions of law are made pursuant to Rules 52 and 58 of the South Carolina Rules of Civil Procedure:

1. This Court has reviewed Applicant's responses to the Court's Conditional Order of Dismissal in its entirety, in conjunction with the original pleadings, and finds that a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

2. This Court further finds that Applicant's current application is successive to Applicant's previously filed applications, that Applicant's current application was filed outside the statute of limitations, and that it is barred by the doctrine of *res judicata*. Accordingly, this Court finds the current application fails to state a claim which creates any genuine issue of material fact for this Court to consider.


3. This Court has reviewed Applicant's responses to the Court's Conditional Order of Dismissal in its entirety in conjunction with the original pleadings, and finds that a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

IT IS THEREFORE ORDERED that, for the reasons set forth in the Court's Conditional Order of Dismissal, the application for PCR 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 23 day of Dec, 2015

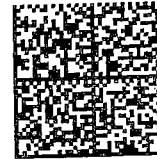


DEANDREA G. BENJAMIN
Chief Judge for Administrative Purposes
Fifth Judicial Circuit

Columbia, South Carolina

OLAUNKA AJAMU BABATUNDE 290816
430 OAKLAWN RD
PEIZER, S.C., 29669

GREENVILLE
SC 296
25 JAN '17
PM 31



UNITED STATES POSTAGE



PITNEY BOWES
\$ 000.67⁰

02 1P
0000879471 JAN 25 2017
MAILED FROM ZIP CODE 29669

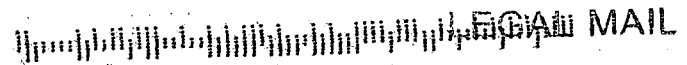
THE HONORABLE DANIEL E. SHEROUSE
SUPREME COURT OF SOUTH CAROLINA
P.O. BOX 11330
COLUMBIA, S.C., 29211

RECEIVED

JAN 25 2017

PCI Mailroom

29211-133030



STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: **2013CP4005284**

Olayinka Ajamu #270816 Babatunde

Stae of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : Plaintiff Defendant or Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. No. suit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):** Affirmed; Reversed; Remanded; Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge _____ Judge Code _____ Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20 _____ and a copy mailed first class or placed in the appropriate attorney's box on this 10 June 2014 to attorneys of record or to parties (when appearing pro se) as follows:

Olayinko Ajamu #270816
Babatunde

Megan E. Harrigan

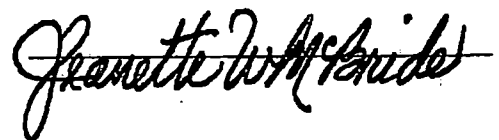
Olayinko Ajamu #270816
Babatunde

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court



STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Olayinka A. Babatunde, #270816,
aka Michael McCoy
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

2013-CP-40-05284

CONDITIONAL ORDER OF DISMISSAL

RICHLAND COUNTY
FILED
2014 JUN 10 PM 12:08
JEANETTE W. PARTRIDGE
C.P. & G.S.

This matter comes before this Court by way of an application for post-conviction relief filed September 4, 2013.

I. PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. Applicant was indicted at the November 1999 term of the Richland County Grand Jury for Armed Robbery (99-GS-40-45868), First Degree Burglary (99-GS-40-45869), and Kidnapping (99-GS-40-46281). Applicant was represented on the charges by James P. Rogers, Esquire. Applicant proceeded to trial before the Honorable James C. Williams, Jr. on May 1-2, 2000, where he was found guilty on each charge as indicted. Judge Williams sentenced Applicant to fifteen (15) years imprisonment on each charge, with all sentences to run consecutively.

Applicant filed a timely notice of appeal on May 9, 2000. Assistant Appellate Defender Katherine C. Link represented Applicant on his appeal. The South Court of Appeals affirmed the decision of the trial court. State v. McCoy, Op. No. 2002-UP-562 (S.C. Ct. App. filed Sept. 12, 2002). The remittitur was issued on September 30, 2002.

Applicant subsequently filed an application for post-conviction relief on June 10, 2003

where he alleged he was being held unlawfully for the following reasons:

1. Ineffective assistance of counsel,
2. Deprivation of due process, and
3. Trial court lacked subject matter jurisdiction.

The State filed its return on September 21, 2004. Applicant was represented in his PCR action by Tara D. Shurling, Esquire. Applicant filed amendments to his application on February 14, 2006 to include the following issues:

1. Applicant alleges trial counsel was ineffective for failing to challenge the State for failing to prove every element of the charges against Applicant beyond a reasonable doubt as required by Due Process Clause of the South Carolina and U.S. Constitution.
2. Applicant alleges that trial counsel was ineffective for failing to prove that a gun was used in the crime in question.
3. Applicant alleges that trial counsel was ineffective for failing to challenge the taking of the money from Applicant and giving it to his accusers long before the trial began, where the State had established no clear connection between the cash taken from the Applicant and the money allegedly taken from the victims.
4. Applicant alleges that trial counsel was ineffective for failing to move to suppress whatever was taken from Applicant in violation of his 4th Amendment right to be protected from illegal searches and seizures.
5. Applicant alleges that trial counsel was ineffective for failing to challenge the consent allegedly given by the Applicant's common law wife to enter Applicant's hotel room, which was his temporary residence, inasmuch as the consent came only after the unlawful entry by authorities.
6. Applicant alleges that trial counsel was ineffective for failing to adequately challenge the unlawful warrantless arrest of Applicant in his hotel room.
7. Trial counsel was ineffective for failing to adequately preserve for appellate review the question of whether the lower court improperly limited the scope of defense counsel's cross examination of a crucial state witness thereby violating the Applicant's right to fully confront his accusers, as protected by the Sixth and Fourteenth Amendments of the United States Constitution as well as the confrontation clause of the South Carolina State Constitution.
8. Applicant alleges that appellate counsel was ineffective for failing to argue the illegality of the search and seizure of evidence from the hotel room on appeal.
9. Appellant counsel was ineffective for failing to argue on appeal the issue of the Applicant's unlawful arrest without probable cause and without a warrant.

An evidentiary hearing was convened on February 15, 2006, and the record was left open for further testimony on the issue of ineffective assistance of appellate counsel. The hearing was reconvened on March 3, 2006 before the Honorable James R. Barber, III. The State was represented by Assistant Attorney General Robert L. Brown. Applicant was present at both hearings, and he testified on his own behalf. Also testifying for Applicant was appellate counsel, Katherine C. Link. Trial counsel, James Rogers, testified for the State. Applicant proceeded on a general allegation of ineffective assistance of counsel, focusing on the issues as presented in the amended application. On May 22, 2006 Judge Barber issued an Order of Dismissal where the court found neither trial nor appellate counsel were ineffective in their representation of Applicant.

Applicant then filed a Motion to Alter or Amend Pursuant to Rule 59(e) SCRPC. Judge Barber denied this motion by order dated June 27, 2006.

Applicant attempted to appeal the decision made by the PCR court. The South Carolina Court of Appeals dismissed the appeal by order dated April 8, 2005. The court found that Applicant failed to order the transcript and failed to serve and file his initial brief.

2007-CP-40-00603

Applicant subsequently filed an application for post-conviction relief on January 26, 2007, where he alleged he was being held unlawfully for the following reasons:

1. Ineffective assistance of counsel,
2. Deprivation of Due Process of law, lack of subject matter jurisdiction,
3. 4th Amendment Violation, and
4. Ineffective assistance of post-conviction relief counsel in that PCR counsel failed to file an appeal of the denial of PCR.

The State filed its Partial Return and Motion to Dismiss on or about May 7, 2007. An evidentiary hearing was convened on August 6, 2008, at the Richland County Courthouse before the

Honorable J. Michelle Childs. Applicant was present and represented by counsel Tricia A. Blanchette. Assistant Attorney General Brian T. Petrano represented the State. During the hearing, Applicant testified on his own behalf. Applicant's counsel also called Tara D. Shurling to the stand. Applicant's counsel explained that Applicant was proceeding only on his request for an Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), review since all other claims were raised in his prior PCR proceeding. The court found that Applicant did not knowingly or voluntarily waive his right to appellate review of his first PCR. Therefore, Applicant met his burden of proof regarding his request for Austin review, and the court allowed him a belated appeal of his first PCR application by order dated September 8, 2008.

Applicant subsequently filed a notice of appeal on November 19, 2008. Counsel for Applicant filed a petition for writ of certiorari from the order issued by Judge Childs granting Applicant a belated review of Judge Barber's order pursuant to Austin. Applicant's counsel filed a single petition which raised questions into Judge Childs' order and Judge Barber's order, and was submitted pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988). The Supreme Court of South Carolina found that Applicant's counsel failed to follow the procedure set forth in King v. State, 308 S.C. 348, 417 S.E.2d 868 (1992), by filing a single petition instead of two separate petitions. The court also found that a Johnson petition was not proper from Judge Childs' order. The court granted the petition for writ of certiorari as to Judge Childs' order, and then proceeded with an Austin reviewed of Judge Barber's order pursuant to Johnson. The high court finally denied the petition for writ of certiorari from Judge Barber's order and granted counsel's request to withdraw on June 23, 2011. The remittitur was issued on July 11, 2011.

2009-CP-40-01437

Applicant subsequently filed a third application for post-conviction relief on March 3, 2009, where he alleged he was being held unlawfully for the following reasons verbatim:

1. Trial counsel was ineffective for not making legal maneuvers to get applicant's case dismissed based on the 180 days statute of limitation violation issued by the South Carolina Supreme Court.
2. Trial counsel was ineffective when he introduced state's pictures into evidence for defense and forfeited the last closing argument.
3. Trial counsel was ineffective for allowing applicant to be tried in a court that forfeited its jurisdiction for failing to conduct a preliminary hearing after applicant made a written demand.
4. Appellant counsel was ineffective for failing to raise applicant's illegal seizure, in his motel room, on direct appeal.
5. Prosecutor convicted applicant, on evidence that was used to acquire an indictment, subsequent the initial illegal search and seizure in his motel room. Evans v. State, 363, S.C. 495, 611, S.E.2d 510 (2005) An indictment or notice of document issued by the grand jury, which is established or constituted illegally, is deemed a nullity.
6. Police seized applicant in his motel room absent of an arrest warrant in violation of article 1 section 10 of the S.C. Constitution, 17-13-140 of the S.C. Code of law, and the 4th Amendment of the U.S. Constitution.

(emphasis supplied by Applicant)

The State filed its Return and Motion to Dismiss on or about December 4, 2009, requesting that the application be summarily dismissed. A Conditional Order of Dismissal was issued by the court and filed on December 10, 2009, provisionally denying and dismissing the case, while giving Applicant twenty (20) days from the date of service of said order in which to show why the dismissal should not become final. Applicant failed to respond within the twenty (20) days and a Final Order of Dismissal was signed by Judge Barber on February 18, 2010. The court found that the application was barred as successive and untimely filed.

2011-CP-40-02160

Applicant subsequently then filed a fourth application for post-conviction relief on April 1, 2011, where he alleged he was being held unlawfully for the following reasons verbatim:

1. Applicant was not indicted by a legal established grand jury. The court lacked subject matter jurisdiction, due to pseudo indictments in which applicant was convicted.
2. The grand jury schedule clearly certifys that the grand jury did not convene on the day that is indicated on the indictment. Pseudo indictments. Invalid indictments deprived trial of its jurisdiction in 1999 when applicant was convicted.

Respondent filed its Return and Motion to Dismiss on September 23, 2011, requesting the application be summarily dismissed as untimely filed and as successive in nature. Judge Barber issued a Conditional Order of Dismissal on July 5, 2012 which gave Applicant twenty (20) days to respond. After reviewing Applicant's responses in their entirety in conjunction with the record and pleadings in the matter, the Honorable L. Casey Manning signed a Final Order of Dismissal on February 12, 2013.

CURRENT APPLICATION

In his *fifth* and current application for post-conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel, in that
 - a. "Trial counsel was ineffective for failing to adequately preserve for appellate review the question of whether the lower Court improperly limited the scope of defense Counsel's cross examination of a crucial state witness thereby violating the Applicant's right to fully confront his accusers, as protected by the Sixth and Fourteenth Amendments of the United States Constitution as well as the confrontation clause of the South Carolina State Constitution."
2. Ineffective assistance of appellate counsel, in that
 - a. "Appellant counsel was ineffective for failing to argue on appeal the issue of the Applicant's unlawful arrest without probable cause and without a warrant."

Before this Court are the records of the Richland County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections,

Applicant's previous PCR records, Applicant's PCR application and Respondent's Return and Motion to Dismiss.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Successiveness

The Court finds that the current application for post-conviction relief must be summarily dismissed because it is successive to the Applicant's previous applications for post-conviction relief. S.C. Code Ann. § 17-27-90 (2003) states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence, or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which, for sufficient reason, was not asserted or was inadequately raised in the original, supplemental or amended application.

Successive applications are disfavored and the burden is on Applicant to establish that any new ground raised in a subsequent application could not have been raised by him in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 309 S.C. 157, 420 S.E.2d 834 (1992).

This Court finds that the current allegations could have been raised in the proceedings based on Applicant's prior application for post-conviction relief and thus the current application is successive and barred under S.C. Code § 17-27-90. Applicant has failed to establish sufficient reason why he could not have raised his current allegations in his previous application for post-conviction relief; therefore, he has failed to meet the burden imposed upon him. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980); Aice v. State, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 420 S.E.2d 834 (1992).

Statute of Limitations

This Court further finds that this Application for post-conviction relief must also be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10, et. seq. S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant pleaded guilty to the offenses he challenges on May 2, 2000. The remittitur from Applicant's direct appeal was issued on September 30, 2002, so he was therefore required to file his application on or before **September 30, 2003**. This Application was filed on September 4, 2013, which was nearly ten (10) years after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (2003) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, this Court summarily dismisses the application for post-conviction relief for failure to file within the time mandated by the Post-Conviction Procedure Act.

Res Judicata

This Court further finds that the doctrine of *res judicata* bars the Applicant's allegations.

Res judicata prohibits subsequent actions by the same parties on the same issues. Bell v. Bennett, 307 S.C. 286, 414 S.E.2d 786 (Ct. App. 1992). A final judgment on the merits in a prior action bars subsequent consideration of those issues in a new action. Foran v. USAA Casualty Ins. Co., 311 S.C. 189, 427 S.E.2d 918 (Ct. App. 1993). *Res judicata* also bars any issues that could have been raised in the former action. Id. The Applicant has raised the issue of ineffective assistance of trial or appellate counsel in all four (4) of his previous PCR applications. The public interest in the finality of judgments requires that litigation must eventually come to an end. Pursuant to Rule 12(b)(6), SCRPC, this Court finds that these claims are barred by *res judicata*.

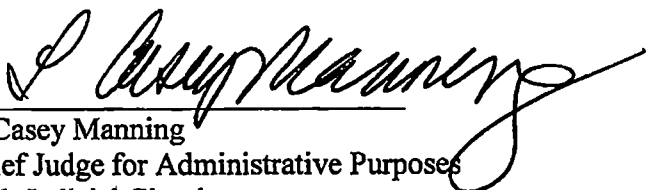
III. CONCLUSION

Pursuant to S.C. Code Ann. §17-27-70(b), the Court intends to dismiss this Application with prejudice unless the Applicant provides specific reasons, factual or legal, why the Application should not be dismissed in its entirety. The Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final. The Applicant shall file any reasons he may have with the Richland County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
J. Clayton Mitchell, Esquire
PCR Division – 5th Circuit
P.O. Box 11549
Columbia, SC 29211

(signature on following page)

AND IT IS SO ORDERED this 9 day of June, 2014.



L. Casey Manning
Chief Judge for Administrative Purposes
Fifth Judicial Circuit


_____, South Carolina