

STATE OF SOUTH CAROLINA)
)
 COUNTY OF COLLETON)
)
 Jason Bradley Matthews, #161459,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT

Case No. 2015-CP-15-00463

FINAL ORDER OF DISMISSAL

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FILED IN CLERK'S OFFICE
 COLLETON COUNTY
 COMMON PLEAS

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 This matter comes before the Court by way of an application for post-conviction relief (PCR) filed by Jason Bradley Matthews (Applicant) on April 9, 2015. Respondent made its return and motion to dismiss on September 26, 2017, requesting the application be summarily dismissed because it was filed after the statute of limitations had expired, is successive to Applicant's prior PCR action, and is barred by the equitable doctrine of laches.

After reviewing the pleadings in this matter and all of the records attached thereto, the Honorable Roger M. Young issued a Conditional Order of Dismissal, signed September 20, 2017, and filed October 20, 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.

On October 10, 2017, before the filing of the Conditional Order of Dismissal, Applicant filed a document captioned "Motion for an Evidentiary Hearing" and attached numerous "exhibits" including newspaper clippings and court opinions. After the Conditional Order of Dismissal was issued, Applicant filed another document captioned "Motion to Dismiss

Conditional Order of Dismissal” on December 20, 2017. In that document, Applicant asserts his arguments advanced in the “Motion for an Evidentiary Hearing” document were not addressed in the Conditional Order of Dismissal.

In his latest filing, Applicant argues his “Motion for an Evidentiary Hearing” filing met his burden of providing the Court with sufficient reason as to why his current grounds for relief could not have been raised in his previous application. In that document, Applicant alleged he has been confined for twenty-eight years and has struggled to survive in prison. Applicant asserts his difficulty in prison generated “extreme difficulty” for Applicant in developing the extent of legal knowledge necessary to advance his arguments. Furthermore, Applicant alleges he was represented by counsel during his early years of incarceration who did not afford him the opportunity to review the evidence in his case. Applicant alleges he demanded PCR Counsel to send him all the evidence available, but PCR Counsel explained to Applicant his right to personally request his entire defense file from his Plea Counsel. Applicant alleges his original PCR action had passed by the time he was able to personally review the evidence in his defense file.

While Applicant alleges his application is timely and not successive because he now has evidence of extrinsic fraud, this Court finds that Applicant has failed to make prima facie showing that he is entitled to relief on the basis of newly-discovered evidence. The Uniform Post-Conviction Relief Act states that a person may institute a post-conviction relief action if “there exists evidence or material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice.” S.C. Code Ann. § 17-27-20(A)(4). If the applicant contends there is evidence of material facts not previously presented,

the post-conviction relief application must be filed within one year after the date of actual discovery of the facts by the applicant or after the date when the facts could have been ascertained by the exercise of reasonable diligence. S.C. Code Ann. §17-27-45(C). A defendant requesting a new trial based on after-discovered evidence after a guilty plea must show:

(1) The newly discovered evidence was discovered after the entry of the plea and, in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea; and (2) the newly discovered evidence is of such a weight and quality that, under the facts and circumstances of that particular case, the 'interest of justice' requires the applicant's guilty plea to be vacated.

Jamison v. State, 410 S.C. 456, 765 S.E.2d 123 (2014).

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PMB
Here, Applicant alleges that he only recently discovered his Plea Counsel induced his guilty plea by use of extrinsic fraud. However, Applicant has provided no evidence to support his allegation of extrinsic fraud on the part of his Plea Counsel. Therefore, Applicant's allegation of newly-discovered evidence fails to meet the burden required to be granted a new trial.

Applicant alleges the delay in raising his current allegations was justified also due to the pressures of prison life and the amount of time it takes to fully understand the law at issue. The natural stresses of life during incarceration are not sufficient to excuse the statute of limitations for filing a PCR application. Applicant has presented no evidence he was incompetent throughout any of his incarceration.

Regarding the doctrine of laches, Applicant alleges in his "Motion for an Evidentiary Hearing" his delay was not unreasonable for the above-mentioned reasons and because he filed the motion on "grounds of great controversy, being they are rooted in governmental corruption." As mentioned above, Applicant has provided no sufficient justification for delay and no evidence of alleged governmental corruption in his case. Applicant also alleges the State was not

prejudiced by the delay. Applicant seeks post-conviction relief twenty-eight years after his conviction, certainly enough of a delay to affect the availability of evidence to review Applicant's claims. The prejudice brought on the State by this delay, in the form of witness memories and physical evidence naturally faded and degraded by the passage of time, is self-evident. See, e.g., Bray v. State, 366 S.C. 137, 140, 620 S.E.2d 743 (2005) (finding laches applied seven years after proceeding in question).

This Court has reviewed Applicant's responses to the Conditional Order of Dismissal in their entirety, in conjunction with the original pleadings, and finds Applicant's allegations to be meritless. Accordingly, this Court finds sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

This Court also reasserts its holding in the Conditional Order of Dismissal that this Application is untimely, successive, and similarly barred by the doctrine of laches.

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

AND IT IS SO ORDERED this 5th day of February, 2018.



PERRY M. BUCKNER, III
Chief Administrative Judge
Fourteenth Judicial Circuit

Walterboro, South Carolina.

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF COLLETON) FOR THE FOURTEENTH JUDICIAL CIRCUIT
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Jason Bradley Matthews, #161459,) Case No.: 2015-CP-15-00463
))
Applicant,))
))
v.) **CONDITIONAL ORDER OF DISMISSAL**
))
State of South Carolina,))
))
Respondent.))
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))

This matter comes before the Court by way of an application for post-conviction relief filed by Jason Bradley Matthews (Applicant) on April 9, 2015. Respondent made its Return requesting the application be summarily dismissed.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Colleton County Clerk of Court. Applicant was indicted on the May 1989 term of the Colleton County Grand Jury for murder (1989-GS-15-0475). On September 6, 1989, Applicant pled guilty as charged and was sentenced to life in prison by the Honorable William T. Howell. Applicant did not appeal his plea or sentences.

Applicant filed his first post-conviction relief application in 1991. In 1994, he filed a Petition for Habeas Corpus under 28 U.S.C. § 2254 in the United States District Court for the District of South Carolina (CA-93-3102-3-17-AJ). The petition was dismissed by the Honorable Joseph F. Anderson Jr., United States District Judge. On January 18, 1996, the Fourth Circuit

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PATRICIA E. GRANT
COLLETON COUNTY
COMMON PLEAS



Court of Appeals affirmed the decision of the District Court but granted a certificate of appeal on the issue of probable cause.¹

CURRENT APPLICATION

In his *second* and current application for post-conviction relief and the supporting memorandum, Applicant alleges he is being held in custody unlawfully on the following grounds:

1. "Attorney Misconduct/ Extrinsic Fraud. Plea counsel Lionel S. Lofton did knowingly commit the act of extrinsic fraud by [lying] to me about the forensic evidence in this case. Such willful misrepresentation of material fact caused me to forfeit my right to trial by jury, as pre-trial discussions and the lack of such discussions about defense options and related matters of law were based on that willful misrepresentation of material fact."
 - a. "Under oath during a Federal evidentiary hearing Lionel S. Lofton freely testified to the fact that he discussed with me various aspects of a defense in regard to non-existing elements, and those non-existing elements being I killed and/or made a decision to kill Jerry Wayne Shelton as he lay on a floor."
 - b. "Mr. Shelton was not fatally wound. Forensic evidence clearly and convincingly proves that what Mr. Lofton testified under oath during a Federal evidentiary hearing and what he told me during pre-trial discussions in regard to the most crucial elements to this case was/ is absolutely false."
2. "Prosecutorial misconduct / fraud upon the court. To justify/ support the State's position of seeking the death penalty, and a life sentence during a plea proceeding, the 14th Circuit Solicitor Randolph Murdaugh did knowing present to the Court an invalid aggravating factor. That fact being invalid because it was generated by, is rooted in, acts of governmental corruption/ violations of both State and Federal law. So for former 14th Circuit Solicitor Murdaugh to have presented an invalid aggravating factor to the Court as though that fact was valid, amounts to is evidence of Prosecutorial Misconduct/ Fraud upon the Court."

Also, before this Court are the records of the Colleton County Clerk of Court, Applicants records from the South Carolina Department of Corrections, and the records from this post-conviction relief action.

¹ Respondent notes that the State is unable to obtain Applicant's records from his prior actions because those records had previously been destroyed. Therefore, Respondent is unable to fully address this procedural history in this action.



FINDINGS OF FACT AND CONCLUSIONS OF LAW

Statute of limitations

The application should 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 ("the Act"). 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 offense 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). Applicant was sentenced on September 6, 1989. Accordingly, Applicant was required to file on or before July 1, 1997. The current application was not filed until April 9, 2015 well beyond the statutory filing period.

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." Therefore, this application is dismissed for failure to file within the time mandated by the Act.

Successive

The application should be summarily dismissed because it is successive to Applicant's previous PCR application. 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 offense 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 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 current application is successive and barred under S.C. Code Ann. § 17-27-90.

Laches

Similarly this application should 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 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 was convicted and sentenced in 1989, and now seeks post-conviction relief *twenty-eight years* after his conviction. 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 at 283, 277 S.E.2d at 890; Honeycutt at 41; Whitehead at 220; 574 S.E.2d at 202. Applicant offers no such justification, for there is none. The prejudice brought upon the State by this delay, in the form of witness memories and physical evidence naturally faded and degraded by the passage of time, is self-evident. *See, e.g., Bray* at 140; 620 S.E.2d at

745 (finding laches applied seven years after proceeding in question); State v. Serrette, 375 S.C. 650, 654 S.E.2d 554 (Ct. App. 2007) (record reconstruction undoubtedly futile eleven years after proceeding in question). Therefore, the application is summarily dismissed as barred by the doctrine of laches.

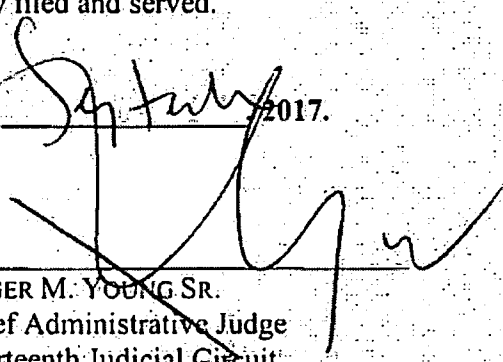
CONCLUSION

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

Office of the Attorney General
Attn: Ruston Neely, Esquire
Rasheeda Cleveland, Esquire
PCR Division – 14th Circuit
P.O. Box 11549
Columbia, South Carolina 29211

Applicant is cautioned that his response to this order must be actually received by the Colleton 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 25 day of September 2017.



ROGER M. YOUNG SR.
Chief Administrative Judge
Fourteenth Judicial Circuit

Chandler, South Carolina



ALAN WILSON
ATTORNEY GENERAL

October 2, 2017

The Honorable Patricia C. Grant
Clerk of Court - Colleton County
PO Box 620
Walterboro, SC 29488-0028

Re: Jason Bradley Matthews, #161459 v. State of South Carolina
2015-CP-15-0463

Dear Ms. Grant:

Enclosed please find the original Order of Dismissal signed by the Honorable Robert M. Young, 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), SCRCP."

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

Sincerely,

Rasheeda Cleveland
Assistant Attorney General

PATRICIA C. GRANT
COLLETON COUNTY
COMMON PLEAS
2017 OCT 20 PM 12:34

RC/jaj

Lori Weiss

From: Lori Weiss <lweiss@colletoncounty.org>
Sent: Tuesday, December 5, 2017 1:13 PM
To: 'fourteenthcircuitpcr@scag.gov'
Subject: Jason Matthews 15-CP-15-463
Attachments: Scanned from a Xerox Multifunction Printer.pdf

Plaintiff was mailed copy of Conditional Order of Dismissal 12/5/17.

Sincerely,
Lori L. Weiss
Senior Court Specialist
Colleton County Court of Common Pleas
(843) 549-5791 phone
(843) 549-6857 fax
lweiss@colletoncounty.org

-----Original Message-----

From: civ5765wx@colletoncounty.org [mailto:civ5765wx@colletoncounty.org]
Sent: Tuesday, December 5, 2017 10:06 AM
To: Weiss, Lori <lweiss@colletoncounty.org>
Subject: Scanned from a Xerox Multifunction Printer

Please open the attached document. It was scanned and sent to you using a Xerox Multifunction Printer.

Sent by: Guest [civ5765wx@colletoncounty.org]
Attachment File Type: pdf, Multi-Page

Multifunction Printer Location: machine:location not set
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