

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

RECEIVED

NOV 29 2017

Certiorari to Chesterfield County

G. Thomas Cooper, Circuit Court Judge

S.C. SUPREME COURT

WILLIAM OUTLAW,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-000811

SUPPLEMENTAL APPENDIX

SUSAN B. HACKETT
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
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Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA
HORRY COUNTY

State of South Carolina,

vs.

William Outlaw,,

Defendant.

IN THE COURT OF GENERAL
SESSIONS
FOURTH JUDICIAL CIRCUIT

Indictment No.: 2002-GS-13-0159

2017 JAN 13 AM 10:51
Wanda C. Miles
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

AFFIDAVIT OF JAMES T. IRVIN JR., ESQ

After first being duly sworn, I do testify that the following is true based on my personal knowledge:

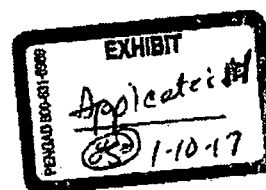
1. On September 2, 2010, an order was filed in Chesterfield in response to a Motion for a New Trial and a Motion for Reduction of Sentence in the above matter.
2. I, James T. Irvin, Jr. represented William Outlaw in the trial and Motion Hearings.
3. I was never sent a copy or notice that the order was filed on September 2, 2010.
4. I received a copy on October 17, 2011, when it was faxed to me William Outlaws mother Willie Jean Winburn.

Sworn to and subscribed before me on
October 27, 2011.

Notary for South Carolina.

My Commission expires on

James T. Irvin Jr.
JAMES T. IRVIN JR., ESQ.



SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

MARK SANFORD
Governor



ROBERT M. STEWART
Chief

after trial

FIREARMS DEPARTMENT

June 27, 2005

SLED Lab No: L02-00522

Your Case No: Not Listed

Incident Date: 01/11/02

(S) Outlaw, William Edward

(V) Johnson, William Michael

Investigator A. Wayne Jordan
Chesterfield County Sheriff's Office
200 West Main Street
Chesterfield, SC 29709

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Robert M. Stewart, Chief
South Carolina Law Enforcement Division

ITEMS OF EVIDENCE:

Item 5: One Stevens Model 9478, 20 gauge (3 inch) single barrel shotgun, serial number D724393.

Item 6: One unfired 20 gauge (2 3/4 inch) shotshell, headstamped "20 GA MADE IN U.S.A."

Item 7: One fired 20 gauge (2 3/4 inch) shotshell, headstamped, "20 GA MADE IN U.S.A.", received in container marked "...MARKER 2..."

Item 8: One unfired 20 gauge (2 3/4 inch) shotshell, headstamped "20 GA MADE IN U.S.A.", received in container marked "...MARKER 3..."

Item 9: One Stevens Model 94 Series M, 12 gauge (3 inch) single barrel shotgun, serial number P632686.

Item 10: One fired 12 gauge (2 3/4 inch) shotshell, headstamped "FEDERAL 12 GA", received in container marked "...MARKER #4..."

Item 24: Seven fired, copper-plated, lead pellets removed from the body of William M. Johnson.

2007 JAN 13 AM 10:51
 Henda C. Miles
 CLERK OF COURT
 CHESTERFIELD COUNTY, S.C.



RESULTS:

The Item 5 and Item 9 shotguns were examined, test fired, and found to be in working order. Item 5's stock was broken and had been repaired with duct tape. The hammer spurs were broken off the hammers of both Items 5 and 9. A broken hammer spur was found inside the box in which Items 5 and 9 were received. None of the defects noted prevented Item 5 or Item 9 from being test fired.

Test shotshells fired by Item 5 were microscopically compared with Item 7. Matching breechface impressions were found and it was concluded that the Item 7 shotshell was fired by the Item 5 shotgun. The Item 7 shotshell bore markings on its side that indicated it had been originally loaded with Number 3 Buckshot pellets.

Test shotshells fired by Item 9 were microscopically compared with Item 10. Differences in breechface impressions were sufficient to conclude that the Item 10 shotshell was not fired by the Item 9 shotgun. The Item 10 shotshell could not have been fired by the Item 5 shotgun. Item 10 may be suitable for identification with the firearm in which it was fired. The Item 10 shotshell bore markings on its side that indicated it had been originally loaded with Number 7 ½ Birdshot pellets.

The seven, copper-plated, lead pellets in Item 24 were examined and found to be most consistent with 000 Buckshot pellets. No marks of value for identification with a particular firearm were found on any of the Item 24 pellets. Debris consistent in appearance with dried body tissue was noted on some of the Item 24 pellets but was not removed for preservation or analysis.

The Item 6 and 8 unfired shotshells were the correct gauge for use in the Item 5 shotgun or in other 20 gauge shotguns with 2 ¾ inch or longer chambers. Items 6 and 8 bore markings on their sides that indicated that they had been originally loaded with Number 3 Buckshot pellets. Item 8 was cut open to examine its components and was found to contain twenty, copper-plated lead, Number 3 Buckshot pellets. Item 8 was returned as disassembled components.


F. Dan DeFreese, Senior Agent

FDD

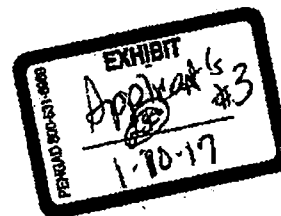


STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Chesterfield County

Paul M. Burch, Circuit Court Judge



WILLIAM OUTLAW,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-213200

APPENDIX

ROBERT M. PACHAK
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

TYSON ANDREW JOHNSON, SR.
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

2017 JAN 13 AM 10:51
Wanda C. Miles
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

i

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STATE OF SOUTH CAROLINA

COUNTY OF CHESTERFIELD

William E. Outlaw,
S.C.D.C. No. 308544,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
2007-CP-13-0029ORDER OF DISMISSAL
WITHOUT PREJUDICECLERK OF COURT OF COMMON PLEAS
CHESTERFIELD COUNTY, SC

2012 MAR 10 PM

This matter comes before the Court by way of an application for post-conviction relief filed January 10, 2007. The Respondent filed a return, requesting the application be summarily dismissed because of the existence of pending post-trial motions in this case.

I.

The Applicant was indicted at the March 2002 term of the Chesterfield County Grand Jury for murder (2002-GS-13-0159). He was represented by Paul V. Cannarella, Esquire.

After the State brought the case to trial, the jury found the Applicant was guilty of voluntary manslaughter. On April 1, 2005, the Honorable Paul M. Burch sentenced the Applicant to twenty-five (25) years imprisonment.

On April 11, 2005, Mr. Cannarella filed two post-trial motions: (1) motion for a new trial and (2) motion to reconsider sentence. This Court has been advised that the Applicant has terminated his representation by Mr. Cannarella and retained the services of Kenneth Martin, Esquire. This Court has been advised that the post-trial motions have not been heard or ruled upon by the trial judge. This Court has been advised that the motions are scheduled to be heard before August 2007.

1. 

II.

"An application for post-conviction relief cannot be made while an appeal from the conviction or sentence is pending or during the time in which an appeal may be perfected." Rule 71.1(b), SCRCP. Further, the South Carolina Rules of Criminal Procedure clearly state the appeal time after a motion for a new trial "shall run from the receipt of written notice of entry of the order granting or denying such motion." Rule 29, SCRCrimP (emphasis added). Therefore, this Court finds this application for post-conviction relief must be summarily dismissed without prejudice until such time as the direct appeal is resolved.

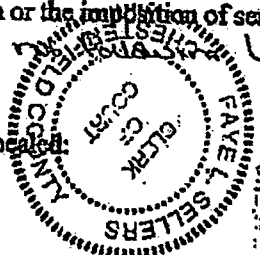
III.

Based on all the foregoing, this Court finds and concludes all issues raised in the Applicant's post-conviction application are not cognizable claims because jurisdiction still rests in the lower court. As such, an action for post-conviction relief is premature at this time and the application must be denied and dismissed without prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty days from the receipt of this Order if he wants to secure the appropriate appellate review. His attention is also directed to Rules 203, 206, and 227 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.



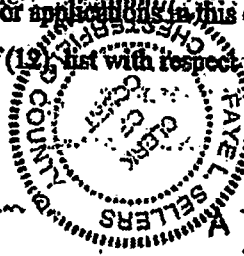
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
 _____ Attorneys defaulted by _____ laws of appeals.
8. If you answered "yes" to (7), list: *n/a*
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) The Attorneys of record did file appeal notice as should;
- (b) The District of record did not know the appeal rules?
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: See Memo. of Law attached.



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 A True Copy Attest
Jay J. Sullivan
 CLERK OF COURT OF & G.S.
 CHESTERFIELD COUNTY, VA.

6

- (a) Denied the rights to effective assistance of Counsel per
 (b) the 14th and 16th Amend. to U.S. Constitution and by the Articles
 (c) 1, 22, 29 and 14 of the S.C. Constitution: As explained:
11. State concisely and in the same order the facts which support each of the grounds set out in (10): See Memorandum of Law attached.
- (a) All of which are both unreasonable and
 (b) extremely prejudicial against Applicant's rights.
 (c) to a guaranteed fair trial, etc. See as explained
Strickland v. Washington, 466 US 668 (1984), etc.
12. Prior to this application have you filed with respect to this conviction:
- (a) ☒ any petition in a State Court under South Carolina Law?
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief?
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)?
 (d) any other petitions, motions or applications in this or any other Court?
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. Rule 29(c), SCRCR
 ii.
 iii.
 iv.
- (b) the name and location of the Court in which each was filed:
- i. Chesterfield Co. Gen. Sess. Ct.
 ii.
 iii.
 iv.
- (c) the disposition thereof:
- i. Denied
 ii.
 iii.



A True Copy Attest
Jaye J. Sellers
 CLERK OF COURT D.P. & G.S.
 CHESTERFIELD COUNTY, SC

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iv. _____

(d) the date of each such disposition:

i. May 04, 2005 1st Hear.ii. September 02, 2010 Order.

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. No findings of new evidence by the newii. trial jury.

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify: n/a

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

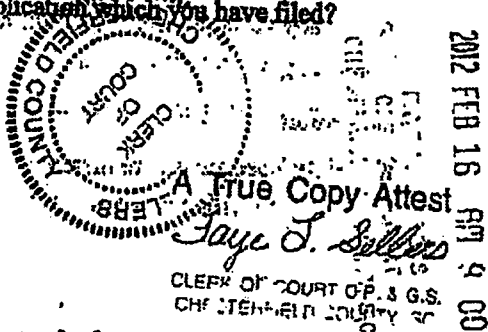
ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) NO Issues presented due to proper exhaustion(b) doctrine in effect, per is proper remedy for law(c) Revision to Case adjudication.

17. Were you represented by an attorney at any time during the course of:



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8

- (a) your arraignment and plea? _____
- (b) your trial, if any? _____
- (c) your sentencing? _____
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

- i. Paul Cannarella, Esq. P.O. Box 35, Huger, SC, 29551
- ii. Irvin James, Esq.
- iii. _____

(b) the proceedings at which each such attorney represented you:

- i. Trial, Sentencing, and motion post trial, pt.
- ii. _____
- iii. _____



A True Copy Attest

Faye J. Sellers

CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

19. State clearly the relief you seek in filing this application:

Vacate Sentence, Demand for dismissal of V. Manslaughter

20. Are you now under sentence from any other court that you have not challenged?

NO

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FILED
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

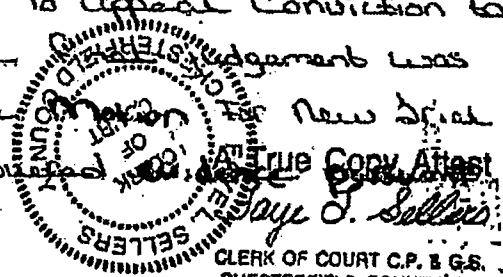
Memorandum Of Laws w/ Grounds- Issues
post-Conviction Relief- addendum #1:

10. a) Applicant Trial Counsel was ineffective for not filing the Notice of Intent To Appeal Conviction to the Appellate Court once judgement was entered and issued to the prison for New Trial based upon After trial discovered to Rule 29(b), SCRCrim.P., etc.;

10. b) Applicant trial Counsel was ineffective for not pretrialing the Murder Charge based upon the prob. Cause mandates that was not established to have applicant charge with a murder offense in the initial case base on the incompetent evidence the Solicitor presented before the grand jury;

10. c) Trial Counsel was ineffective for not objecting to the improper malice charge given by the Court to the trial jury and leaving the Defendants to have the burdens to prove that his case was not a murder case;

10. d) Trial Counsel was ineffective when he failed to properly investigate the facts and circumstances surrounding the situation that were the causes of the Victim's death, the Counsel's failures to perform his lawful duties in an warranted investigation deprived the



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10.

per addendum #2.

applicant's trial jury of relevant information that such
 facts could have been an assessment used to
 determine applicant's guilt or innocence:

10.a) Counsel for trial failed to interview potential
 witnesses who could have presented testimony
 that were exculpatory to Applicant's defense.
 Trial, see letter dated June 20, 2005 by A. J. Miller
 to 29(b) motion preparations: 2 pages

10.f) Trial Counsel failed to present relevant
 relevant to the jury by a trial strategy that
 it could have drawn reasonable inferences from
 to conclude that it was an involuntary man-
 slaughter case. Trial Counsel was ineffective
 for not presenting the supported facts during the
 trial as trial Counsel waited after trial to file
 a Rule 29(b) motion to substitute for his recorded
 incompetencies; see probative documents proffered for post-
 trial Counsel's Rule 29(b) motion filed on May 2, 2005!

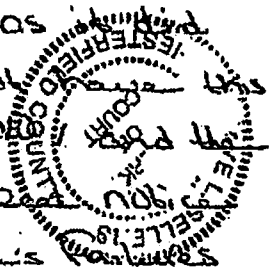
Supporting Facts to each allegations and grounds:

11.a) On June 1, 2007, Judge Millings signed an
 order of dismissal to appeal due to the S.C.
 Courts did not have final judgments issued
 to Applicant's case because Case Counsel
 for trial had a post-trial motion filed and

per addendum #3;

not ruled upon by trial judge; See attached order of dismissal without prejudice; as appeared the trial Counsel did not have this motion ruled upon until September 02, 2011. The trial Counsel did not file the appeal to the Appellate Court, by Counsel's failure to file the appeal notice did deprive the Applicant of a Statutory right by the S.C. Laws and Rules that governs Appellant's rights to appeal their convictions; the Applicant did not receive the Order signed by the Honorable Paul M. Burch denying his motion for a new trial on September 02, 2011 by way of signing for legal mail *by Day D. Sellers* physically receiving it from *Clerk of Chesterfield Court* after the Clerk of Chesterfield Court mailed it to the prison mailroom; see attached Envelope and Clerk cover sheet;

Applicant explicitly states that he is deprived of his appeal to his conviction based upon the trial Counsel failures to perform his duties pursuant to Rule 1.08, SCACR, Rule 602(c), SCACR; "Trial Counsel, whether retained, appointed, Public Defender, shall continue representation of an accused until final judgement, including any proceeding on direct appeal, except as it is by rules stated; Applicant will show that it was unreasonable for trial Counsel(s) not to file



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12

per addendum #4.;

an Intent to Appeal Notice to the Appellate Court once Final judgement was entered to the Rule 29(b). Motion Filed April 11, 2005; Applicant also shows that he was extremely prejudiced against when the Case Counsel of Record didn't ~~file~~ ^{file} the notice of intent to appeal; per se by ~~the~~ ^{the} Applicant has shown by the records of trial that Counsel's performance was deficient ~~measured~~ ^{by} the standard of reasonableness under prevailing professional norms; here's how: Counsel ~~prevented~~ ^{prevented} Applicant's rights to have an Appellate Court review based upon the proper exhaustion ~~completing~~ ^{completing} doctrines established by our U.S. Supreme Court and ~~secondly~~ ^{secondly}, Applicant shows that he was ~~prejudiced~~ ^{prejudiced} and extremely prejudiced by trial Counsel's shown deficiencies in not filing for an appeal ~~that~~ ^{that} had the Counsel(s) did the results would be differently shown because an appeal would be filed as should have; As Applicant did ~~file~~ ^{file} Filed his per it is upon the Court to review the records and see that Applicant did not knowingly and intelligently waived his right to a direct appeal; as it is incumbent upon the Court to follow its Commands of See at Cite: White v. State, 263 SC 110, 208 S.E.2d 35 (1974);



A True Copy Attest
 Jeff L. Sellers
 CLERK OF COURT C.P. & O.S.
 CHESTERFIELD COUNTY, SC

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per Addendum #5.

the Applicant shows that the record does not
 evince a knowing and voluntary waiver of the
 right to appeal, and it is even more so clear
 that neither Counsel followed the self-defense
 procedures of Anders v. California, 386 U.S. 738 (1967);
 and Rule 602 (e), S.C.R., Applicant shows the
 Court that he never abandon his rights to have
 his Conviction appealed; Court must
 reinstate to him the right to appeal his
 Conviction and the post-trial motion denied
 by Judge P.M. Burch, Jr.

A True Copy Attest
 Judge P.M. Burch, Jr.

- 11.6) Trial Counsel Failures to pre-trial
 being defective by the fact/body by the basis
 that the Solicitor did not have competent
 evidence in the initially Charging phases of
 probable Cause established nor by the law
 as per S.C. to 317-19-30, Sec 316-3-10, (1976) (As Amend.)
 Applicant was prejudiced when he was charged
 with the Murder offense and thus after the trial
 was commenced the Self-defense Evidence was
 discovered, the Applicant shows that Counsel did
 neglect his duties to test the adverse process to
 flush the Murder indictment due to misrepresented
 affidavits and the lack of competent evidence
 as was required to be submitted to the Grand
 Jury pursuant to the U.S. Const. 5th, Amend.

Technical 2011.2) applicant's issue are by basis surrounding the decedent's
 Cousin action that was illegal, decedent and Applicant were friends

per Addendum¹ Le.:

11. C) Trial Counsel was ineffective assistance: When he did not object to the trial judge malice charge which was improper, see Jury Charge of trial transcript; Applicant explicitly ~~stated~~ ^{stated} that he ~~veried~~ ^{stated} into not allowing the jury to deliberate for an involuntary manslaughter ~~not charging the jury a charge~~ ^{offense} as involuntary manslaughter ~~Charge the provocation that was~~ ^{Charge the provocation that was} passed through the defense as it being the Applicant was assaulted by the victim decedent, and as the Applicant made choice to defend ~~himself~~ ^{himself} by law permitting as having a right to arm himself and have a right to defend ~~himself~~ ^{himself} as fearing for his life, and as the Court had propositioned to it Applicant was assaulted and as the results from the assault Applicant's sight was compromised whereas he couldn't see after the moment of the assault having him to fear for his life; Applicant was defending himself from grave danger, Counsel failures to object to the improper malice charge violated Applicant's rights to a fair charge during trial, a fair trial per U.S. Const. 14th Amend., and 14th Amend. U.S. Const. the Applicant was prejudiced by the Court also pursuant to S.C. Const. V.21, because the Court have a duties by law to form its charges according to the facts of the case;

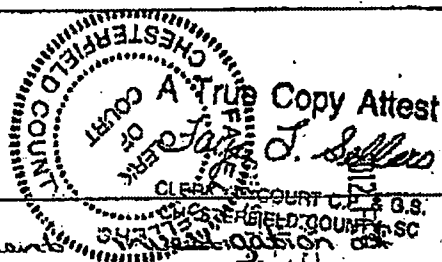
per Addendum #7.

Applicant explicitly shows the Court that he was violated as to the Due Process Clause of the 14th Amend. because the jury charge that was given created a mandatory presumption that impermissibly shifted the burden of proof to the Applicant during trial, as it was shown Applicant had to prove that his crime was not murder as it was reduced from murder to manslaughter voluntary. There were ^{Actual Copy Attest} to the trial jury two (2) Charges as ^{Attorney} ~~murder~~ ^{Sellers} and manslaughter voluntary on indictment on face; jury found guilty on Voluntary Manslaughter, that of which is a violation of the Due Process Clause, see Mullaney v. Wilbur, 421 U.S. 684 (1975), here holding that the Due Process Clause forbids a state from placing the burden on the accused to prove his actions reduced the crime from murder to manslaughter; here in Applicant's case, he was deprived of involuntary and proper charge of malice per State v. Ford, 264 S.C. 26, 212 S.E.2d 252 (1975). (About the use of gun/weapon and just that throws the light that use of deadly weapon does not necessarily mean malice is defined, trial counsel did object to no parts of the jury charges; causing an extreme prejudice that can only be remedied by a new trial after vacation of sentence.

11. d) Trial Counsel was ineffective when he

16

per Addendum #8.



Failed to make an independent
Facts and Circumstances of Applicant's Case.
Applicant shows that the trial Counsel did not
procure Crut information from the Solicitor's
office and its agencies, the Police Reports,
the made known facts about the forensic
Report results, the Atomic Absorption Kit, and
clear facts about how the situation of
Shooting that occurred that resulted in the death
of the Victim, what was the initial actions
of the Victim in to the incident, Applicant
shows that trial Counsel failures to procure
and conduct an independent investigation to
present a articulated and strategy defense
deprived the Applicant of a fair trial
and it was unreasonable for trial Counsel
to not test the adverse comments as an
interest to case for trial, Applicant's 1st Amend
of U.S. Const Violated, Troedel v. Wainwright, 141 F. Supp. 1456 (1987)

- 11.2) Trial Counsel is ineffective assistance when he
did not interview potential witnesses such as Kendall
Lee Wilks, Michael Oreal, Brand Roscoe, Emmett
Jerome Dixon, Andrea Morris, Jack F. Crowley,
Jennifer Orter and Larry W. Plauer, etc. He trial
Counsel failed to comply with his duties that
are prescribed by S.C. law, Ingle v. State,
348 SC 467, 560 SE.2d 401, 403 (2002), Thompson v. Wainwright,
787 F.2d 1447, 1450 (11th Cir. 1986) and also citing of the

per Addendum #9.;

Drandel v. Wainwright, supra. Trial Copy Attest
 duty to interview potential witnesses and make an independent investigation of the facts and circumstances of the case. Applicant is deprived of effective assistance of trial Counsel and denied a fair trial pursuant to U.S.C.A. 4th 14th 8.

- 11.F) Trial Counsel actions presenting ten (10) Factors on a post-trial motion (see Rule 29(b), Motion) for new trial shows his ineffective of assistance when and whereas Counsel did not have a trial strategy, it is shown that the trial Counsel not having a strategized defense deprived Applicant from fully presenting his case to trial. all ten (10) Factors are only showing an involuntary manslaughter offense, and in its entirety there are evidence that the jury could have drawn the inferences from had it been presented during original trial. Trial Counsel failed to present these same factors, Applicant was denied effective assistance, and prejudiced when the jury was without the ten (10) Factors to have determined that the charge was involuntary manslaughter one. See motion brief filed trial Counsel, it was unreasonable for Counsel not trying Applicant's case without presenting evidence to answer to all charges, and the outcome would be different but for Counsel erroneous decision to not present evidence during trial for involuntary manslaughter charge. U.S.C.A. 4th 14th 1

per Addendum #10:

Applicant William Outlaw R. and
 applications documents as intended for the Court per Rule 11.1(c),
 SCRPC: as to potential Counsel to be appointed
 he does not waive any rights to proper and
 effective assistance in having his per to be
 adequately and accurately presented to the per
 Court. The Court is previously advised that he
 is entitled to have his per pro se application to
 be amended with all other available issues of
 the record for ineffective assistance of trial counsel,
 per se Rule 11.1(d), SCRPC. Applicant advises potential
 appointed per Counsel that he is compelled to raise
 all issues at the time of per due to Gamble v. State.
 Super. See the following documents as:

- 1) envelope stated Received Sept. 27, 2011 Lee CI Mailroom;
- 2) Indictment for 0114-Murder 16-3-10, A true Copy, filed 11/15/02;
- 3) Clerk of Chesterfield Co. Ga., Dated: Sept. 26, 2011, to Applicant;
- 4) Letter to Hon S. Hodge, Solicitor, dated June 20, 05, from Cannarella;
- 5) 5 page memo. of law for Rule 29(b) motion dated: May 02, 2005, to Court;
- 6) Order of Dismissal to Rule 29(b) motion dated: 9-09-10, by Judge Birch.

08/14/12

attested. DFO Ass.

0421

X Will Outlaw
 William Outlaw
 Lee CI / DN-211
 990 Wisacky Hwy.
 Bishopville S.C. 29010
 pro se Applicant

VIS

19

Exhibit #2

WITNESSES	
David Watson	
Ccsd	
<i>jd</i>	
ARREST WARRANT #:	
G016135	
Arrested on January 12, 2002	
ACTION OF GRAND JURY	
<u>True Bill</u>	
Foreman: <u>Cynthia J. Dendron</u>	
Grand Jury	
2/28/02	
VERDICT	
<u>Guilty of Murder</u>	
☒ <u>Guilty of Voluntary Manslaughter</u>	
<u>Not Guilty</u>	
Foreman: <u>Smith M. Smith</u>	
Petit Jury	
Date: <u>4-6-05</u>	

DOCKET #: 02GS13-0159	
THE STATE OF SOUTH CAROLINA	
County of Chesterfield	
CLERK OF COURT	
A True Copy, Attest	
<i>Yaye T. Sellers</i>	
COURT OF GENERAL SESSIONS	
CHESTERFIELD COUNTY, SC	
Term: March, 2002	
THE STATE	
vs.	
William Outlaw	
INDICTMENT FOR	
0116	
MURDER	
16-3-10	
CLERK OF COURT	
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<i>Yaye T. Sellers</i>	
CLERK OF COURT C.P. & G.S.	
CHESTERFIELD COUNTY, SC	
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CHESTERFIELD COUNTY, SC	

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CHESTERFIELD COUNTY CLERK OF COURT

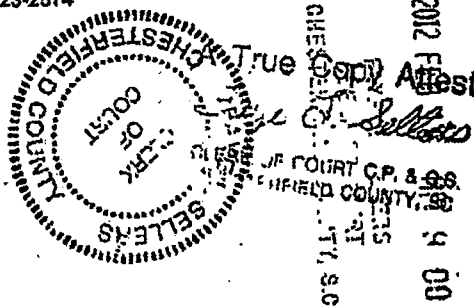
Exhibit #3

200 West Main Street • P. O. Box 529
 Chesterfield, South Carolina 29709
 Telephone (843) 623-2674

Court of General Sessions
 Court of Common Pleas
 Register of Deeds

September 26, 2011

William Outlaw #308544
 Lee Correctional Inst.
 Dar-8-2116
 990 Wisacky Highway
 Bishopville SC 29010



XXX PLEASE FIND THE REQUESTED DOCUMENTS ENCLOSED, THERE WILL BE A 25 CENT FEE FOR EACH DOCUMENT THE NEXT TIME THESE DOCUMENTS ARE REQUESTED.

OUR OFFICE DOES NOT HANDLE DETAINERS, YOU WILL HAVE TO CONTACT THE ARRESTING AGENCY THAT PLACED THE DETAINER ON YOU.

I HAVE PLACED YOUR LETTER/MOTION REGARDING A SPEEDY TRIAL IN YOUR FILE AND I HAVE MADE A COPY AND FORWARDED TO THE SOLICITORS OFFICE.

I HAVE PLACED YOUR LETTER REGARDING YOUR CHARGES TO BE DISMISSED OF IN YOUR FILE AND I HAVE ALSO FORWARD A COPY TO THE SOLICITORS OFFICE.

OUR OFFICE DOES NOT HANDLE JAIL TIME YOU WILL NEED TO CONTACT YOUR CASE WORKER TO FIND OUT THAT INFORMATION.

OTHER:

SINCERELY,
 COURT SERVICES SECTION

PAUL V. CANNARELLA

ATTORNEY & COUNSELOR AT LAW

111 NORTH SIXTH STREET

HARTSVILLE, SOUTH CAROLINA 29550

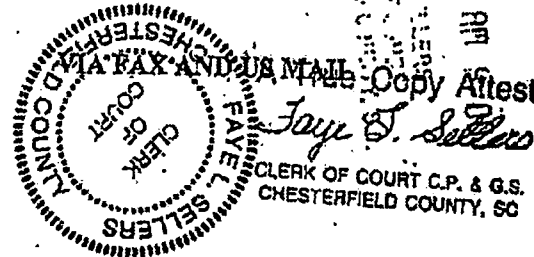
Exhibit # 4

P. O. BOX 38
HARTSVILLE, SC 29551

June 20, 2005

The Honorable Jay Hodge
Solicitor, Fourth Judicial Circuit
121 Market Street
Cheraw, SC 29520

Re: The State vs. William Outlaw
Case Number: 02-GS-13-0159



Dear Solicitor:

Enclosed are statements from relevant witnesses to my motion for new trial based upon third party guilt.

Based upon these statements and in light of other after discovered evidence, it is my opinion that Mr. Outlaw is clearly entitled to a new trial in order to see that justice is served in this matter.

It is also my opinion, based upon these statements and others after discovered evidence, that Sheriff Parker should re-open the investigation of this case and help us find Jaysana Herring. Mr. Outlaw's family and friends will assist in any way possible.

I have spoken with the SLED Firearms agent and he informed me last week that he had four cases ahead of Mr. Outlaw's before he could analyze Mr. Outlaw's evidence.

The third-party guilt witnesses are:

1. Kendell Lee Wilkes (843)335-7558
52 Sherri Drive
Hartsville, SC 29550
2. Michael Oneal (843)332-3830
3301 Substation Road
Hartsville, SC 29550
3. Brandy Roscoe (843)634-3489
7853 Hartsville Ruby Highway
Patrick, SC 29584

Exhibit 4

4. Emmett Jerome Dixon (843)335-6450
956 Scotts Pond Road
Hartsville, SC 29550
5. Andrea Morris (843)335-6011
2511 Bullard Ford Road
Hartsville, SC 29550
6. Jack F. Crowley (843)634-7737
7224 Patrick Highway 145
Patrick, SC 29584
7. Jennifer Drötar (843)335-6502
2475 Bullard Ford Road
Hartsville, SC 29550
8. Larry Wayne "Smiley" Player (No Phone)
Route 1
Patrick, SC 29584



2012 FEB 16 PM
FAYE L. SELLERS
CLERK OF COURT
CHESTERFIELD COUNTY, SC

A True Copy Attest
Faye L. Sellers
CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

Sincerely,

A handwritten signature in dark ink, appearing to read "Paul V. Cannarella".

Paul V. Cannarella

PVC/eiw

Enclosures

- cc: J.R. Joyner, Assistant Solicitor
Via Fax and US Mail
- cc: Kenard Redmond, Assistant Solicitor
Via Fax and US Mail
- cc: Sheriff Sam Parker
Via Fax and US Mail
- cc: Willie Jean Winburn (On behalf of William Outlaw)
Via US Mail

Exhibit #5

STATE OF SOUTH CAROLINA)

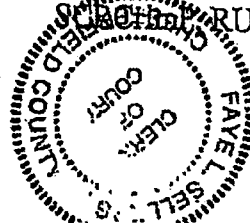
COUNTY OF CHESTERFIELD)

The State,

vs.

William Outlaw,

Defendant.

GENERAL SESSIONS COURT
FOURTH JUDICIAL CIRCUIT
Indictment No.: 02-GS-13-0159MEMORANDUM IN SUPPORT
OF MOTION FOR NEW TRIALFAYE L. SELLERS, JR.
CLERK OF COURT
CHESTERFIELD COUNTY, SC
RULE 29 (A)
 2012 FEB 1 10:00 AM
 A True Copy Attest
 Faye L. Sellers, Jr.
 CLERK OF COURT, S.P. & G.S.
 CHESTERFIELD COUNTY, SC

In 2003, the South Carolina Supreme Court held that it is not the law of this state that the intentional firing of a gun will always preclude a jury instruction on the lesser included offense of involuntary manslaughter. State v. Crosby, 355 S.C. 47, ____ S.B. 2d ____ (2003).

In reversing the trial court and the Court of Appeals, the Supreme Court held that:

In our view, the only evidence which appears to directly support the Court of Appeals' ruling is Crosby's statement to police in which he stated he closed his eyes and pulled the trigger. However, this ignores the fact that Crosby immediately added that he didn't even know he had pulled the trigger. The effect of the Court of Appeals' holding is that if there is any evidence a shooting was intentional, all evidence from which any other inference may be drawn is negated. This is not the law of this state. State v. Hill, 315 S.C. 260, 433 S.E. 2d 848 (1993) (charge must be given if there is any evidence to support it; trial court commits reversible error if it fails to give a requested charge on an issue raised by the evidence.) We hold Crosby was entitled to a jury charge on the law of involuntary manslaughter.

Thus, a defendant may be entitled to an involuntary manslaughter charge, even if he intentionally fired a gun, when there is other evidence in the record from which reasonable inferences may be drawn that the defendant acted in reckless disregard of the safety of others. (Also, see Crosby fn2).

Therefore, a reasonable interpretation of Crosby is that the focus must be on the application of the term "recklessness" to all the circumstances. (Hubbard infra)



The Crosby Court defined involuntary manslaughter as:

- (1) the unintentional killing of another;
- (2) without malice;
- (3) while engaged in a lawful activity, and
- (4) with reckless disregard for the safety of other.

The Crosby Court further stated that, to constitute involuntary manslaughter, there must be a finding of criminal negligence, statutorily defined as a reckless disregard of the safety of others. S.C. Code Ann. §16-3-60 (1985).

The (1) unintentional killing of another is not the same as the intentional firing of a gun or the intentional use of a dangerous instrument. The term "intentional conduct" is vague. For example, a car is a dangerous instrument that is intentionally used all the time. A driver is not guilty of

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CLERK OF COURT
J. J. SELLERS
CHESTERFIELD COUNTY, S.C.

only murder or voluntary manslaughter if death occurs while intentionally driving a car. Indeed, depending on the specific factual context, the driver may not even have been negligent or reckless as to the resulting death.

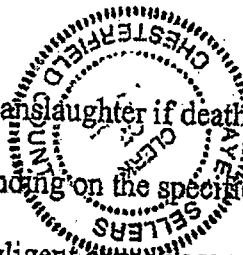
Thus, the focus must always be on the application of the term "recklessness" to all the circumstances. (Hubbard, Requests to Charge, 2nd Edition, page 90.)

The jury impliedly acquitted Outlaw of murder, so they did not believe that he acted with malice. Thus, he acted (2) without malice.

As to killing another without malice (3) while engaged in a lawful activity, it was apparent, as a matter of law, that Outlaw was entitled to arm himself under the circumstances; therefore he was engaged in a lawful activity, because the law is clear that a person has the right to arm himself in self-defense.

Again, the focus must be on the application of "reckless" disregard of the safety of others under § 16-3-60.

Crosby admitted to closing his eyes and to pulling the trigger but said he didn't mean to do it. One witness for Crosby testified that Crosby said the gun slipped. It appears that this witness' testimony forms part of the basis for the Crosby Court's decision. But, remember, the Crosby Court clearly held that the intentional firing of a gun will not negate all other



Attest
Sellers

CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

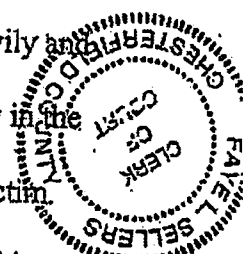
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CHESTERFIELD COUNTY, SC

reasonable inferences from which it could be drawn that the defendant acted in reckless disregard of the safety of others.

In the present case, Outlaw testified that he was drinking heavily and taking valiums. A much larger John Talbert violently struck Outlaw in the left eye, effecting his vision in both eyes. A gun was fired by the victim. Outlaw panicked and blindly retrieved his gun from the darkness of his car trunk and fired it from the hip in the darkness of the night. It could be said that he, too, closed his eyes and pulled the trigger; that he, too, didn't even know that he pulled the trigger, due to his mental state (alcohol, drugs, and gun fire), and that he, like Crosby, acted in reckless disregard for the safety of others.

Reasonable inferences to be drawn from the evidence in this record to support a jury verdict of involuntary manslaughter, based upon the reckless disregard for the safety of others, are:

1. Defendant's drunken condition;
2. Defendant's drug usage;
3. Defendant being attacked by John Talbert;
4. Defendant's obscured vision as a result of the attack;
5. Defendant not aiming the gun;
6. Defendant's gun being discharged from the hip;
7. Defendant testifying that he did not intend the result;
8. The victim being a friend of the Defendant;
9. The victim not being a part of the altercation, and
10. Defendant's impaired state of mind causing him to over-react to initial gun fire by his friend.



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CHESTERFIELD COUNTY, S.C.

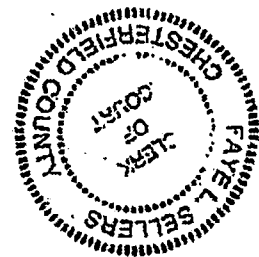
All of these are inferences from which a jury could have reasonably concluded that Defendant acted with reckless disregard and, therefore, found him guilty of involuntary manslaughter.

May 2, 2005

Respectfully Submitted

Paul V. Cannarella

Paul V. Cannarella
Attorney For Defendant
Post Office Box 38
Hartsville, SC 29550
(843)332-0106 office
(843)332-0108 fax



28

STATE OF SOUTH CAROLINA:

County of San Diego

VERIFICATION

I, Shahid, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

SWORN to and subscribed before me this
day of February, 2012.

Notary Public

(L.S.)

My Commission Expires: 3-16-77

True Copy Attest

Faye J. Sellers

DEPT. OF COURT C.P. & G.S.
STAFFORD COUNTY, SC

2012 FEB 16 AM 9:00
FAXEL SELLERS
CLERK
WESTFIELD COUNTY, SC
WESTFIELD COUNTY, SC

Original

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

William
I, Dubla, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Copy Attest

Will Outlaw

Applicant

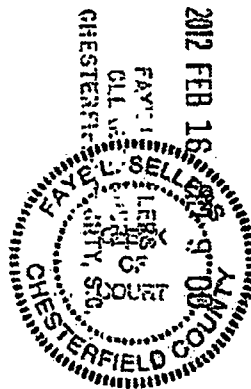
COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

SWORN or affirmed to and subscribed before me this
5 day of February, 2012.

[Signature]
Notary Public

William Outlaw
2001/01-211
990 W. Sackville Hwy.
Bishopville, S.C. 29010

My Commission Expires: 5-10-11



original

STATE OF SOUTH CAROLINA
COUNTY OF CHESTERFIELD

IN THE COURT OF COMMON PLEAS

2012-CP-13- 0113

William Outlaw, 308544

Applicant;

v.

RETURN AND MOTION TO
DISMISS

State of South Carolina,

Respondent.

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed February 16, 2012, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court. The Applicant was indicted for voluntary manslaughter in the March 2002 term of the Chesterfield county grand jury. (2002-GS-13-0159) . Paul V. Cannarella, Esquire, represented Applicant. After the State brought the case to trial, the jury found the Applicant was guilty of voluntary manslaughter. On April 6, 2005, the Honorable Paul M. Burch sentenced the Applicant to twenty-five years imprisonment.

On April 11, 2005, Mr. Cannarella filed two post-trial motions: (1) motion for a new trial and (2) motion to reconsider sentence. Before these motions could be ruled upon, Applicant terminated the representation of Mr. Cannarella and alleges that he then retained the services of Kenneth Martin, Esquire. While the motions were still pending, Applicant filed his first PCR

January 10, 2007. (2007-CP-13-0029). After the Respondent filed its Return and Motion to Dismiss, the Application was dismissed without prejudice by the Honorable John M. Milling on June 1, 2007 since application for PCR may not be made during the time when an appeal is pending or during the time in which an appeal may be perfected. In his current Application, Outlaw alleges his post trial motions were not ruled upon until September 2, 2010 and that his counsel thereafter failed to perfect an appeal on behalf of Applicant.

Attached herewith and incorporated herein are the records of the Chesterfield County Clerk of Court regarding the subject conviction, and documents from Applicant's last PCR. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

Applicant makes various allegations of ineffective assistance of trial counsel, including allegations regarding the handling of Applicant's trial as well as failing to perfect an appeal on behalf of Applicant. Applicant seeks "vacate sentence, remand for dismissal of V-Manslaughter" as a result of this proceeding.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test, in addition to being untimely filed and barred by laches. Therefore, Respondent requests this Court summarily dismiss the Application with prejudice.

IV.

The statute of limitations applicable to post-conviction relief actions bars the entire application. S.C. Code Ann. § 17-27-45 (Supp. 2001) requires an inmate to file a post-conviction relief application "within one year after the entry of a judgment of conviction"

This provision applies to all convictions after the July 1, 1995 effective date of the statute. See Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996).

Applicant alleges his post trial motions were not ruled upon until September 2, 2010. This Application was filed February 16, 2012, which was well beyond the time the statutory filing period expired. Applicant filed this post-conviction relief application almost seven years after his conviction. Accordingly, since Applicant did not present these allegations in a timely manner, this Court should dismiss the application with prejudice as barred by the statute of limitations.

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, Respondent requests that this Court summarily dismiss the application for post conviction relief for failure to file within the time mandated by the Post Conviction Procedure Act.

V.

The doctrine of laches bars Applicant from raising these allegations in a PCR action. Applicant has filed this application almost seven years after his conviction. Absent some explanation or justification for delay in seeking PCR, laches will prevent an applicant from seeking collateral review of a conviction, especially where the delay affects the availability of evidence to refute an applicant's claims. McBlirath v. State, 276 S.C. 282, 277 S.E.2d 890 (1981).

To ensure finality of litigation, our courts require reasonable diligence in pursuing collateral relief. This requirement "guards the state's legitimate expectation that it will not be called upon without due cause, to defend the integrity of convictions that occurred many years ago, where records and witnesses are no longer available." Id. At 283, 277 S.E.2d at 890-91 (citation omitted).

Applicant's delay has greatly prejudiced Respondent. A transcript of Applicant's trial may now be unavailable. It is doubtful counsel would have memory or relevant notes regarding his representation of Applicant. If Applicant had sought relief within a reasonable time after his trial, neither of these problems would exist. Therefore, the Court should summarily dismiss the application based on Applicant's lack of diligence in processing his claim for relief.

VI.

The State therefore requests that this Court summarily dismiss this Application as it is filed outside the statute of limitations and is barred by laches, pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VII.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

VIII.

WHEREFORE, having made its Return, the State requests that the Application be denied and the matter dismissed with prejudice.

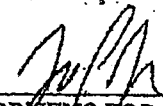
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

TYSON ANDREW JOHNSON, SR.
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

4/2, 2012.

STATE OF SOUTH CAROLINA)

COUNTY OF CHESTERFIELD)

WILLIAM OUTLAW, 308544)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent.)

IN THE COURT OF COMMON PLEAS

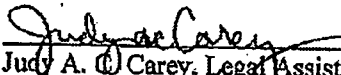
2012-CP-13-0113

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return and Motion to Dismiss** of the Respondent in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**William Outlaw, 308544
Lee Correctional Institution
990 Wisacky Highway
Bishopville SC 29010**

DATED this 2nd day of April, 2012.


Judy A. C. Carey, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHESTERFIELD) 4th JUDICIAL CIRCUIT

WILLIAM OUTLAW, 308544,) CASE NO. 2012-CP-13-0113
APPLICANT,)

vs.)

STATE OF SOUTH CAROLINA,)
RESPONDENT.)

APPLICANT'S OPPOSITIONS TO THE
RESPONDENT'S MOTION TO DISMISS
POST CONVICTION RELIEF APPLICATION
FILED APRIL 02, 2012 TO PCR COURT.

APPLICANT WILLIAM OUTLAW, 308544, COMES NOW WITH HIS PRO SE OPPOSITION TO THE RESPONDENT'S MOTION TO DISMISS FILED APRIL 02, 2012, APPLICANT WOULD RESPECTFULLY SHOW RESPONDENT IS MAKING CLAIMS THAT WOULD BE A FRAUDS UPON THE COURT AND THE RESPONDENT IS MISLEADING THE COURT IN ITS CONFUSING THE COURT RECORDS BY FALSELY STATING THAT APPLICANT IS TIME BARRED IN FILING HIS POST CONVICTION RELIEF APPLICATION TO THE PCR COURT.

PROCEDURAL HISTORY

APPLICANT OUTLAW IS PRESENTLY CONFINED AT LEE C.I. IN THE SOUTH CAROLINA DEPT. OF CORRECTIONS PURSUANT TO ORDERS OF COMMITMENT OF CHESTERFIELD COUNTY CLERK OF COURT. THE APPLICANT WAS INDICTED IN MARCH TERM OF THE CHESTERFIELD CO. GRAND JURY FOR MURDER, 2002-GS-13-0159; HE WAS REPRESENTED AT TRIAL BY PAUL V. CANNARELLA, esq.; THE APPLICANT WAS SENTENCED TO TWENTY-FIVE YEARS FOR VOLUNTARY MANSLAUGHTER ON APRIL 06, 2005 BY THE HON. PAUL M. BURCH, CH. CL. JUDGE.

AFTER THE TRIAL WITHIN THE MANDATED TIME, THE APPLICANT'S TRIAL COUNSEL FILED TWO MOTION AS THE RESPONDENT INDICATED, THESE MOTIONS WERE NOT RULED UPON UNTIL SEPTEMBER 02, 2012, BY THE COURT THAT OF WHICH HE HAD COUNSEL TO REPRESENT IN, SEE AFFIDAVIT OF JAMES T. IRVIN, JR., Esq., THE RESPONDENT MADE A CONTENTION AS IF THE APPLICANT WAS BEING DISHONEST TO THE COURT WHEN HAD STATED HE WAS REPRESENTED BY COUNSEL, THERE HAD BEEN A DISBARMENT TO ATTORNEY KENNETH MARIN, Esq. AND THEREFORE IT WAS INCUMBENT UPON THE APPLICANT TO RETAIN OTHER COUNSEL TO BE REPRESENTED BY TO THE COURT AS IS SHOWN BY THE RECORDS. THE RESPONDENT MADE IT CLEAR THAT THE STATE IS PREJUDICED BY THE APPLICANT WHEN HE FILED HIS APPLICATION IN THE TIME FRAMES THAT HE DID, THE

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RESPONDENT ALSO MADE CONTENTIONS THAT IT IS ASSUMED UPON THE COURT THAT THE COUNSEL FOR TRIAL WOULD BECOME WITH AMNESIA THAT WILL PREVENT HIM FROM REMEMBERING THE TRIAL CASE IN QUESTIONS, THIS IS HIGHLY PREJUDICIAL TO THE APPLICANT AND THIS IS NOT A DEFENSE FOR THE RESPONDENT TO MAKE A MOTION TO DISMISS BY, IT IS NOT ACCORDED TO THE ESTABLISHED LAW OF THIS STATE AND THE APPLICANT WOULD SHOW THROUGH THE COMPETENT EVIDENCE HE IS COMPELLED TO PROFFER TO COURT PURSUANT TO RULE 71.1(e), SCRCP., THE RESPONDENT STATED THAT APPLICANT IS TIMED BARRED AND THE STATUTE OF LIMITATION WILL PREVENT HIM FROM BEING ENTITLED TO A POST CONVICTION RELIEF IN HIS CASE MATTER, IT IS ALSO THE POSITION OF THE RESPONDENT THAT APPLICANT DOES NOT HAVE A RIGHT TO MAKE A COLLATERAL ATTACKS AGAINST HIS SENTENCE. ACCORDINGLY TO US AND SC CONSTITUTIONAL LAW AS APPLICABLE, FINALLY THE RESPONDENT HAS RAISED THE DEFENSE AS LACHES OF THE DOCTRINE OF LACHES MANDATES, AND IT IS TAKING THE POSITIONS OF HAVING THE COURT TO BELIEVE THAT THE APPLICANT HAS THE SOLE ABILITIES TO BE A CUSTODIAN RECORD KEEPER AND CONTROLLER OF RECORDS IN THE TRIED CASE THAT IS ON COLLATERAL ATTACK BY THE APPLICANT, IN THIS CLAIMS ITSELF WILL COMPEL THE PCR COURT TO DENY THE MOTION TO DISMISS AND REFUSE TO ISSUE A CONDITIONAL ORDER OF DISMISSAL BASED UPON GOOD CAUSE TO BE SHOWN TO THE COURT FOR PCR NOT TO BE DISMISSED, THERE IS NO WAY POSSIBLE FOR THE RESPONDENT TO GO WITHOUT BEING SANCTIONED BY THE COURT IN THIS CLAIMS MADE THAT ARE ERRONEOUSLY STATED AND MISLEADING THE COURT SO THAT THE COURT CAN COMMIT A VIOLATION THAT WILL BE A SHOCK TO THE UNIVERSE OF THE SENSE OF JUSTICE THAT WILL NEED TO BE SERVED IN APPLICANT'S PCR CASE MATTERS BEFORE THE PCR COURT.

APPLICANT'S OPPOSITIONS AND SUFFICIENT SHOWINGS AND JUSTIFICATIONS AS FOLLOWS:

POSTURES OF CASE

APPLICANT FIRST WILL PROFFER TO THE COURT DOCUMENTS AS SHOWN THAT ARE EXPLICITLY STATED THAT IMPLIES FACTUALS TO THE PCR COURT THE RESPONDENT IS THE RECORD CUSTODIAN KEEPER OF, THERE ARE THE RESPONDENT OWN ISSUED PLEADINGS THEY FILED IN THE FIRST PCR CASE NO. 2007-CP-13-0029, THAT OF WHICH THEM BEING THE RETURN AND MOTION TO DISMISS WITHOUT PREJUDICE FILED ON MAY 07, 2007 BY RESPONDENT'S COUNSEL KAREN RATIGAN, ASST. ATTY. GEN., AND THE ORDER OF

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DISMISSAL WITHOUT PREJUDICE FILED AND SIGNED BY THE HONORABLE JOHN M. MILLING, Cir. Ct. JUDGE ON JUNE 07, 2007, AND THESE DOCUMENTS ARE SELF-EXPLANATORY TO THE COURT BECAUSE THE COURT CAN NOT OVERLOOK THE FACTS THAT THE APPLICANT IS BY LAW PROTECTED AND GUARANTEED TO HAVE HIS POST CONVICTION RELIEF APPLICATION HEARD IN BY AND IN THE PCR COURT, BECAUSE THERE EXISTS A INTERFERENCES BY THE COURT ITSELF PREVENTING THE APPLICANT FROM PROSECUTING HIS CASE THROUGH THE COURT WITH DUE DILIGENCE BY A TIMELY FASHIONS, SEE THAT APPLICANT NEVER DID RECEIVED THE ORDER OF DISMISSAL TO THE MOTION FOR A NEW TRIAL UNTIL AFTER SEPTEMBER 14, 2011 FROM THE CLERK OF COURT BECAUSE THE CLERK WAS CONTACTED BY THE APPLICANT ON SEPTEMBER 12, 2011 BECAUSE HE HAD NOT RECEIVED NO NOTICES FROM HIS ATTORNEY JAMES T. IRVIN, Jr., Esq., AS THE COURT HAD SUPPOSE TO SERVE AND PROVIDE THIS ORDER FROM THE COURT ON A TIMELY FASHIONS AND AS SOON AS IT WAS ISSUED FROM THE JUDGE SIGNING THE ORDER OF DISMISSALS IN THE CASE MATTER, THERE ARE PROFFERED TO THE COURT THE DOCUMENTS FROM THE COUNSEL OF RECORD AS JAMES T. IRVIN, Jr., Esq. BY FORM OF AFFIDAVIT SHOWING AND STATING THAT HE NEVER RECEIVED THE ORDER FROM THE COURT AFTER IT WAS ISSUED BY THE TRIAL JUDGE AS HON. PAUL M. BURH, Cir. Ct. JUDGE FOR THE FOURTH JUD. CIR., THIS DOCUMENT IS DATED OCTOBER 27, 2011, AND IT IS SIGNED BY THE ATTORNEY WHOM IS THE ATTORNEY OF RECORD FOR THE MOTION FOR NEW TRIAL, THE RESPONDENT HAS SO CAUSALLY TAKEN A POSITION THAT THERE EXISTS A PREJUDICIAL ELEMENT IN THEM ANSWERING TO THE APPLICANT IN HIS COLLATERAL ATTACKS TO HIS CONVICTION AND STATING THAT THERE MAY NOT BE A TRIAL TRANSCRIPT TO PROCURE FROM THE COURT REPORTER AS HON. HATTIE GORDON, IN ALL TRUTHFULNESS, THIS CLAIM IS NOT BASED UPON A FACT ESTABLISHED BY LAW NOR IS IT ONE THAT THE RESPONDENT CAN TAKE A POSITIONS BY AND BE AVAIL IN BECAUSE THROUGH OUT THE HISTORY OF S.C. COURT SYSTEMS ON THE APPELLATE LEVELS ALL OF WHOM DO KNOWS HOW THE OPERATION OF THE ATTORNEY GENERAL OFFICE IS IN REGARDS TO ORDERING TRIAL TRANSCRIPTS OF THESE PROCEEDINGS, IT IS KNOWN THAT THE ATTORNEY GENERAL COUNSELS ARE THE ONES WHO ACTUALLY ORDERS THE TRIAL TRANSCRIPTS FROM THE COURT REPORTERS AND THAN PLACES THEM IN THE APPELLATE COUNSELS AND PCR ATTORNEYS POSSESSIONS, THIS IS AN ESSENTIAL PRACTICES OF THE ATTORNEY GENERAL'S OFFICE, AND FOR THE RESPONDENT TO TAKE A CHEAP SHOT AT THE APPLICANT IN THIS CONTENTION TO THE PCR COURT IS VERY PREJUDICIAL TOWARDS APPLICANT FOR THE REASONS THAT THE COURT WILL OVERLOOK THE STALE AIR THAT IT IS CAUSING CONFUSION TO THE COURT ABILITIES TO GIVE A FAIR REVIEW AND RENDER A FAIR RULING OF LAWS TO THE APPLICANT'S CASE MATTER PRESENTED TO THE PCR COURT. THE APPLICANT PROVIDES TO THE COURT THE

DOCUMENT AS: THE SUPREME COURT OF S.C., TITLED STATE V. OUTLAW, C/No. 2002GS1300159, AS AN ORDER ISSUED FROM THE SUPREME COURT BY HON. JEAN H. TOAL, CHIEF JUSTICE., ON JANUARY 23, 2006, COORD. BY HON. DESIREE R. ALLEN, SCCA Ct. SERV. MANGR., THIS DOCUMENT EXPLICITLY SHOWS THE IMPLICIT OF THERE DOES EXIST A TRIAL TRANSCRIPT AND THE RESPONDENT HERE ARE FOUND TO BE MAKING FALSE CLAIMS THAT THEY ARE PREVENTED FROM RESPONDING TO THE APPLICANTS CLAIMS, IF THE RESPONDENT IS FAILING TO REFUTE AGAINST ANY CLAIMS MADE BY THE APPLICANT THE COURT MUST DEEM THAT THE RESPONDENT IS CONCEDED TO THE APPLICANT'S CLAIMS THAT ARE CLEARLY PRESENTED TO THE PCR COURT IN HIS PCR APPLICATION FILED TO THE PCR COURT ON JANUARY 10, 2012, RESPONDENT STATED THAT THE APPLICANT WAITED MANY YEARS TO FILE HIS PCR APPLICATION THAT OF WHICH IS NOT TRUE, THE APPLICANT FILED HIS PCR WHEN HE RECEIVED THE ORDER FROM THE CLERK OF COURT AND THAT IS WHAT HE WAS REQUIRED TO DO, THIS FACT IS BASED UPON THE UNDERCOURT ACTIVITIES AS SERVING THE APPLICANT WITH PAPERS AND NOTICES, AND HAD NOT THE APPLICANT MADE A STANCE TO PROCURE THESE COURT ORDERS HE STILL WILL BE WITHOUT A CLUE AS WHAT IS GOING ON IN HIS CASE TO THE COURT, THE SHOWN FACTS ARE VERY CLEAR AND SIMPLE TO BE SEEN THAT APPLICANT HAS MADE WITH GOOD FAITH TO PLACE HIS CASE TO THE PROPER COURTS FOR HIS REVIEWS AS REQUIRED, HE HAD COUNSEL AND COUNSEL WERE NEVER SERVED BY THE COURT WITH THE ORDER OF DISMISSAL TO THE MOTION FOR NEW TRIAL BASED UPON AFTER DISCOVER EVIDENCE, AND IS ALSO THE FACTS THAT APPLICANT WAS PUSHED OVER ON THE ROAD BY ATTORNEY KENNETH MARTIN, Esq., DUE TO HIS DISBARMENT BY THE SUPREME COURT, AND TO INCLUDE HIS ILLNESS THAT ALSO PREVENTED HIM FROM PROPERLY PRACTICING LAWS, THIS IS IN ITSELF ARE IRREGULARITIES, THAT PREVENTED THE APPLICANT FROM SEVERAL RIGHTS GUARANTEED BY THE CONSTITUTIONS, HE HAS A RIGHT FIRST AND FOREMOST TO A DIRECT REVIEWS FROM THE APPELLATE COURTS, THIS RIGHT IS VIOLATED DUE TO THE COUNSELS NOT BEING SERVED PROPERLY FROM THE COURT'S CLERK, WITH THIS SAID AND CLEARLY EVIDENT OF THE RECORDS, THE RESPONDENT IS ALSO FOUND BEING THE ADVOCATE TO PREVENT APPLICANT FROM SECURING THIS APPELLATE REVIEW TO HIS CONVICTION THAT HE IS ENTITLED TO BY LAW, SECONDLY, THE RESPONDENT IS BEING A COMPONENT FOR THE COMMITTEES TO GROSS MISCARRIAGE OF JUSTICE TO TAKE PLACE IN APPLICANT'S CASE, IT IS WELL BEYOND THE APPLICANT'S CONTROL TO ENSURE THAT THE CLERK OF COURT PERFORMS THEIR MINISTERIAL DUTIES TOWARDS THE ATTORNEYS AND THE APPLICANTS OF CASE MATTERS OF THEIR COURTS, THE NATURAL FACTS ARE CLEARLY SHOWN FROM THE COURT RECORDS AS TO THERE BEEN INTERFERENCES BY THE COURT OFFICERS THAT IMPEDED APPLICANT'S COUNSEL FROM FILING PAPERS, PROSECUTING APPLICANT'S CASE

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TO THE COURT ON A TIMELY MATTERS AS REQUIRED BY LAWS, AND IT IS PRIORALLY AGREED UPON BY THE RESPONDENT COUNSEL KAREN RATIGAN, ESQ, ASST. ATTY. GENERAL THAT THE APPLICANT IS PROMISED A DIRECT REVIEW OF HIS CONVICTION, IT IS ALSO A FACT THAT THE APPLICANT COULD NOT PRESENT HIS CASE TO THE APPELLATE COURT WITHOUT AND ORDER OF DISMISSAL FROM THE COURT AS DATED TO SECURE APPELLATE REVIEWS BASED UPON THE TIMELY FASHIONS TO PREVENT FROM BEING DENIED WITHOUT IT BEING EXPLAINED TO THE COURT AS TO WHY THE ATTORNEY FAILED TO FILED THE DIRECT APPEAL NOTICE PURSUANT TO RULE 203, SCACR. THE APPLICANT IS NOT USING NOTHING THAT AMOUNTS TO EXCUSES FOR TIME ACCUMULATION OF TIME TO FILE HIS PCR APPLICATION TO THE COURT, AND THE FACTS ABOUT THIS MATTER IS HIS ORIGINAL APPLICATION WERE FILED TO SECURE HIS RIGHTS TO A DIRECT APPEAL TO HIS CONVICTION AND THERE EXISTS ALL EVIDENCE TO PROVE THIS FACTS BY SEEING THE ISSUE RAISED IN HIS PCR. THE APPLICANT TAKES THE POSITIONS OF LEGAL AUTHORITIES OF WHITE V. STATE, 263 S.C. 110, 208 S.E.2d 35 (1974), SEEKING A REVIEW BY THE COURT TO DETERMINE THAT APPLICANT DID NOT WAIVED HIS RIGHTS TO A DIRECT APPEAL, AND IF THIS SCENARIO, THE APPLICANT WILL CONTEND THAT WHERE THERE EXISTS AN ERROR OF LAW TO THE DIRECT APPEAL RIGHTS ARE VIOLATED AND IN THE SHOWING THAT HE DID NOT WAIVED HIS RIGHT TO AN APPEAL THERE COULD NOT BE A STATUTE OF LIMITATION TOLLING AGAINST HIM IN HIS CASE MATTER PRESENTED TO THE COURT, SEE AT ODOM V. STATE, 337 SC 256, 523 S.E.2d 753, 757 (1999), WHERE IT WAS HELD THAT LATE FILED APPEALS ARE CONSIDERED AS BELATED APPEALS AND ARE USED TO JUSTIFY PROCEDURAL DEFECTS, WHEN ATTORNEYS DOES NOT FILE TIMELY APPEALS; IN ODOM, THIS COURT WENT ON TO STATE THAT AN AUSTIN APPEAL ATTACKS THE PCR PROCEDURE USED IN THE CASE, NOT THE MERITS OF THE SENTENCE SO THE ONE YEAR STATUTE OF LIMITATIONS DOES NOT APPLIES. HERE IN APPLICANT'S CASE APPLICANT DOES ATTACKS THE PROCEDURE OF BEING DENIED AN APPEAL BY CHALLENGING THE INEFFECTIVE ASSISTANCE OF COUNSEL; AND UNDER THIS STANCES THE APPLICANT WILL COMPEL THE COURT TO SEE THE WELL SETTLED LAW IT HAS ESTABLISHED AND ENFORCED TO SAY THAT THE PROCEDURAL DEFECTS CANNOT GO UNNOTICED AND THERE MUST BE EFFECTIVE REMEDY TO CORRECT SUCH A DEPRIVATION. THE APPEAL FROM AN ADVERSE PCR MATTER IS ONE OF A RIGHT, AND EVENMORESO, THE ONE FROM A CONVICTION IS GUARANTEED TO THE APPLICANT, IT IS NOT THE RIGHT OF THE ATTORNEYS TO NOT PURSUE AND SECOND GUESS WHAT IS THE COURT IS DOING TO RENDER A ROLINGS TO THE CASE MATTERS FILED TO IT, SEE ALSO AT HOPE V. STATE, 328 SC 78, 492 S.E.2d 76 N.1 (1997) (APPEALS PERMITTED), AND FINALLY, THE APPLICANT WILL SURELY TAKE THE STANCES AS THE FIRST PCR BEING DISMISSED WITHOUT PREJUDICE AS THE RESPONDENT

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AGREED, THIS DISMISSAL DOES NOT BAR HIM FROM SECOND PCR FILED IN 2012, BECAUSE
 THERE IS NO WAY THAT THE FIRST PCR FILED AND DISMISSED OPERATES A TRAP FOR THE
 UNWARY, AS THE APPLICANT, THE RESPONDENT GAVE CONSENT AND SINCE THE STATE IS
 REPRESENTED BY A DIFFERENT COUNSEL IN THIS CURRENT PCR AND NOT THE PRIOR
 COUNSEL KAREN RATIGAN, ESQ, THERE EXISTS A RENIG TO THE FIRST ORDER OF
 DISMISSAL WITHOUT PREJUDICE AND THIS IS AN ARGUMENT THAT WILL SUSTAIN A FACT
 THAT THE RESPONDENT IS BEING VERY CONFUSED AND MISLEADING THE COURT WITH THEIR
 CLAIMS PRESENTED TO THE COURT IN THEIR RETURN FILED TO THE COURT. SEE GAMBLE
V. STATE, 298 SC 176, 379 SE2d 118 (1989); AND SEE MENDE V. CONWAY HOSP., Inc.,
 304 SC 313, 404 SE2d 33 (1991); NORRIS V. STATE, 335 SC at 33, 515 S.E.2d 515
 (1999) (STATE IS ESTOPPED FROM ASSERTING THE STATUTE OF LIMITATION AS A DEFENSE
 TO A SUBSEQUENT PCR APPLICATION, AFTER THE STATUTE OF LIMITATION HAS RUN AND
 AGREES THAT THE APPLICANT SHOULD BE ALLOWED TO RE-FILE AN APPLICATION. WILSON
V. STATE, 348 SC 216, 559 S.E.2d 582 (2002)). IN HAVING THE AUTHORITIES TO TAKE
 STANCE BY THE APPLICANT WILL RESPECTFULLY DEMAND THAT THE PCR COURT DENIES THE
 RESPONDENT'S MOTION TO DISMISS HIS APPLICATION, AND THEREFORE APPOINT PCR
 COUNSEL AND HAVE THE COURT TO SCHEDULE AN EVIDENTIARY HEARING TO BE HELD SOON
 AS PRACTICAL SO THAT THE FAIR PROCESS OF APPLICANT'S DUE PROCESS AND EQUAL
 PROTECTION RIGHTS CAN BE PROTECTED. IT IS FURTHER REQUESTED THAT IF THE
 RESPONDENT WISHES TO INQUIRE A TRIAL TRANSCRIPT THE SUPREME COURT LIBRARY DOES
 HAVE IT AND ON THE APPLICANT WOULD ASSIST HIM IN OBTAINING ONE AS A COPY, THIS
 WILL SERVE AS ECONOMICAL SENSES TO THE COURT'S BUDGETARY DIFFICULTIES AND
 POSITIONS TO TAKE UPON IT A MATTERS OF CORRECTIONS AND NOT A POSITIONS TO
 MISGUIDE THE COURT. IN ORDER TO JUST WIN A CASE IT IS FIGHTING AGAINST THE
 APPLICANT IN AS THE PCR.

CONCLUSION

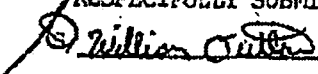
APPLICANT OUTLAW RESPECTFULLY REQUESTS THAT THIS HONORABLE COURT ENFORCES
 THE WELL SETTLED LAWS THAT THE SUPREME COURT HAS MADE TO BE ENFORCED IN THIS
 SUCH TYPE OF PCR CASE MATTERS AND RENDER A FAIR RULING THAT MUST BE FAVORABLE
 TO HIM IN HIS PCR, THE APPLICANT COMPELS THE COURT TO PERFORM ITS MINISTERIAL
 DUTIES TO APPOINT PCR ATTORNEY AND SCHEDULE AN EVIDENTIARY HEARING SO THAT
 THIS PCR CASE MATTER COULD BE ADJUDICATED UPON BY THE PCR COURT. ACCORDINGLY
 TO THE APPLICANT'S RIGHTS OF THE US CONST. 6th AND 14th AMEN., AND HIS RIGHTS
 PURSUANT TO THE SC CONST. Art. I, §§§ 3, 9, AND 14, WHEREAS, THE APPLICANT
 RESPECTFULLY DEMANDS THAT THE COURT FINDS THAT HE HAS PROFFERED TO THE COURT

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PROBATIVE EVIDENCE AS DOCUMENTS TO PROVE HIS CONTENTIONS PLACED UPON THE PCR COURT TO RENDER A FAVORABLE RULING TO HIS CASE ON PCR. IT IS THEREFORE PRAYS FOR RELIEF THAT IS DEEMED BY THIS COURT TO REACH AN ENDS OF JUSTICE IN HIS CASE ACCORDINGLY TO APPLICABLE LAWS TO HIS CASE PRESENTED TO THE COURT IN PART AS RULE 12 (a)(e)(f), SCRPC, AND RULE 56(a), SCRPC, ON THIS 17TH DAY OF APRIL 2012.

APRIL 12, 2012

RESPECTFULLY SUBMITTED,



WILLIAM OUTLAW

LEE C.I.

990 WISACKY HWY.

BISHOPVILLE, SC 29010

APPLICANT, pro se

NOTE: THERE EXISTS A CONFLICT OF INTEREST IN THIS CASE MATTER DUE TO THE FACT THAT THE SENTENCING JUDGE, (HON PAUL M. BURCH) HAS THE CAPACITY AS THE CHIEF ADMIN. JUDGE OF THE FOURTH JUD. CIR., THIS WILL AUTOMATICALLY COMPEL JUDGE BURCH TO RECUSE HIMSELF FROM PARTICIPATING IN THIS FOR CASE MATTER AND PURSUANT TO THE FLAID COURT THIS IS NOT DISCRETIONAL TO THE JUDGE AS HE IS THE APPLICANT'S SENTENCING JUDGE OF THE SENTENCE THAT ARE BEING COLLATERAL ATTACKED BY APPLICANT ON PCR AS HEREIN STATED. SEE FLOREZ V. SIME, 303 SC 298 SE2d 145 (1991).

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State of South Carolina
County of CHESTERFIELD
WILLIAM OUTLAW, 308544
APPLICANT

v.

SOME OF SOUTH CAROLINA
RESPONDENT

In the Court of COMMON PLEAS
FOURTH Judicial Circuit
Case No. 2012-CP-13-0113

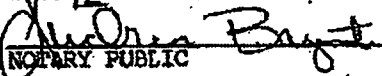
CERTIFICATE OF SERVICE

I CERTIFY THAT I SERVED THE RESPONDENT A COPY OF THE OPPOSITION TO HIS MOTION TO DISMISS POST CONVICTION RELIEF APPLICATION BY WAY OF US MAIL, PREPAID POSTAGE ENVELOPE ADDRESSED TO HIS OFFICE AS: PO BOX 11549, COLUMBIA, SC 29211-1549, ASSISTANT ATTY. GENERAL, TYSON A. JOHNSON, ~~PERSONALLY~~ DELIVERING IT TO THE PRISON MAILROOM POSTAL DIRECTORS ON THIS 11 DAY OF APRIL 2012.

APRIL 11, 2012


WILLIAM OUTLAW
LEE C.I./DN-2116
990 WISACKY HWY.
BISHOPVILLE, S.C. 29010
APPLICANT, pro se

SWORN AND SUBSCRIBED BEFORE ME ON
THIS 11 DAY OF APRIL 2012.


NOTARY PUBLIC
MY COMMISSION EXPIRES: 5/26/2020

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STATE OF SOUTH CAROLINA
COUNTY OF CHESTERFIELD

IN THE COURT OF COMMON PLEAS

William Outlaw, 308544

Applicant,

State of South Carolina,

Respondent.

CLERK OF COURT C.P. & C.S.
CHESTERFIELD COUNTY, SC

A True Copy Attest

CONDITIONAL ORDER OF
DISMISSAL

2012-CP-13-0113

FAYE L. SELLERS
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

2012 MAY 21 AM 9 59

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed February 16, 2012. Respondent made its Return on March 28, 2012, requesting summary dismissal of the matter. This Court also has before it the records of the Chesterfield County Clerk of Court regarding the subject convictions as well as documents from Applicant's prior PCR.

PROCEDURAL HISTORY

The records before this Court indicate that Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court. The Applicant was indicted for voluntary manslaughter in the March 2002 term of the Chesterfield county grand jury. (2002-GS-13-0159) Paul V. Cannarella, Esquire, represented Applicant. After the State brought the case to trial, the jury found the Applicant was guilty of voluntary manslaughter. On April 6, 2005, the Honorable Paul M. Burch sentenced the Applicant to twenty-five years imprisonment.

On April 11, 2005, Mr. Cannarella filed two post-trial motions: (1) motion for a new trial and (2) motion to reconsider sentence. Before these motions could be ruled upon, Applicant

terminated the representation of Mr. Cannarella and alleges that he then retained the services of Kenneth Martin, Esquire. While the motions were still pending, Applicant filed his first PCR January 10, 2007. (2007-CP-13-0029). After the Respondent filed its Return, the Application was dismissed without prejudice by the Honorable John M. Milling on June 1, 2007 since application for PCR may not be made during the time when an appeal is pending or during the time in which an appeal may be perfected. In his current Application, Outlaw alleges his post trial motions were not ruled upon until September 2, 2010 and that his counsel thereafter failed to perfect an appeal on behalf of Applicant.

ALLEGATIONS

Applicant makes various allegations of ineffective assistance of trial counsel, including allegations regarding the handling of Applicant's trial as well as failing to perfect an appeal on behalf of Applicant. Applicant seeks "vacate sentence, remand for dismissal of V-Manslaughter" as a result of this proceeding.

DISCUSSION

This Court finds that the Application should be dismissed with prejudice as it was filed beyond the statute of limitations, and is barred by laches.

Statute of Limitations

Applicant has failed to comply with the filing procedures of the Act. S.C. Code Ann. §

17-27-10 to -160 (1976 & Supp. 1997). The Act reads as follows:

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.

S.C. Code Ann. § 17-27-45(a) (Supp. 1998).

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). Applicant alleges his post trial motions were not ruled upon until September 2, 2010. This Application was filed February 16, 2012, which was well beyond the time the statutory filing period 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 PCR 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 judgement as a matter of law." Therefore, the Court finds that it should summarily dismiss the Application for PCR for failure to file within the time mandated by statute.

Laches

The doctrine of laches bars Applicant from raising these allegations in a PCR action. Applicant has filed this application almost seven years after his conviction. Absent some explanation or justification for delay in seeking PCR, laches will prevent an applicant from seeking collateral review of a conviction, especially where the delay affects the availability of evidence to refute an applicant's claims. McElrath v. State, 276 S.C. 282, 277 S.E.2d 890 (1981).

To ensure finality of litigation, our courts require reasonable diligence in pursuing collateral relief. This requirement "guards the state's legitimate expectation that it will not be called upon without due cause, to defend the integrity of convictions that occurred many years

ago, where records and witnesses are no longer available." Id. At 283, 277 S.E.2d at 890-91 (citation omitted).

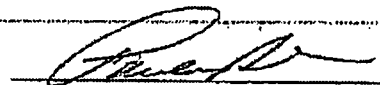
Applicant's delay has greatly prejudiced Respondent. A transcript of Applicant's trial may now be unavailable. It is doubtful counsel would have memory or relevant notes regarding his representation of Applicant. If Applicant had sought relief within a reasonable time after his trial, neither of these problems would exist. Therefore, the Court intends to summarily dismiss the application based on Applicant's lack of diligence in processing his claim for relief.

CONCLUSION

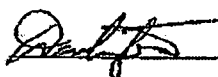
Based upon its review of the pleadings in this matter, this Court expresses its intent to summarily dismiss this matter unless the Applicant advises this Court with specific reasons, factual or legal, why it should not dismiss the matter in its entirety. The Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final by filing any reasons he may have with the Chesterfield County Clerk of Court, P.O. Box 529, Chesterfield SC 29709, and serving such reasons with the SC Office of the Attorney General: Attn. Assistant Attorney General Tyson A. Johnson, Sr., Post Office Box 11549, Columbia, SC 29211.

AND IT IS SO ORDERED this

5th day of April, 2012.



Honorable Paul Burch
Administrative Judge
4th Circuit

 South Carolina.

State of South Carolina
County of Chesterfield
William Outlaw, 208544,
Applicant,

vs.

State of South Carolina,
Respondent.

In the Court of Common Pleas
Fourth Judicial Circuit
C/A. # 2012-CP-13-0113

CLERK OF COURT OF C.P.S.
CHESTERFIELD COUNTY, SC

By Attest
J. M. Milling

Applicant's Specific Factual
and Legal Reasons for the
Conditional Order of Dismissal
Not to become Final to PCB.

2012 FEB 10 PM 2 51

Comes now William Outlaw, Applicant in
Relief filed February 16, 2012, to present
explanation as to why the Conditional
Dismissal must not become final, as with
April 5th, 2012, by the Trial Judge whom
the Applicant on April 6, 2005, Applicant received the
Conditional Order of Dismissal on July 27, 2012 by
way of signing for legal mail from the office of the
General Counsel of SCRC, July 27, 2012.

"PCB procedural History"

Applicant William Outlaw filed his per on 02/16/12.
The Respondent filed the return to this per on 03/29/12.
Requesting for a summary dismissal of the case
matters. See Order of Conditional Dismissal issued
by Judge P.M. Butch, Cir. Judge on April 5th, 2012.
Applicant Outlaw will combine the Order of Dismissal
Without Prejudice dated June 01, 2007, issued by
Judge J.M. Milling, Cir. Ct. Judge, in PCB case
matter C/A. no. 2007-CP-13-0029; this per is relevant
to Applicant's current per matter before the Court.
The Applicant will give new contentions that
there exist a violation to the S.C. Supreme Ct.
well settled law each is Floyd v. State, at
202 SC 298, 400 SE2d 145 (1991), judge must receive

himself if he was the judge who presided at the Criminal trial for which relief is being sought; Note: Applicant is not represented by an attorney and is pro se Litigant status and therefore has no way to present this matter to the Court to be considered.

"Respondent's Contentions and Claims for Summary dismissal to per."

*Claim 1.) Respondent stated that Applicant failed to comply with the filing procedures of the Act. S.C. Code Ann. §17-22-10-160, etc.

*Claim 2.) Respondent stated that Applicant is barred from raising his issues to the Court basing it by the doctrine of laches, saying it was 4 years almost after his conviction when filing per, etc.

*Claim 3.) Respondent stated that Applicant has caused a great prejudice to the Respondent because the trial transcript may not be available, and the Counsel would have memory loss of relevant notes regarding his representation, and the Respondent overlooks the interference factors.

Applicant's Rebuttal by evidence proffered by the documents, i.e.

Petitioner Outlaw first makes the facts known that Judge Burch should not be the judge presiding in his per case due to the fact that Judge Burch is the Sentencing and trial judge of Applicant Outlaw Criminal Case, that of which

Violates the Floyd v. State, Supra, the Applicant will show that it is by per se policy for the trial judge not to preside over the per matters to eliminate the violation to Canon 3 (B)(1), as it incumbent upon the Applicant to prosecute his case by diligence due, it is by a Compelling standards for the Court to excuse himself so no further prejudice will be caused in the Applicant's case for per, the trial judge did overlook the facts that the Clerk omitted the Applicant and the Case Counsel from being served with the Order signed by Judge Burch on September 01, 2010, in his Respectful Chambers. See exhibits #6 and #7.

As to Respondent's Claim #1, the Order of Dismissal dated June 01, 2007, signed by Judge Milling solidifying the action of the Applicant in filing his per, and it further shows that the second per is not time barred due to all of the Government interferences, and it is also defined by the legal authorities settled in: See at Cramble v. State, 298 SC 176, 379 SE2d 118 (1989). The Attorney General agreed with having the Applicant to file a second per due to pending motion to be ruled upon by the trial Court, the Applicant's trial Counsel filed post-trial motion for a new trial and Sentence Reduction, and in the waiting period Applicant prosecuted with due diligence his case because he officially was deemed without Counsel in his case at that particular time, whereas if the Respondent

will use the dates that is accumulated by the time as it so casually uses the post-trial date as Sept. 02, 2010. it fails to include a Direct Appeal periods which does take just about two years itself, and finally the Applicant is entitled to a Direct Appeal to his Conviction, it is also explicitly stated if Respondent makes oversights to Exhibits # 3, #4, from the Clerk of Court and Attorney James T. Ervin Jr. the Court is further Compelled to do an evaluation pursuant to the State v. White, 203 SC 110, 208 SE2d 35 (1974), this mandatory evaluation will determine that Applicant did not waived his rights to a Direct Appeal voluntarily, knowingly and freely, and according to the Supreme Court settled law of the White, Supra, the PCJ Court is by a must to do so because all Convictions are entitled to an initial review on a direct appeal, Applicant therefore request because he could never be time barred to seek an Appellate review to his Conviction especially when the problems are caused by the trial Counsel, the Statute of Limitation does not applies to Applicant's case matter, the Court overlooks the facts that the Government's interferences impeded Applicant and Counsel's ability to raise his claims on direct appeal and post conviction relief and this does constitutes a "gross miscarriage of justice", see ab: McClosky v. Zant, 499 US 467 (1991); Adams

State, 237 S.C. 256, 523 SE2d 753, 757 (1999); Austin v. State, 205 S.C. 453, 409 SE2d 395 (1990); Lybille v. State, 310 S.C. 532, 426 SE2d 315 (1992). Applicant will take positions by the above mention authorities to show the legal and factual contentions showing he is entitled to an initial review and an initial collateral attack to his conviction by an ineffective assistance of Counsel from trial and post trial motion; as in Respondent's second claim. "Laches" the doctrine of laches does not apply to Applicant's case matters due to the facts it is only two (2) years post since the judge signed the post-trial motion to Applicant's case from trial, and therefore, making it to be stopped to the State to make such a claim that evidence is not available for the Respondent to refute Applicant's claims, it is shown in Daibos v. Kimball, 311 S.C. 261, 428 SE2d 725 (1993); Wallace v. Timmons, 232 S.C. 311, 101 SE2d 844 (1958). delay alone in the assertion of a right does not constitute laches; whereas, the Respondent will not surmount its burden to prove that Applicant had actual knowledge and notice of facts about the situations about the time accumulation to his case from 2005 to 2012, being omitted from being served with a copy of the order of dismissal to his post trial motion, and that Applicant knew that his trial counsel was not going to file the direct appeal notice to his case. Applicant rely on the

Int'l. Pilot. Life Ins. v. Comm, 302 SC 8, 393 SE2d 180 (1990),
 Archambault v. Spruce, 214 SC 500, 63 SE2d 459 (1957);
 Applicant had no knowledge of the omitted
 Order until September 2011, when Applicant
 was notified by Clerk of Court that there
 were one issued by Judge Burch;
 the prior year.

as in Respondent issue #3; the Applicant
 will show the Court that the Respondent has
 a trial transcript in storage from the
 Respondent's Counsel Karen C. Rabigien, Asst. Atty.
 Gen., in case 2007-CP-13-0029, etc., and for
 the Respondent to make this claim is a
 intrinsic fraud upon this Court, Applicant
 bears no responsibility towards what the
 original trial Counsel can and can't make
 recollection of, and Applicant have no
 duties to suppress the memory of the trial
 Counsel through the Respondent, the Applicant
 contends that there exist a law that makes
 the Respondent responsible and accountable
 for storing the Case Files for the appropriate
 legal time, so therefore the Respondent has
 openly admitted that they defaulted in
 doing what they should.

The Applicant can provide a record
 of trial and show that the record of
 transcribed trial is available. Respondent is
 being over zealous in this claim and it must
 be denied.

Conclusion

Applicant Outlaw. Respectfully Request that the Court deny Summary dismissal and grant an evidentiary hearing and appoint Counsel to assistance in having his case presented to the per Court, as Post Conviction Relief laws and procedures as entitled to pursuant to U.S. Const 14th Amend, request and submitted on this 8 day of August 2012.

August 8 - 2012

Respectfully Submitted,

S. William Outlaw

William Outlaw
990 Wisconsin Hwy
Bishopville, S.C. 29010
pro se defendant

STATE OF SOUTH CAROLINA)

COUNTY OF CHESTERFIELD)

William E. Outlaw,
S.C.D.C. No. 308544,

Applicant,

v.

State of South Carolina,

Respondent.)

IN THE COURT OF COMMON PLEAS
2007-CP-13-0029ORDER OF DISMISSAL
WITHOUT PREJUDICE
A True Copy Attest
Jaye C. SellersCLERK OF COURT OF COMMON PLEAS
CHESTERFIELD COUNTY, SC

This matter comes before the Court by way of an application for post-conviction relief filed January 10, 2007. The Respondent filed a return, requesting the application be summarily dismissed because of the existence of pending post-trial motions in this case.

I.

The Applicant was indicted at the March 2002 term of the Chesterfield County Grand Jury for murder (2002-GS-13-0159). He was represented by Paul V. Cannarella, Esquire.

After the State brought the case to trial, the jury found the Applicant was guilty of voluntary manslaughter. On April 11, 2005, the Honorable Paul M. Burch sentenced the Applicant to twenty-five (25) years imprisonment.

On April 11, 2005, Mr. Cannarella filed two post-trial motions: (1) motion for a new trial and (2) motion to reconsider sentence. This Court has been advised that the Applicant has terminated his representation by Mr. Cannarella and retained the services of Kenneth Martin, Esquire. This Court has been advised that the post-trial motions have not been heard or ruled upon by the trial judge. This Court has been advised that the motions are scheduled to be heard before August 2007.

II.

"An application for post-conviction relief cannot be made while an appeal from the conviction or sentence is pending or during the time in which an appeal may be perfected." Rule 71.1(b), SCRCP. Further, the South Carolina Rules of Criminal Procedure clearly state the appeal time after a motion for a new trial "shall run from the receipt of written notice of entry of the order granting or denying such motion." Rule 29, SCRCrimP (emphasis added). Therefore, this Court finds this application for post-conviction relief must be summarily dismissed without prejudice until such time as the direct appeal is resolved.

III.

Based on all the foregoing, this Court finds and concludes all issues raised in the Applicant's post-conviction application are not cognizable claims because jurisdiction still rests in the lower court. As such, an action for post-conviction relief is premature at this time and the application must be denied and dismissed without prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty days from the receipt of this Order if he wants to secure the appropriate appellate review. His attention is also directed to Rules 203, 206, and 227 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

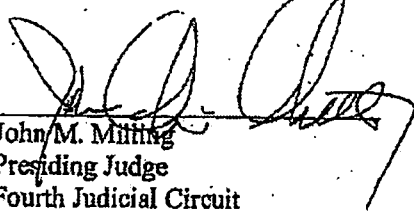


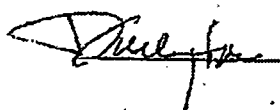
58

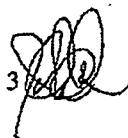
IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed without prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 1 day of June, 2007.


John M. Milling
Presiding Judge
Fourth Judicial Circuit

 South Carolina.


3

STATE OF SOUTH CAROLINA

COUNTY OF CHESTERFIELD

WILLIAM E. OUTLAW, 308544

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

2007-CP-13-0029

AFFIDAVIT OF SERVICE BY MAIL

A True Copy Attest

Jay T. Sellers
CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Order of Dismissal Without Prejudice of the Respondent in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Kenneth Martin, Esquire
Martin Law Offices
Post Office Box 100
Cheraw SC 29520

William E. Outlaw, 308544
Lee Correctional Institution
900 Wisacky Highway
Bishopville SC 29010

DATED this 7th day of June, 2007.

Judy A. Carey
Judy A. Carey, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF CHESTERFIELD

William Outlaw, 308544

Applicant,

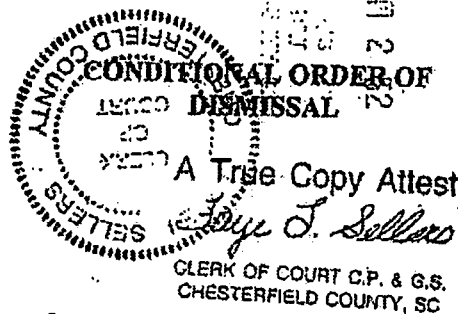
v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS

2012-CP-13-0113



This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed February 16, 2012. Respondent made its Return on March 28, 2012, requesting summary dismissal of the matter. This Court also has before it the records of the Chesterfield County Clerk of Court regarding the subject convictions as well as documents from Applicant's prior PCR.

PROCEDURAL HISTORY

The records before this Court indicate that Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court. The Applicant was indicted for voluntary manslaughter in the March 2002 term of the Chesterfield county grand jury. (2002-GS-13-0159) Paul V. Cannarella, Esquire, represented Applicant. After the State brought the case to trial, the jury found the Applicant was guilty of voluntary manslaughter. On April 6, 2005, the Honorable Paul M. Burch sentenced the Applicant to twenty-five years imprisonment.

On April 11, 2005, Mr. Cannarella filed two post-trial motions: (1) motion for a new trial and (2) motion to reconsider sentence. Before these motions could be ruled upon, Applicant

terminated the representation of Mr. Cannarella and alleges that he then retained the services of Kenneth Martin, Esquire. While the motions were still pending, Applicant filed his first PCR January 10, 2007. (2007-CP-13-0029). After the Respondent filed its Return, the Application was dismissed without prejudice by the Honorable John M. Milling on June 1, 2007 since application for PCR may not be made during the time when an appeal is pending or during the time in which an appeal may be perfected. In his current Application, Outlaw alleges his post trial motions were not ruled upon until September 2, 2010 and that his counsel thereafter failed to perfect an appeal on behalf of Applicant.

ALLEGATIONS

Applicant makes various allegations of ineffective assistance of trial counsel, including allegations regarding the handling of Applicant's trial as well as failing to perfect an appeal on behalf of Applicant. Applicant seeks "vacate sentence, remand for dismissal of V-Manslaughter" as a result of this proceeding.

DISCUSSION

This Court finds that the Application should be dismissed with prejudice as it was filed beyond the statute of limitations, and is barred by laches.

Statute of Limitations

Applicant has failed to comply with the filing procedures of the Act. S.C. Code Ann § 17-27-10 to -160 (1976 & Supp. 1997). The Act reads as follows:

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.

S.C. Code Ann. § 17-27-45(a) (Supp. 1998).

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). Applicant alleges his post trial motions were not ruled upon until September 2, 2010. This Application was filed February 16, 2012, which was well beyond the time the statutory filing period 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 PCR 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 judgement as a matter of law." Therefore, the Court finds that it should summarily dismiss the Application for PCR for failure to file within the time mandated by statute.

Laches

The doctrine of laches bars Applicant from raising these allegations in a PCR action. Applicant has filed this application almost seven years after his conviction. Absent some explanation or justification for delay in seeking PCR, laches will prevent an applicant from seeking collateral review of a conviction, especially where the delay affects the availability of evidence to refute an applicant's claims. McElrath v. State, 276 S.C. 282, 277 S.E.2d 890 (1981).

To ensure finality of litigation, our courts require reasonable diligence in pursuing collateral relief. This requirement "guards the state's legitimate expectation that it will not be called upon without due cause, to defend the integrity of convictions that occurred many years

ago, where records and witnesses are no longer available." Id. At 283, 277 S.E.2d at 890-91 (citation omitted).

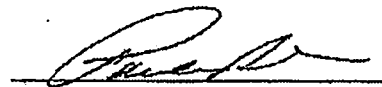
✓ Applicant's delay has greatly prejudiced Respondent. A transcript of Applicant's trial may now be unavailable. It is doubtful counsel would have memory or relevant notes regarding his representation of Applicant. If Applicant had sought relief within a reasonable time after his trial, neither of these problems would exist. Therefore, the Court intends to summarily dismiss the application based on Applicant's lack of diligence in processing his claim for relief.

CONCLUSION

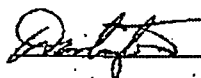
Based upon its review of the pleadings in this matter, this Court expresses its intent to summarily dismiss this matter unless the Applicant advises this Court with specific reasons, factual or legal, why it should not dismiss the matter in its entirety. The Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final by filing any reasons he may have with the Chesterfield County Clerk of Court, P.O. Box 529, Chesterfield SC 29709, and serving such reasons with the SC Office of the Attorney General: Attn. Assistant Attorney General Tyson A. Johnson, Sr., Post Office Box 11549, Columbia, SC 29211.

AND IT IS SO ORDERED this

5th day of April, 2012.



Honorable Paul Burch
Administrative Judge
4th Circuit

 South Carolina.

STATE OF SOUTH CAROLINA
COUNTY OF CHESTERFIELD

The State,

vs.

William Outlaw,

Defendant.

IN THE COURT OF GENERAL SESSIONS
FOURTH JUDICIAL CIRCUIT
Indictment No.: 02-GS-13-0159

RELEASE OF ATTORNEY

A True Copy Attest

Judge J. Sellers

CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

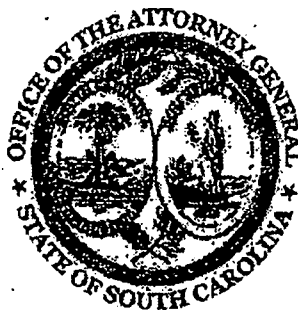
The Defendant desires to release his attorney, Paul V. Cannarella, from any

further representation in connection with his defense. Defendant is aware of his pending post-trial motions for (1) sentence reduction (2) new trial based upon failure to charge involuntary manslaughter and (3) after discovered evidence of third-party guilt. The Defendant is aware of these motions being scheduled for a hearing before Judge Paul M. Burch on November 8, 2005 at 2:00pm at the Chesterfield County Courthouse. Defendant understands that it is his responsibility to obtain substitute counsel and in the event that he is unable to obtain substitute counsel prior to the post-trial motions hearing, then, in such event, the Judge may require Paul V. Cannarella to appear on Defendant's behalf. Defendant is aware that it is necessary for Paul V. Cannarella to inform this Court of this release. The Defendant's mother, Willie Jean Winburn, is signing this release on behalf of the Defendant pursuant to Defendant's grant of power of attorney to her, a copy of which is attached hereto. Mrs. Winburn is receiving a copy of the file and photographs.

September 14, 2005

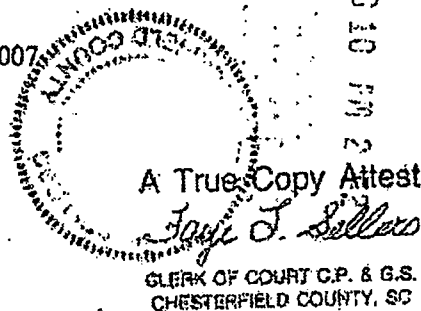
Willie Jean Winburn
Willie Jean Winburn-POA For Son

HENRY McMASTER
ATTORNEY GENERAL



June 7, 2007

The Honorable Faye Sellers
Clerk of Court, Chesterfield County
Post Office Box 529
Chesterfield SC 29709



Re: William E. Outlaw, 308544 v. State of South Carolina
2007-CP-13-0029

Dear Ms. Sellers:

Enclosed please find the original Order of Dismissal Without Prejudice, signed by The Honorable John M. Milling, in the above-captioned case, for filing in your office.

Sincerely,

Karen C. Ratigan
Assistant Attorney General

/jacc
Enclosure

cc: Kenneth Martin, Esquire
William E. Outlaw, 308544

66

SEP 14 9 05 AM

SEP 14 9 05 AM

Hon. Judge Sellers
 Clerk of Court
 P.O. Box 529
 Chesterfield, S.C.
 29709

William Outlaw #308544
 Lee C I/OBI
 990 Wilsack Hwy.
 Bishopville, S.C. 29010

September 12, 2011



Free Copy Attest

J. Sellers

CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

CC Jo:
 Honorable Judge
 William Sellers
 Clerk of Court

Re: State vs. William Outlaw, Cno. 02-05-13-0159, etc.
 Motion to Reconsider; Motion For New Trial, et al; Sent
 Dispositions, Orders of Hearings, Schedules, etc.

Dear Ms. Sellers:

Please allow my correspondence to serve as my formal and legible request for entitled information in regards to the above case and ongoing matters as stated. I am respectfully requesting that you do provide to me all commenced orders issued by Judge Paul M. Burch to my case motions filed to the Court by Attorney Paul Cannarella, Esq., see Motion to Reconsider Sentence filed April 07, 2005, and see Motion For New Trial filed April 21, 2005. I do understand Mr. Cannarella was relieved as my case Counsel but it is advised to your office that I am entitled to all orders that the judge has issued in my case and I am entitled to be informed about the date of the next scheduled hearing to the Motion For New Trial based upon newly discovered evidence.

Thanking you in advance for your assistance time and I look forward on hearing from you soon.

September 12, 2011

Respectfully Submitted

WJO/ew

cc: Hon. E. Sellers
File: WJO

William Outlaw
 William Outlaw po
 990 Wilsack Hwy.
 Bishopville, S.C. 29010

STATE OF SOUTH CAROLINA
HORRY COUNTY

State of South Carolina;

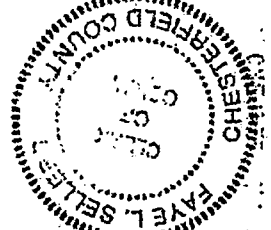
vs.

William Outlaw,

Defendant.

IN THE COURT OF GENERAL
SESSIONS
FOURTH JUDICIAL CIRCUIT

Indictment No.: 2002-GS-13-0159



A True Copy Attest

Jaye J. Sellers

CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

AFFIDAVIT OF JAMES T. IRVIN JR., ESQ.

After first being duly sworn, I do testify that the following is true based on my personal knowledge:

1. On September 2, 2010, an order was filed in Chesterfield in response to a Motion for a New Trial and a Motion for Reduction of Sentence in the above matter.
2. I, James T. Irvin, Jr. represented William Outlaw in the trial and Motion Hearings.
3. I was never sent a copy or notice that the order was filed on September 2, 2010.
4. I received a copy on October 17, 2011, when it was faxed to me William Outlaws mother Willie Jean Winburn.

Sworn to and subscribed before me on
October 27, 2011.

Elizabeth

Notary for South Carolina.

My Commission expires on 3/5/2020

James T. Irvin Jr.
JAMES T. IRVIN JR., ESQ.

IRVIN LAW FIRM, LLC

1101-C 3rd Avenue South
 P.O. Box 2677
 Myrtle Beach, SC 29578
 Office: (843) 445-6200 Fax: (843) 445-6202
 On the Web: www.jimirvinlaw.com

JAMES T. IRVIN, JR.
irvinlawfirm@aol.com
 Cellular: (843) 222-3228

JONATHAN D. McCOY
jannymccoy@gmail.com
 (803) 269-6379

I, Willie Jean Winburn, mother of William Outlaw acknowledge that I am receiving an affidavit from MR. Irvin and a copy of William Outlaws file.

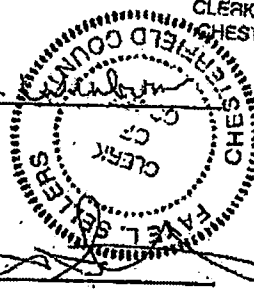
A True Copy Attest

Faye J. Sellers

CLERK OF COURT C.P. & G.S.
 CHESTERFIELD COUNTY, SC

2012 JUN 10 PM 2 53

Willie Jean Winburn
 Willie Jean Winburn



Elaine [Signature]
 Witness

James T. Irvin, Jr.
 James T. Irvin, Jr.

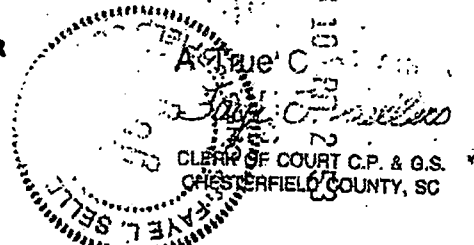
STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FOR THE FOURTH JUDICIAL CIRCUIT
 COUNTY OF CHESTERFIELD) Indictment No.: 2002-GS-13-0159

State)

vs.)

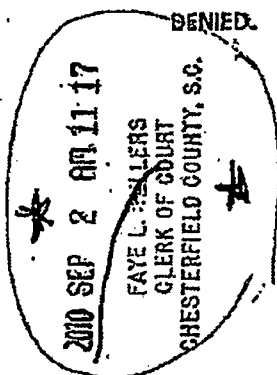
William Outlaw,
 Defendant.)

ORDER



The Defendant had timely filed a Motion for a New Trial and a Motion for Reduction of Sentence in this case, and upon hearing the Motion, the Court rules as follows:

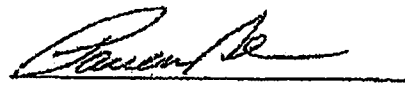
1. That the Defendant was tried for Murder, but was convicted of Voluntary Manslaughter and sentenced to a Twenty-five (25) year sentence. The Defendant then timely filed this Motion.
2. That the Defendant argued that the Court should have instructed the jury on the lesser - included offense of Involuntary Manslaughter. The Defendant was charged with Murder and was convicted of Voluntary Manslaughter. The Defense cited State v. Crosby, 355 S.C. 47 (2003) to support their contention that the Defendant was entitled to an instruction on Involuntary Manslaughter. However, the facts in this case are distinguishable from Crosby in that the Defendant in the present case testified that he went to his vehicle, armed himself, and intentionally fired in the direction of the Victim in self-defense. The jury was instructed on self-defense, but they rejected this defense and convicted him of Voluntary Manslaughter.
3. That the Defendant then requested that the sentence be reduced. After hearing from the Defense and the victim's family, the Court would hereby deny the Motion to Reconsider this the sentence.
4. THEREFORE, The Defendant's Motions for a New Trial and Reduction of Sentence are DENIED.



A True Copy, Attest
Faye L. Sellers
 CLERK OF COURT, C.P. & G.S.
 CHESTERFIELD COUNTY, SC

AND IT IS SO ORDERED!

Ex. 17



Presiding Judge

At Chambers

September 1st, 2010

* 2010 SEP 2 AM 11:17
* FAYE L. SELLERS
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

STATE OF SOUTH CAROLINA,)
COUNTY OF CHESTERFIELD)
WILLIAM OUTLAW, 308544,)
APPLICANT,)
V.)
STATE OF SOUTH CAROLINA,)
RESPONDENT.)

IN THE COURT OF COMMON PLEAS
4th JUDICIAL CIRCUIT
CASE NO. 2012-CP-13-113
2/16/12

MOTION FOR DISCOVERY PURSUANT TO
RULE 26, SCRCP, per se,
PRC §17-27-150, i.e.

A True Copy Attested

Jaye L. Sellers

CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, S.C.

2012 MAR 13 AM 9:48
VOI I I I
FAYOL SOLERS
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

THIS MATTER COMES BY WAY OF A MOTION TO THE COURT BY THE
ABOVE-NAMED APPLICANT FOR POST CONVICTION RELIEF
FILED 2/16/12. 2012. THE APPLICANT IS EXERCISING HIS
PROCESS RIGHTS THAT ENTITLES HIM TO MAKE DISCOVERIES
RECORDS, FILES AND DOCUMENTS, etc.

PROCEDURE HISTORY

THE APPLICANT WAS INDICTED AT THE MARCH 2002
CHESTERFIELD COUNTY GRAND JURY FOR MURDER, 2002-GS-13-
APPLICANT WAS REPRESENTED BY PAUL V. CANNARELL, Esq., AFTER
STATE BROUGHT THE CASE TO TRIAL, THE JURY FOUND THE APPLICANT
GUILTY OF VOLUNTARY MANSLAUGHTER. ON APRIL 06, 2005, JUDGE PAUL
M. BURCH SENTENCED THE APPLICANT TO TWENTY-FIVE (25) YEARS
IMPRISONMENT. ON APRIL 11, 2005, MR. CANNARELLA FILED POST-TRIAL
MOTIONS AS SEE MOTION FOR A NEW TRIAL BASED UPON AFTER DISCOVERED
EVIDENCE PURSUANT TO RULE 29, SCRCP, AND 2. MOTION TO
RECONSIDER SENTENCE, THE ORDER OF DISMISSAL TO THESE MOTIONS WERE
NOT RECEIVED FROM THE COURT UNTIL ON SEPTEMBER 27, 2011, THAT OF
WHICH DISMISSED THE MOTIONS BY THE COURT AS DATED: SEPTEMBER 09,
2009, THE COUNSEL AS KENNETH MARTIN, Esq. DID NOT FILED THE
APPEAL INTENT NOTICE TO THE APPELLATE COURT AS SHOULD HAVE AND
THIS PREJUDICED THE APPLICANT BECAUSE HE HAD A RIGHT TO FILED AND
APPEAL TO HIS CONVICTIONS.

MOTION JUSTIFICATIONS

APPLICANT OUTLAW RESPECTFULLY REQUEST FOR LEAVE TO
OBTAIN DISCOVERY BECAUSE OF THE GOOD CAUSE SHOWN IN THE
FOLLOWING: APPLICANT SEEK DISCLOSURES TO THE DOCUMENTS FROM THE
SOUTH CAROLINA LAW ENFORCEMENT DIVISION (BALLISTIC REPORTS) THAT
THEY HAVE CUSTODY AND CONTROLS OF AS THEY BEING THE RECORD
CUSTODIAN KEEPERS FOR, THIS MATERIALS ARE RELEVANT TO THE FACTS
THAT ARE PROVED AS CLAIMED BY THE APPLICANT IN HIS APPLICATION
SUBMITTED TO THE COURT, THE APPLICANT IS REQUESTING A HEARING TO
BE HELD TO HIS MOTION, THE APPLICANT ALSO REQUEST THAT THE
SOLICITOR'S OFFICE PRODUCE ALL DOCUMENTS THAT THE SLED PROVIDED

E & Q

TO THEM SINCE TRIAL DONE, THIS PRODUCTION OF DOCUMENTS DISCOVERY REQUEST WILL SHOW THAT DUE DILIGENCE MANDATES ARE HERE ASSIGNED AND WILL BE PLACE UPON THE COURT FOR IT'S EVALUATIONS TO SHOW AS A MATTER OF LAW IN APPLICANT'S CASE. THE APPLICANT RESPECTFULLY REQUEST THAT THE COURT HAVE THE ATTORNEY GENERAL OFFICE TO HAVE A HEARING SCHEDULED FOR THIS MOTION TO BE HEARD BEFORE THE CHIEF JUDGE OF THE FOURTH JUDICIAL CIRCUIT COURT, AND FOR HIM NOT TO BE THE SENTENCING JUDGE OF APPLICANT'S CONVICTION SO THAT A CONFLICT OF INTEREST WILL NOT EXIST. IT IS HEREBY RESPECTFULLY REQUESTED BY THE APPLICANT WILLIAM OUTLAW.

CONCLUSION

APPLICANT W. OUTLAW RESPECTFULLY REQUEST THAT HIS MOTION FOR DISCOVERY BE GRANTED AS HAVING THE COURT TO GRANT LEAVE TO DO SO AS TO PRODUCE DOCUMENTS THAT WILL PROVE HIS CLAIMS RAISED TO THE PCR COURT, AS IT IS SUBMITTED ON THIS 12 DAY OF MARCH 2012.

RESPECTFULLY SUBMITTED,
/s/ Will Outlaw
 WILLIAM OUTLAW, 308544,
 LEE C.I.
 990 WISACKY HWY.
 BISHOPVILLE, S.C. 29010
 pre se APPLICANT
 ATTORNEY FOR APPLICANT

A True Copy Attest

Jaye J. Sellers

CLERK OF COURT C.P. & G.S.
 CHESTERFIELD COUNTY, SC

2012 MAR 13 AM 10:48
 PAID L. SELLERS
 CLERK OF COURT
 CHESTERFIELD COUNTY, SC

STATE OF SOUTH CAROLINA
COUNTY OF CHESTERFIELD

WILLIAM OUTLAW, 308544,
APPLICANT,

v.

STATE OF SOUTH CAROLINA,
RESPONDENT.

IN THE COURT OF COMMON PLEAS
CASE NO. 2012-CP-13 ¹¹³
2/16/12

CERTIFICATE OF SERVICE

I CERTIFY THAT I DID SERVED TO THE RESPONDENT'S COURT, 12000
SALLEY W. ELLIOTT, Esq., DEPUTY ASSISTANCE ATTY. GEN., BY WAY OF 20
UNITED STATES MAIL, POSTAGE PREPAID, ADDRESSED TO HER OFFICE AT: 2000
PO BOX 11549, COLUMBIA, S.C. 29211-1549, BY PERSONALLY DELIVERING
IT TO THE POSTAL DIRECTORS IN THE PRISON MAIL ROOM FOR EXPRESS
POSTAGE PURCHASING ON THIS 13th DAY OF MARCH 2012.

MARCH 5, 2012

8/2/12 WILLIAM OUTLAW
WILLIAM OUTLAW
LEE C.I.
990 WISACKY HWY.
BISHOPVILLE, SC
29010

Attest
Steph J. Sellers
CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

2012 MAR 13 PM 2 53

VOID
FAYE L. SELLERS
CLERK OF COURT
CHESTERFIELD COUNTY, SC

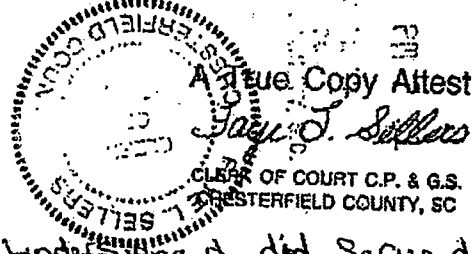
State of South Carolina
 County of Chesterfield
 William Outlaw, 302544,
 Applicant,

vs.

State of S.C.,
 Respondent.

In the Court of Common Pleas
 Fourth Judicial Circuit
 C/n. # 2012-CP-13-0113

Certificate of Service



A True Copy Attest

J. L. Sellers

CLERK OF COURT C.P. & G.S.
 CHESTERFIELD COUNTY, SC

I Certify that I the undersigned did serve a true copy of a sufficient legal showing to the PCL case matter by way of U.S. Mail, Postal prepaid postage, addressed to the Respondent T. A. Johnson, Sr., Asst. Atty. Gen., P.O. Box 11549, Columbia, S.C. 29211-4549, on this 8 day of August 2012, personally delivering it to the Prison Mailroom Directors for postage and verification.

August 8 2012

William Outlaw

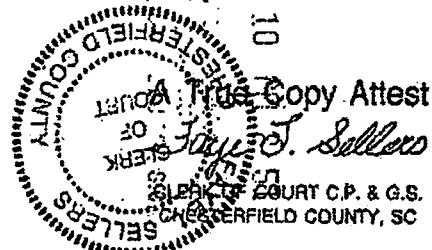
William Outlaw
 990 Wisocky Hwy
 Bishopville, S.C. 29010
 Petitioner, pro se

Bishopville, S.C. 29010

William Outlaw 308544
 Do. CT/Rich. Unit
 990 Wisacky Hwy.
 Bishopville, S.C. 29010

August 8, 2012

Hon. Faye Sellers
 Clerk of Court
 P.O. Box 529
 Chesterfield, S.C. 29709



Re: William Outlaw v. State of S.C., #2012-CP-13-0112,
Enclosed Specific Factual and Legal Reason to PCL.

Dear Ms. Sellers:

Please see enclosures as above listed to be
 filed in your respectful office in regards to my
 case as is ordered prescribed in the Conditional
 Order of Dismissal issued by Judge P.M. Burch,
 dated April 05, 2012, received on July 27, 2012.
 I also provided to you the Certificate of Service
 showing the Respondent served the same.

Please provide to me a copy of all of the
 documents and the pleadings filed to your office.
 I appreciate your assistance and time given to
 me in this case matter and I look forward in
 hearing from you in this very near future.

August 8, 2012
 enclosures:

WOO/

cc: T.A. Johnson, Sr.
 Files/WOO

Respectfully Submitted,
William Outlaw
 William Outlaw
 990 Wisacky Hwy.
 Bishopville, S.C. 29010

STATE OF SOUTH CAROLINA
COUNTY OF CHESTERFIELD

IN THE COURT OF COMMON PLEAS

2012-CP-13-0113

William Outlaw, 308544

Applicant,

v.

State of South Carolina,

Respondent.

FINAL ORDER
OF DISMISSAL

A True Copy, Attest

Jaye S. Leller

CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

2012 SEP 18 AM 10 29
CLERK OF COURT
CHESTERFIELD COUNTY, SC

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed February 16, 2012. The Respondent (the State) made its Return on March 28, 2012, requesting that the application be summarily dismissed.

Pursuant to this request, and after reviewing the pleadings and all of the records attached thereto, this Court issued a Conditional Order of Dismissal filed May 21, 2012, provisionally denying and dismissing this action, while giving the Applicant twenty days from the date of service of said Order in which to show why the Dismissal should not become final.

Applicant filed a written response to the Conditional Order of Dismissal but failed to explain why his Application was filed after the statute of limitations had expired, or why it was successive. This Court has reviewed the original pleadings and finds that a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

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

AND IT IS SO ORDERED this 17th day of September, 2012.


Honorable Paul Burch
Chief Administrative Judge
4th Judicial Circuit

Chesterfield, South Carolina.

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THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM CHESTERFIELD CO.
COURT OF COMMON PLEAS

PAUL M. BURCH, Cir. Ct. JUDGE

CASE NO. 2012-CP-13-01130

WILLIAM OUTLAW,....., APPELLANT,

V.

STATE OF SOUTH CAROLINA,....., RESPONDENT.

REQUIRED EXPLANATION PURSUANT TO
RULE 243(c), SCACR, etc.
WHY THE LOWER COURT RULING IS
IMPROPER AND MUST BE REVERSED AND VACATED,
AND REMANDED FOR PCR EVIDENTIARY HEARING.

WILLIAM OUTLAW, 308544
LEE C.I./RID. 240
990 WISACKY HWY.
BISHOPVILLE, S.C. 29010
pro se APPELLANT

OTHER COUNSEL OF RECORD

TYSON A. JOHNSON, Sr., ESQ.
ASST. ATTY. GENERAL
PO BOX 11549
COLUMBIA, S.C. 29211-1549
RESPONDENT

THIS MATTER IS BEFORE THIS COURT WHERE, ON SEPTEMBER 17, 2012, THE HONORABLE PAUL M. BURCH, PRESIDING JUDGE FOR THE FOURTH CIRCUIT, EXECUTED A FINAL ORDER, DENYING APPELLANT'S PCR APPLICATION DUE TO STATUTE LIMITATION HAD EXPIRED. APPELLANT FILE A NOTICE OF APPEAL WITHIN THE JURISDICTION OF THIS COURT, SEEKING APPELLATE REVIEW OF THIS MATTERS PRESENTED AND PRESERVED WITHIN THE RECORDS FILED TO THE COURT THAT ARE INCORPORATED IN PORTIONS OF THIS CASE MATTER BEFORE IT, SEE APPELLANT MOTION FILED IN THE LOWER COURT FOR JUDGE BURCH TO RECUSE HIMSELF DUE TO HIM BEING THE TRIAL JUDGE OF APPELLANT'S CASE, AND SEE ALSO REQUEST TO HAVE A WHITE V. STATE REVIEW FOR A DIRECT APPEAL, etc., AS TO PROFFER ALL EVIDENCE TO THE COURT FOR RELIEF TO GRANTED, INCLUDING THE AFFIDAVIT FROM COUNSEL OF RECORD, JAMES T. IRVIN, Jr. ESQ., FILED TO SHOW COUNSEL OF RECORD WAS OMITTED FROM RECEIVING THE ORDER DENYING APPELLANT POST TRIAL MOTION FOR A NEW TRIAL FILED TO THE TRIAL COURT BY ORIGINAL TRIAL COUNSEL. THE APPELLANT COMES NOW AND PETITION THE COURT FOR THE WARRANTED RELIEF THAT HE IS BY LAW ENTITLED TO THE CONSTITUTIONS OF THE U.S. AND THIS STATE OF S.C..

A FINAL ORDER AUTHORIZED BY JUDGE BURCH WAS SERVED UPON APPELLANT ON SEPTEMBER 24, 2012, AND A TIMELY NOTICE OF APPEAL IS FILED FILED ON SEPTEMBER 28, 2012, TO THE STATE SUPREME COURT, TO INCLUDE THE REQUIRED EXPLANATION PER SE RULE 243(c), SCACR, WHILE SPECIFYING THE REASONS FOR HIS BELIEF THAT THIS APPEAL SHOULD NOT BE DISMISSED. THE FOLLOWING RELATES TO THE SUBJECTS WITHIN THE SOUGHT APPEAL, PURSUANT TO AUSTIN AND ODOM, IN A RELATED ARENA.

ARGUMENTS:

THE ISSUES AND CLAIMS OF THIS CASE ARE NOVEL, AND HAVE BEEN SET BY A STRONG STANDARD IN WHICH TO GUIDE THE COURTS. ESPECIAL WHEN THERE HAS BEEN A DEPRIVATION TO KNOW RIGHT. SUCH RIGHT IS A CRUX CREATURE OF STATUTORY AND CONSTITUTIONAL CREATION. APPELLANT HAS A RIGHT TO POST CONVICTION RELIEF, SEE S.C. CODE ANN. § 17-27-10 et seq., AND HAVE AN EVIDENTIARY HEARING UPON ALL CLAIMS. THERE

IS ONLY "ONE BITE AT THE APPLE", IN A PCR PROCEEDING. SEE S.C. CODE ANN. §17-27-90; AUSTIN V. STATE, 305 S.C. 453, 409 S.E.2d 395 (1991). YET THE "ONE BITE AT THE APPLE", AS APPLIED TO THIS CASE, HAS YET TO BE HAD. APPELLANT FILED HIS PCR ONCE HE LEARNED THAT HE WAS DENIED THE NEW TRIAL THAT HIS COUNSEL FILED FOR AFTER TRIAL, THIS MATTER WAS COMMENCED AT AROUND SEPTEMBER 02, 2010, AND APPELLANT DID NOT RECEIVED THIS NOTICE UNTIL SEPTEMBER 12, 2011, FROM THE CLERK OF COURT OF CHESTERFIELD COUNTY, AND IT WAS ALSO LEARNED THAT THE ATTORNEY OF RECORD WAS NOT SERVED WITH THIS ORDER FROM THE COURT UNTIL OCTOBER 17, 2011, AS IT WAS SERVED TO HIM BY APPELLANT HIMSELF, AND THIS WAS VIOLATIVE TO THE RULES OF COURT AS HAVING THE COUNSEL OF RECORD SERVED WITH THE ORDERS BY THE COURT. APPELLANT SEEK THE REVIEW TO HIS CASE ALSO BASED UPON THE FACTS THAT THE SENTENCING JUDGE OF THIS CASE IS SAME JUDGE FOR PCR, AND APPELLANT DID FILED HIS MOTION TO THE LOWER COURT TO HAVE JUDGE BURCH TO RECUSE HIMSELF JUST FOR THE VERY SAME REASON THAT THE SUPREME COURT STATED IN SEE: FLOYD V. STATE, 303 SC 298, 400 S.E.2d 145 (1991) (FINDING THAT THE JUDGE'S DISQUALIFICATION IS AUTOMATIC DUE TO THE CONVICTION BEING COLLATERAL ATTACKED THAT WAS IMPOSED BY THE JUDGE, AND IT IS BY SC SUPREME COURT POLICY THAT THE SENTENCING JUDGE RECUSE HIMSELF FROM PCR PROCEEDINGS SO THAT THE APPLICANTS WILL RECEIVE A FAIR HEARING BY LAW). THE

APPELLANT MOTION FILED TO THE LOWER COURT IS SELF EXPLANATORY AND WILL AID THIS COURT TO ESTABLISH THE TRUTH ABOUT THIS MATTER THAT THE LOWER COURT LEFT UN-ANSWERED.

THE PCR COURT FAILED TO RECOGNIZE THAT THE APPELLANT CAN ONLY MAKE ONE PURSUIT OF A COLLATERAL ATTACK PURSUANT TO THE PCR STATUTES. SEE S.C. CODE ANN. § 17-27-90. THE COMPLICATIONS THAT AS SHOWN HERE IN APPELLANT'S CASE AROSE WHEN THE COUNSEL DID NOT RECEIVED A TRUE COPY OF THE ORDER OF DISMISSAL TO FILED THE NOTICE OF APPEAL TO THE APPELLATE COURT WITHIN THE ten (10) days OF THE SENTENCE IMPOSED BY THE COURT. APPELLANT WILL SHOW THAT THE PCR COURT FAILED TO REVIEW THE TRIAL COURT'S RECORDS TO SEE THAT THE APPELLANT DID NOT WAIVED HIS RIGHTS TO A DIRECT APPEAL TO HIS CONVICTION AND THE COUNSEL OF RECORD WAS NOT PLACED ON PROPER NOTICE TO FILED THE NOTICE OF APPEAL AS HE ~~SHOULD~~ HAVE ACCORDINGLY

TO THE SC APPELLATE COURT RULES, et seq., SECONDLY, AS THE LOWER COURT HELD THAT THE STATUTE OF LIMITATIONS WERE APPLICABLE TO THIS CASE, IN THAT, APPELLANT HAD EXCEEDED THE ONE YEAR AS SET FORTH IN S.C. CODE ANN. §17-27-45(A), PETITIONER WOULD TAKE A STANCE THAT ALTHOUGH §17-27-45(A) SETS FORTH A CLEAR AND UNAMBIGUOUS MEENING AND INTENT, IT DOES NOT APPLY TO THIS CASE, SUB. JUDICE.

AS THE APPELLANT HAD STATED TO THE LOWER COURT THAT HIS ATTORNEY DID NOT RECEIVED THE ORDER DENYING HIS MOTION FOR A NEW TRIAL AND THE ATTONRNEY WAS OMITTED FROM BEING SERVED WITH THE NOTICE FROM THE CLERK OF COURT, HAVING IT TO BE CAUSED THAT NOTICE OF APPEAL NOT TO BE FILED ON A TIMELY FASHIONS, BUT WAIT, THE APPELLANT ONLY RECEIVED THE NOTICE FROM THE CLERK OF COURT DUE TO THE FACT THAT HE REQUESTED FOR IT, AND IN SOMEWHAT THIS MADE IT AS THE APPELLANT BEING OMITTED AS WELL FROM BEING SERVED THE ORDER DENYING HIS MOTIOPN FOR A NEW TRIAL THAT HIS ATTORNEY FILED WITHIN TEN DAYS ON ARE AFTER APPELLANT'S CONVICTION/SENTENCES, THIS HONORABLE COURT ADDRESSED THIS SAME ISSUE IN ODOM V. STATE, 337 S.C. 256, 523 S.E.2d 753, 757 (1999), WHERE IT WAS HELD THAT AUSTIN APPEALS IS CONSIDERED BELATED APPEALS, AND ARE USED TO RECTIFY UNJUST PROCEDURAL DEFECTS SUCH AS WERE WHEN THE ATTORNEYS DOES NOT FILE A TIMELY APPEAL, AS HERE IN THE APPELLANT'S CASE MATTER THE ATTORNEY DID NOT RECEIVED A TIMELY NOTICE FROM THE CLERK OF COURT IN THE LOWER COURT AS IT TO BE A NOTICE SHOWING THE COURT DENIED RELIEF TO THE APPELANT, AND ALSO SEE THAT THIS CASE MATTER IS WITH A DOUBLE WHAMMY AS IT BEING THE APPELLANT IS ENTITLED TO AN APPEAL TO HIS PCR AS IT IS FIRST COURSE OF ACTION TO HAVE REVIEWED WHAT THE PCR COURT FAILED TO GIVE A SPECIFIC FINDING OF FACTS AND A SPECIFIC CONCLUSION OF LAWS TO THE ISSUES PRESENTED TO THE PCR COURT IN THIS APPLICATION AS WAS DENIED, THE ERRONEOUS CONCLUSION GIVEN BY THE LOWER COURT IN ITSELF WARRANTS THE APPELLANT RELIEF DUE TO THE FACTS THAT THE JUDGE OF THE PCR FAILED TO ADVISED THE APPELLANT OF HIS RIGHTS TO AN APPEAL, AS IT IS MANDATORY FOR THE COURT TO PUBLISH IN THE ORDER OF DISMISSALS ACCORDINGLY TO THE POLICY OF THE SUPREME COURT, THIS WHY IT IS INCUMBENT UPON THE COURT TO VACATE THE

ORDER OF DISMISSAL, AND REMAND THIS MATTER BACK BEFORE PCR JUDGE FOR THE CORRECT PROCEEDINGS AND FOR THE WHITE V. STATE REVIEW AS APPELLANT IS ENTITLED TO ONE BY A MATTER OF LAW, SEE PRUITT V. STATE, 310 SC 254, 423 S.E.2d 127 (1992). APPELLANT FURTHER MAKES CONTENTIONS AND TAKE STANCES AS THE FOLLOWING, THE §17-27-100, (2008) (PROVIDING THAT [A] FINAL JUDGMENT ENTERED UNDER THIS CHAPTER MAY BE REVIEWED BY A WRIT OF CERTIORARI AS PROVIDED BY SC APPELLATE COURT RULES"). ETC., THE APPELLANT FURTHER STATES ALSO THAT HE MADE COGNIZABLE CLAIMS IN HIS APPLICATION TO BE GRANTED RELIEF AND TO HAVE A REVIEW BY AN EVIDENTIARY HEARING TO BE HELD.

APPELLANT HAS ONLY ONE WAY TO ATTEMPT TO ENFORCE HIS RIGHTS TO TO HAVE HIS CASE RECTIFIED, AS IN HAVING ERROR OF LAWS CORRECTED IN HIS CASE, THAT IS TO BRING THE ATTENTION OF THE COURT TO THE FACTS OF THE MATTER THAT THE RESPONDENT HAVE PROMISED THAT HE WILL HAVE HIS PCR HEARING, etc., AS IT IS SHOWN THAT THE STATE HAD DISMISSED APPELLANT'S FIRST PCR BECAUSE OF THE MOTION FOR A NEW TRIAL BASE UPON AFTER DISCOVERED EVIDENCE, THE APPELLANT HAD FILED PCR BECAUSE OF THE CLERK OF COURT NOR DID THE APPELLANT'S ATTORNEY AT THE TIME FOR THE RECORD DID NOT RESPONDED TO NONE OF APPELLANT'S LETTERS AND TELEPHONE CALLS AS HE MADE AND SENT TO HAVE SOME INFORMATION GIVEN TO HIM ABOUT HIS MOTION FOR NEW TRIAL AND NEVER RECEIVED IT FROM HIM. THE APPELLANT WILL STAND TO SHOW THAT THE DEPRIVATIONS OF HIS RIGHTS THUS FAR DONE THE LOWER COURT HAS DEPRIVED APPELLANT OF HIS ABILITY TO PURSUE HIS CASE AND THE END OF JUSTICE TO BE SERVED IN HIS CASE NOW ON APPEAL. THE COURT MUST SEE THAT APPELLANT WAS DEPRIVED TO HAVE A FAIR RECORD REVIEW TO HIS CASE MATTER DUE TO THE FACTS THAT HIS TRIAL JUDGE WAS THE SAME JUDGE FOR HIS PCR, AND THIS WAS ERROR OF LAWS, THE SECOND ERROR WAS THAT THE COURT DID NOT GIVE APPELLANT A REVIEW OF LAWS TO HIS ISSUES FILED IN HIS APPLICATION, AND THIRD, THE COURT DID NOT GIVE APPELLANT A WHITE V. STATE, REVIEW TO HIS APPEAL ISSUES, AND THIS WOULD HAVE DETERMINED IF THE APPELLANT WAIVED HIS RIGHTS TO A APPEAL TO HIS CONVICTION, THE COURT ALSO WILL SEE THAT THE APPELLANT WAS DENIED HIS RIGHTS TO A FAIR HEARING OF HIS PCR, IT

BECAUSE THE STATE FAILED TO SEE THE FLOYD COURT VIOLATIONS, AND THIS IS WHY THE COURT MUST ENTERTAINED THIS APPEAL AND GRANT CERTIORARI AND HAVE DISPENSE WITH FURTHER BRIEFING OF LAWS TO THE CASEMATTER AT HAND, etc.

CONCLUSION

APPELLANT RESPECTFULLY REQUEST THAT THE HONORABLE COURT REJECT AND VACATE THE ORDER OF DISMISSAL AND GRANT THE APPEAL AND REVIEW THE CASE MATTER AND CORRECT THE ERRORS OF LAWS COMMITTED AND FURTHER SEE THAT THE SENTENCING JUDGE CAN NOT BE THE SAME JUDGE TO PRESIDE OVER PCR ACCORDINGLY TO THE SUPREME COURT WELL SETTLED LAWS IN CASE FLOYD V. STATE, supra., etc. THE APPELLANT ASK THE COURT TO SEE THAT HE IS ENTITLED TO A ONE BITE AT THE APPLE AND THIS IS A POLICY OF THE SC SUPREME COURT THAT THE LOWER COURT VIOLATED WHEN IT DISMISSED THE APPELANT PCR.

APPELLANT PRAYS FOR THE RELIEF REQUESTED AND DEEM BY THIS HON: SUPREME COURT ON THIS 23rd DAY ~~OF~~ SEPTEMBER 2012.

SEPTEMBER 28, 2012

By ATTACHMENTS

Respectfully Submitted,

s/- William Outlaw
WILLIAM OUTLAW, 308544
990 WISACKY HWY.
BISHOPVILLE, S.C. 29010
APPELLANT, pro se

2011 SEP 14 AM 9 05

S.C.

RECEIVED

Honorable Sellers
Clerk of Court
P.O. Box 529
Chesterfield, S.C.
29709

William Outlaw, #308544
Lee C I/Onal
990 Wisacky Hwy.
Bishopville, S.C. 29010
September 12, 2011

CC To:
Honorable Sellers
Lillian Rogers
Off. by [Signature]

Re: State v. William Outlaw, C/no. 02-GS-13-0194, etc.
Motion To Reconsider; Motion For New Trial, et al. Seq.
Dispositions, Orders of Hearings, Schedules inquiries, etc.

Dear Ms. Sellers:

Please allow my correspondence to serve as my formal and legible request for entitled information in regards to the above case and ongoing matters as stated. I am respectfully requesting that you do provide to me all commenced orders issued by Judge Paul M. Burz to my case motions filed to the Court by Attorney Paul Cannarella, Esq., see Motion To Reconsider Sentence filed April 07, 2005, and see Motion For New Trial filed April 21, 2005. I do understand Mr. Cannarella was relieved as my case counsel but it is advised to your office that I am entitled to all orders that the judge has issued in my case and I am entitled to be informed about the date of the next scheduled hearing to the Motion For New Trial based upon newly discovered evidence.

Thanking you in advance for your assistance time and I look forward in hearing from you soon.

September 12, 2011

Respectfully Submitted

WO/els

cc: Hon. F. Sellers
File/ WO

William Outlaw
William Outlaw #308544
990 Wisacky Hwy.
Bishopville, S.C. 29010

Copy

STATE OF SOUTH CAROLINA
HORRY COUNTY

State of South Carolina,

vs.

William Outlaw,

Defendant.

IN THE COURT OF GENERAL
SESSIONS
FOURTH JUDICIAL CIRCUIT

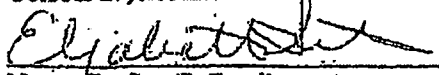
Indictment No.: 2002-GS-13-0159

AFFIDAVIT OF JAMES T. IRVIN JR., ESQ

After first being duly sworn, I do testify that the following is true based on my personal knowledge:

1. On September 2, 2010, an order was filed in Chesterfield in response to a Motion for a New Trial and a Motion for Reduction of Sentence in the above matter.
2. I, James T. Irvin, Jr. represented William Outlaw in the trial and Motion Hearings.
3. I was never sent a copy or notice that the order was filed on September 2, 2010.
4. I received a copy on October 17, 2011, when it was faxed to me William Outlaw's mother Willie Jean Winburn.

Sworn to and subscribed before me on
October 27, 2011.



Notary for South Carolina.

My Commission expires on 3/5/2020


JAMES T. IRVIN JR., ESQ.

86 VIS

WITNESSES

David Watson

Ccsd

gd

ARREST WARRANT #:

G016135

Arrested on January 12, 2002

ACTION OF GRAND JURY

Ine Bie

Foreman: *Cynthia J. Davidson*
Grand Jury
2/28/02

VERDICT

Guilty of Murder
☒ *Guilty of Voluntary Manslaughter*
Not Guilty

Foreman: *Smith M. Smith*
Petit Jury

Date: *4-6-05*

DOCKET #: 02GS13-0159

THE STATE OF SOUTH CAROLINA
County of Chesterfield

COURT OF GENERAL SESSIONS

Term: March, 2002

THE STATE

vs.

William Outlaw

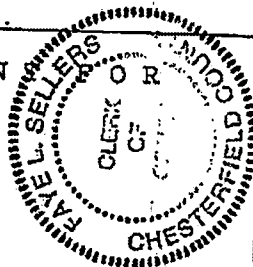
A True Copy
Jaye D. Sellers
CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

INDICTMEN

0116

MURDER

16-3-10



CLERK OF COURT
APR 15 PM 12 16
CHESTERFIELD COUNTY, SC



A True Copy
Jaye D. Sellers
CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

STATE OF SOUTH CAROLINA)

County of Chesterfield)

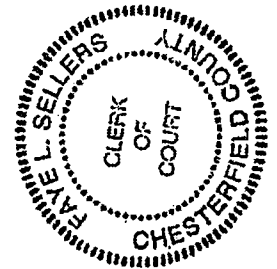
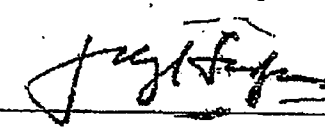
INDICTMENT #02GS13-0159

At a Court of General Sessions, convened on March 04, 2002
the Grand Jurors of Chesterfield County present upon their oath:

COUNT: MURDER
16-3-10

That William Outlaw in the County of Chesterfield on or about January 11, 2002, feloniously, wilfully and with malice and aforethought, kill one William Michael Johnson means of shooting and that the said William Michael Johnson did die in Chesterfield County as a proximate result thereof on or about the 11th day of January, 2002.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.

SOLICITOR: 

A True Copy Attest
Jay O. Sellers
CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC