

**RICHEY AND RICHEY**  
ATTORNEYS AT LAW

*A PROFESSIONAL ASSOCIATION*

RODNEY W. RICHEY  
LOLA S. RICHEY

POST OFFICE BOX 10916  
GREENVILLE, SOUTH CAROLINA 29603

(864) 467-0503  
(864) 467-0646 FAX

March 5, 2018

RECEIVED

MAR 08 2018

S.C. SUPREME COURT

The Honorable Daniel E. Shearouse  
The Supreme Court of South Carolina  
Post Office Box 11330  
Columbia, SC 29211

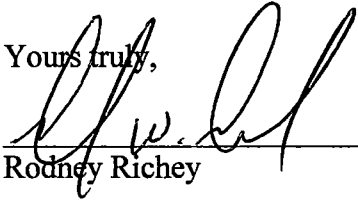
Re: Daniel E. Sherman, SCDC# 282045 vs. State of South Carolina  
Case No: 2016-CP-04-298

Dear Mr. Shearouse:

Please find enclosed a Notice of Appeal, Proof of Service and a letter for the above referenced matter. Also, I have enclosed a copy of the Orders from which the appeal is taken. Please filed the copies that I have enclosed and return the copies to me. Thank you for your help and if you should have any questions please feel free to call me.

RICHEY AND RICHEY, P.A.

Yours truly,

  
Rodney Richey

RWR/  
enclosures  
cc: Linsey A. McCallister, Esquire

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

HONORABLE J. CORDELL MADDOX, JR.

2016-CP-04-298

DANIEL EUGENE SHERMAN, SCDC#: 282045,

APPELLANT,

against

STATE OF SOUTH CAROLINA,

RESPONDENT.

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MAR 08 2018

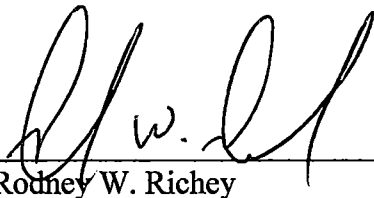
S.C. SUPREME COURT

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**NOTICE OF APPEAL**

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Daniel Eugene Sherman appeals the denial of his Post- Conviction Relief. The Post Conviction Relief action was heard and denied by the Honorable J. Cordell Maddox, Jr., Circuit Judge on July 17, 2017 and Final Order of dismissal issued on February 1, 2018 by the Honorable R. Lawton McIntosh and filed on February 2, 2018. The Appellant received notice of the judgment on February 10, 2018.



---

Rodney W. Richey  
Attorney for the Appellant  
Post Office Box 10916  
Greenville, South Carolina 29603  
(864) 467-0503

Other Counsel of Record:  
Lindsey A. McCallister, Esquire  
Office of Attorney General State of SC  
Post Office Box 11549  
Columbia, SC 29211-1549

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

HONORABLE J. CORDELL MADDOX, JR.

2016-CP-04-298

DANIEL EUGENE SHERMAN, SCDC#: 282045,

APPELLANT,

against

STATE OF SOUTH CAROLINA,

RESPONDENT.

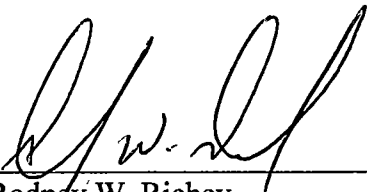
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**PROOF OF SERVICE**

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I certify that I have served the Notice of Appeal on the State of South Carolina by depositing copy of it in the United States Mail, postage prepaid, on March 5, 2018, addressed to their attorney of record, Lindsey A. McCallister, Office of Attorney General State of South Carolina, Post Office Box 11549, Columbia, SC 29211-1549.

Dated: March 5, 2018

  
\_\_\_\_\_  
Rodney W. Richey  
Attorney for the Appellant  
Post Office Box 10916  
Greenville, South Carolina 29603  
(864) 467-0503  
(864) 467-0646 fax

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S.C. SUPREME COURT

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March 5, 2018

The Honorable Daniel E. Shearouse  
The Supreme Court of South Carolina  
Post Office Box 11330  
Columbia, SC 29211

RECEIVED

MAR 08 2018

S.C. SUPREME COURT

Re: Daniel E. Sherman, SCDC# 282045 vs. State of South Carolina  
Case No: 2016-CP-04-298

Dear Mr. Shearouse:

I have filed a notice of appeal in the above referenced matter. I filed this appeal because my client, Mr. Daniel E. Sherman instructed me to do so. I do not see any issue with merit in this appeal. I am requesting that Mr. Sherman is given 15 days from the date of this letter to inform the court of his issues.

If you should have any questions please feel free to call me.

RICHEY AND RICHEY, P.A.

Yours truly,

  
Rodney Richey

RWR/  
cc: Linsey A. McCallister, Esquire

STATE OF SOUTH CAROLINA )  
 COUNTY OF ANDERSON )  
 Daniel E. Sherman, #282045, )  
 Applicant, )  
 v. )  
 State of South Carolina, )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 FOR THE TENTH JUDICIAL CIRCUIT

2016-CP-04-00298

**FINAL ORDER OF DISMISSAL**

FILED-CLERK'S OFFICE  
 ANDERSON SC  
 2018 FEB -2 AM 11:39  
 COMMON PLEAS AND  
 GENERAL SESSIONS

This matter comes before the Court pursuant to an application for post-conviction relief filed by Daniel E. Sherman (Applicant) on January 28, 2016. Respondent made its Return and Motion to Dismiss on April 6, 2017, requesting the application be summarily dismissed as time barred, successive, and for failing to state a claim cognizable under the Uniform Post Conviction Procedure Act.

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 filed July 11, 2017, provisionally denying and dismissing this action, while giving Applicant twenty 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 August 11, 2017, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

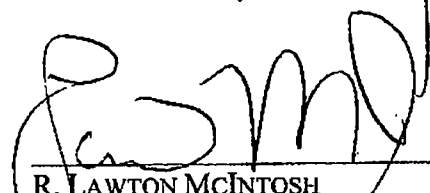
Applicant has failed to respond to either the Respondent's Motion to Dismiss or this Court's Conditional Order of Dismissal<sup>1</sup>. Therefore, this Court finds a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

<sup>1</sup> On August 10, 2017, Applicant filed a *pro se* response to this Court's Conditional Order of Dismissal. The State responded by letter dated August 25, 2017, stating that it did not consider this response as part of the record of this case, as Applicant was represented by counsel.

**IT IS THEREFORE ORDERED** that, for the reasons set forth in this Court's Conditional Order of Dismissal, the application for post-conviction relief is hereby denied and dismissed with prejudice.

This Court hereby advises Applicant he must file and serve a Notice of Appeal within thirty days of the service of this Order to secure appellate review. See Rule 203, SCACR. Applicant's attention is directed to Rule 227, SCACR, for the procedures following the filing and service of the notice of appeal.

**AND IT IS SO ORDERED** this 1<sup>st</sup> day of February, 2018.

  
\_\_\_\_\_  
R. LAWTON MCINTOSH  
Chief Administrative Judge  
Tenth Judicial Circuit

Anderson South Carolina.

FILED-CLERK'S OFFICE  
ANDERSON SC  
2018 FEB -2 AM 11: 39  
COMMON PLEAS AND  
GENERAL SESSIONS

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

RECEIVED  
AUG 16 2017

GENERAL COUNSEL

Pursuant to Rule 4(d)(2) of the South Carolina Rules of Civil Procedure, the \_\_\_\_\_ of the South Carolina Department of Corrections has designated Nancy C Macchett (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 Greenville )

AFFIDAVIT OF PERSONAL SERVICE

On this 11 day of August 2017, I served the Conditional Order of Dismissal, on Inmate Daniel E. Sherman, SCDC Inmate, #282045, by delivering personally and leaving a copy of the same at PERRY Correctional Institution. Deponent is not a party to this action.

Nancy C Macchett  
SCDC Server

SWORN TO AND SUBSCRIBED BEFORE ME

this 11 day of August, 2017

Tamara Conwell (I.S.)  
Notary Public for South Carolina

My Commission Expires: September 25, 2023

ADMISSION OF SERVICE

Service of a copy of the within Conditional Order of Dismissal is admitted at the South Carolina Department of Corrections ( Perry Correctional Institution), Greenville County, SC this 11 day of August, 2017.

Daniel Sherman  
Inmate  
SCDC Inmate #: 282045

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

Daniel Eugene Sherman,  
S.C.D.C. No. 282045,

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS  
) FOR THE TENTH JUDICIAL CIRCUIT

) Case No.: 2016-CP-04-00298

) **CONDITIONAL ORDER OF DISMISSAL**

2017 JUN 11 AM 10:33  
COMMON PLEAS AND  
GENERAL SESSIONS

FILED-CLERK'S OFFICE  
ANDERSON SC

This matter comes before the Court by way of an application for post-conviction relief filed by Daniel Eugene Sherman (Applicant) on January 28, 2016. Respondent made its Return, requesting the application be summarily dismissed.

**I. PROCEDURAL HISTORY**

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Anderson County Clerk of Court. Applicant was indicted at the February 2001 term of the Anderson County Grand Jury for criminal conspiracy (2001-GS-04-00577), possession of a weapon during the commission of a violent crime (2001-GS-04-00578), AND murder (2001-GS-04-00579). Nancy Jo Thomason, Esquire represented Applicant. Applicant proceeded to trial before the Honorable J.C. Nicholson, Jr. and a jury. The jury found Applicant guilty as indicted on February 13, 2002. Judge Nicholson sentenced Applicant to imprisonment for consecutive terms of five years for conspiracy, five years for the weapons charge, and the his natural life for murder.

Applicant filed a timely notice of appeal and a direct appeal was perfected by Ronnie M. Cole, Esquire filing a brief pursuant to Anders v. California, 386 U.S. 738 (1967). On February

20, 2004, the South Carolina Court of Appeals dismissed Applicant's appeal and granted counsel's petition to be relieved by unpublished opinion. State v. Sherman, Op. No. 2004-UP-259 (S.C. Ct. App. 2004). The Remittitur was issued on May 21, 2004.

**2005-CP-04-00908**

Applicant filed his first application for post-conviction relief on April 5, 2005 (2005-CP-04-00908). He alleged the following grounds for relief in his application (quotations verbatim):

1. Ineffective assistance of counsel:
  - a. "[Counsel] failed to object to a jury panel of twelve members that was selected from a contaminated jury pool;"
  - b. "[Counsel] failed to make a motion for mistrial, due to contamination of jury;"
  - c. "[Counsel] failed to make a motion for a change of venue, due to highly publicized prejudicial pretrial publicity;"
  - d. "[Counsel] failed to object to the trial benches 'hands of one, is the hand of all' instruction;"
  - e. "[Counsel's] failure to object to the state prosecution, burden shifting, closing argument, based on unrelated elements of kidnapping;"
  - f. "[Counsel's] failing to object to the trial courts unconstitutional shifting of the burden of proof from the states prosecution to the defendant, concerning the malic charges given to the contaminated jury panel;"
  - g. "[Counsel] failed to make a motion to suppress Gregory Deans' testimony obtained in violation of 18 USC ( c )(12);"
  - h. "[Counsel] failed to request a cautionary instruction to Gregory Deans' non-self inculpatory trial testimony after trial counsel's untimely objection to the admission of Ms. Janet Sherman's non-self inculpatory statement through Mr. Gregory Deans' non-self inculpatory trial testimony under Rule 801 (c) SCRE."

Respondent made its return on August 5, 2005. By and through counsel, Applicant amended his application by filing July 18, 2008, which further alleged the following grounds for relief (quotations verbatim):

1. Ineffective assistance of counsel:

- a. "Counsel did not subject to any meaningful adversarial testing the issue of whether Mr. Sherman freely, voluntarily, and knowingly waived his right to counsel because she:"
  - i. "Failed to make even the most minimal investigation of the facts of the Phenobarbital detoxification protocol administered by Mr. Sherman;"
  - ii. "Failed to object to lay opinion testimony on whether Mr. Sherman was or appeared to be under the influence of drugs or alcohol at the time he gave the statements;"
  - iii. "Failed to present any medical records or medical testimony of any kind, even though she was arguing that 'Mr. Sherman could not make a free, voluntary, and knowing waiver of his rights because he was taking heavy duty narcotics.'"
- b. "Counsel failed to attend or obtain the transcript of the trial of Mrs. Sherman, the sole alleged co-conspirator, even though the trial took place only 0.6 miles away, was tried by the same Solicitor, concerned the same charges, involved the same alleged facts, included 9 of the same witnesses (including the purported eye-witness) who later also testified against Mr. Sherman, and utilized the same trial exhibits;"
- c. "Counsel failed to cross-examine the sole purported eyewitness on the most significant motivation he had to lie—the fact that Mrs. Sherman had recently ended her affair with him and returned to Mr. Sherman;"
- d. "Counsel failed to request the jury charges on the lesser-included offense of voluntary manslaughter or on self-defense, and did not state any exception to the lack thereof."

An evidentiary hearing into the matter was convened on July 22, 2008, before the Honorable R. Knox McMahon. Applicant was present at the hearing and represented by Mary McCormac, Esquire. Daniel E. Grigg, of the South Carolina Attorney General's Office, represented Respondent. Applicant testified on his own behalf, and Nancy Jo Thomason, Esquire also testified. By written order dated November 10, 2008, and filed November 13, 2008, Judge McMahon denied and dismissed the application.

Applicant filed a timely notice of appeal and a petition for writ of certiorari was filed by Wanda H. Carter, Esquire on Applicant's behalf. Respondent filed its Return on November 2,

2009. On June 10, 2010, the Supreme Court of South Carolina denied the petition by letter order. The Remittitur was issued on June 29, 2010.

**5:10-2571-JFA-KDW**

Applicant subsequently filed a *pro se* Petition for Habeas Corpus under 28 U.S.C. § 2254 on September 28, 2010 (C.A. No. 5:10-2571-JFA-KDW). In his Petition, Applicant set forth the following grounds for relief (quotation verbatim):

1. Ineffective assistance of counsel;
2. Violation of constitutional rights under 6<sup>th</sup> and 14<sup>th</sup> Amendments;
3. Due process violation;
4. "Petitioner states he is being held [illegally] and [against] his will on all charges."

Respondent filed its Return and Motion for Summary Judgment on March 7, 2011. The Honorable Kaymani D. West, United States Magistrate Judge, issued on February 21, 2012, a Report and Recommendation that Respondent's motion for summary judgment be granted. Sherman v. McCall, 5:10-2571-JFA-KDW, 2012 WL 1032694 (D.S.C. 2012). The Honorable Joseph F. Anderson, Jr., United States District Judge, denied Applicant's Petition on March 27, 2012, and accepted the Report and Recommendation for summary judgment. Sherman v. McCall, 5:10-2571-JFA-KDW, 2012 WL 1032690 (D.S.C. 2012). Applicant gave notice of his appeal to the Fourth Circuit Court of Appeals; the Fourth Circuit dismissed Applicant's appeal on August 27, 2012, for want of a certificate of appealability. Sherman v. McCall, 475 Fed.Appx. 887 (4th Cir. 2012).

**2014-CP-04-01014**

Applicant filed his second application for post-conviction relief on May 14, 2014 (2014-CP-04-01014). He alleged the following grounds for relief in his application (quotations verbatim):

1. "Initial review collateral counsel provided ineffective assistance upon applicant's first appeal of right where fundamental constitutional challenges may be first presented relative to 'ineffective assistance of trial counsel' claims."
2. "Newly acquired evidence of material facts not previously presented and heard that if heard would require the vacation of the Applicant's convictions and sentences. See South Carolina Code Ann. Section 17-27-45(C) and State v. Coats, 575 S.E.2d 557 (S.C. 2003)."
  - a. "Failure of [trial counsel and PCR counsel] bringing forth no effort to independently investigate Janet Sherman as a defensive resource before trial and PCR..."

Respondent made its return and motion to dismiss on February 9, 2015, arguing it was untimely and successive. On March 16, 2015, the Honorable J. Cordell Maddox, Jr. issued a Conditional Order of Dismissal, and then a Final Order on July 23, 2015 dismissing the matter with prejudice.

## II. CURRENT APPLICATION

In his third and current post-conviction relief application, Applicant alleges he is being held unlawfully for the following reasons (quotations verbatim):

1. Ineffective assistance of PCR counsel:
  - a. "Counsel failed to file Rule 59(e) motion to alter and amend, after specific findings and conclusion of the law regarding Applicant's issues and to preserve all the Applicant's argument."
  - b. "[PCR Counsel] was ineffective for not raising all of Applicant P.C.R. issues during his proceeding, in violations of his rights to due process of law and effective [assistance] of [counsel]."

Applicant requests relief as follows:

- "To seek a new P.C.R. hearing and Trial"

In an amendment filed September 13, 2016, Applicant alleges the following additional grounds:

1. After-discovered evidence;
2. Ineffective assistance of counsel for failure to perform reasonable due diligence;

3. Ineffective assistance of counsel for failing to uncover intrinsic fraud upon the court.

Also before this Court are the Anderson County Clerk of Court records, Applicant's records from the South Carolina Department of Corrections, Applicant's appellate records, the final orders of Applicant's previous PCR and federal habeas corpus actions, and the records of this current PCR action.

### III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

#### Failure to State a Claim

Applicant alleges he is entitled to relief on grounds that his prior PCR counsel, Mary McCormac, Esquire, was ineffective. The Court finds that ineffective assistance of PCR counsel is not a ground for relief. There is no constitutional right to appointed counsel for collateral review of a conviction. Pennsylvania v. Finley, 481 U.S. 551 (1987). The Sixth Amendment right to effective assistance of counsel does not extend to state post-conviction relief actions. Coleman v. Thompson, 501 U.S. 722 (1991). Once a PCR applicant obtains a complete adjudication on the merits of his original application, including an appeal, he may not make successive applications based on ineffective assistance of PCR counsel. Aice v. State, 305 S.C. 448, 452, 409 S.E.2d 392, 395 (1991).

The only recognized exception to the rule barring claims of ineffective assistance of post-conviction relief counsel is found in Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). Austin recognizes a general exception to this rule where prior post-conviction relief counsel fails to appeal the denial of the application. Id. Austin "is limited to its particular factual situation" and is only applicable in limited circumstances to correct procedural defects where an applicant is denied his "one full bite at the apple." Id.; Aice, 305 S.C. at 452, 409 S.E.2d at 394; see also Odom v. State, 337 S.C. 256, 523 S.E.2d 753 (1999).

Here, Applicant received a hearing in his first PCR action and timely appealed therefrom. Applicant further enjoyed to exhaustion the federal habeas corpus procedures, including an attempt to appeal to the United States Fourth Circuit Court of Appeals. It is clear Applicant enjoyed a complete adjudication on the merits of his original application—"one full bite at the apple." Therefore, Applicant's allegations of ineffective assistance of PCR counsel do not fall within any exception to the rule barring such claims, and the Court shall dismiss the application for failing to state a claim cognizable under the Uniform Post-Conviction Procedure Act.

### Successive

The Court finds the application must also be summarily dismissed because it is successive to Applicant's previous PCR applications. Courts disfavor successive applications and place the burden on applicants to establish that any new ground raised in a subsequent application could not have been earlier raised in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Arnold v. State, 309 S.C. 157, 420 S.E.2d 834 (1992). Section 17-27-90 of the South Carolina Code 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).

Ineffective assistance of PCR counsel is not a ground for relief and not a sufficient claim to warrant a successive application. The South Carolina Supreme Court held the PCR rules “contemplate an adjudication on the merits of the original petition, one bite at the apple as it were.” Aice, 305 S.C. at 452, 409 S.E.2d at 395 (citing Gamble v. State, 298 S.C. 176, 178, 379 S.E.2d 118, 119 (1989)). The court also noted, “[f]inality must be realized at some point in order to achieve a semblance of effectiveness in dispensing justice.” Id. at 451, 409 S.E.2d at 395. Aice further held that “the contention that prior PCR counsel was ineffective is not *per se* a ‘sufficient reason’ allowing for a successive PCR application under § 17-27-90.” Id. at 452, 409 S.E.2d at 394. Applicant’s contention that prior PCR counsel was ineffective is not a sufficient reason to warrant a successive PCR application. Thus, Applicant has failed to show that a successive application is appropriate.

Applicant’s current allegations were or could have been raised in the proceedings based on Applicant’s prior application for post-conviction relief; 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 application for post-conviction relief. Therefore, he has failed to meet the burden imposed upon him, and the Court shall dismiss the application as successive to Applicant’s previous PCR application.

### Statute of Limitations

The Court also finds the application must 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. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). 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© 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 was convicted on February 13, 2002, and the remittitur from his direct appeal issued on May 21, 2004. The current application was not filed until January 28, 2016—well after the one-year statutory filing period expired. Therefore, the application shall be summarily dismissed as barred by the statute of limitations.

### Newly Discovered Evidence

This Court finds Applicant’s claim of newly discovered evidence fails to make a *prima facie* showing that he is entitled to relief. In order to warrant the granting of a new trial on the ground of after-discovered evidence, Applicant must show the evidence (1) is such as will

probably change the result if a new trial is granted; (2) has been discovered since the trial; (3) could not have been discovered before the trial by the exercise of due diligence; (4) is material to the issue; and (5) is not merely cumulative or impeaching. State v. Harris, 391 S.C. 539, 545, 706 S.E.2d 526, 529 (Ct. App. 2011) (citing State v. Spann, 334 S.C. 618, 619–20, 513 S.E.2d 98, 99 (1999)).

While under S.C. Code § 17-27-45(c), a newly discovered evidence claim can be timely raised within one year of actual discovery or within one year of when, by the exercise of due diligence, such evidence could have been ascertained, Applicant has failed to set forth with any specificity how the alleged new evidence would have affected the outcome if used at trial or why such evidence was not readily discoverable at the time of trial or his previous PCR action. Before this Court will hold an evidentiary hearing, Applicant must make a *prima facie* showing that he is entitled to relief. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Applicant has failed to make such a showing based on the information set forth in his application, and, therefore, he is not entitled to an evidentiary hearing in the matter, and the allegation of newly discovered evidence is therefore denied and dismissed.

{Conclusion and signature on following page}


**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 Anderson County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General  
Attn: Lindsey A. McCallister, Esquire  
Johnny E. James, Jr., Esquire  
PCR Division – 10<sup>th</sup> Circuit  
P.O. Box 11549  
Columbia, South Carolina 29211

Applicant is cautioned that his response to this order must be actually received by the Anderson 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.

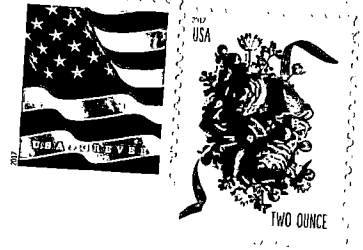
AND IT IS SO ORDERED this 7 day of July, 2017.

  
\_\_\_\_\_  
J. CORDELI MADDOX JR.  
Chief Administrative Judge  
Tenth Judicial Circuit

Anderson, South Carolina

FILED-CLERK'S OFFICE  
ANDERSON SC  
2017 JUL 11 AM 10:33  
COMMON PLEAS AND  
GENERAL SESSIONS

RICHEY AND RICHEY, P.A.  
POST OFFICE BOX 10916  
GREENVILLE, SC 29603



The Honorable Daniel E. Shearouse  
The Supreme Court of South Carolina  
Post Office Box 11330  
Columbia, SC 29211

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