

State of South Carolina
In The Court of Common Pleas
County of Greenville
2016-CP-23-4272

RECEIVED

MAY 17 2018

S.C. SUPREME COURT

Douglas J. Hill, 135153

vs. Appellant

Notice of Appeal

State of South Carolina

Respondent

Douglas J. Hill Appeals Final Order of Dismissal on
his Post-Conviction Relief Application dated April 12, 2018.
Received by Appellant on April 17, 2018

May 5th 2018

Douglas J. Hill, 135153
Broad River Court Inst
4460 Broad River Rd
Columbia, S.C. 29210

The State of South Carolina
IN THE SUPREME COURT

RECEIVED

MAY 17 2018

S.C. SUPREME COURT

Douglas J. Hill, 135153
Appellant
vs.

Certificate of Service

State of South Carolina
Respondent

Douglas J. Hill declares that he served a copy of his Notice of Appeal on May - 2018 to the parties listed below by placing them in the U.S. mail addressed as below.

Clerk, S.C. Supreme Court
P.O. Box 11330
Columbia, S.C. 29211

Clerk of Court, Greenville County
305 East North St
Greenville, S.C. 29601

Attorney General, of S.C.
P.O. Box 11549
Columbia, S.C. 29211

Douglas J Hill, 135153
Broad River Court East
4460 Broad River Rd
Columbia, S.C. 29210

Dated May 5th 2018
5-11

cc: file

The State of South Carolina
IN THE Supreme Court

RECEIVED

MAY 17 2018

S.C. SUPREME COURT

Douglas Q. Hill, 135153

Appellant

VS.

Notice of Appeal

State of South Carolina
Respondent

Douglas Q. Hill, Appeals Final Order of dismissal
on his Post Conviction Relief Application dated April
12, 2018, received by Applicant on April 17, 2018.

May 5th 2018

Douglas Q. Hill, 135153
Broad River Court East
4460 Broad River Rd
Columbia, S.C. 29210

Douglas Jo Hill 135153
Broad River Correctional Institution
4460 Broad River Road
Columbia S.C. 29210

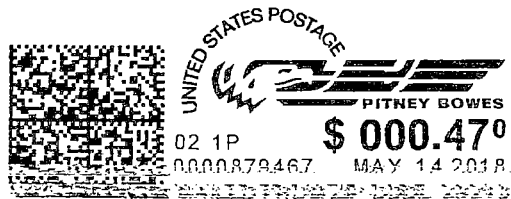
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MAY 14 2018

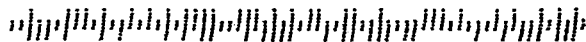
BRCI
MAILROOM

FOR LEGAL USE ONLY

2921181330 8099



Clerk S.C. Supreme Court
P.O. Box 11330
Columbia S.C. 29211



STATE OF SOUTH CAROLINA)
 COUNTY OF GREENVILLE)
)
 Douglas J. Hill, #135153,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 THIRTEENTH JUDICIAL CIRCUIT

2016-CP-23-4272

CONDITIONAL ORDER OF DISMISSAL

ENTERED COMPUTER

2016 SEP - 8 AM 11:02
 FILED CLERK OF COURT
 PAUL B. WICKENHEIMER
 GREENVILLE, SC

This matter comes before the Court by way of an application for post-conviction relief filed by Douglas Hill (Applicant) on July 14, 2016. 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 Greenville County Clerk of Court. In November 1995, the Greenville County Grand Jury indicted Applicant for assault and battery with intent to kill (1995-GS-23-7051). The charge resulted from a June 1995 incident in which Applicant repeatedly stabbed the victim with a knife. C. Timothy Sullivan, Esquire represented Applicant at trial. Assistant Solicitor Judith M. Munson, Esquire prosecuted the case. On March 19, 1996, Applicant proceeded to trial before the Honorable C. Victor Pyle. The jury found Applicant guilty as indicted. On March 20, 1996, Judge Pyle sentenced Applicant to imprisonment for life without parole pursuant to S.C. Code Ann. § 17-25-45(a)(1).

Applicant filed a timely notice of appeal. The South Carolina Court of Appeals affirmed Applicant's conviction in an unpublished opinion filed January 8, 1998. State v. Hill, Op. No. 98-UP-009 (Ct. App. 1998).

98-CP-23-1446

Applicant subsequently filed an application for post-conviction relief on March 31, 1998, in which he alleged the following grounds for relief regarding his conviction for assault and battery with intent to kill:

1. Ineffective assistance of counsel.
2. Subject matter jurisdiction/illegal enhanced sentence.
3. Cruel and unusual punishment – Eighth Amendment violation.

Respondent filed its return on May 24, 1999. An evidentiary hearing into the matter was convened on December 14, 1999, before the Honorable Henry F. Floyd. Applicant was present at the hearing and represented by Frank L. Eppes, Esquire. Kevin Tierney, Esquire, of the South Carolina Attorney General's Office, represented Respondent. Judge Floyd found that Applicant was denied effective assistance of counsel and issued an order on January 26, 2000, reversing and vacating Applicant's sentence and remanding for a new trial.

Respondent filed a timely notice of appeal on March 1, 2000. Assistant Attorney General Kathleen J. Hodges, Esquire filed a petition for writ of certiorari on behalf of Respondent on December 6, 2000. Assistant Appellate Defender Tara S. Taggart filed a return to the petition for writ of certiorari on behalf of Applicant on May 1, 2001. The Supreme Court of South Carolina granted certiorari by order filed June 21, 2001. On July 22, 2002, the Supreme Court of South Carolina reversed the PCR court's grant of post-conviction relief. Hill v. State, 350 S.C. 465, 567 S.E.2d 847 (2002). Applicant petitioned for rehearing, but the Supreme Court of South Carolina denied the petition on August 21, 2002. The remittitur was issued on August 21, 2002.



6:03-1940-20AK

Applicant filed a petition for writ of habeas corpus on June 17, 2003. Respondent filed a return to the petition on July 30, 2003. The Honorable William M. Catoe, United States Magistrate Judge, issued a report and recommendation to grant the motion for summary judgment dated September 15, 2003. On October 29, 2003, the Honorable Henry M. Herlong, Jr., United States District Judge, issued an order granting the motion for summary judgment and dismissing the petition with prejudice.

2003-CP-23-5401

Applicant also filed an application for post-conviction relief on August 8, 2003, regarding a separate conviction than the one he currently challenges. The application arose from his 1986 guilty plea to second degree burglary (86-GS-23-1437). In that application, Applicant alleged the following grounds for relief:

1. Ineffective assistance of counsel.
2. Trial court lacked subject matter jurisdiction.

Respondent filed its return and motion to dismiss on December 16, 2003. The Honorable John C. Few heard the action for post-conviction relief on February 25, 2004. Judge Few denied Applicant's application by order filed March 31, 2004. Applicant filed a timely notice of appeal. Assistant Appellate Defender Eleanor Duffy Cleary, Esquire filed a Johnson petition for writ of certiorari on behalf of Applicant on November 29, 2004. The Supreme Court of South Carolina denied the petition and granted counsel's motion to withdraw by order filed December 14, 2005. The remittitur was returned on December 30, 2005.

2003-CP-23-6785

Applicant filed a petition for writ of habeas corpus in the state of South Carolina on October 8, 2003. The Honorable Edward W. Miller signed a conditional order of dismissal on

AB9

November 21, 2005, giving Applicant twenty days to explain why the order should not become final. On February 9, 2006, the Honorable G. Edward Welmaker signed a final order of dismissal.

2006-CP-23-6805

Applicant filed a second application for post-conviction relief regarding conviction he currently challenges on November 2, 2006, in which he alleged the following grounds for relief:

1. Ineffective assistance of counsel.
2. Subject matter jurisdiction.
3. Illegal enhanced sentence.
4. Cruel and unusual punishment.

Respondent made its return and motion to dismiss on January 24, 2007. The Honorable D. Garrison Hill signed a conditional order of dismissal on January 25, 2007. Applicant made no response, and Judge Hill signed the final order of dismissal on May 7, 2007. Applicant did not appeal the dismissal.

2008-CP-23-6365

Applicant filed a third application for post-conviction relief regarding the conviction he currently challenges on August 21, 2008, in which he alleged the following grounds for relief:

1. Unconstitutional sentence and sentencing procedure.
 - a. "Failed to apply Full Faith & Credit Clause."

Respondent made its return and motion to dismiss on October 29, 2008. The Honorable John C. Few issued a conditional order of dismissal signed November 4, 2008, allowing Applicant twenty days to provide sufficient reason why the order should not become final. This was served on Applicant on November 21, 2008. Applicant subsequently filed a document captioned "Addendum to Application for Post-Conviction Relief" filed December 4, 2008, in which Applicant raised the following grounds for relief:



1. His trial attorney was ineffective in failing to object to the imposition of an improper sentence.
2. His PCR attorney was ineffective in failing to research and object to his improper sentence.
3. The trial judge denied due process in imposing an improper sentence.

Applicant also filed "Brief of Applicant in Support of Addendum PCR Issues" in which he alleged that his sentence of life imprisonment without parole was unconstitutional and he was never served with written notice that the state would seek life without parole. The Honorable Larry R. Patterson found a sufficient reason had not been shown why the conditional order of dismissal should not become final and issued a final order of dismissal on February 24, 2009.

Applicant filed a *pro se* notice of appeal with the Supreme Court of South Carolina on or around March 25, 2009. The Supreme Court of South Carolina dismissed the appeal for failure to provide a sufficient reason pursuant to Rule 243, SCACR by order filed May 5, 2009. The remittitur was returned on May 21, 2009.

Applicant's Motion under U.S.C. § 2244 for Successive Application

In December 2010, Applicant filed a motion under U.S.C. § 2244 for order authorizing the district court to consider a second or successive application for relief under 28 U.S.C. §§ 2254 or 2255. The United States Court of Appeals for the Fourth Circuit denied Applicant's motion by order filed January 5, 2011.

CURRENT APPLICATION

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

1. "Subject Matter Jurisdiction."
 - a. "The court did not have subject matter jurisdiction to try me under S.C. Code § 17-25-50(H).¹ Where the solicitor is required to seek sentencing of a defendant under this section, written notice must be

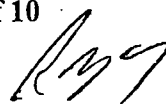
¹ This Court interprets this to more accurately be an allegation that the sentence violated S.C. Code § 17-25-45(H) rather than § 17-25-50(H), which does not exist.

given by the solicitor to the defendant and to the defendant's counsel, not less than ten days before trial. I was never served by the solicitor's office that the state had determined to seek a life sentence nor did my attorney inform me that the State was seeking a life sentence."

- b. "The legislature revised this section effective January 1, 1996. Act no. 83, 18. 1995 S.C. Acts 565. The present version of the statute did not apply to Applicant's 1995 ABIK charge. See Act No. 83, 62, 1995 S.C. Acts 595. S.C. Code Ann. § 17-25-45 (Supp. 1996)."
- c. "1995 Act No. 83, 62 provides that the 1995 amendment to this section applies prospectively to all crimes committed on or after the Act's effective date of January 1, 1996."
- d. "Applicant should receive a new trial and should have his life sentence vacated and remanded for resentencing with a twenty year maximum. Applicant was indicted for ABWIK in Greenville County (1991-GS-23-7051). He was tried on March 19, 1996, at Greenville Courthouse before the Honorable C. Victor Pyle, Jr. and a jury. He was convicted and sentenced to life without parole, S.C. Code § 17-25-45."

Furthermore, in documents titled "Applicant's Motion to Alter or Amend" and "Memorandum of Law in Support of Amend Application for Post-Conviction Relief from Entry of Default Judgment," dated April 12, 2017, Applicant alleges the following additional grounds for relief:

1. "A constructive amendment to an indictment occurs when the government, the court, or both broadens the possible bases for conviction beyond those presented by the grand jury."
2. "The court committed plain error by instructing the jury it could convict Applicant of a different crime than the one for which he was indicted, thereby violating Applicant's Fifth Amendment right to a grand jury indictment."
3. "The subordination of perjury by an attorney and/or the intentional concealment of documents by an attorney are actions which constitute extrinsic fraud."
4. "Applicant asserts he was precluded effectively from having his day in court. Applicant also asserts positively this is a showing of conscious wrongdoing."
5. "The court's actions in this case pierce the veil of impartiality and damage the integrity of due process of law."
6. "Trial Counsel's deficient performance shows actual and substantial prejudice toward Applicant and his performance dismembers Applicant's Sixth Amendment right to a defense and thus his failure to present Applicant's affirmative defense falls below reasonable professional norms; and there is



a reasonable probability that but for Counsel's unprofessional errors, the result would have been different."

7. "The credibility of the witnesses and evidence was extremely suspect. Had this evidence and testimony been suppressed, the outcome would have been different. Strickland v. Washington, 466 U.S. 668 (1984).

Before this court are the Greenville County Clerk of Court records, Applicant's records from the South Carolina Department of Corrections, Applicant's prior post-conviction relief action records, Applicant's appellate records, Applicant's habeas corpus action records, and the records for this post-conviction relief action.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Statute of Limitations

The Court finds that this 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(c) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ...

RS

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 of assault and battery with intent to kill on March 20, 1996. Applicant’s direct appeal was dismissed January 8, 1998. Accordingly, the application was due in January of 1999. This application was filed on July 14, 2016, over seventeen years beyond the statutory filing period. Therefore, the application shall be summarily dismissed for failure to file within the time mandated by Uniform Post-Conviction Procedure Act.

Successiveness

The Court further finds the application must be summarily dismissed because it is successive to Applicant’s two 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

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have been raised ... in the previous application.” Id. at 450. 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 applications 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 applications for post-conviction relief.

Applicant has therefore failed to meet the burden imposed upon him, and the Court shall summarily dismiss the application as successive to Applicant’s previous PCR applications.

Res Judicata

The application is similarly barred by the doctrine of *res judicata*. *Res judicata* prohibits subsequent actions by the same parties on the same issues. Bell v. Bennett, 307 S.C. 286, 414 S.E.2d 786 (Ct. App. 1992). A final judgment on the merits in a prior action bars subsequent consideration of those issues in a new action. Foran v. USAA Casualty Ins. Co., 311 S.C. 189, 427 S.E.2d 918 (Ct. App. 1993). *Res judicata* also bars any issues that could have been raised in the former action. Id.; see also Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981).

Applicant had a full opportunity to litigate all his allegations in his prior actions. Applicant’s present allegations are indistinguishable from those offered in his prior applications for post-conviction relief. The prior PCR Court issued a final judgement on the merits on very same issues that Applicant now raises in his present action. The finality of the previous Court

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rulings should be respected, and the application shall be summarily dismissed as barred by the doctrine of *res judicata*.

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

Office of the Attorney General
Attn: DeShawn H. Mitchell, Esquire
PCR Division – 13th Circuit
P.O. Box 11549
Columbia, South Carolina 29211

Applicant is cautioned that his response to this order must be actually received by the Greenville 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 FEB, 2018.



ROBIN B. STILWELL
Chief Administrative Judge
Thirteenth Judicial Circuit

Greenville, South Carolina

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE)

Douglas J. Hill, #135153)

CASE NO.

Plaintiff)

2016-CP-23-4272

v.)

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

State Of South Carolina)

Defendant.)

FILED-CLERK
PAUL B. NICKERSON
GREENVILLE
2016 FEB 8 AM 11:02

Plaintiff's Attorney:
Douglas J. Hill, #135153, Bar No.
Address:
BRCI 4460 Broad River Rd Columbia SC 29212
phone: fax:
e-mail: other:

Defendant's Attorney:
Deshawn H. Mitchell, AAG, Bar No. 01813
Address:
Post Office Box 11549 Columbia SC 29211-1549
phone: (803) 734-3737 fax: (803) 734-4115
e-mail: DMitchell@scag.gov other:

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
- FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion:
Estimated Time Needed: Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

- Written motion attached
 - Form Motion/Order
- I hereby move for relief or action by the court as set forth in the attached proposed order.

DJH

Signature of Attorney for Plaintiff / Defendant

February 5, 2018
Date submitted

SECTION III: Motion Fee

- PAID - AMOUNT:
- EXEMPT:
 - Rule to Show Cause in Child or Spousal Support
 - (check reason) Domestic Abuse or Abuse and Neglect
 - Indigent Status State Agency v. Indigent Party
 - Sexually Violent Predator Act Post-Conviction Relief
 - Motion for Stay in Bankruptcy
 - Motion for Publication Motion for Execution (Rule 69, SCRPC)
 - 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:
- Other:

JUDGE'S SECTION

- Motion Fee to be paid upon filing of the attached order.
- Other:

JUDGE _____
CODE: _____ Date: _____

CLERK'S VERIFICATION

- Collected by: _____
- MOTION FEE COLLECTED: _____
- CONTESTED - AMOUNT DUE: _____

Date Filed: _____

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

Douglas J. Hill, #135153,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

2016-CP-23-4272

FINAL ORDER OF DISMISSAL

ENTERED COMPUTER

FILED
CLERK OF COURT
PAUL B. WICKENS
GREENVILLE CO SC
2018 APR 12 AM 11:34

This matter comes before the Court by way of an application for post-conviction relief filed by Douglas Hill (Applicant) on July 14, 2016 Respondent made its Return and Motion to Dismiss on February 5, 2018, requesting the application be summarily dismissed as time barred, as successive to Applicant's previous PCR applications, and as barred by the doctrine of *res judicata*.

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 February 7, 2018 and filed February 8, 2018 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 February 22, 2017 serving the above-mentioned Conditional Order of Dismissal on Applicant.

Applicant submitted a document captioned "Motion in Opposition to Conditional Order of Dismissal" on March 21, 2018¹ in which he argues that the statute of limitations, his

¹ Respondent received Applicant's response which was unfiled.

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application being successive and res judicata do not apply to his application because of the court's lack of legal jurisdiction.

This Court reasserts its holding contained in the Conditional Order of Dismissal. Additionally, this Court has reviewed Applicant's responses 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.

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 12 day of APRIL, 2018.


ROBIN B. STILWELL
Chief Administrative Judge
Thirteenth Judicial Circuit

Greenville, South Carolina

2018

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 ABDOULAH AG-MASUD (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 8th day of MARCH 2018, I served the **Conditional Order of Dismissal**, on **Inmate Douglas James Hill, SCDC Inmate #135153**, by delivering personally and leaving a copy of the same at **Broad River Correctional Institution, Cola**, SC. Deponent is not a party to this action.

[Signature]
SCDC Server

SWORN TO AND SUBSCRIBED BEFORE ME

this 8th day of MARCH, 2018

[Signature] (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 **Conditional Order of Dismissal** is admitted at the South Carolina Department of Corrections (4460 Broad River Correctional Institution), Cola, Richland County, SC this 8th day of MARCH, 2018.

Refuse to sign [Signature]
Inmate
SCDC Inmate #: 135153

RECEIVED

MAR - 9 2018

Because the court did not make a lawful Order on 98-CP-23-1446, the court was without jurisdiction to hear any appeal of the P.C.R court's Order. An as such the P.C.R application are not successive nor does res judicata apply until there is a lawful order by the P.C.R court. Bell v. Bennett 307 S.C. 286, 414 S.E.2d 786. A final judgment on the merits in prior action bans subsequent consideration of those issue in a new action. In Petitioner's first P.C.R application filed on March 31, 1998, Petitioner alleged subject matter jurisdiction/ illegal enhanced sentence. No court ever ruled on the merits of this claim.

Pursuant to S.C. Code Ann. §17-27-80 and §17-27-100 only a final order or decision made by the P.C.R court can have appellate review, because the P.C.R court in the first instance never made a final decision the Supreme Court of South Carolina never had jurisdiction to hear any appeal from the P.C.R court, because of this factual and legal specific reason this application must not be dismissed.

CONCLUSION

1. It is a factual point that petitioner in his first P.C.R application the issue of Subject Matter Jurisdiction was never ruled on.
2. It is a legal point that pursuant to S.C. Code Ann. §17-27-80 and §17-27-100 only a final decision or judgment may be reviewed by the S.C. Supreme Court.
3. It is a factual and legal point that petitioner is serving an illegal sentence where the court sentence him under a statute that was not in effect at the time of his offense. His offense occurred on June 7, 1995 and he was sentence under a statute that went into effect Jan. 1, 1996.

For the above stated factual and legal reason this court must not dismiss the case.

Date: March ¹⁹~~20~~ 2018

Respectfully

Douglas F. Hill

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
)
Douglas J. Hill)
Appellant,)
v.)
STATE OF SOUTH CAROLINA)
Respondent.)

COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

2016-CP-23-04272

Certificate of Service

Petitioner, declares under the penalty of perjury that he mailed a copy of his MOTION IN OPPOSITION TO CONDITIONAL ORDER OF DISMISSAL, to the parties listed below.

Office of the Attorney General
Attn: Deshawn H. Mitchell
P.O. Box 11549
Cola, S.C. 29211

Clerk of Court
Greenville County
305 East North St.
Greenville, S.C. 29601

Respectfully,

Douglas J. Hill

Date: March ¹⁹ 2018

cc: file

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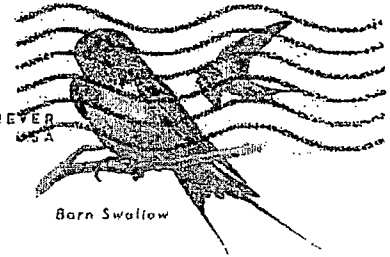
MAR 19 2018

BRCI
MAILROOM

Douglas Hill 135153
Broad River Comm. Inst. Mur. 141
4460 Broad River Rd
Cola, S.C. 29210

COLUMBIA SC 290

20 MAR 2018 PM 3 FOREVER



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MAR 19 2018

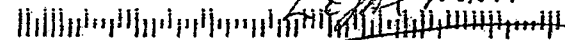
BRCA
MAILROOM

Office of the Attorney General
Attn: Desmond H. Mitchell

P.O. Box 11549

Cola, S.C. 29211

29211-154949



STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

Douglas J. Hill, 135153)

Plaintiff)

v.)

State Of South Carolina)

Defendant.)

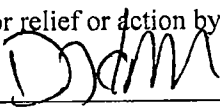
IN THE COURT OF COMMON PLEAS

CASE NO.
2016-CP-233

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET 2

ENTERED COMPUTER

FILED-COURT
PAUL B. KENNEDY
CLERK OF COURT
2018 APR 2
AM 11:34

Plaintiff's Attorney: Douglas J. Hill, 135153, Bar No. Address: BRCI 4460 Broad River Rd Columbia SC 29212 phone: fax: e-mail: other:	Defendant's Attorney: Deshawn H. Mitchell, AAG, Bar No. 101813 Address: Post Office Box 11549 Columbia SC 29211-1549 phone: (803) 734-3737 fax: (803) 734-4113 e-mail: DMitchell@scag.gov other:
<input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input checked="" type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input 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 type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant	April 6, 2018 Date submitted
SECTION III: Motion Fee	
<input type="checkbox"/> PAID - AMOUNT: <input checked="" type="checkbox"/> EXEMPT: <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support (check reason) <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, SCRPC) <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:	JUDGE _____ CODE: _____ Date: _____
CLERK'S VERIFICATION	
Date Filed: _____ Collected by: _____	
<input type="checkbox"/> MOTION FEE COLLECTED: _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: _____	