

ALM

To: S.C. Supreme Court
Attn: Daniel C. Shearouse, Clerk
P.O. Box 11330
Columbia, S.C. 29211

RECEIVED

OCT 31 2017

S.C. SUPREME COURT

From: Angelo Ham, #315014
MCI / F3 #118
386 Redemption Way
McCormick, S.C. 29899

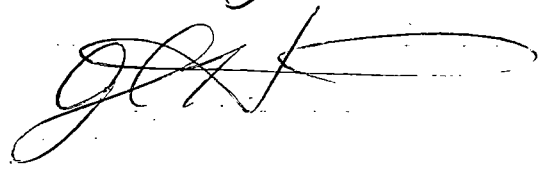
Date: October 23, 2017

RE: Angelo Ham v. State of South Carolina
CA No.: 2014-CD-16-0202

Dear Honorable Shearouse:

Please find enclosed copies of
the "Notice of Intent to Appeal"
and "Explanations Pursuant to Rule
243, SCACR", in the above-cited
matter, that I wish to file in this
court.

With personal kindest regards, I am



STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

RECEIVED

OCT 31 2017

S.C. SUPREME COURT

Appeal From The Darlington
County Court of Common Pleas

Roger C. Henderson, Chief Admin. Judge

CA No.: 2014-CP-16-0202

Angelo Ham,

PETITIONER,

vs.

STATE OF SOUTH CAROLINA,


RESPONDENT.

NOTICE OF INTENT TO
APPEAL

Angelo Ham, appeals the
dismissal of both of his PCR and
his Motion For Reconsideration. Honorable

Roger E. Henderson issued the Court's
Final Order of Dismissal on
February 3, 2017 and issued the Court's
Order Granting Extension, Denying
Applicants Motion Pursuant to
Rule 59(e), SCRP on April 28, 2017.
Attached hereto are copies of those
orders.

October 23, 2017


#315014
Angelo Ham, #315014
MCCI / F3 #118
386 Redemption Way
McCormick, S.C. 29889

STATE OF SOUTH CAROLINA
COUNTY OF DARLINGTON

Angelo Bernard Ham, #315014,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FOURTH JUDICIAL CIRCUIT

2014-CP-16-0202

FINAL ORDER OF DISMISSAL

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed March 18, 2014. The Respondent made its return on or about March 10, 2015, requesting the application be summarily dismissed based upon expiration of the statute of limitations and the presumption against successive applications.

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 March 16, 2016 and filed March 24, 2016, 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 April 26, 2016, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

Applicant filed a document titled "Applicant's Response to the Conditional Order of Dismissal" on May 20, 2016, in which Applicant states "that he should be allowed to file this subsequent application for PCR due to the fact that his first PCR counsel was ineffective" in that he failed to amend the PCR application to include all grounds. Applicant further argues that the trial court lacked subject matter jurisdiction because the "Darlington County Court of General

CERTIFIED COPY,
CLERK OF COURT,
DARLINGTON COUNTY, SC

Sessions was not in session" when indictments were true billed. Applicant, to address issues 2, 3 and 4 in the Conditional Order of Dismissal, attached a document titled "Motion for Relief from Judgment Under Rule 60(b)(5)" that was filed in Applicant's second PCR cases 2008-CP-16-1006.

This Court has reviewed Applicant's responses to the Conditional Order of Dismissal in their 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 finds Applicant's responses do not give rise to any genuine issue of material fact that would require an evidentiary hearing and therefore have failed to provide sufficient reasons why the Conditional Order of Dismissal should not become final.

This Court finds that Applicant's claim of ineffective assistance of PCR counsel is dismissed, as it is not a cognizable claim for relief. There is no constitutional right to appointed counsel for collateral review of a conviction. Pennsylvania v. Finley, 481 U.S. 551 (1987). Once a PCR Applicant obtains a complete adjudication on the merits of his original application, including an appeal, he may not make successive applications based on ineffective assistance of PCR counsel. Aice v. State, 305 S.C. 448, 452, 409 S.E.2d 392, 395 (1991). Further, Kelly v. State explicitly states, "that the holding in *Martinez*¹ is limited to federal habeas corpus review and is not applicable to state post-conviction relief actions." Kelly v. State, 404 S.C. 365, 365, 745 S.E.2d 377 (2013). Consequently, pursuant to Rule 12(b)(6), SCRPC, Applicant's contention that he received ineffective assistance of PCR counsel is not a cognizable claim for relief, nor does it raise any genuine issue of material fact for this Court to consider in evaluating the application.

¹ Martinez v. Ryan, ___ U.S. ___, 132 S.Ct. 1309 (2012) (holding ineffective assistance of collateral counsel may constitute "cause" to excuse procedural default in federal habeas corpus actions under the federal "cause and prejudice" standard)

This Court finds that Applicant's allegation that the trial court lacked subject matter jurisdiction because the Grand Jury did not meet during the time his indictment was true-billed is denied. Defects in the indictment do not affect subject matter jurisdiction. However, an Applicant may challenge the subject matter jurisdiction of the trial court and such a claim may be raised at any time. Carter v. State, 329 S.C. 355, 362, 495 S.E.2d 773, 777. The circuit court obviously has subject matter jurisdiction to try criminal matters. Therefore, the Applicant must present evidence that his case is of some class over which the circuit court does not have the authority to preside. Applicant's conviction involved a criminal charge in General Sessions Court. Thus, the Circuit Court had subject matter jurisdiction.

The Court submits further that a challenge to the legality and sufficiency of the process of the state grand jury does not implicate the subject matter jurisdiction of the circuit court. Evans v. State, 363 S.C. 495, 509-10, 611 S.E.2d 510, 518 (2005). Further, a defendant must challenge the legality and sufficiency of the process before the jury renders a verdict in order to preserve the issue for appellate review. Id. The regularity of grand jury proceedings is presumed absent clear evidence to the contrary. Id. at 514, 611 S.E.2d at 520.

The chief administrative judge for each circuit schedules terms of the grand jury in each county. The Applicant has failed to sufficiently challenge the legality and sufficiency of the Horry County Grand Jury process. Further, the Applicant has failed to provide any evidence that the Grand Jury did not convene in April 2000 as indicated on his true-billed indictment. Because the Applicant has failed to state with any specificity the evidence supporting his claim, this Court summarily dismisses this allegation with prejudice.

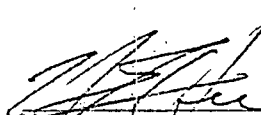
This Court submits that the doctrine of *res judicata* bars all of Applicant's claims listed in his attached "Motion for Relief from Judgment Under Rule 60(b)(5)". *Res judicata* prohibits subsequent actions by the same parties on the same issues. Bell v. Bennett, 307 S.C. 286, 414 S.E.2d 786 (Ct. App. 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.

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 3rd day of February 3rd, 2017.

TRUE CERTIFIED COPY,


John B. Sullivan
CLERK OF COURT/RMC
ROGER E. HENDERSON, ARLINGTON COUNTY, SC
Chief Administrative Judge
Fourth Judicial Circuit Court

Chesterfield Id., South Carolina.

2017 FEB 15 AM 10:28
ARLINGTON COUNTY, SC

gwb

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
) FOR THE FOURTH JUDICIAL CIRCUIT
 COUNTY OF DARLINGTON)
 Angelo Bernard Ham,)
 S.C.D.C. No. 315014,)
)
 Applicant,)
)
 v.)
) **ORDER GRANTING EXTENSION,**
) **DENYING APPLICANT'S MOTION**
) **PURSUANT TO RULE 59(e), SCRCF**
 State of South Carolina,)
)
 Respondent.)

This matter comes before the Court by way of Applicant's *pro se* documents titled "Applicant's Notice and Motion for Continuance" and "Applicant's Motion for Reconsideration Under Rule 59(e), SCRCF" by Angelo Bernard Ham ("Applicant") filed March 20, 2017, and April 12, 2017, respectively. The Respondent made its Return to Applicant's motion requesting it be dismissed.

FILED
 2017 MAY -8 PM 2:40
 SCOTT B. SUGGS
 CLERK OF COURT
 DARLINGTON COUNTY, S.C.

I.

This matter originally came before the Court by way of an application for post-conviction relief filed March 18, 2014. Responded made its return on or about March 10, 2015, requesting the application be summarily dismissed as untimely and successive.

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, the Court issued a Conditional Order of Dismissal signed March 16, 2016, and filed March 24, 2016, 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. Applicant timely responded and the Court, after considering Applicant's response, issued a Final Order of Dismissal signed February 3, 2017, and filed

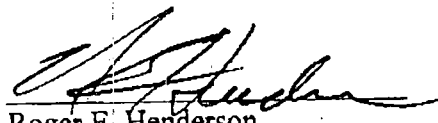
February 15, 2017, dismissing this action with prejudice. Applicant actually received the Final Order on March 9, 2017.

II.

In his motion filed March 20, 2017, Applicant timely requests an additional 30 days to file his Motion for Reconsideration. That request is granted.

The Final Order of Dismissal in this matter was signed by this Court on February 3, 2017. 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 Final Order of Dismissal, which was signed and then filed February 15, 2017, shall stand as it was written.

AND IT IS SO ORDERED this 28th day of April, 2017.



Roger E. Henderson
Chief Judge for Administrative Purposes
Fourth Judicial Circuit

Charterfield, South Carolina

SOCKET STREET
CLERK OF COURT R.N.D.
CHARLINGTON COUNTY, S.C.

2017 MAY -8 PM 2:40

FILED

RECEIVED

OCT 31 2017

STATE OF SOUTH CAROLINA S.C. SUPREME CO

IN THE SUPREME COURT

Appeal From The Darlington County
Court of Common Pleas

Roger E. Henderson, Chief Admin. Judge

CA No.: 2014-CP-16-0202

Angelo Ham,

PETITIONER,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

PETITIONERS EXPLANATIONS
PURSUANT TO RULE 243

PETITIONER, Angelo Ham, hereby
submit these explanations pursuant
to Rule 243, SCACR, alleging that this

Honorable Court should GRANT to hear this appeal based on the following legal facts:

1.) PCR counsels ineffectiveness and failure to properly preserve issues for review is a cognizable claim for relief in a successive PCR action pursuant to McCullough v. State, 464 S.E.2d 340, 341 (S.C. 1995), and

2.) Defects regarding the adjournment of the courts term and/or true bill or no bill of indictments when the courts of the county is not open by statute or order affects the subject matter jurisdiction pursuant to State v. Best, 257 S.C. 361, 186 S.E.2d 572 (S.C. 1972).

CONCLUSION

WHEREFORE, HAVING MADE THESE explanations pursuant to Rule 243, SCACR, Petitioner hereby request THAT THIS HONORABLE COURT GRANT TO hear the issues of this appeal.

October 23, 2017

Respectfully Submitted,
~~Angelo Horn~~ #315014
Angelo Horn, #315014
MCI / F3 #118
386 Redemption Way
McCormick, SC 29899

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal From The Dorlington County
Court of Common Pleas

Roger C. Henderson, Chief Admin. Judge

CA No. : 2014-CP-16-0202

Angelo Ham,

Petitioner,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

Certificate of Service

I, Angelo Ham, hereby certify
that original copies of Petitioners
"Notice of Intent to Appeal" and
"Explanations Pursuant to Rule
243, SCACR", in the above-cited

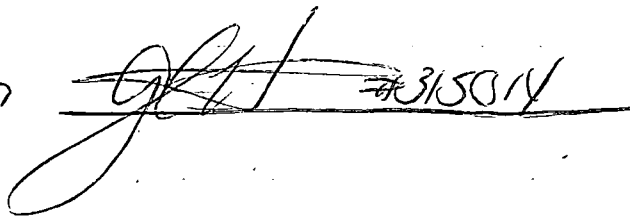
DJM

matter, was this day served upon
the Respondent by depositing
copies of the same in the U.S.
Mail, postage prepaid, to the
following addresses:

Darlington County Clerk of Court
P.O. Box 1177
Darlington, S.C. 29540

S.C. OFFICE OF THE ATTORNEY GENERAL
P.O. Box 11549
Columbia, S.C. 29211

October 23, 2017

 #315014

ANGELO FROM #310014

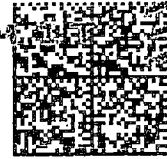
M.C.I. / F3 # 118

380 Redemption Way
McCormick, S.C.

29899

AUGUSTA GA 309

24 OCT 2017 PM

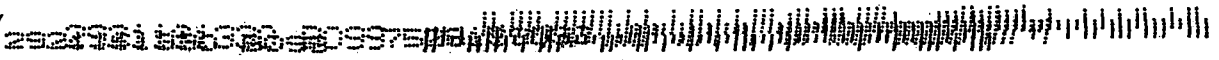


UNITED STATES POSTAL SERVICE
PITNEY BOWES
02 1P \$ 000.67⁰
0000879469 OCT 24 2017
MAILED FROM ZIP CODE 29899

S.C. SUPREME COURT
ATTN: DANIEL E. SHEARSON, CLERK
P.O. Box 11330
Columbia, S.C.

29211

67
LEGAL MAIL ONLY

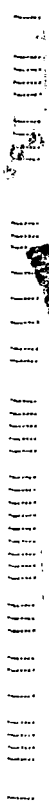


RECEIVED

OCT 24 2014

MAIL ROOM

THE DEPARTMENT OF CORRECTIONS HAS NOT
INSPECTED OR CONDUCTED THIS TEAM THEREFORE,
THE DEPARTMENT DOES NOT ASSUME RESPONSIBILITY
FOR THE CONTENTS.
MAJOR CORRECTIONAL INST
DEPARTMENT OF CORRECTIONS



Job

STATE OF SOUTH CAROLINA)
COUNTY OF DARLINGTON)
)
Angelo Bernard Ham,)
S.C.D.C. No. 315014,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
OF THE FOURTH JUDICIAL CIRCUIT

Case No.: 2014-CP-16-0202

CONDITIONAL ORDER OF DIMISSAL

This matter comes before this Court by way of an application for post-conviction relief (PCR) filed by Angelo Ham (Applicant) on March 18, 2015. The State (Respondent) made its return, requesting the application be summarily dismissed.

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Darlington County Clerk of Court's orders of commitment. The Darlington County Grand Jury indicted the Applicant at the October 2005 term of General Sessions for murder (2005-GS-16-1969), armed robbery (2005-GS-16-1970) and criminal conspiracy (2005GS-16-1971). Henry M. Anderson, Jr., Esquire represented the Applicant.

On April 17, 2006, the Applicant pled guilty to all three (3) charges, but was only sentenced on criminal conspiracy, due to further issues with a co-defendant on the other charges. The Honorable John M. Milling sentenced the Applicant to five (5) years imprisonment for criminal conspiracy. The Applicant did not file an appeal from the criminal conspiracy guilty plea or sentence.

On September 14, 2007, the Applicant was sentenced on the murder and armed robbery charges. Judge Milling sentenced the Applicant to concurrent terms of life imprisonment without parole for murder and twenty-five (25) years for armed robbery.

2016 MAR 24 AM 9:27
CLERK OF COURT
DARLINGTON COUNTY
S.C.

MAJ

A timely Notice of Appeal was filed at the South Carolina Court of Appeals in order to challenge the convictions and sentences for the murder and armed robbery charges. The Applicant, however, chose to withdraw his appeal. The Court of Appeals dismissed the case and issued the remittitur by order dated June 9, 2008.

Attached herewith and incorporated herein by reference are the records of the Darlington County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the guilty plea transcript, the sentencing transcript, and the appellate records.

First PCR Application (2007-CP-16-0811)

In his first application for post-conviction relief, filed on September 11, 2007, Applicant alleged he was being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel
 - a. Failed to ask if he wanted to file a notice of appeal
2. "Conflict of interest (honorable judge)"
3. Statements from co-defendants is [*sic*] void."

Respondent filed a return and partial motion to dismiss on or about November 1, 2007. Applicant filed a motion to dismiss on or about November 12, 2007, as well as a motion for summary judgment on or about November 14, 2007, and a motion to alter or amend on April 21, 2008. On or about July 11, 2008, it an amended PCR application was filed by the Applicant. An evidentiary hearing was convened on the matter on October 15, 2008 before the Honorable Larry B. Hyman, Jr. at the Darlington County Courthouse. Applicant was represented by Charles T. Brooks, Esquire, and Respondent was represented by Karen C. Ratigan, Esquire, of the South Carolina Office of the Attorney General. At the hearing, Applicant represented that he wished to withdraw his application, and this was done with prejudice. An order to this effect was signed by Judge Hyman on November 4, 2008.



Second PCR Application (2008-CP-16-1006)

In his second application for post-conviction relief, filed on November 21, 2008, the Applicant alleged that he was being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - a. Failed to object to the videotape that was allowed into evidence during the plea hearing.
2. Violations due to illegal indictments.
 - a. The plea judge did not have subject matter jurisdiction of the armed robbery charge.
3. Illegal waiver from juvenile to adult.
 - a. The Family Court illegally waived jurisdiction to the Court of General Sessions.

Respondent filed a return on or about February 25, 2009. Applicant filed a motion to alter or amend on June 29, 2009, a request for production of documents on August 3, 2009, a second motion to alter or amend on July 27, 2009, and a third motion to alter or amend on February 16, 2010.. Of these motions, relief was granted via an order granting limited discovery issued October 19, 2009 by the Honorable Paul M. Burch. The Honorable Thomas A. Russo convened an evidentiary hearing into the application on September 13, 2010 at the Darlington County Courthouse. Applicant was present at the hearing and represented by Gary I. Finklea, Esquire. Judge Russo denied the application by written order filed December 10, 2010. Applicant filed a timely notice of appeal from the denial of his application, and Robert M. Pachak, Esquire, of the Office of Appellate Defense, perfected the appeal with the filing of a Johnson¹ petition for writ of certiorari. The Court of Appeals denied the petition on March 11, 2014, and returned the remittitur on March 27, 2014.

Applicant also filed a motion for relief pursuant to SCRCP 60(b)(5), which provides that the Court may relieve a party from a final judgment where the judgment "has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or

¹ Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988),


otherwise vacated, or it is no longer equitable that the judgment should have prospective application.” Judge Burch found Applicant’s arguments to be ineffective, particularly in that he had “not shown how the legal and factual basis of Judge Russo’s order has been reversed or otherwise vacated, or that it is no longer equitable to enforce the order denying PCR. “ The order was signed on May 12, 2014.

Third PCR Application (2013-CP-16-0248)

In his third application for post-conviction relief, filed March 20, 2013 by and through Elizabeth Franklin-Best, Esquire, the Applicant alleged that he was being held in custody unlawfully for the following reasons:

1. Applicant’s sentence of life without parole, imposed for a crime he committed when he was a juvenile, violates the Eighth Amendment to the United States Constitution and Article I, §15 of the South Carolina Constitution;
2. Applicant’s sentence of life without parole violates the Eighth Amendment to the United States Constitution and Article I, §15 of the South Carolina Constitution as an excessive and cruel and unusual punishment because he was both a juvenile and a person who did not kill or intend to kill the victim;
3. Applicant’s sentence of life without parole violates the Eighth Amendment to the United States Constitution and Article I, §15 of the South Carolina Constitution, because the proceedings which led to its imposition were both procedurally and substantively inadequate; and
4. Applicant was denied the right to effective assistance of counsel as guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and by Article I, §§3 and 14 of the South Carolina Constitution because Applicant’s counsel failed to develop and present mitigating evidence which would have warranted a sentence of less than life without parole.

Contemporaneously with the application, Applicant filed a motion to stay proceedings pending the South Carolina Supreme Court’s resolution of Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572, regarding the sentencing of juveniles to life without parole. Ms. Franklin-Best also filed a motion for appointment of counsel on this date. Respondent filed a return and motion to dismiss on May 14, 2013, alleging that the application should be summarily dismissed due to its nature as successive and filed outside of the statute of limitations. On or about May 28, 2013, Applicant’s



counsel filed a document entitled "Response to AG's Return and Motion to Dismiss," which argued that, due to the pending litigation in Aiken, holding these proceedings in abeyance was the proper tactic; further, Applicant argued that a PCR was the proper vehicle to raise his claim under S.C. Code Ann. §17-27-45(b), which extends the filing timeframe if relevant cases are pending before a court whose rulings are binding on South Carolina. Respondent filed a return on or about August 16, 2013 to this response, in which it concedes that this matter should be held in abeyance until the South Carolina Supreme Court ruled on Aiken. This matter is still pending before this Court.

II.

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

1. Ineffective assistance of PCR counsel
 - a. Failed to raise properly [*sic*] claim
2. Ineffective assistance of plea counsel
 - a. Ineffective during critical stage of adversarial process
3. Denied confrontation rights
 - a. I was denied the right to cross-examine witnesses.
4. Guilty plea not valid
 - a. All elements couldn't be proved [*sic*] by state and I had a justified defense.

Before this Court are the Darlington County Clerk of Court's records regarding the subject convictions, South Carolina Department of Corrections records, Applicant's previous PCR orders, and current PCR records.

III.

This Court finds Applicant's current PCR application must be summarily dismissed because it is successive to his previous PCR applications. Courts disfavor successive applications and place the burden on applicants to establish that any new ground raised in a



subsequent application could not have been earlier raised in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Arnold v. State, 309 S.C. 157, 420 S.E.2d 834 (1992). Section 17-27-90 of the South Carolina Code (2014) 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.

Under this statute, successive post-conviction relief applications are prohibited unless an applicant can present 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, 450,409 S.E.2d 392, 394 (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 Applicant could have raised these allegations in a previous application, then he may not raise those grounds in successive applications. Id. Applicant bears the burden of showing the allegations could not have been previously raised. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980).

This Court finds Applicant failed to establish any sufficient reason why he did not raise his current grounds for relief in a previous application. This Court must summarily dismiss Applicant's current application because it is successive to his previous applications.

IV.



This Court finds this application must be summarily dismissed 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 held the one-year 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). Applicant pled guilty to the offenses he challenges on April 17, 2006. Therefore, Applicant was required to file his PCR application on or before April 18, 2007. Applicant filed this application on March 18, 2014, nearly seven (7) years after the statutory filing period 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, 434, 611 S.E.2d 494, 495 (2003). Section 17-27-70(c) authorizes this 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 must summarily dismiss this application for failure to file within the time mandated by the Uniform Post-Conviction Procedure Act.

V.

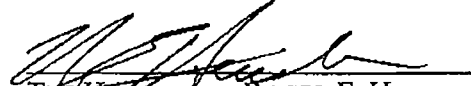
Pursuant to section 17-27-70(b) of the South Carolina Code, this Court intends to dismiss this application with prejudice unless Applicant provides specific reasons, factual or legal, why the application should not be dismissed in its entirety. Applicant is granted twenty (20) days from the date of service of this order upon him to show why this order should not become final.

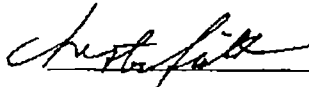


Applicant shall file any reasons he may have with the Horry County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
Jessica E. Kinard, Esquire
PCR Division
P.O. Box 11549
Columbia, SC 29211

AND IT IS SO ORDERED this 16th day of March, 2016.


THE HONORABLE ROGER E. HENDERSON
Chief Judge for Administrative Purposes
Fourth Judicial Circuit

, South Carolina