

The Supreme Court
of South Carolina
P. O. Box 11330
Columbia, S.C. 29211

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APR 04 2017

S.C. SUPREME COURT

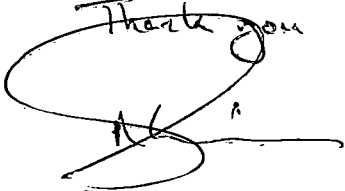
March 29, 2017

Dear Clerk of Court

Enclosed please find a copy of Notice of Appeal,
Memorandum in support, Motion to Set aside Judgment
and Appendix, to be filed in this Court.

Please return a stamped copy for my records.

Thank you


Rasib Abdul Alamed

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STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APR 04 2017

S.C. SUPREME COURT

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
DeAndrea G. Benjamin, Circuit Court Judge

Case No: 2014-CP-40-5577

Raqib Abdul Al-Amin 264465

Appellant

vs.

State of South Carolina

Respondent

NOTICE OF APPEAL

Raqib Abdul Al-Amin, 264465 appeals the Honorable DeAndrea G. Benjamin March 1, 2017 order denying post-conviction relief to the Respondents.

Unsigned pro-se litigant received notice of entry of the order on March 9, 2017. A copy of the order on appeal is attached to this notice.

March 29, 2017

Raqib Abdul Al-Amin
Raqib Abdul Al-Amin pro se
McCormick Corr. Inst.
386 Redemption Way
McCormick, S.C. 29899

STATE OF SOUTH CAROLINA
County of Richland

IN THE SUPREME COURT

Raqib Abdul Alamin 264465
Petitioner

Case No.: 2014-CP-40-5577

vs.

PROOF OF SERVICE

STATE OF SOUTH CAROLINA
Respondent

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APR 04 2017

S.C. SUPREME COURT

I hereby certify that I have served the Notice of Appeal on the State of South Carolina by depositing a copy of the Notice in the United States mail, postage prepaid, on March 29, 2017, addressed to the The Supreme Court of South Carolina, P.O. Box 11330, Columbia, S.C. 29211, Division of Appellate Defense 1330 Lady St. Suite 401 and Office of Attorney General, Johnny E. James Jr. Esquire (PCR Division) P.O. Box 11549, Columbia, S.C. 29211.

March 29, 2017

Raqib Abdul Alamin
Raqib Abdul Alamin
McCorwick
386 Redemption Way
McCorwick, S.C. 29899

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Raqib Abdul Al-Amin, #264465,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Case No.: 2014-CP-40-05577

FINAL ORDER OF DISMISSAL

2017 MAR -3 AM 9:12
FILED
RICHLAND COUNTY
C.S.P. & G.S.

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed September 11, 2014 and amended September 18, 2015. Respondent made its Return on or about September 12, 2016, requesting that the Application be summarily dismissed based upon the expiration of the statute of limitations, the presumption against successive PCR applications, barred by the equitable doctrine of laches and *res judicata*.

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 September 16, 2016 and filed September 20, 2016, 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 October 14, 2016, serving the aforementioned Conditional Order of Dismissal on the Applicant.

Applicant filed a document titled "Pro Se, Response of Objections to Conditional Order of Dismissal; A Notice Show Cause Pursuant to Rule 52(b), SCRCF, S.C. Code of Law § 17-27-45(b) and Rule 60(b)," on October 11, 2016, in which Applicant argues a due process violation in that "the police and the prosecution colluded to withheld [sic] critical evidence from Applicant

and the jury and to subvert the truth seeking process, by a devastating combination of a. Neglect; b. Obstruction; and c. Distraction” and fraud upon the court.

This Court has reviewed all pleadings, and finds that a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final. Applicant still fails to present any reason that this application should be reviewed despite its being filed after the expiration of the statute of limitations.


Applicant has failed to make a *prima facie* showing that he is entitled to relief based on newly-discovered evidence. *Welch v. MacDougall*, 246 S.C. 258, 143 S.E.2d 455 (1965). An applicant “requesting a new trial based on after-discovered evidence must show that the evidence: (1) is such as 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 due 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).

Applicant has failed to set forth facts sufficient to satisfy these requirements. Specifically, Applicant has failed to establish why such alleged evidence could not have been discovered before the trial or during his initial PCR action. Applicant has failed to make such a *prima facie* showing on these elements that he is entitled to relief based on the information set forth and, therefore, this Court finds he is not entitled to an evidentiary hearing in the matter.

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 1 day of March, 2017.



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

Columbia, South Carolina

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

CASE NUMBER: 2014CP4005577

Raquib Abdul # 264465 Al-Min

State 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 JUDGMENT 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 3 day of Mar, 2017 to attorneys of record or to parties (when appearing pro se) as follows:

Raquib Abdul # 264465 Al-Min

Jessica Elizabeth Kinard

Raquib Abdul # 264465 Al-Min

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court

Jeanette W. McBride