

April 26, 2017

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

RECEIVED

MAY 01 2017

S.C. SUPREME COURT

Re: STEVEN W. LITTLEJOHN V. STATE OF SOUTH CAROLINA
2015-CP-11-0242

DEAR MR. SHEAROUSE,

Sir, I am asking respectfully that you please file my notice of appeal and allow me leave to correct an error in the order that indicates that the final order was December 29, 2015. However it should indicate December 29, 2016 as a statute of limitations issue may arise. I am asking that this error be corrected. Enclosed please find the order dated April 7, 2017 exhibit No. 2 page 1 of 1 and the final order of dismissal dated December 29, 2016 exhibit No. 1, page 3 of 3.

Also, the conditional order of dismissal indicates "Applicant" inappropriately used a rule, when in fact it should reflect "Respondent". I have already asked the lower court to correct to no avail. Enclosed is page 5 of 9 (i) exhibit No. 3 of the conditional order of dismissal and exhibits No. 4-7; pages 25, 26, 27 and 28 as evidence for your review (from applicant's original application)

These documents in the above captioned case are to be clocked-dated, stamped, filed in your office and a clocked-in copy

OF THE SAME RETURNED TO ME PURSUANT TO RULE 602 SCACR,
AS SOON AS FEASIBLE.

With The Kindest Regards,

Steve Sledge

SCDC NO. 321946

CC: J. MARK HAYES II, Chief Administrative Judge
Valerie Giouanolì, Assistant Attorney General
Brandy W. McBee, Cherokee County Clerk of Court

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APR 26 2017

MAILROOM
TURBEVILLE CI

The State of South Carolina
IN THE SUPREME COURT OF SOUTH CAROLINA **RECEIVED**

MAY 01 2017

APPEAL FROM CHEROKEE COUNTY
COURT OF COMMON PLEAS

S.C. SUPREME COURT

J. MARK HAYES II, SEVENTH JUDICIAL CIRCUIT

CASE NO. 2015-CP-11-0242

State of South Carolina Respondent
v.
STEVEN W. LITTLEJOHN Appellant

Notice of Appeal

STEVEN W. LITTLEJOHN APPEALS THE ORDER OF THE HONORABLE
J. MARK HAYES, II DATED APRIL 7, 2017. APPELLANT
RECEIVED WRITTEN NOTICE OF ENTRY OF THIS ORDER ON
APRIL 17, 2017.

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APR 26 2017
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CC: VALERIE GIOVANNOLI
Assistant Attorney General
Post Office Box 11549
Columbia, S.C. 29211

STEVEN W. LITTLEJOHN # 32194L
Steven W. Littlejohn
T.C.I. SIA # 124B
1578 CLARENCE COKER HWY.
TURBEVILLE, S.C. 29162

Dated April 26, 2017

The State of South Carolina
In The Supreme Court of South Carolina

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MAY 01 2017

S.C. SUPREME COURT

APPEAL FROM Cherokee County
COURT OF COMMON PLEAS

J. MARK HAYES II, Seventh Judicial Circuit

CASE NO. 2015-CP-11-0242

State of South Carolina

Respondent

v.

Steven W. Littlejohn

Appellant

PROOF OF SERVICE

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APR 26 2017

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I certify that I have served the Notice of Appeal and cover letters to DANIEL E. SHEAROUSE, Clerk of So. Car. Supreme Court, J. MARK HAYES, Chief Administrative Judge, BRANDY W. MCBEE Clerk of Cherokee County, on the State of South Carolina by depositing a copy of it in the United States Mail, Postage Prepaid on April 26, 2017 addressed to the Attorney of Record VALERIE GARCIA GIOVANNI, Attorney, General Office Post Office Box 11549 Columbia, So. Car. 29211-1549.

Steven W. Littlejohn NO. 321946

Steven W. ~~Littlejohn~~

T.C.I. SIA # 124B

1578 CLARENCE COKER HWY

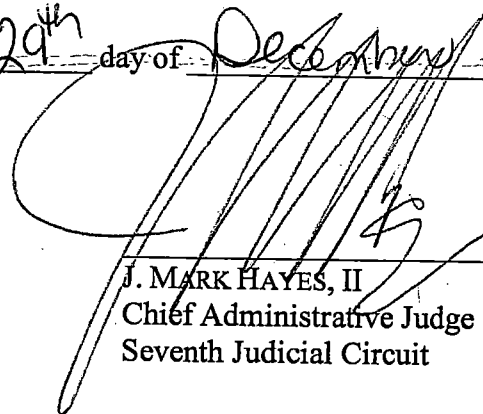
TURBEVILLE, SO. CAR. 29162

Dated: April 26, 2017

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 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 29th day of December, 2016.



J. MARK HAYES, II
Chief Administrative Judge
Seventh Judicial Circuit

Cherokee, South Carolina.

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CLERK OF COURT
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BRADY W. HOBBS
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CLERK OF COURT
CHEROKEE COUNTY, SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHEROKEE)
)
Steven W. Littlejohn, #321946,)
)
Applicant,)
)
vs.)
)
State of South Carolina,)
)
Respondent.)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

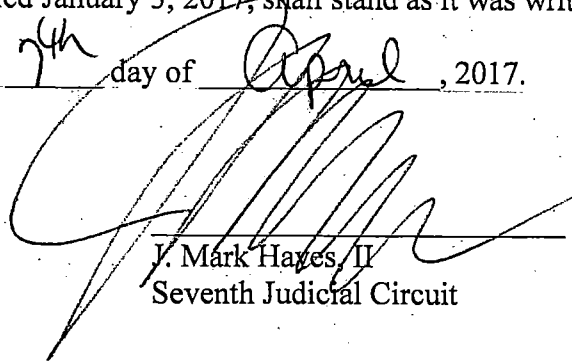
2015-CP-11-0242

ORDER

This matter comes before the Court by way of Applicant's *pro se* document titled "Motion to Reconsider." The Respondent made its Return to this Motion requesting it be dismissed.

The Final Order of Dismissal in this matter was signed by this Court on ~~December 29, 2015~~. Based upon careful reconsideration of all the evidence in this case and upon full consideration of Applicant's response and objections, this Court is not persuaded to alter or amend the judgment. This Court further finds that oral argument would not aid in the reconsideration of the original judgment. Therefore, this Court finds that the original Order of Dismissal, which was signed and then filed January 3, 2017, shall stand as it was written.

AND IT IS SO ORDERED this 7th day of April, 2017.



J. Mark Hayes, II
Seventh Judicial Circuit

Cherokee, South Carolina

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FILED IN THE OFFICE
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2017 APR 12 A 11:04
CHEROKEE COUNTY, SC

Exhibit No 2

~~i.~~ Applicant inappropriately used a rule of Appellate procedures that was no longer applicable and was reserved by the Supreme Court; being rule 224 SCACR, thus prejudicing Applicant and defaulting his claim.

2. Ineffective assistance of appellate counsel.

Before this Court are the Cherokee County Clerk of Court records regarding the subject guilty plea, records from the South Carolina Department of Corrections, records from Applicant's prior PCR proceedings, and Respondent's Return and Motion to Dismiss.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Successiveness

This Court finds the present application for post-conviction relief should be summarily dismissed because it successive to Applicant's previous PCR application. Successive applications for post-conviction relief are disfavored. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980). The relevant statute provides

[a]ll 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.

S.C. Code Ann. § 17-27-90 (2014). Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application

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Mary McCabe

From: Chris Florian
Sent: Wednesday, May 23, 2012 9:32 AM
To: Mary McCabe
Subject: RE: Scan from a Xerox WorkCentre

Reserved means that there is no Rule 224, they are keeping it as a placeholder. This was done by way of Supreme Court Order dated 5/3/2007.

Chris

-----Original Message-----

From: Mary McCabe
Sent: Tuesday, May 22, 2012 6:14 PM
To: Chris Florian
Subject: RE: Scan from a Xerox WorkCentre

We need to know what this means: "Reserved" in 2009. And what month did it take effect?
mhm

-----Original Message-----

From: Chris Florian
Sent: Tuesday, May 22, 2012 9:02 AM
To: Mary McCabe
Subject: RE: Scan from a Xerox WorkCentre

Rule 224 was marked "RESERVED" in 2009.

Chris

-----Original Message-----

From: Mary McCabe
Sent: Monday, May 21, 2012 6:07 PM
To: Chris Florian
Subject: FW: Scan from a Xerox WorkCentre

Mr. Florian, here's another I need answered. Thanks in advance. mhm

-----Original Message-----

From: DoNotReply@doc.state.sc.us [mailto:DoNotReply@doc.state.sc.us]
Sent: Monday, May 21, 2012 7:09 PM
To: Mary McCabe
Subject: Scan from a Xerox WorkCentre

Please open the attached document. It was scanned and sent to you using a Xerox WorkCentre.

Attachment File Type: PDF

WorkCentre Location: Tyger River CI UY Education (DC016106) 896-3527

For more information on Xerox products and solutions, please visit <http://www.xerox.com>

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2015 MAR 17 AM 11 20
BRANDY W. MOBEE

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2015 JAN 23 11 16
BRANDY W. MOBEE

RECEIVED IN ERROR

25 OF 29
~~25 OF 29~~

35 OF 40

EXHIBIT 34

10

STATE OF SOUTH CAROLINA
In The Supreme Court

CERTIORARI TO CHEROKEE COUNTY
Court of Common Pleas

The Honorable Kenneth G. Goode, Circuit Court Judge
2007-CP-11-495

FILED IN OFFICE OF CLERK OF COURT
CHEROKEE COUNTY, S.C. BRANDY W. MCBEE
2015 APR 23 AM 11 16

FILED IN OFFICE OF CLERK OF COURT
CHEROKEE COUNTY, S.C.

Steven Wayne Littlejohn, 321946..... Petitioner,

v.

State of South Carolina,..... Respondent.

MOTION TO CORRECT THE RECORD AND FILE A SUPPLEMENTAL APPENDIX

Pursuant to Rule 224 of the South Carolina Appellate Court Rules, counsel for Respondent moves for this Court to allow the Respondent to correct the record and file a supplemental Appendix in this case. It has come to the Respondent's attention that the guilty plea transcript found in the appellate record contains a material typographical error.

The Petitioner claims he was not informed of a five-year plea deal prior to his pleading. This claim is based on the appearance of the word "five" on page 3 of his guilty plea transcript. (App. p. 109). The court reporter has sworn by an attached affidavit that the word "five" should actually be the word "fifteen." Page 109 of the Appendix reflects page 3 of the guilty plea transcript. Lines 15-17 currently read, "The state and his attorney, Mr. Roger Poole, have negotiated a sentence of five years to run concurrent on all of these charges." These lines should be corrected to read, "The state and his attorney, Mr. Roger Poole, have negotiated a sentence of fifteen years to run concurrent on all of these charges."

The Petitioner did not raise his allegation of a five-year plea offer in his post-conviction relief

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26 OF 29
~~26 OF 29~~

ATTACHMENT #6

.GROUND-2

~~36 OF 40~~

Exh. with N-5

application. He briefly raised it at his post-conviction relief hearing, noting that he had not heard anything about a five-year offer until he read his guilty plea transcript. Though the Petitioner mentioned it in his testimony, the record indicates it was not the focus of the PCR hearing. It was not until his Petition for Writ of Certiorari that the Petitioner made substantial argument on the appearance of the word "five" in his guilty plea transcript.

The Petitioner enumerated 31 allegations in his post-conviction relief application, but none of them related to the typographical error discussed herein. The Respondent did not investigate the appearance of the word "five" in the transcript prior to the post-conviction relief hearing because the Petitioner failed to notify the Respondent he intended to raise this issue. At the time of the PCR hearing, the Respondent believed the brief mention of a five-year negotiation was a misstatement by the solicitor. It was clear in following paragraphs that all parties appearing in the record understood the plea negotiation to be for fifteen years rather than five years.

FILED IN OFFICE OF
CLERK OF COURT
BERNARD COUNTY, S.C.
2017 MAR 17 PM 11 20
BRANDY W. MBEE

The claim regarding the five years was merely mentioned by the Petitioner and was not the focus of his PCR claim. Further, the PCR Court did not make a finding on this issue and the Petitioner failed to request a finding on this issue through a 59 (e) motion. Rather, the Petitioner raised the issue for the first time in a significant way during his Petition for Writ of Certiorari.

In preparing the State's response to the petition, the Respondent realized the guilty plea transcript possibly contained a significant typographical error. After speaking with the court reporter, Linda Moffitt, it became clear that where the record reflects the solicitor mentioning a five-year negotiation, the solicitor actually stated it was a fifteen-year negotiation. Linda Moffitt was able to conclusively determine a typographical error had been made and the record is erroneous.

The Respondent requests this Court hold time in abeyance to allow for the correction of the error in the record. The Respondent moves to correct the record and supplement the appendix.

An accurate transcript is required for a full and fair review of the lower court's findings. Inasmuch as

2
27 OF 29
37 OF 40

Exhibit NO. 6

the above records are relevant and pertinent material under Rule 227(e), SCACR that should be included in the Appendix, counsel moves this Court to allow the Respondent to include a corrected guilty plea transcript in a Supplemental Appendix.

WHEREFORE, as the Appendix is incorrect, counsel for Respondent requests this Court: (1) grant the motion to allow the Respondent to correct and supplement the Appendix and (2) hold time limits for the filing of the Return to Petition for Writ of Certiorari in abeyance until the motion is ruled upon.

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MICHELLE PARSONS KELLEY
Assistant Attorney General
Post Office Box 11549
Columbia, S.C. 29211
(803) 734-3737

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2015 MAR 17 AM 11 20
BRANDY W. MCBEE

By: Michelle Parsons Kelley
[ATTORNEYS FOR RESPONDENT]

September 9, 2009

3 28 OF 29
38 OF 40

-EXHIBIT NO. 7-

April 26, 2017

The Honorable J. Mark Hayes II.
Chief Administrative Judge - CP, 7th Circuit
180 Magnolia Street
Spartanburg, So. Car. 29306

Re: Steven W. Littlejohn v. State of South Carolina
2015-CP-11-0242

Dear Judge Hayes:

Sir, In your Final Order Dated April 7, 2017, it indicated that my Final Order of Dismissal was signed by the Court December 29, 2015. However, the Order indicates that it was December 29, 2016. Enclosed I have a copy of the Order and the Final Order of Dismissal which shows the correct signature date (Exhibits NO. 1 & 2)

Your honor, As you know this needs to be corrected for statute of limitation purposes. I ask that you please amend the order to reflect that (The Final Order of Dismissal in this matter was signed by this Court on December 29, 2016) ~~in part~~.

Also, the Conditional Order of Dismissal Dated Sept. 23, 2015 Page 5 of 9 (:) reflects that "Applicant" inappropriately used a Rule, when it was the Respondent who used SCACR Rule 224 that had been placed

IN Reserved. I would also Ask that it be changed to reflect " Respondents " instead of " Applicant " .
Enclosed is Page 5 of 9 (i) of the Conditional Order of Dismissal and exhibits NO. 3- 7 Pages 24, 25, 26 and 27 of 29 - For your inspection and review (From the Applicant's Original Application.

I want to thank you for your thoughtful Consideration in this matter.

With Kind Regards,
~~Steven W. Sledge~~
SCDC NO. 321946

CC: DANIEL E. SHEAROUSE, Clerk of S.C. Supreme Court
VALERIE GIOUANOLI, Assistant Attorney General
BRANDY MCBEE, Clerk of Cherokee County

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LIBREVILLE GA

April 26, 2017

The Honorable Brandy W. McBee
Cherokee County Clerk of Court
P.O. Drawer 2289
Caffney, So. Car. 29342

RE: STEVEN W. LITTLEJOHN V. STATE OF SOUTH CAROLINA
2015-CP-11-0242

DEAR MS. MCBEE,

PLEASE FIND ENCLOSED A COVER LETTER TO DANIEL E. SHEAROUSE,
CLERK OF SOUTH CAROLINA SUPREME COURT, J. MARK HAYES II,
CHIEF ADMINISTRATIVE JUDGE AND SUPPORTING EXHIBITS IN THE
ABOVE-CAPTIONED CASE, TO BE "CLOCKED-DATE-STAMPED,
FILED BY YOUR OFFICE AND A CLOCKED IN COPY OF THE SAME
RETURNED TO ME PURSUANT TO RULE 602 SCACR, AS SOON
AS FEASIBLE.

With The Kindest Regards,

~~Steven W. Littlejohn~~

SCDC NO. 321946

CC: DANIEL E. SHEAROUSE, CLERK OF SO. CAR. SUPREME COURT
J. MARK HAYES II, CHIEF ADMINISTRATIVE JUDGE
VALERIE GROUNDI, ASS. STANT ATTORNEY GENERAL

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE

Steven W. Littlejohn, # 321946,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

2015-CP-11-0242

CONDITIONAL ORDER OF DISMISSAL

FILED IN THE OFFICE
CLERK OF COURT
5 SEP 23 P 6:11
GRAND JURY
COUNTY OF CHEROKEE

This matter comes before this Court on an application for post-conviction relief (PCR) filed by Steven W. Littlejohn (Applicant) on March 17, 2015. The State (Respondent) made its return, requesting the application be summarily dismissed for failure to file within the time period mandated by the statute of limitations; and because it is barred by the doctrine of *laches*.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Cherokee County. Applicant was indicted at the May 2006 term of the Cherokee County Grand Jury for two counts of Possession with Intent to Distribute (PWID) Cocaine near School and/or Playground (06-GS-11-412; -414), one count of Possession with Intent to Distribute Crack Cocaine (06-GS-11-415 and one count of Trafficking in Cocaine, 28-100 g, third offense (06-GS-11-416). He was represented on the charges by Roger J. Poole, Esquire. On May 21, 2007, Applicant pleaded guilty to two counts of PWID cocaine near School and/or Playground, PWID Cocaine, and Trafficking in Cocaine, second offense. He was sentenced by the Honorable J. Derham Cole to confinement for a period of ten (10) years on each count of the PWID Cocaine near School or Playground, fifteen (15)

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years on PWID Cocaine, and fifteen (15) years for trafficking in Cocaine. The sentences were to run concurrently. The Applicant did not appeal his conviction or sentence.

First PCR Application: 2007-CP-11-0495

The Applicant subsequently filed an application for post-conviction relief (PCR) on August 17, 2007. The Applicant raised the following issues in his first PCR:

1. Ineffective assistance of counsel, in that counsel failed to:
 - a. Discharge professional responsibilities,
 - b. Challenge Applicant's arrest and seizure,
 - c. Act as diligent, conscientious advocate,
 - d. Give complete loyalty,
 - e. Keep Applicant's best interest in mind,
 - f. Serve cause in good faith,
 - g. Investigate,
 - h. Do necessary legal research,
 - i. Advise Applicant of rights,
 - j. Explain the issues of the case to the Applicant,
 - k. Consult with Applicant or keep Applicant informed,
 - l. Discuss elements of crime,
 - m. Inform Applicant of or pursue available defenses,
 - n. Explain alternative options,
 - o. Oppose prosecutor's case with any adversarial litigation,
 - p. Call alibi witness, and
 - q. Appeal when Applicant desired such.

An evidentiary hearing was convened into the matter on April 8, 2008 before the Honorable Kenneth G. Goode. Applicant was present and represented by John R. Ferguson, Esquire. Michelle J. Parsons, of the South Carolina Attorney General's Office, represented the Respondent. Following the submission of all testimony, the Honorable Kenneth G. Goode denied and dismissed the application with prejudice by order dated August 6, 2008. The Court found that Applicant's counsel was not ineffective, that his plea was entered into knowingly and

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voluntarily, and that Applicant had not established any constitutional violations that would require the Court to grant his application.

The Applicant then filed a Rule 59(e) Motion to Alter or Amend the Order of Dismissal. The PCR Court denied this motion on November 19, 2008.

Applicant then subsequently filed a Petition for Writ of Certiorari challenging the post conviction relief court's decision in which he raised eighteen (18) issues. The State filed a Motion to Correct the Record and File a Supplemental Appendix because the plea transcript mistakenly, through a scrivener's error, stated, at one point, the negotiated plea/sentence was for five (5) years. The South Carolina Supreme Court granted this motion in order dated January 21, 2010. The State filed the Supplemental Appendix with the corrected record. In its Order dated January 21, 2010, the Supreme Court also denied the Petition for Writ of Certiorari with regard to half of the Applicant's arguments. Then by order dated June 25, 2010, the Supreme Court denied the other arguments contained in the Applicant's Petition for Writ of Certiorari. The remittitur was sent down on July 22, 2010.

8:10-cv-02535-RMG

The Applicant then filed a petition for writ of habeas corpus *pro se* on April 15, 2011, where he alleged that his Sixth Amendment rights to effective assistance of counsel and due process right were violated. He also alleged that his due process and equal protection rights were violated because the Supreme Court granted the State's motion to correct the record by amending the guilty plea transcript that erroneously stated Applicant agreed to a sentence of five (5) years confinement. The federal district court granted summary judgment in favor of the respondent and dismissed the habeas petition with prejudice on May 30, 2012.

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Second PCR Application: 2013-CP-11-0192

Applicant then filed his second PCR application on March 22, 2013, alleging he was being held in custody unlawfully for the following reasons:

1. Prosecutorial misconduct, in that the State filed a motion to correct the record and filed a supplemental appendix.
 - a. Applicant contends that the correction to the transcript constitutes newly and after discovered evidence that would allow him to be granted a new post conviction relief evidentiary hearing.
2. Due process violations, in that the
 - a. "South Carolina Supreme Court granted the State's (Respondent) motion to correct the record and file a supplemental appendix. Petitioner was denied due process because he did not have an opportunity to confront this new evidence as his petition for certiorari was filed, June 25, 2009 in advance of September 9, 2009 granting the State's motion."

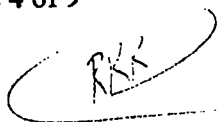
Respondent made its Return and Motion to Dismiss on or about January 23, 2014, requesting the application be summarily denied. Pursuant to this request, the Honorable J. Derham Cole issued a Conditional Order of Dismissal on March 12, 2014, provisionally denying and dismissing the matter with prejudice, but allowing Applicant twenty (20) days to make an objection or response. Following Applicant's response, the Honorable R. Keith Kelly issued a Final Order dated May 8, 2015, and filed May 12, 2015, denying and dismissing the matter with prejudice.

Applicant filed a *pro se* Notice of Appeal. This matter is currently pending.

Current PCR Application

In his current application for post-conviction relief, filed March 17, 2015, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Newly discovered evidence;
 - a. "The State lacked jurisdiction and procedurally defaulted Applicant's claims."



- i. Applicant inappropriately used a rule of Appellate procedures that was no longer applicable and was reserved by the Supreme Court; being rule 224 SCACR, thus prejudicing Applicant and defaulting his claim.
2. Ineffective assistance of appellate counsel.

Before this Court are the Cherokee County Clerk of Court records regarding the subject guilty plea, records from the South Carolina Department of Corrections, records from Applicant's prior PCR proceedings, and Respondent's Return and Motion to Dismiss.

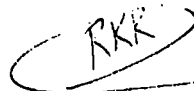
FINDINGS OF FACT AND CONCLUSIONS OF LAW

Successiveness

This Court finds the present application for post-conviction relief should be summarily dismissed because it successive to Applicant's previous PCR application. Successive applications for post-conviction relief are disfavored. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980). The relevant statute provides

[a]ll 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.

S.C. Code Ann. § 17-27-90 (2014). Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application



is limited to those grounds that “could not have been raised . . . in the previous application.” Id. at 450, 409 S.E.2d at 394. If an allegation could have been raised in a previous application, then the applicant may not raise it in successive applications. Id. Courts “will not engage in an exploration of why the grounds were not raised.” Id. (“[I]t is sufficient that they could have been raised, but were not.”). The applicant bears the burden of showing that the allegations could not have been raised previously. Land, 274 S.C. 243, 262 S.E.2d 735 (1980).

Applicant could have raised the grounds for relief alleged in this application in his prior post-conviction relief applications. In fact, it appears that Applicant has raised the exact same newly discovered evidence claim in his prior application. Applicant has failed to present any reasons why he could not have raised the current allegations in his previous post-conviction relief applications. Accordingly, the matter must be dismissed with prejudice.

Statute of Limitations

This Court further finds that it must summarily dismiss this application for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. *See* S.C. Code Ann. §§ 17-27-10 to -160 (2014). Section 17-27-45(a) states:

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). Any applicant convicted prior to the effective date of the statute was granted one year after the effective date to file an application. Id. Applicant pled guilty to the offenses he currently

challenges on May 21, 2007. Applicant was therefore required to file his application on or before May 22, 2008. This Application was filed on March 17, 2015, which was over *six* (6) years after the statutory filing period had expired.

Summary dismissal of a PCR application is appropriate when the application is filed after the statutory filing period. Leamon v. State, 363 S.C. 432, 611 S.E.2d 494 (2005). In addition, Courts are authorized 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." § 17-27-70(c). Therefore, this Court must summarily dismiss this application for failure to file within the time mandated by the Uniform Post-Conviction Procedure Act.

Newly Discovered Evidence

Finally, this Court finds Applicant's claim for newly discovered evidence must be summarily dismissed because it fails to make a prima facie case that Applicant is entitled to relief. Under S.C. Code § 17-27-45(c), a newly-discovered evidence claim can be timely raised within one year of actual discovery or within one year of when, by the exercise of due diligence, such evidence could have been ascertained. When an applicant seeks relief on the basis of newly discovered evidence following a guilty plea, relief is appropriate only when the applicant presents evidence showing (1) the newly discovered evidence was discovered after the entry of the plea and, in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea and (2) the newly discovered evidence is of such weight and quality that, under the facts of circumstances of that particular case, the "interest of justice" requires the applicant's guilty plea be vacated. Jamison v. State, 410 S.C. 456, 470, 765 S.E.2d 123, 130 (2014).

RKK

"[I]n South Carolina, a guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights." State v. Rice, 401 S.C. 330, 331-32, 737 S.E.2d 485, 485-86 (2013) (citing Hyman v. State, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal defendant's right to contest the validity of such a plea is usually, but not definitely, foreclosed. Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (2007). Further, "a defendant is not entitled to withdraw his plea merely because he discovers long after the plea has been accepted that his calculus misapprehended the quality of the State's case or the likely penalties attached to alternative courses of action." Brady v. U.S., 397 U.S. 742, 757 (1970).

In Jamison, the South Carolina Supreme Court noted it would be a "rare case" where the interests of justice require the vacation of a knowing and voluntary guilty plea involving an admission of guilt and a waiver of trial. 165 S.E.2d at 130. Applicant's claim of newly discovered evidence fails to present a prima facie claim for relief – nor does it sufficiently or clearly present a "rare case" requiring a vacation in the interest of justice. Applicant's claim does not assert the existence of actual new *evidence*, but instead each raises legal claims unsupported by any "newly discovered" factual allegations. Before the circuit court will hold an evidentiary hearing, Applicant must make a prima facie showing that he is entitled to relief. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Because Applicant has failed to make such a showing, this application must be dismissed.

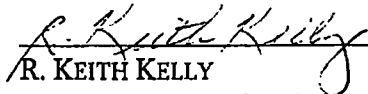
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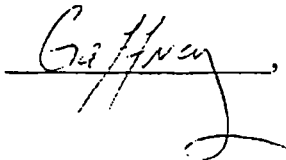
CONCLUSION

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

Office of the Attorney General
Patrick L. Schmeckpeper, Esquire
PCR Division
P.O. Box 11549
Columbia, SC 29211

AND IT IS SO ORDERED this 23rd day of September, 2015.


R. KEITH KELLY
Chief Administrative Judge
Seventh Judicial Circuit

, South Carolina

FILED IN THE OFFICE
CLERK OF COURT
2015 SEP 23 PM 6:11
BRANDY W. JORDEN
CLERK OF COURT
COLUMBIA, SC

FORM 4

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

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2015CP1100242

Steven W Littlejohn #321946	State Of South Carolina
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PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant
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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. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy; Other: _____
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other: _____

FILED IN THE OFFICE
 CLERK OF COURT
 2015 SEP 24 A 11 38
 BRANDY W. McBERT
 CHEROKEE COUNTY SC

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: _____ Conditional Order of Dismissal _____

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 (List amount(s) below)

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.**

s/ R. Keith Kelly	2165	9/24/2015
Circuit Court Judge	Judge Code	Date

For Clerk of Court Office Use Only

This judgment was entered on the 23rd day of September, 2015, and a copy mailed first class or placed in the appropriate attorney's box on the 24th day of September, 2015, to attorneys of record or to parties (when appearing pro se) as follows:

Steven W Littlejohn #321946, Turbeville Corr. Inst.
S/A #124 / PO Box 252 Turbeville, SC 29162

Alan McCrory Wilson PO Box 11549 Columbia, SC 29211-1549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Court Reporter

Brandy W. McBee - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)

FILED IN THE OFFICE)
CLERK OF COURT)

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

2017 JAN -3 A) 8:39

Steven W. Littlejohn,
S.C.D.C. No. 321946,

STANLEY J. JUDGE)
CHEROKEE COUNTY, SC)

Case No. 2015-CP-11-0242

Applicant,)

v.)

State of South Carolina,)

Respondent.)

FINAL ORDER OF DISMISSAL

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed March 17, 2015. The Respondent made its return on or about September 14, 2015, requesting the application be summarily dismissed based upon expiration of the statute of limitations, the presumption against successive PCR applications, and fails to state a prima facie claim of newly discovered evidence.

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 and filed September 23, 2015, provisionally denying and dismissing this action, while giving the Applicant 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 16, 2015, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

Applicant filed a document titled "Applicant's Motion to Dismiss without Prejudice as Improperly Filed/59(e)" on October 21, 2015, in which Applicant argues this application should be dismissed without prejudice as it was filed in error.

This Court has reviewed Applicant's response to the Conditional Order of Dismissal in its 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.

This Court notes Applicant pled guilty and sentenced on May 21, 2007. As this action was filed on March 17, 2015, it was clearly filed *well outside* the expiration of the statute of limitations. See S.C. Code Ann. § 17-2745(a) (Supp.2003). This is the Applicant's *third* application for post-conviction relief. This Court notes successive PCR applications are disfavored. See Land v. State, 274 S.C. 243, 246, 262 S.E.2d 735, 737 (1980). This Court finds the Applicant had the opportunity to litigate all issues related to his case at the evidentiary hearing for his first PCR application on April 8, 2008. See Odom v. State, 337 S.C. 256, 261 523 S.E.2d 753, 755 (1999). (“[A]n Applicant is entitled to a full adjudication on the merits of the original petition, or ‘one bite at the apple.’”).

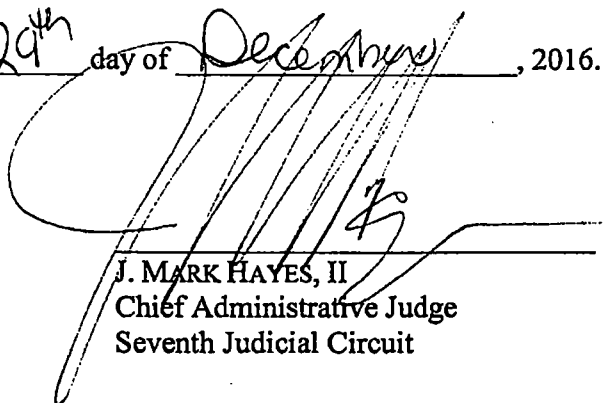
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A handwritten signature in black ink, appearing to be the initials 'JH' with a stylized flourish.

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 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 29th day of December, 2016.



J. MARK HAYES, II
Chief Administrative Judge
Seventh Judicial Circuit

Cherokee, South Carolina.

FILED IN THE OFFICE
CLERK OF COURT
2017 JAN - 3 A 8:39
CHEROKEE
CHEROKEE COUNTY, SC

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2015CP1100242

Steven W Littlejohn #321946		State Of South Carolina	
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PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> 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. See Page 2 for additional information.
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 - Rule 12(b), SCRPC;
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 - 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:

FILED IN THE OFFICE
CLERK OF COURT
2017 JAN - 3 P 3: 43
CHEROKEE COUNTY, SC

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: _____ Final Order of Dismissal _____

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 (List amount(s) below)

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.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

s/ J. Mark Hayes
Circuit Court Judge

2132
Judge Code

1/3/2017
Date

For Clerk of Court Office Use Only

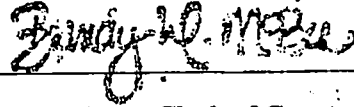
This judgment was entered on the 3rd day of January, 2017, and a copy mailed first class or placed in the appropriate attorney's box on the 3rd day of January, 2017, to attorneys of record or to parties (when appearing pro se) as follows:

Steven W Littlejohn #321946

Alan McCrory Wilson PO Box 11549 Columbia, SC
29211-1549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Court Reporter

Brandy W. McBee - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

VEN W. Littlejohn # 321946
C.I. SIA # 124 B
578 Clarence Coker Hwy.
Turbeville, So. Car. 29162

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TURBEVILLE CI



Daniel E. Shearouse, Clerk of Court
~~Chase Allen, Deputy Clerk~~
The South Carolina Supreme Court
~~1015 South Street~~ Court of Appeals
Post Office Box
Columbia, So. Car. 29201