

State of South Carolina
County of Darlington

Court of Common Pleas
Fourth Judicial Circuit

Ricky N. Brown #211789,
applicant

RECEIVED

vs.

JAN 23 2018

Referred to
Answered

James / PB

State of South Carolina
Respondent

RE: Notice of intent to appeal.

Ricky N. Brown, request that this court allow this letter to serve as his notice of intent to appeal the final Order of Dismissal signed by the honorable Judge Roger Henderson on the 14th day of November 2017. Applicant received service of decision on December 20th, 2017.

s/ Ricky N. Brown
Ricky N. Brown #211789
1/18/18

Sworn and Subscribed Before Me
this _____ day of _____, 2018

Notary Public for South Carolina

My Commission Expires _____

Certificate of Service

I, Ricky Brown, do here by certify that I have mailed a true and correct copy of my notice of intent to appeal the states final order of dismissal, by forwarding the same to the parties below by prepaid post on this 18th day of January, 2018.

office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Darlington County
Clerk of Court
1 Public Square Rm. B-4
Darlington, SC 29532

Ricky N. Brown
S/ Ricky N. Brown
Ricky N. Brown #211789
1/18/18

Sworn and subscribed before me
this 18th day of January, 2018
Lisa Brown-Alston
Notary Public for South Carolina

LISA BROWN-ALSTON
Notary Public, State of South Carolina
My Commission Expires 2/5/2023

my commission Expires 2/5/2023

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Post Office Box 21787 - Columbia, South Carolina 29221

Pursuant to Rule 4(d)(2) of the South Carolina Rules of Civil Procedure, the Director of the South Carolina Department of Corrections has designated C. Simpson Jr (Server) as his duly authorized agent for the purpose of making service of the process on the below named individual.

STATE OF SOUTH CAROLINA)
COUNTY OF Richland)

AFFIDAVIT OF PERSONAL SERVICE

On this 20th day of December 2017, I served the Final Order of Dismissal, on Inmate Ricky N. Brown, #211789, by delivering personally and leaving a copy of the same at Broad River Correctional Institution, Columbia SC. Dependent is not a party to this action.

s/ C. Simpson Jr
SCDC Server

SWORN TO AND SUBSCRIBED BEFORE ME

this 20th day of December, 2017
Lisa Brown-Alston (L.S.)
Notary Public for South Carolina

LISA BROWN-ALSTON
Notary Public, State of South Carolina
My Commission Expires 2/5/2023

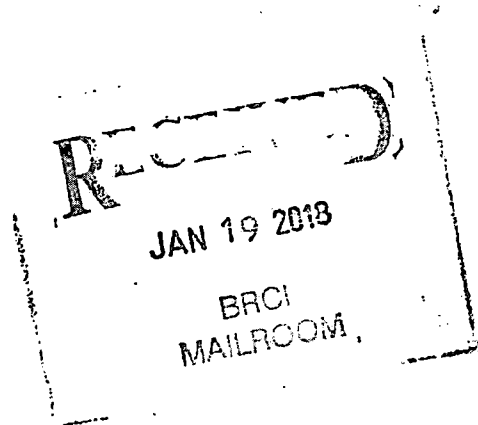
My Commission Expires: 2/5/2023

ADMISSION OF SERVICE

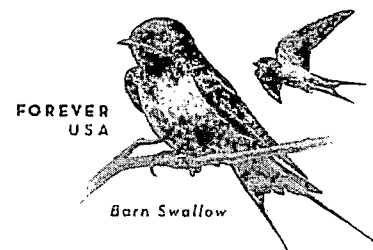
Service of a copy of the within Final Order of Dismissal is admitted at the South Carolina Department of Corrections Broad River Correctional Institution, Columbia, Richland County, SC this 20th day of DECEMBER 2017.

s/ Ricky Brown
Inmate
SCDC Inmate #: 211789

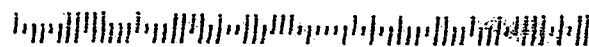
Ricky Brown 211789 Arnold 2105
Broad River Correctional Inst.
4460 Broad River Rd.
Columbia, SC 29210



Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211



2521131549 8099



STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) FOR THE FOURTH JUDICIAL CIRCUIT
 COUNTY OF DARLINGTON)
 Ricky N. Brown,) Case No.: 2017-CP-16-00522
 S.C.D.C. No. 211789,)
)
 Applicant,)
) **CONDITIONAL ORDER OF DISMISSAL**
 v.)
)
 State of South Carolina,)
)
 Respondent.)

This matter comes before the Court by way of an application for post-conviction relief filed by Ricky N. Brown (Applicant) on July 6, 2017. Respondent made its Return, requesting the application be summarily dismissed.

I. PROCEDURAL HISTORY¹

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Darlington County Clerk of Court. Applicant was indicted at the December 1993 term of the Darlington County Grand Jury for criminal sexual conduct, first degree (1993-GS-16-02319); and burglary, first degree (1993-GS-16-02320). John R. Etheridge, Esq. represented Applicant. On May 4, 1994, Applicant pled guilty as indicted. The Honorable Paul M. Burch sentenced Applicant to imprisonment for consecutive terms of 18 years the CSC and life for the burglary. Applicant did not appeal.

SCOTT B. SUGGS
 CLERK OF COURT/RO.D.
 DARLINGTON COUNTY, S.C.
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TRUE CERTIFIED COPY,

¹ In addition to the actions set forth below, Applicant broadly indicates on the face of his application that he previously filed a petition for habeas corpus in federal courts. Upon review of this office's records, PACER, and Westlaw, Respondent cannot find any record of a § 2254 filing by Applicant. Respondent would note that Applicant's state habeas petition appears to be modified from the standard federal habeas petition form. As such, Respondent can neither confirm nor deny at this time that Applicant has sought relief in federal courts.

First PCR Application: 1995-CP-16-0146

Applicant filed his first application for post-conviction relief on January 30, 1995 (1995-CP-16-00146). He alleged the following grounds for relief in his application:

1. "Ineffective assistance of counsel."
2. "Denial of due process of law."
3. "Guilty plea under duress."
4. "Guilty plea not knowingly or intelligently given."
5. "Violation of the 5th, 6th, and 14th Amendments to the U.S. Constitution."
6. "Denial of mercy jury, (as mandated by law)."
7. "Double jeopardy."
8. "Denial of pretrial investigation, (by counsel)."
9. "Failure of counsel to file Brady motion."
10. "Counsel failed to investigate witness."
11. "Denial of witness."

Respondent made its return on August 1, 1996. J. Anthony Floyd, Esq. was appointed to represent Applicant, but upon motion by counsel at the direction of Applicant, the Honorable Henry F. Floyd relieved Mr. Floyd by consent order signed February 19, 1998, and filed February 25, 1998.

An evidentiary hearing into the matter was convened on March 6, 1998, before the Honorable Marc H. Westbrook. Applicant was present at the hearing and appeared *pro se*. Lawrence G. Wedekind, of the South Carolina Attorney General's Office, represented Respondent. Applicant demanded new counsel be appointed, to which Judge Westbrook responded that Applicant had refused the assistance of the counsel previously appointed to him. As Applicant refused to proceed further without counsel, by written order dated May 19, 1998, and filed May 29, 1998, Judge Westbrook denied and dismissed the application "based upon [Applicant's] refusal to proceed[.]" Applicant attempted to file a *pro se* notice of appeal in the Supreme Court of South Carolina, but the appeal was dismissed by order dated October 14, 2003.

Scott B. Sugar
CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.

State Habeas Petition: 2004-CP-16-01084

Applicant filed a "Petition under 17-17-10 for writ of habeas corpus by a person in state custody" on December 10, 2004 (2004-CP-16-01084). He alleged the following grounds for relief in his petition:

1. Ineffective Assistance of Counsel, in that Counsel:
 - a. "[Failed] to point out the deficiencies in the indictment because of the variance."
 - b. "[Failed] to motion the court for funds to obtain petitioners own expert DNA defense witness in the instant case."
 - c. "[Failed] to move to quash the indictment for Criminal Sexual Conduct 1st degree because it fails to [allege] essential elements of that offense."
 - d. "[Failed] to motion the court to quash the indictment because it lacked the necessary elements of that offense, and trial court was without subject matter jurisdiction to enter a conviction or impose sentence for that charge."
 - e. "[Failed] to object to the prosecution introducing testimony evidence that would vouch for the credibility of states witness during the guilty plea hearing."
 - f. "[Failed] to object to the family member performing the victim DNA test, [where there is no showing] that the member was an expert in DNA collection and analysis."
 - g. "[Deliberately interjected] improper [comments] in the instant case."
 - h. "[Failed] to present statutory mitigating evidence in the instant case."
 - i. "[Failed] to object to the prosecution's admittance of prior bad acts in the instant case."
 - j. "[Failed] to file for a motion for discovery."
2. "Circuit Court was without subject matter jurisdiction because petitioner requested a preliminary hearing in the instant case."

Respondent made its return and motion to dismiss on July 12, 2005, arguing the petition was procedurally barred because the allegations could have been raised in PCR. On August 18, 2005, the Honorable James E. Lockemy issued a Conditional Order of Dismissal, and then a Final Order on November 11, 2005, dismissing the matter with prejudice.

TRUE CERTIFIED COPY,
[Signature]
CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.

Applicant filed a timely notice of appeal. However, by order dated November 23, 2005, the South Carolina Court of Appeals dismissed the appeal for "failure to provide proof of ordering the transcript and/or failure to serve and file the initial brief." The remittitur was issued December 12, 2005.

II. CURRENT APPLICATION

In his second and current post-conviction relief application, Applicant *does not* allege he is being held unlawfully for any particular reason, but rather argues that he was denied his "one bite at the apple" and should be permitted to file a successive application:

1. "[T]he PCR Court erred when it failed to inquire the reason the Applicant wanted to dismiss appointed counsel;"
2. "The PCR Court further considered the Applicant's wanting to dismiss appointed counsel, "as a request to proceed pro-se," even in light the Applicant stated in camera, "he wanted an attorney to represent him during the PCR hearing;"
3. "The PCR Court erroneously determined "Applicant did not have a Sixth Amendment right to choice of counsel," even after determining such Sixth Amendment right to counsel had attached;"
4. "The PCR Court failed to admonish the Applicant of the dangers of self-representation," consistent with Faretta v. California (1975);"
5. "And deprived the Applicant of all the grounds raised in the initial PCR Application as a result of the above;"
6. "As well as deprived the Applicant of a direct review of his PCR allegations, consistent with Aice v. State, 409 S.E.2d at 395.

(internal quotations omitted) Accordingly, Applicant requests relief as follows:

- "Vacate the 'prior PCR order,' of 1998, and grant a evidentiary hearing in order to vacate the convictions and sentences."

Before this Court are the Darlington County Clerk of Court records, Applicant's records from the South Carolina Department of Corrections, the final orders of Applicant's previous PCR and state habeas actions, and the records of this current PCR action.

TRUE CERTIFIED COPY
Scott B. Jupp
CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Failure to State a Claim

The Court finds the application must be dismissed for failure to state a claim cognizable under the Uniform Post-Conviction Procedure Act at S.C. Code Ann. §17-27-20(A). Applicant alleges numerous counts of error on the part of the prior PCR court. An application for post-conviction relief does not serve as a substitute for direct appeal, and an issue that could have been raised at applicant's trial or on appeal is not cognizable in an application for PCR. S.C. Code Ann. § 17-27-20(b); Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). Trial court error is not a cognizable claim for PCR. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001); Wolfe v. State, 326 S.C. 158, 485 S.E.2d 367 (1997); Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). That reasoning applies similarly to the PCR court. Applicant's allegations against Judge Westbrook could have been raised on appeal. Therefore, the Court shall dismiss the application for failing to state any claims cognizable under the Uniform Post-Conviction Procedure Act.

Statute of Limitations

The Court finds the application must also be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160. Specifically, the act requires 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 on appeal, whichever is later.

S.C. Code Ann. § 17-27-45(A).

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Pelouquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996).

TRUE CERTIFIED COPY,
CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.
Page 5 of 9



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) 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.”

Applicant pled guilty on May 4, 1994, and Applicant did not appeal his plea or sentence. The current application was not filed until July 6, 2017—*well* after the one-year statutory filing period expired. Therefore, the Court shall summarily dismiss the application as barred by the statute of limitations.

Laches

The Court finds the application must also be dismissed as barred by the equitable doctrine of laches. To ensure finality of litigation, our courts require reasonable diligence in pursuing collateral relief. McElrath v. State, 276 S.C. 282, 283, 277 S.E.2d 890 (1981). Requiring reasonable diligence “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. (quoting Honeycutt v. Ward, 612 F.2d 36, 42 (2nd Cir. 1979)). Where an applicant for post-conviction relief fails to exercise reasonable diligence, the State may seek the summary dismissal through the equitable doctrine of laches, which is defined as “neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done.” Bray v. State, 366 S.C. 137, 140, 620 S.E.2d 743, 745 (2005) (quoting Whitehead v. State, 352 S.C. 215, 219, 574 S.E.2d 200, 202 (2002)). “Whether a claim is barred by laches is to be

Scott B. Jagger
CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.

determined in light of the facts of each case, taking into consideration whether the delay has worked injury, prejudice, or disadvantage to the other party; delay alone in assertion of right does not constitute laches.” Id.

Applicant seeks post-conviction relief more than 23 years after his conviction *and* nearly 15 years since his appeal from the original PCR application was thrown out by the Supreme Court. Absent some explanation or justification for the delay in seeking post-conviction relief, laches will prevent an applicant from seeking collateral review of his conviction, especially where the delay affects the availability of evidence to review the applicant’s claims. McElrath, 276 S.C. at 283, 277 S.E.2d at 890. Applicant has offered no justification for the delay. Because of the delay, witness memories and physical evidence will have naturally faded and degraded. See, e.g., Bray, 366 S.C. at 140, 620 S.E.2d at 745 (affirming PCR judge's ruling that laches barred belated review of denial of PCR seven years after PCR hearing was held); State v. Serrette, 375 S.C. 650, 654 S.E.2d 554 (Ct. App. 2007) (declining to remand for reconstruction of record noting such remedy “would undoubtedly be futile considering the passage of over ten years' time” when the delay was caused by appellant). As a result, Applicant's delay in bringing this action has affected the availability of evidence for this Court to review his claims. Therefore, the Court shall dismiss the application as barred by the equitable doctrine of laches.

Successive

The Court finds the application must also be summarily dismissed because it is successive to Applicant’s previous collateral actions. Courts disfavor successive applications and place the burden on applicants to establish that any new ground raised in a subsequent application could not have been earlier raised in a previous application. Foxworth v. State, 275

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Scott B. Suggs
CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.
Page 7 of 9
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S.C. 615, 274 S.E.2d 415 (1981); Arnold v. State, 309 S.C. 157, 420 S.E.2d 834 (1992). Section 17-27-90 of the South Carolina Code states:

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

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

Applicant's current allegations could have been raised in the proceedings based on Applicant's previous application and petition; thus, the current application is successive and barred under S.C. Code Ann. § 17-27-90. Applicant has failed to establish any sufficient reason why he could not have raised his current allegations in his previous actions. Therefore, he has failed to meet the burden imposed upon him, and the Court shall dismiss the application as successive to Applicant's previous actions.

TRUE CERTIFIED COPY,
Scott B. Suggs
CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.

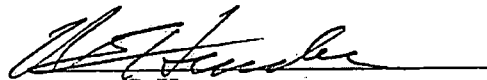
CONCLUSION

Pursuant to S.C. Code Ann. § 17-27-70(b), the Court intends to dismiss this application with prejudice unless Applicant provides specific reasons, factual or legal, why the application should not be dismissed in its entirety. Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final. Applicant shall file any reasons he may have with the Darlington County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
Johnny E. James, Jr., Esquire
PCR Division – 4th Circuit
P.O. Box 11549
Columbia, South Carolina 29211

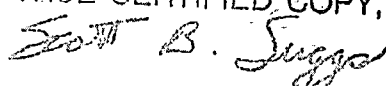
Applicant is cautioned that his response to this order must be actually received by the Darlington County Clerk of Court and opposing counsel within twenty (20) days, and that the Court will not consider any issues raised in his response if not so timely filed and served.

AND IT IS SO ORDERED this 5th day of September, 2017.


ROGER E. HENDERSON
Resident Judge
Fourth Judicial Circuit

Chesterfield, South Carolina

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SCOTT B. SUGGS
CLERK OF COURT/R.M.C.
DARLINGTON COUNTY, S.C.

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DARLINGTON COUNTY, S.C.
Page 9 of 9

STATE OF SOUTH CAROLINA)

COUNTY OF DARLINGTON)

Ricky Brown, #211789)

Plaintiff)

v.)

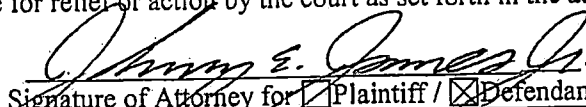
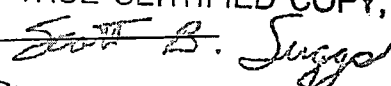
State Of South Carolina)

Defendant.)

IN THE COURT OF COMMON PLEAS

CASE NO.
2017-CP-16-0522

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney: Ricky Brown, Bar No. Address: Broad River CI 4460 Broad Rd Columbia SC 29210 phone: fax: e-mail: other:	Defendant's Attorney: Johnny E. James Jr, Bar No. 101260 Address: Post Office Box 11549 Columbia SC 29211-1549 phone: (803) 734-3737 fax: (803) 734-4113 e-mail: other:
<input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input checked="" type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: Estimated Time Needed: Court Reporter Needed: <input type="checkbox"/> YES / <input type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input type="checkbox"/> Written motion attached <input checked="" type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
 Signature of Attorney for <input checked="" type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant	September 1, 2017 Date submitted
SECTION III: Motion Fee	
<input type="checkbox"/> PAID - AMOUNT: <input checked="" type="checkbox"/> EXEMPT: (check reason)	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input checked="" type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRA) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions	
Name of Court Reporter: <input type="checkbox"/> Other:	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other:	
CLERK'S VERIFICATION	
TRUE CERTIFIED COPY,	
Collected by: 	Date Filed:
<input type="checkbox"/> MOTION FEE COLLECTED <input type="checkbox"/> CONTESTED - AMOUNT DUE	

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 SCOTT R. SUGGS
 CLERK OF COURT/RMC
 DARLINGTON COUNTY, S.C.



RECEIVED

SEP 14 2017

Referred to

James IPB

Answered _____

ALAN WILSON
ATTORNEY GENERAL

September 7, 2017

The Honorable Scott B. Suggs
Clerk of Court, Darlington County
Post Office Box 1177
Darlington SC 29540

**Re: Ricky N. Brown, 211789 v. State of South Carolina
2017-CP-16-0522**

Dear Mr. Suggs:

Enclosed please find the original **Conditional Order of Dismissal**, signed by the Honorable Roger E. Henderson in the above-captioned case, for filing in your office. Please return a **clocked copy** to me for our files.

Sincerely,

Johnny E. James, Jr.
Assistant Attorney General

JEJ, Jr/jacc
Enclosure(s)

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SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

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Scott B. Suggs
CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.

STATE OF SOUTH CAROLINA)
 COUNTY OF DARLINGTON)
 Ricky N. Brown,)
 S.C.D.C. No. 211789,)
 Applicant,)
 v.)
 State of South Carolina)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE FOURTH JUDICIAL CIRCUIT

Case No.: 2017-CP-16-00522

FINAL ORDER OF DISMISSAL

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 2017 DEC -6 AM 9:55
 SCOTT B. SUGGS
 CLERK OF COURT/R.M.C.
 DARLINGTON COUNTY, S.C.

This matter comes before the Court by way of an application for post-conviction relief filed July 6, 2017. Respondent made its return on or about September 1, 2017, requesting the application be summarily dismissed for failing to state a claim cognizable under the Uniform Post-Conviction procedure Act, and as untimely, successive, and barred by the equitable doctrine of laches.

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal signed September 5, 2017, and filed September 11, 2017, provisionally denying and dismissing this action, while giving the Applicant 20 days from the date of service of said Order in which to show why the dismissal should not become final. Attached to this Final Order and incorporated herein by reference is an Affidavit of Service dated October 17, 2017, serving the above-mentioned Conditional Order of Dismissal on Applicant.

Applicant filed objections on October 23, 2017, primarily restating his allegations while arguing he was arbitrarily denied his "one bite at the apple" by the Honorable Marc H.



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Scott B. Suggs
 CLERK OF COURT/R.M.C.
 DARLINGTON COUNTY, SC

Westbrook's refusal to appoint new counsel upon Applicant's dissatisfaction with his previously appointed counsel.

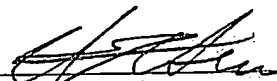
This Court has reviewed Applicant's response to the Conditional Order of Dismissal in their entirety, in conjunction with the original pleadings, and finds a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final. The record clearly indicates that Applicant was properly appointed counsel for his 1995 application, then had him removed and thereafter refused to prosecute his case. In any event, any due process irregularities with the original PCR action could have been raised many years ago either in Applicant's 2004 state petition for habeas corpus or in some other filing. There is no excuse for waiting two decades to raise these issues to the Court.

IT IS THEREFORE ORDERED that for the reasons set forth in the Court's Conditional Order of Dismissal, the Application for post-conviction relief is hereby **DENIED AND DISMISSED WITH PREJUDICE**.

This Court hereby advises the Applicant that he must file and serve a Notice of Appeal within 30 days of the service of this Order to secure appellate review. See Rule 203, SCACR. Applicant's attention is directed to Rule 243, SCACR, for the procedures following the filing and service of the notice of appeal

AND IT IS SO ORDERED this 14th day of November, 2017.

Chesterfield, South Carolina.

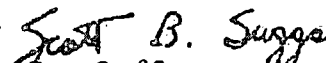

ROGER E. HENDERSON
Resident Judge
Fourth Judicial Circuit

SCOTT B. SUGGS
CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.

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Page 2 of 2
CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Post Office Box 21787 - Columbia, South Carolina 29221

Pursuant to Rule 4(d)(2), SCRCP, the Director of the South Carolina Department of Corrections has designated SK Moore (Server) as his duly authorized agent for the purpose of making service on the below named individual.

STATE OF SOUTH CAROLINA)
COUNTY OF Richland) **AFFIDAVIT OF PERSONAL SERVICE**

On this 17th day of October, 2017, I served the Conditional Order of Dismissal on Inmate Brown, Ricky, SCDC Inmate Number 211789, by delivering personally and leaving a copy of same at Broad River Correctional Institution, Coia, SC. I am not a party to this action.

s/ SK Moore
SCDC Server

SWORN TO AND SUBSCRIBED BEFORE ME
this 17th day of OCTOBER, 2017.

Lisa Brown-Alston
Notary Public for South Carolina
My commission expires: 2/5/2023

LISA BROWN-ALSTON
Notary Public, State of South Carolina
My Commission Expires 2/5/2023

ACCEPTANCE OF SERVICE

Service of a copy of the within Legal Pleadings is accepted at the South Carolina Department of Corrections (Broad River Correctional Institution), Richland County, SC this 17th day of OCTOBER, 2017.

s/ Ricky Brown 211789
Inmate Brown, Ricky
SCDC Inmate Number 211789

SEIT B. SUGGS
CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.

2017 DEC -6 AM 9:55

FILED

TRUE CERTIFIED COPY,
SEIT B. SUGGS
CLERK OF COURT/RMC
DARLINGTON COUNTY, SC



ALAN WILSON
ATTORNEY GENERAL

November 20, 2017

The Honorable Scott B. Suggs
Darlington County Clerk of Court
1 Public Sq Rm B4
Darlington, SC 29532-3213

2017 DEC -6 AM 9:55
SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

FILED

Re: Ricky N. Brown, #211789 v. State of South Carolina
2017-CP-16-0522

Dear Mr. Suggs:

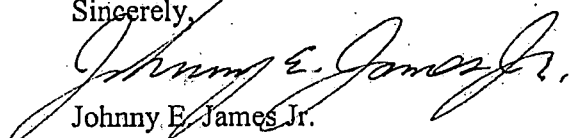
Enclosed please find the original **Final Order of Dismissal** signed by the Honorable Roger E. Henderson, in the above-captioned case, for filing in your office.

Pursuant to Rule 71.1(f), of the South Carolina Rules of Civil Procedure, please "provide notice of entry of judgment and serve a copy of the order or judgment to the parties as provided in Rule 77(d), SCRPC."

In addition, please forward proof of service and a time stamped copy back to our office for our file.

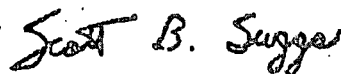
Should you have any questions, please call me at (803) 734-3434.

Sincerely,


Johnny E. James Jr.
Assistant Attorney General

JEJ/mm

Enclosure

TRUE CERTIFIED COPY,

CLERK OF COURT/RMC
DARLINGTON COUNTY, SC