The State of South Carolina

For State Supreme Court

Charleston County Court House

Court of Common Pleas

Hon. Deadra L. Jefferson

Parenthess R. Addison,

Applicant

Vs.

State of South Carolina

Respondent

Appellate Case No.
2017-001344

Lower Court Case No.
2015-CP-1003350

Reason For Granting
Writ

Question One:

Whether PCR Court had Jurisdiction Challensing D.N.A. Evidence?

Applicant Contents, that on June 12th. 2015 a P.C.R. application was filed in lower court. However, on August 3rd, 2009 Pursuant to South Carolina Code Ann. Sec. 17-28-10 (Cum. Supp12) applicant filed Motion for D.N.A. testing

Both Petitions Challenged D.N.A. test, and it is thus applicant Position that Court of Common Pleas did not have Jurisdiction when State had not responded to D.N.A. application. Which had been Pending for Six (6) Years at time P.C.R. application was filed and another eight(8) Years when State responded to D.N.A. testing application

Subsequently thereafter, applicant filed a motion for Stay which court failed to rule upon and said motion addressed how application under South Carolina Code Ann. Sec. 17-27-10 (Cum. Supp. 16) and Sec. 17-28-10. Concerned D.N.A. evidence Conversely, applicant addressed D.N.A. evidence under Sec. 17-27-10 as Newly discovered evidence.

Applicant Claims along with arguments on motion of Res Judicata doctrines Commonly called Claim and issue Preclusion. Claim Preclusion Generally Refers to the effect of a Prior Judgment in forclosing Successive litigation of the very same Claim, whether or not relitigation of the Claim raises the same issues as earlier suit. Issue Preclusion Generally refers to the effect of a Prior Judgment in foreclosing Successive litigation of an issue of fact or law actually litigated and Resolved in a valid Court determination essential

to the Prior Judgment, whether or not the issue on the same or different Claim. Sec. Restatement(second) of Judgments Sec. 17,27 PG 148, 250(1980). D Shapiro, Civil Procedure: Preclusion in civil actions 32, 46 (2001)

In the unusual Circumstances this case Presents, We conclude that a disecrete doctrine, Judicial estoppel best fits this controversy, Under this doctrine, the Respondent is equitably barred from ruling on Post Conviction application, when Same actron was Pending on a Petition State delayed eight(8) years too Respond.

Courts have observed that "the circumstances under which Judicial estoppel may appropiately be involced are probably not reducible to any seneral formulotion of principle" See Lowery v. Stovall, 92 F. 3d 219 (4th Cir. 1996) Nevertheless, Several factors typically inform the decision whether to apply the doctrine in a Particular case.

First a party's later position must be clearly "inconsistent" with it's earlier position. See, United State v. Hook 195 F.3d 299(CA, 7 1999); In Re Coastal Plains. Inc. 179 F, 3d 197(C.A.5 1999)

Second, Courts resularly inquire whether the party has Succeeded in persuading a court to accept that party's earlier position, So that Judicial acceptance of an inconsistent position in a later proceeding would create "the perception that either the first or second Court was misled" Edwards v. Aetna Life Ins. Co., 690 F.2d 595(C.A. 6 1982) Absent success in a prior proceeding, a party's later inconsistent Court determinations. See, United State v. C.I.T. Constr. Inc. 944 F.2d 253 (C.A. 1991) and thus poses little threat to Judicial integrality Hook, id at 306.

Third, consideration is whether the party seeking to assert an inconsistent position would derive an unfair advantage or impose an unfair detriment on the opposing party if not estorred.

Conclusion

In enumerating these factors, we do not establish inflexible prerequisites or an exhaustive formula for determining the applicability of Judicial estoppel. In this case, the factors above firmly tie the balance against Court ruling.

Date: 10 day of July, 2017

Respectfully Submitted

S/ Parenthess R. Addison

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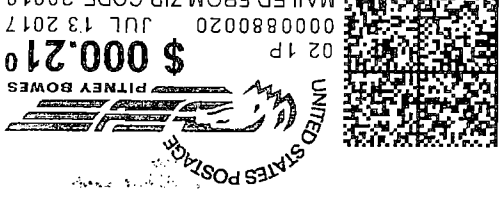

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