

FILED
 BAMBERG COUNTY
 STATE OF SOUTH CAROLINA IN THE GENERAL SESSIONS COURT
 COUNTY OF BAMBERG 2017 AUG 25 AM 9:11
 STATE OF SOUTH CAROLINA SECOND JUDICIAL CIRCUIT
 BAMBERG, SC

A TRUE COPY
 JAMES D. HIERS
 CLERK OF COURT
 BAMBERG COUNTY, SC

**ORDER DENYING MOTION FOR
 NEW TRIAL AND PETITION FOR
 WRIT OF MANDAMUS**

v.
 JOHNNIE L. JONES,
 Defendant.

2007-GS-05-0168 and 2007-GS-05-0169

RECEIVED
 DEC 27 2017
 SC Court of Appeals

This matter came before the Court for hearing on Defendant's motion captioned "Motion for After-Newly [*sic*] Discovered Evidence and Motion to Expand Record" filed on April 26, 2016, and Defendant's subsequent "Petition for Writ of Mandamus" filed May 11, 2017. A hearing on the motions was conducted at the Barnwell County courthouse on July 25, 2017. The State was represented at the hearing by Deputy Solicitor David W. Miller. The Defendant was present for the hearing and appeared *Pro Se*. After hearing from the parties, I hereby find and rule that the Defendant's Motion and Petition for Writ of Mandamus should be dismissed for the reasons outlined below.

PROCEDURAL HISTORY

The Defendant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Bamberg County Clerk of Court. The Defendant was indicted during the June 2007 term of the Bamberg County Grand Jury for assault and battery with intent to kill (2007-GS-05-0168) and attempted kidnapping (2007-GS-05-0169). He was represented by Dan Luginbill, Esquire. Defendant proceeded to a jury trial and was convicted of attempted kidnapping and assault and battery of a high and aggravated nature, a lesser included offense of assault and battery with intent to kill. On April 19, 2010, I sentenced the Defendant to a period of eighteen years confinement attempted kidnapping and ten years for assault and battery of a high and aggravated nature, with the sentences to be served concurrently.

The Defendant subsequently filed a Notice of Appeal and an appeal was perfected. On January 25, 2012, the South Carolina Court of Appeals affirmed the sentences and convictions and dismissed the Appeal. State v. Jones, (Op. Np. 2012-UP-034). Thereafter,

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finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence, or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which, for sufficient reason, was not asserted or was inadequately raised in the original, supplemental or amended application.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." Id., 305 S.C. at 450, 409 S.E.2d at 394. Because the Defendant could have raised these allegations in his previous application, the Defendant may not raise these grounds in successive applications. Id. The Defendant has not met his burden of showing that the allegations could not have been raised previously. Land, 274 S.C. 243, 262 S.E.2d 735 (1980).

The Defendant could have raised these grounds for relief in his prior post-conviction relief application. He has failed to present any reasons why he could not have raised the current allegations in his previous post-conviction relief applications. Accordingly, summary dismissal of this motion is appropriate because it is successive.

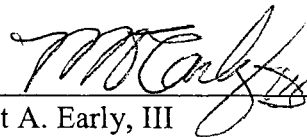
VI. DEFENDANT'S PETITION FOR WRIT OF MANDAMUS

The Defendant filed a Petition for Writ of Mandamus on May 11, 2017. In his Petition, Defendant requested that this motion be scheduled for hearing. Because the motion has now been heard, the Petition for Writ of Mandamus is moot. Therefore, the Petition is dismissed.


CONCLUSION

Based on the foregoing, the Defendant's motion for new trial should be, and hereby is, DENIED.

IT IS SO ORDERED.



Doyet A. Early, III
Resident Judge,
Second Judicial Circuit

August  2017
Aiken, South Carolina

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Operations
ORDER TO REPORT

SCDC # 340271	Name Jones, Johnnie	Area F3 B23
REPORT TO <u>Mailroom</u>		AT <u>8:00 AM 12/12/17</u>
Bring All Belongings <input type="checkbox"/>		Bring State Clothing <input type="checkbox"/>
		Bring Nothing <input type="checkbox"/>
Date 12/11/17	Signed <i>V. Day</i>	RECEIVED DEC 12 2017 MAIL ROOM ACI
Date	Inmate's Signature	
Date	Staff Member's Signature	