

RECEIVED

JUN 29 2017

S.C. SUPREME COURT

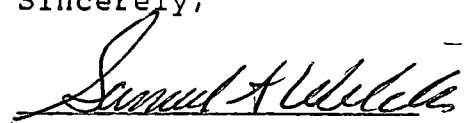
The Supreme Court of South Carolina
Daniel Shearouse, Clerk
P O Box 11330
Columbia, SC 29211

RE. Wilder v. State of South Carolina
2016-CP-10-3386

Dear Clerk:

Enclosed please find a notice of appeal for filing that is served upon you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Samuel A. Wilhelms", written over a horizontal line.

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

JUN 29 2017

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Roger M. Young, Sr. Circuit Court Judge

Case No. 2016-CP-10-3386

Samuel A. Wilder

Appellant

v.


State of South Carolina

Respondent

NOTICE OF APPEAL

Samuel A. Wilder appeals the final Order of Dismissal of his Post Conviction Relief application that was filed May 31, 2017 and received by me June 5, 2017 from Roger M. Young, Sr. and the Final Order of Dismissal of the same Post Conviction Application that was filed May 9, 2017 and received by me May 10, 2017 following an evidentiary hearing in Berkeley County before the Honorable Deadra Jefferson in Berkely County.

June 26, 2017


Samuel A. Wilder, #258295

Other Counsel of Record

Judah N. VanSyckel, Esquire
P.O. BOX 11549
Columbia, SC 29211

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

JUN 29 2017

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Roger M. Young, Sr. Circuit Court Judge

Case No. 2016-CP-10-3386

Samuel A. Wilder

Appellant

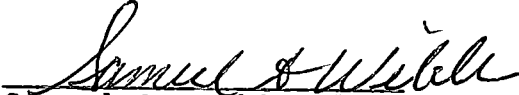
v.

State of South Carolina

Respondent

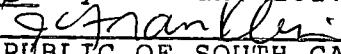
PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State by mailing a copy of it to the address of record, Judah N. Vansyckel, Esquire P O Box 11549, Columbia, SC 29211 on June 26, 2017.


Samuel A. Wilder, #258295
386 Redemption Way
McCormick, SC 29899

SWORN TO AND SUBSCRIBED BEFORE ME

This 26 day of June 2017


NOTARY PUBLIC OF SOUTH CAROLINA

My Commission Expires 12.16.2019

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AG
AT
ES
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STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Samuel A. Wilder, #258295,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2016-CP-10-3386

FINAL ORDER OF DISMISSAL

FILED
2017 MAY 31 PM 12:00
JULIE J. ARMSTRONG
CLERK OF COURT

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed June 29, 2016. Respondent made its return on October 21, 2016, requesting the application be summarily dismissed as untimely, successive to his previous PCR applications, and for failure to make a prima facie showing that he is entitled to relief.

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 Dismissal¹ signed November 7, 2016, and filed November 21, 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 March 17, 2017, serving the above mentioned Conditional Order of Dismissal on the Applicant.

In a document captioned "Objection to Conditional Order of Dismissal" and served on December 13, 2016, Applicant argues that his sentence was illegal and violates his due process rights. He states this claim was brought in the first PCR application but not presented by his attorney at the evidentiary hearing. He further argues that, although the Supreme Court reviewed

¹ The Court also issued an Order Restricting Future Filings on November 21, 2016.

the denial of his first PCR in its original jurisdiction despite his attorney's failure to timely file the notice of appeal, he was denied the right to appeal the denial of his first PCR. Lastly, he asserts his direct appeal was dismissed due to his attorney's failure to comply with the Supreme Court's instructions.

This Court has reviewed the 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 the Applicant was convicted and sentenced on May 5, 1999, and the South Carolina Supreme Court affirmed his convictions and sentences on March 10, 2006, and the Remittitur was returned on March 29, 2017. Because this action was filed on June 26, 2016, it was clearly filed 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 September 11, 2007. 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.’”).

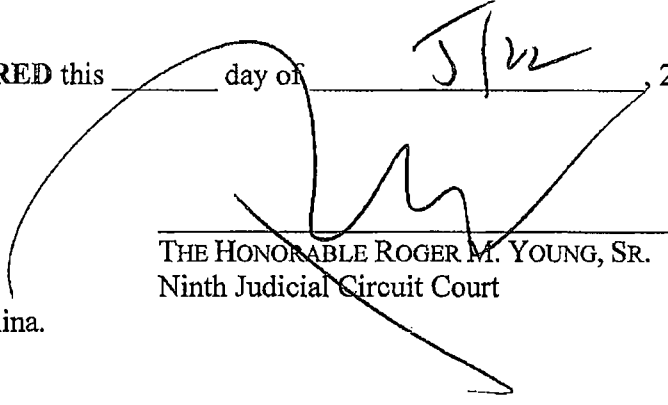
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IT IS THEREFORE ORDERED that, for the reasons set forth in the Court's Conditional Order of Dismissal, the Application for post-conviction relief is hereby denied and dismissed with prejudice.

AND IT IS SO ORDERED this 5/22 day of _____, 2017.

Chalson, South Carolina.



THE HONORABLE ROGER M. YOUNG, SR.
Ninth Judicial Circuit Court

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

SAMUEL WILDER, #258295,

Applicant,

v.

STATE OF SOUTH CAROLINA,

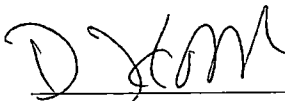
Respondent.

CERTIFICATE OF SERVICE

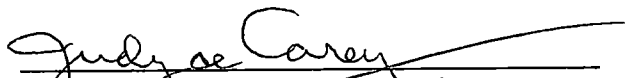
The undersigned hereby certifies that a true copy of the **Final Order of Dismissal (2016-CP-10-3386)** has been served upon the applicant by mailing one (1) copy in the United States mail, postage prepaid, addressed to:

**Samuel Wilder, #258295
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899**

This 5th day of June, 2017.


for JUDAH N. VANSYCKEL
Attorney for Respondent

SWORN to before me this 5th day of June, 2017.


Notary Public for South Carolina.
My Commission Expires: 5/14/2024

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Samuel A. Wilder, #258295,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2016-CP-10-3386

FINAL ORDER OF DISMISSAL

FILED
2017 MAY -9 PM 4:35
JULIE J. ARRETT
CLERK OF COURT

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed June 29, 2016. Respondent made its return on October 21, 2016, requesting the application be summarily dismissed as untimely, successive to his previous PCR applications, and for failure to make a prima facie showing that he is entitled to relief.

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 Dismissal¹ signed November 7, 2016, and filed November 21, 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 March 17, 2017, serving the above mentioned Conditional Order of Dismissal on the Applicant.

In a document captioned "Objection to Conditional Order of Dismissal" and served on December 13, 2016, Applicant argues that his sentence was illegal and violates his due process rights. He states this claim was brought in the first PCR application but not presented by his attorney at the evidentiary hearing. He further argues that, although the Supreme Court reviewed

¹ The Court also issued an Order Restricting Future Filings on November 21, 2016.

10/3
[Signature]

the denial of his first PCR in its original jurisdiction despite his attorney's failure to timely file the notice of appeal, he was denied the right to appeal the denial of his first PCR. Lastly, he asserts his direct appeal was dismissed due to his attorney's failure to comply with the Supreme Court's instructions.

This Court has reviewed the 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 the Applicant was convicted and sentenced on May 5, 1999, and the South Carolina Supreme Court affirmed his convictions and sentences on March 10, 2006, and the Remittitur was returned on March 29, 2017. Because this action was filed on June 26, 2016, it was clearly filed 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 September 11, 2007. 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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2013
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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.

AND IT IS SO ORDERED this 8th day of May, 2017.


DEADRA L. JEFFERSON
Chief Administrative Judge
Ninth Judicial Circuit Court

Chas, South Carolina.

3 of 3
JH

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
)
)
Samuel A. Wilder, # 258295)
)
Applicant,)
vs.)
)
State of South Carolina,)
)
Respondent.)
)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2016-CP-10-03386

**ORDER VACATING FINAL
ORDER OF DISMISSAL**

FILED
2017 MAY 24 PM 2:41
JULIE J. HINDS, CLERK OF COURT

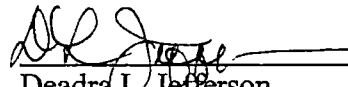
ORDER VACTING FINAL ORDER OF DISMISSAL

THIS MATTER came before the Court by way of Applicant's Objections to the Final Order of Dismissal on May 8, 2017. Applicants' objection stems from a Final Order of Dismissal that was signed by this Court on May 8, 2017, and subsequently filed on May 9, 2017.

In Applicant's Objection to the Final Order of Dismissal, Applicant argues that this Court previously recused itself from handling any matters involved in this matter and therefore cannot rule upon the Final Order of Dismissal. The recusal referenced by Applicant stems from a previous Post-Conviction Release Application that was filed by Applicant and bears the Case Number 2012-CP-10-1025. In the Post-Conviction Relief Application from 2012, this Court heard and ruled upon a Motion to Relieve PCR Counsel on June 16, 2014. The Court denied the motion and thereafter recused itself from any further proceedings in that case. While the Court did not have a sufficient basis to recuse itself it did so out of an abundance of caution. Moreover, the language stated in the Court's Order only referenced recusal from the specific case bearing Case Number 2012-CP-10-1025. This Court abided by the recusal order it issued and heard no other matters involved in that specific case.

Accordingly, the wording of the Recusal Order limited the Court only to matters involving the 2012 Post-Conviction Relief Application and no others. Therefore, Applicant's objection to this Court's issuance of the present Final Order of Dismissal is without merit. However, in the interest of justice and out of an abundance of caution, this Court hereby vacates its Final Order of Dismissal. This Order is without prejudice to either party.

IT IS SO ORDERED.



Deadra L. Jefferson
Chief Administrative Judge
Ninth Judicial Circuit

May 24, 2017
Charleston, SC

cc
AT
SS

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
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)
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Samuel A. Wilder, #258295,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

2016-CP-10-3386

CONDITIONAL ORDER OF DISMISSAL

2016 NOV 21 PM 10:29
CLERK OF COURT

This matter comes before this Court by way of an application for post-conviction relief filed June 29, 2016.

Procedural History

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the February 1998 term of the Charleston County Grand Jury for murder (1998-GS-10-1213) and possession of a firearm during the commission of a violent crime (1998-GS-10-1212). He was represented by Edward Brown, Esquire, and Rita Roache, Esquire.

On May 5, 1999, the Applicant proceeded to trial at which he was found guilty as indicted. On May 7, 1999, the Applicant was sentenced by the Honorable Luke N. Brown to life for the murder charge and five (5) years, consecutive, for possession of a firearm during the commission of a violent crime.

A Notice of Appeal was filed on the Applicant's behalf on May 14, 1999. On November 9,

1999, the Honorable Luke N. Brown heard a *pro se* post-trial motion filed by the Applicant. However, the hearing was continued for additional presentations. By Order dated June 11, 2001, the South Carolina Supreme Court dismissed the Applicant's appeal without prejudice because the post-trial motion pending in the circuit court had not been ruled upon. The Remittitur was issued on June 28, 2001.

Before the hearing on the *pro se* post-trial motion was reconvened, the Applicant filed a Federal Habeas Corpus Petition on October 16, 2001. By Order dated February 6, 2002, the Honorable Margaret B. Seymour dismissed the Applicant's petition without prejudice to enable the Applicant to exhaust state remedies. Judge Seymour also denied the Applicant's motion for a preliminary injunction and motion for an emergency restraining order. The Applicant appealed Judge Seymour's order. The United States Court of Appeals for the Fourth Circuit denied the Applicant's certificate of appealability and dismissed the appeal. Wilder v. Catoe, No. 02-6397, decided April 30, 2002.

The hearing on the Applicant's *pro se* post-trial motion was held on December 20, 2001. Judge Brown denied the *pro se* motion in a written order dated January 11, 2002. The Applicant appealed his convictions and sentence and was represented by Milton Stratos, Esquire. By Order dated March 10, 2006, the South Carolina Court of Appeals dismissed the Applicant's direct appeal for failure of the Applicant to provide information regarding the transcript. The Remittitur was issued on March 29, 2006.

2006-CP-10-3454

The Applicant subsequently filed an application for post-conviction relief on September

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5, 2006. In his application, the Applicant alleged he was being held unlawfully for the following reasons:

1. Ineffective assistance of trial counsel in that trial counsel failed to
 - a. Suppress all evidence from the search by the Charleston Police Department outside the city limits;
 - b. Suppress the photograph of the Applicant as the fruit of an improper show-up;
 - c. Suppress all evidence seized from his car due to false information in the search warrant;
 - d. Inform the trial court of specific facts during the suppression hearing;
 - e. Impeach a State's witness with prior convictions;
 - f. Ensure the Applicant's post-trial motion was timely heard;
 - g. Object to the testimony of Jerome Garland;
2. Ineffective assistance of appellate counsel in that appellate counsel failed to follow the appellate court's instructions, allowed the appeal to be dismissed, and failed to move to reinstate the appeal; and
3. Prosecutorial misconduct in that the prosecutor interviewed the victim's minor child without the Applicant's attorney present and obtained and used fabricated testimony at trial.
4. The Applicant also submitted amendments to the application in which he asserted trial counsel was ineffective for failing to hire an expert to examine the blood at the scene, the gunshot residue on the victim's clothing, and the angle of the bullet entry and exit.

The Respondent made its Return to the application on May 7, 2007. An evidentiary hearing was convened at the Charleston County Courthouse on September 11, 2007. The Applicant was present at the hearing and was represented by Charles Brooks, Esquire. The Respondent was represented by Salley W. Elliott of the South Carolina Attorney General's Office. By Order dated November 12, 2007, the Honorable John C. Few denied and dismissed the PCR application but granted the Applicant a belated appeal of his convictions pursuant to White v. State, 263 S.C. 110,



208 S.E.2d 35 (1974).

PCR counsel filed a Notice of Appeal Out of Time. The Supreme Court of South Carolina agreed to review the denial of Applicant's PCR by Writ of Certiorari in its Original Jurisdiction even though the Notice of Appeal was untimely filed to avoid this court having to resolve the matter in a second PCR application. Upon review of Appellant's case, the Supreme Court dismissed the Writ of Certiorari on July 26, 2010. State v. Wilder, Op. No. 26841 (S.C. Sup. Ct. July 26, 2010). The Remittitur was issued August 16, 2010.

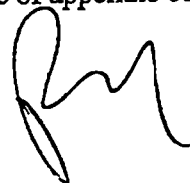
The Applicant filed a second Federal Habeas Corpus Petition on February 26, 2008. The Petition was dismissed by the Honorable Margaret Seymour without prejudice to allow the Applicant to exhaust his State remedies. The Applicant appealed Judge Seymour's Order to the Fourth Circuit Court of Appeals. The Appeal was dismissed on October 21, 2009.

The Applicant filed a third Federal Habeas Corpus Petition on February 10, 2011. The State's Motion for Summary Judgment was granted by the Honorable Margaret Seymour by Order dated March 9, 2012.

2012-CP-10-1025

The Applicant subsequently filed his second PCR application on February 10, 2012, in which he alleged that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
 - a. Failure to file a motion or make any objection to the sentence.
 - b. Failure to do a reasonable investigation and file suppression motions.
 - c. Failure to object or make motions to the unconstitutional jury charge of criminal intent.
 - d. Failure to object to Judge dedicating his discretion to the Solicitor
 - e. Waiving the Applicant's fundamental right to decide whether or not to take a new appeal for the claim of ineffective assistance of appellate counsel.



In his amended application filed February 29, 2012, the Applicant alleged that he is being held in custody unlawfully for the following reason:

1. Applicant contends he did not knowingly and voluntarily waive his right to appeal the ruling from his last PCR application.

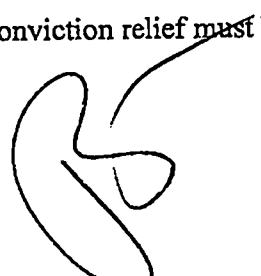
The Respondent filed its Return and Motion to Dismiss and a hearing was held before the Honorable Roger E. Henderson. Applicant was present at the hearing and represented by Rodney D. Davis, Esquire. On August 28, 2015, Judge Henderson signed an Order of Dismissal on the basis that Applicant had already had a full review by the Supreme Court of South Carolina of his first PCR application and thus, was not entitled to a second, successive PCR appeal. Applicant filed a timely notice of appeal dated September 25, 2015. The Honorable Costa M. Pleicones issued an Order of Dismissal dated March 25, 2016.

In his current application for PCR, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Denied right to a direct appeal from his State conviction"
2. "Denied right to have a review of denial of a PCR filed 2/10/2012"
3. "Denied the benefit of Ander's Brief and Johnson's Brief due to procedure error"
4. "Denied the benefits of the plea bargain" in that Applicant had relied to his detriment on insurance monies
5. "Denied the right to be heard on his new trial motion in violation of his Due Process Clause"
6. "Ineffective assistance of appellate counsel" in PCR appeal
7. "Ineffective assistance of appellate counsel" in failing to appeal issues from PCR

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court finds that the current application for post-conviction relief must be summarily



dismissed because it is successive to his prior application(s) for post-conviction relief. S.C. Code Ann. §17-27-90 provides that:

All grounds for relief available to an application under this chapter must be raised in his original, supplemental or amended Application. Any ground finally adjudicated or not so raised, knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding 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 were or 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).

This Court additionally finds that this Application for Post-Conviction Relief should 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 to -160. S.C. Code Ann. §17-27-45(a) reads as follows:

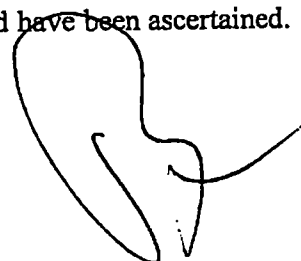
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An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgement of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final 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 was convicted of the offense(s) he challenges in this Application on May 5, 1999. The Remittitur following Applicant's unsuccessful appeal was issued on March 29, 2006. The Applicant therefore was required to file his application on or before March 30, 2007. This Application was filed on June 29, 2016, which was well 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) (1985) 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 finds that the application for post-conviction relief is summarily dismissed for failure to file within the time mandated by statute and for being successive.

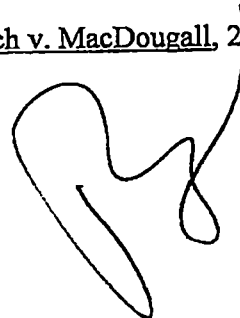
Additionally, this Court finds that the current application for post-conviction relief must be summarily dismissed because it fails to make a prima facie showing that he is in possession of newly discovered evidence that would likely result in his guilty plea being vacated. Generally, an applicant may raise a newly discovered evidence claim within one year of actual discovery or within one year of when, by the exercise of due diligence, such evidence could have been ascertained. S.C. Code



Ann. § 17-27-45(c) (2014). 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, 765 S.E.2d 123, 129, 410 S.C. 456 (2014).

“[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 this case, Applicant failed to set forth any newly discovered evidence that could not have been discovered prior to his guilty plea in the exercise of reasonable diligence. Furthermore, Applicant fails to show how its weight and quality require his guilty plea and sentence to be vacated in the interests of justice. 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

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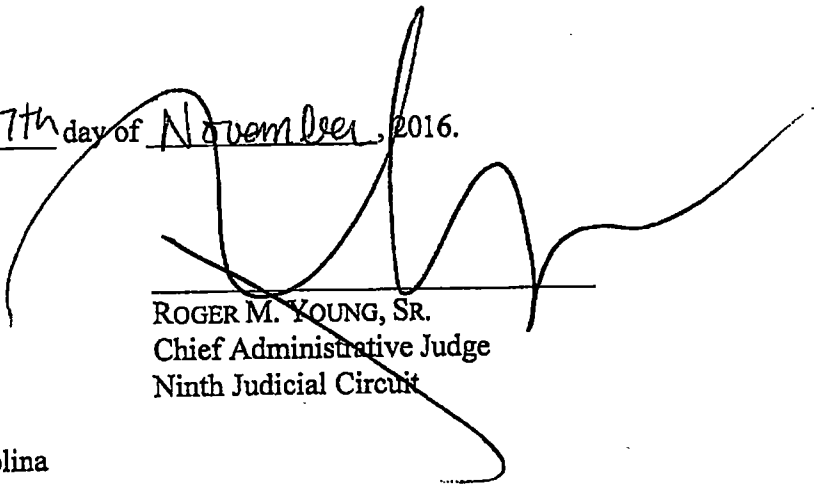
S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). The Court finds that Applicant failed to make a prima facie showing that he is entitled to relief based on the information set forth and, therefore, is not entitled to an evidentiary hearing in the matter.

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 Charleston County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
Attn: Alicia A. Olive, Esquire
P.O. Box 11549
Columbia, South Carolina 29211

AND IT IS SO ORDERED this 7th day of November, 2016.

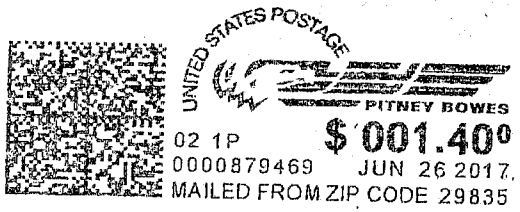


ROGER M. YOUNG, SR.
Chief Administrative Judge
Ninth Judicial Circuit

Charleston, South Carolina

mail Huber 258295
A-184

Wm. Correctional Institute
Redemption Way
Airmick, SC 29899



The Supreme Court of
South Carolina
Daniel Shearouse, Clerk
~~Huber~~ P.O. Box 11338
Columbia, S.C.

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