

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM THE COURT OF COMMON PLEAS  
2017-CP-10-2590

RECEIVED

JAN 07 2019

S.C. SUPREME COURT

JAMES WRIGHT -- Appellant

-VS-

STATE OF SOUTH CAROLINA - Respondent.

SCACR 243 EXPLANATION

Comes now above captioned Appellant James Wright pro-se respectfully providing his WRITTEN EXPLANATION AS required by Rule 243, SCACR.

Appellant is presently confined in the South Carolina Department of Corrections pursuant to ORDERS OF Commitment of the Charleston County Clerk of Court.

Appellant was indicted IN March 2003 for MURDER (2003-GS-10-1555) and POSSESSION OF A FIREARM during the commission of a violent CRIME. (2003-GS-10-279D)

Appellant was tried before a jury and the Honorable Daniel F. Pieper. Appellant was represented by William L. Runyon Esquire. The jury convicted Appellant as indicted and on July 20, 2005 Judge Pieper sentenced Appellant to life without parole for the murder, and no sentence was imposed on the weapons offense as a result of the life sentence imposed for murder.

A timely appeal was filed. Appellant was represented by Robert M. Dudek of the Office of South Carolina Appellate Defense.

Dudek filed an ANDERS brief on Appellant's behalf. However, the South Carolina Court of Appeals denied relief in an unpublished

Opinion Oct. 17, 2008 (State v. Wright, Op. No. 2008-UP-597 (S.C. App. 2008)). The remittitur was handed down NOVEMBER 4, 2008.

Appellant filed a pro-se Application for Post-Conviction Relief ("PCR") on June 11, 2009.

Appellant was appointed Charles T. Brooks III to represent him on PCR. Brooks Amended the PCR Application raising numerous claims.

The State made their return on Oct. 9, 2009.

On November 17, 2010 an evidentiary hearing was convened at the Charleston County Courthouse. On December 23, 2010 the Honorable

Kristi L. Harrington issued an Order of dismissal denying and dismissing the application with prejudice.

A timely notice of Appeal was filed on Appellant's behalf. Elizabeth A. Franklin-Best of the South Carolina Commission of Indigent Defense filed a petition for writ of Certiorari on petitioner's behalf.

Thereafter on April 20, 2012 the Respondent filed their Return. Subsequently thereafter the South Carolina Court of Appeals denied Certiorari and the remittitur was handed down September 24, 2013.

Appellant filed his second PCR application May 23, 2017 alleging numerous claims of ineffective assistance of PCR Counsel and ineffective assistance of trial Counsel. The Respondent made their Return on or about August 28, 2017 requesting the application be dismissed as successive, untimely and barred by the doctrines of res judicata and laches.

September 26, 2017 The Court issued a Conditional Order allotting Appellant 20

days to provide the Court with "sufficient reasons" factual or legal as to why the Application should not be dismissed.

On October 16, 2017 Appellant filed his "Response to Conditional Order of Dismissal" with attached exhibits in support.

On October 23, 2018 the Honorable Roger M. Young issued a Final ORDER denying the Application.

Appellant filed a timely NOTICE of Appeal. On December 14, 2018 Appellant received this Court's December 11, 2018 Order allotting the Appellant 20 days to provide a SCACR 243(c) Explanation, via Institutional legal Mail.

Appellant's written Explanation is as follows:

#### Discussion

The Final Order concluded that "After review of Applicant's response to the Conditional Order of Dismissal along with the pleadings, this Court finds that the Applicant has failed to show that his application should not be dismissed. Applicant has failed to provide any legal explanation that would allow him to bypass the statute of limitations, the successiveness

of the application, and the doctrine of laches." Id  
Appellant submits that S.C. Code Ann. § 17-27-90  
states in pertinent part:

, 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."

Applicant had the burden of proof at his  
first PCR. SEE Post Conviction Relief Actions  
Rule 71.1(e) SCRPC. This encompasses and  
and securing the right under Rule 71.1(d)  
SCRPC, that Statutory appointed PCR Counsel  
Charles T. Brooks III ENSURE all available  
grounds will be raised in the first PCR  
application. It appears PCR Counsel is  
appointed just for this reason and thus has  
a duty to represent the client.

Because State Post Conviction procedures  
are prisoner initiated, and particularly because  
of the unforgiving nature of South Carolina  
statutes and case law disfavoring and  
almost forbidding review of second/successive

PCR applications, the responsibility to conduct and ensure a "full and fair" State Post Conviction proceeding on "all" available claims including securing the attendance of necessary witness and evidence belongs to State Statutory appointed PCR counsel. Id

It was PCR Counsel's statutory, S.C. Code Ann. § 17-27-60 (supp. 2010); Rule 71.1(d) South Carolina Rules of Civil Procedure, Post Conviction Relief Actions; GARY v. STATE, 347 S.C. 627, 557 SE2d 662 (2001) duty as well as professional obligation to ensure Appellant's PCR hearing was "full and fair" as defined by State Statutes and case law that specify the attributes of the PCR proceedings. SEE POST CONVICTION RELIEF ACTIONS. Id.

To appoint PCR Counsel who fails to adequately act according to those attributes and then penalize Appellant for PCR Counsel's negligence and failures would result in an artifice amounting to a miscarriage of justice and an inadequate corrective process, where as here the Appellant is "actually innocent!"

The duty is on the Applicant to show a duty of care was owed to him. Rayfield v. S.C. Dept. of Corrections, 297 S.C. 95, 105-06,

374 SE2d 910, 916 (Ct. App. 1988), cert. denied  
298 S.C. 209, 379 SE2d 133 (1989).

An affirmative legal duty may be created by statute, contract relationship status, property interest, or some other special circumstance. *Arthurs v. Aiken County*, 338 S.C. 253, 525 SE2d 542, 547 (S.C. App. 1999).

The affirmative legal duty here was and is created by the South Carolina Constitution, Article I, § 3, S.C. Code Ann. 17-27-60 (2003) and Rule 71.1(d), SCRPC. Post Conviction Relief Actions

Second/Successive Applications are not strictly prohibited. In *Williams v. Ozmint*, 380 S.C. 473, 477, 671 SE2d 600, 602 (2008) the Court recognized and concluded that "although Successive PCR Applications are disfavored, they are not prohibited. also see *TERRY v. Byars* 2012 WL 6102938 at \*6 (D.S.C. 2012) the Court also found that South Carolina does allow for second PCR applications in limited circumstances ... and although, disfavored, not absolutely prohibited." Id.

After a stringent review of the exhibits in support of Appellant's Response to the

Conditional Order it is apparent PCR Counsel is at fault for any errors that occurred at Appellant's PCR hearing.

PCR Counsel said he subpoenaed witnesses that were not at the hearing as should have been.

PCR Counsel failed to investigate and obtain evidence that was available and necessary to obtain relief.

It would be fundamentally unfair to appoint PCR Counsel (BY STATE STATUTE) AND attribute PCR Counsel's failures AND negligence to Appellant.

Since PCR Counsel was appointed by State Statute any failures and defaults, including timeliness is "imputed to the State".

The boast of the law is that there can be no wrong without a remedy. *Messervy v. Messervy* 82 S.C. 559, 64 SE 753, 753 (1909); see also *Pace v. Winter*, 240 S.C. 516, 126 SE2d 570, 574 (1962), Justices Bussey and Lewis dissenting, "the right to habeas corpus is too important to be impartial. U.S. Constitution Article I, § 9 and S.C. Constitution Article V, § 5 and the overarching

Concern of the judicial system is to do justice, "not protect convictions."

Appellant suggests the Instant Application raises questions of material fact that entitle Appellant to relief and require a hearing.

### Conclusion

The matter should be remanded for a hearing or in the alternative grant the relief deemed just and appropriate.

Respectfully Submitted  
X  
James Wright, II

NOTE: Record on Appeal and Appendices/Exhibits are included and incorporated in this Appeal.

1. Conditional ORDER
2. Response to Conditional Order w/ Exhibits
3. Final Order.

cc  
AG  
AT

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

IN THE COURT OF COMMON PLEAS )  
IN THE NINTH JUDICIAL CIRCUIT )

James Wright, III, #282111, )  
 )  
Applicant, )

Case No.: 2017-CP-10-2590

v. )

CONDITIONAL ORDER OF )  
DISMISSAL )

State of South Carolina, )  
 )  
Respondent. )

FILED  
2017 SEP 26 PM 8:51  
CLERK OF COURT

This matter comes before the Court by way of an Application for Post-Conviction Relief ("PCR") filed by James Wright (Applicant) on May 23, 2017. Respondent made its Return on or about August 28, 2017, requesting that the application be dismissed as successive, untimely, and barred by the doctrines of res judicata and laches. Respondent also requests dismissal on the basis that Applicant's PCR fails to state a claim cognizable under the Post-Conviction Procedure Act.

**I. PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. In March 2003, the Charleston County Grand Jury indicted Applicant for Murder (2003-GS-10-1555) and Possession of a Firearm during the Commission of a Violent Crime (2003-GS-10-2791). Jennifer J. Burney, Esquire and D. Bruce Durant, Esquire prosecuted the case. Applicant was represented by William L. Runyon, Jr, Esquire. Applicant proceeded to a jury trial before the Honorable Daniel F. Pieper and was convicted as indicted of Murder and Possession of a Firearm during the Commission of a Violent Crime. On July 20, 2005, Judge Pieper sentenced Applicant to incarceration for the remainder of his natural life on the charge of Murder. Due to the life sentence for Murder, a sentence was not imposed for Possession of a Firearm during the Commission of a Violent Crime. Applicant appealed his conviction shortly thereafter. He was represented by Robert M. Dudek, Esquire on

Dudek filed an Anders brief in support of Applicant; however, the South Carolina Court of Appeals dismissed Applicant's appeal in an unpublished opinion filed October 17, 2008. State v. Wright, Op. No. 2008-UP-597 (S.C. Ct. App. 2008). The remittitur was returned on November 4, 2008.

~~Applicant filed his first *pro-se* Application for Post-Conviction Relief on June 11, 2009.~~

This Application was subsequently amended on July 28, 2010, and sets forth the following grounds for relief:

1. Ineffective Assistance of Trial Counsel

- a. Counsel was ineffective in questioning witness Hodari Hamilton.
- b. Counsel failed to object and move for a mistrial when the State illegally introduced exhibits that were not agreed upon.
- c. Counsel did not submit any pretrial motions to suppress evidence.
- d. Counsel failed to subpoena witnesses.
- e. Counsel failed to thoroughly attack witness that found weapon.
- f. Counsel failed to object to State's evidence.
- g. Counsel failed to retain fingerprint expert.
- h. Counsel failed to object to prejudicial testimony used to inflame the jury.
- i. Counsel failed to object to hearsay.
- j. Counsel failed to properly investigate.
- k. Counsel failed to pursue defense of self-defense.
- l. Counsel failed to hire investigator.
- m. Counsel failed to properly examine State's witness Sonia Farley.
- n. Counsel failed to object to jailhouse recording.
- o. Counsel failed to object to jury instruction on malice.
- p. Counsel failed to object to trial judge improperly charging flight.

2. Ineffective Assistance of Appellate Counsel

- a. Counsel failed to appeal the admission of "irrelevant testimony" by Agent Michael Wold at trial.
- b. Counsel failed to appeal the trial court's denial of a directed verdict where the evidence presented by the State was insufficient to prove the elements of murder.
- c. Counsel erred by arguing that the trial court erred by refusing to give instructions on the charge of involuntary manslaughter to the jury.

3. Prosecutorial Misconduct

- a. Did not disclose fingerprint test.
- b. Failed to notify defense of exculpatory evidence.

- c. Deceived State's witness to admit jailhouse recording.
  - d. Knowingly used perjured testimony.
- 

4. Trial Court Misconduct

- a. Trial judge refused to give instruction on involuntary manslaughter.
- 

Respondent made its Return and Motion to Dismiss on October 9, 2009. An evidentiary hearing into the matter was convened at the Charleston County Courthouse on November 17, 2010. Applicant was present at the hearing and was represented by Charles T. Brooks, III, Esquire. Matthew J. Friedman, Esquire, of the South Carolina Attorney General's Office, represented Respondent. On December 23, 2010, the Honorable Kristi L. Harrington issued an order of dismissal denying and dismissing Applicant's application for post-conviction relief with prejudice.

On December 19, 2011, Attorney Elizabeth A. Franklin-Best of the South Carolina Commission on Indigent Defense filed a petition for writ of certiorari in the Supreme Court of South Carolina on behalf of Applicant. Respondent made its return on April 12, 2012. The South Carolina Court of Appeals denied the petition by order filed September 3, 2013, and the remittitur was returned on September 24, 2013.

**II. CURRENT APPLICATION**

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

1. Ineffective Assistance of Appointed PCR Counsel

- a. "Court appointed PCR attorney (Charles T. Brooks) was so deficient in his handling of the Applicant's first PCR proceedings that Applicant was deprived his Constitutional right to have a 'fair, full, and adequate' collateral review process. Applicant would refer to and herein incorporate by reference the accompanied 'Affidavit of James Wright' and 'Applicant's Memorandum of Law/Facts Supporting PCR' as further support of grounds alleged:"

- i. "Prior to PCR hearing I wrote and contacted Attorney Brooks about my PCR claims generally and specifically requested Brooks to locate/interview and get affidavits from individuals that I alleged trial counsel failed to call as

- witnesses at my criminal trial.”
- ii. “I specifically asked Brooks to get the following witnesses at my PCR hearing: Tryie Grant aka ‘Little T’; Delray Manigault aka ‘Hammer’; Kareem Doctor aka ‘Head’; and Rollin Dingle.”
  - iii. “I advised Attorney Brooks before hearing that Manigault could at that time be located at the Wateree Corr. Inst. in Columbia SC area. I conveyed this information to him via letter as well as phone call November 11, 2010.”
  - iv. “Attorney Brooks repeatedly advised me that he would take necessary measures to procure these individuals at my PCR hearing.”
  - v. “Attorney Brooks did not attempt to contact; nor did he have present at the hearing any of my witnesses.
  - vi. “Attorney Brooks advised that he did not have the time or resources to locate and procure presence of my PCR witnesses, and went on to tell me they were not necessary for my PCR hearing.”
  - vii. “Attorney Brooks was not prepared for my PCR hearing and was not familiar with my grounds for relief or the facts/circumstances related to such. This caused attorney Brooks' failure to adequately question my former trial attorney (William L. Runyon) and myself when testifying at the PCR hearing. Moreover, PCR Counsel could not effectively formulate, argue, and support my PCR claims.”
  - viii. “I procured an affidavit of Rollin Dingle and attempted to get this evidence before the PCR court.”
  - ix. “After my PCR hearing, I contacted Attorney Brooks and alerted him to the fact that the PCR court may not address and adjudicate all my PCR issues and that he should review the final Order and file a Rule 59(e) motion if the order did not comply with statute and rules. I prepared a Rule 59(e) motion for his review.”
  - x. “I received the PCR Court's final Order dated December 15, 2010, and after review, I realized that the Court's Order failed to make findings of fact and the conclusions of law related to all my PCR claims. And the Court's Order contained erroneous factual determinations.”
  - xi. “I again contacted PCR attorney Brooks and requested him to file a Rule 59(e) motion to preserve my PCR issues for appellate review. However, [he] wrote back advising that he had already filed a notice of appeal and that the SC Appellate

- Defense would take over my case.”
- xii. “I immediately contacted SC Appellate Defense and told them about the faulty PCR Court Order and that I wanted the matter addressed.”
  - xiii. “I received letters from Appellate Defense stating that PCR Counsel had no obligation to file a Rule 59(e) motion, and they would take no action on my complaints.”
  - xiv. “I noticed several errors in PCR transcript and notified SC Appellate Defense identifying errors. SC Appellate Defenses attorneys took no action to address my concerns about PCR hearing transcript.”
  - xv. “SC Appellate Defense argued an issue on PCR appeal that was clearly not preserved in the PCR court’s Order and therefore was not properly preserved for review.”
  - xvi. “I wrote numerous letters and motions complaining about PCR attorney and being denied a full and fair post-conviction and PCR appeal process.”

## 2. Ineffective Assistance of Trial Counsel

- a. “Applicant is factually innocent of the murder in this case. And due to trial counsel's deficient performance during Applicant's criminal trial proceedings the Applicant was denied of effective assistance of counsel.” “Applicant never contested that he caused the death of Kenyatta Nelson, but rather was forced to use deadly force in self-defense. Trial counsel (William Runyon) completely failed Applicant by pursuing a defense that counsel failed to present any facts/evidence in support. Consequently, the applicant rejected a (10) ten year plea offer and was convicted of murder and sentenced to life without parole. Fundamental Fairness and Due Process of Law demand that Applicant be provided an opportunity to have his post-conviction grounds heard. Applicant would refer to and herein incorporate by reference the accompanied ‘Affidavit of James Wright’ and ‘Applicant’s Memorandum of Law/Facts Supporting PCR’ as further support of grounds alleged.”
  - i. “Trial Counsel failed to effectively represent me by having me reject plea offers and let me believe that I had a valid self-defense strategy without testifying or otherwise presenting my version of events at trial. I have never denied causing the death of Mr. Nelson, rather it was always a self-defense case because he was going to harm/kill me that day. My trial counsel allowed me to go to trial thinking I could rely on a self-defense strategy when the jury would never hear my side of events. Had I been properly advised about the law, evidence, and the court proceedings, I would have taken the prosecution’s ten year plea offer.”
  - ii. “Trial Counsel was ineffective for failing to investigate this case by failing

to interview eyewitnesses or call them at trial to corroborate the Applicant's defense that the shooting of the victim was in self-defense, which denied the Applicant due process of law."

- iii. "Trial Counsel was ineffective for failing to object to the trial judge's jury instructions on flight."

Attached to this return and incorporated by reference are the records of the Charleston County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's appellate and post-conviction relief records, and the current application.

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

The Court has reviewed the pleadings and all relevant supporting documents. Pursuant to S.C. Code Ann. § 17-27-70(b), the Court makes the following 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.

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). Applicant was convicted on July 20, 2005, and the remittitur from direct appeal was issued on November 4, 2008. "The time limitation in S.C. Code. § 17-27-45(A) provides that, where a defendant appeals his conviction (as Petitioner did here), the one-year period begins the date the

remittitur is sent by the appellate court—not the date of conviction.” See McCoy v. State, 401 S.C. 363, 368-69, 737 S.E.2d 623, 626 (2013). Thus, state statute of limitations runs from the date of remittitur from the appeal of *the underlying conviction*.

Any application for post-conviction relief submitted by Applicant was therefore due on or before November 4, 2009. However, Applicant did not file his current application until May 23, 2017 – well after the one-year statutory filing period expired. 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.” Accordingly, the Court finds that the defense of statute of limitations was properly raised and, in turn, dismisses Applicant's PCR application for failure to file within the time mandated by Uniform Post-Conviction Procedure Act.

### Successive

The Court further finds that the Application should summarily dismissed because it is successive to Applicant's previous PCR application filed on June 11, 2009, and amended on July 28, 2010. 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 the 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).

The application currently before the Court seeks post-conviction relief on the basis of ineffective assistance of trial counsel. The Court finds that Applicant has failed to establish any sufficient reason why he could not have raised his current allegations about the effectiveness of his trial counsel in his previous application for post-conviction relief. The Applicant could certainly have raised his current allegations against trial counsel in his first application for first-conviction relief filed on June 11, 2009, and amended on July 28, 2010. Moreover, Applicant did, in fact, argue that trial counsel was ineffective for failing to interview and subpoena key witnesses in his first PCR application. Applicant raises this very same argument in his current application. Applicant also previously argued that trial counsel was ineffective for failing to object to the trial judge's jury instructions on flight - an argument once again raised in his current application.

Applicant further asks the Court to grant him relief on the basis of ineffective assistance of PCR counsel. However, the Court finds that ineffective assistance of PCR counsel is not a sufficient claim to warrant a successive application. Indeed, the Sixth Amendment right to effective assistance of counsel does not extend to state post-conviction relief actions. See Coleman v. Thompson, 501 U.S. 722, 111 S.Ct. 2546 (1991). "[T]he contention that prior PCR counsel was

ineffective is not *per se* a 'sufficient reason' allowing for a successive PCR application under § 17-27-90." Aice, 305 S.C. at 452, 409 S.E.2d at 394. "Finality must be realized at some point in order to achieve a semblance of effectiveness in dispensing justice." Id. at 451, at 395. "At some juncture judicial review must stop, with only the very rarest of exceptions, when the system has simply failed a defendant and where to continue the defendant's imprisonment without review would amount to a gross miscarriage of justice." Id. Applicant's contention that prior PCR counsel was ineffective is not a sufficient reason for warranting a successive PCR application. Thus, Applicant has failed to show that a successive application is appropriate. The Court, therefore, finds that the Application must be summarily dismissed as successive to Applicant's previous PCR application.

#### **Failure to State a Claim**

This Court further finds that the Application should be summarily dismissed for failing to state claims cognizable under the Post-Conviction Procedure Act, S.C. Code Ann. §17-27-10 to -

160. An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy....

S.C. Code Ann. § 17-27-20(A).

Applicant's allegations do not support a cognizable claim for post-conviction relief under any of the above-stated statutory grounds. Indeed, the primary allegations set forth in the current PCR application concern actions and/or inactions of the Applicant's post-conviction relief counsel. However, as aforementioned, the allegation of ineffective assistance of post-conviction relief counsel is not a cognizable claim for relief on a PCR application. See Coleman v. Thompson, 501 U.S. 722, 111 S.Ct 2546 (1991); see also Aice, 305 S.C. at 452, 409 S.E.2d at 394 ("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."). Post-conviction relief is only proper when the application collaterally attacks the validity of the conviction or sentence. See Al-Shabazz v. State, 338 S.C. 354, 367, 527 S.E.2d 742, 749 (2000). Accordingly, the Court dismisses the instant post-conviction relief action under South Carolina Rule of Civil Procedure 12(b)(6) for failing to state a cognizable claim for which relief can be granted under the Post-Conviction Relief Act.

#### Res Judicata

The Application is also barred by the doctrine of *res judicata*. *Res judicata* prohibits "subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of a prior action between those parties." Plum Creek Dev. Co. v. Conway, 334 S.C. 30, 512 S.E.2d 106 (1999) (citation omitted). *Res judicata* also bars any issues that were raised or *could have been raised* in the former action. Id. (citing Hilton Head Ctr. of S.C., Inc. v. Pub. Serv. Comm'n S.C., 294 S.C. 9, 362 S.E.2d 176 (1987)).

Applicant had a full opportunity to litigate all his cognizable claims in his prior application for post-conviction relief. Applicant's present allegations as to ineffective assistance of trial counsel are virtually indistinguishable from those offered in his prior application for post-conviction relief. Applicant presently alleges that his 2005 conviction occurred as a result of ineffective assistance of counsel by way of investigatory failures, failures to present defenses, and

failures to properly use witnesses. These same arguments were raised in his first PCR application. Applicant also had full opportunity to raise these issues on direct appeal. The only substantively new ground presented by Applicant's current application is that of ineffective assistance of PCR Counsel, which, as previously stated, is not a ground for relief. For these reasons, this Court finds that the Application should be summarily dismissed as barred by the doctrine of *res judicata*.

#### Laches

This Court finds that the present PCR application is also barred by the doctrine of laches. Laches is an equitable doctrine 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)). This doctrine "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." McElrath v. State, 276 S.C. 282, 283, 277 S.E.2d 890, 890-91 (1981) (quoting Honeycutt v. Ward, 612 F.2d 36, 42 (2nd Cir. 1979)). "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." Bray, 366 S.C. at 140, 620 S.E.2d at 745.

Applicant seeks post-conviction relief over eleven 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, as here, the delay affects the availability of evidence to review Applicant's claims. See, e.g., McElrath, 276 S.C. at 283, 277 S.E.2d at 890; Honeycutt, 612 F.2d at 41; Whitehead, 352 S.C. at 220, 574 S.E.2d at 202. Applicant offers no such justification for his delay in filing his present application for post-

conviction relief. Moreover, the prejudice inflicted upon the State by his delay is significant given that witness memories and physical evidence have naturally faded given the passage of time. See e.g., Bray, 366 S.C. at 140, 620 S.E.2d at 745 (finding that the doctrine of laches applied seven years after the proceeding in question); State v. Serrette, 375 S.C. 650, 654 S.E.2d 554 (Ct. App. 2007) (holding that record reconstruction would undoubtedly be futile eleven years after the proceeding in question). Therefore, this Court finds that the application should be 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 Charleston County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General  
Attn: Judah VanSyckel, Esquire  
PCR Division – 9<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 Charleston 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.

12/11/13  
[Signature]

AND IT IS SO ORDERED this 20<sup>th</sup> day of September, 2017.



DEBRA JEFFERSON  
Chief Administrative Judge  
Ninth Judicial Circuit

Chas., South Carolina



me to believe that I was good and that the issue was resolved. Blindly, I turned down a final plea offer of 10 years, went to trial and the very same documents was surprisingly introduced without objection from counsel. Beattie Butler was my Public Defender prior to trial counsel at this time. (See attached exhibits)

I wrote Mr. Butler in 2008 while at Broad River C. I. preparing my PCR and he responded about this very same issue that "There was no hearing!" (See Exhibit C)

During arguing this issue at my PCR, Judge Kristi Harrington gave her undivided attention as I articulated it and asked if I had the Order and the Motion for hearing signed by Judge Goldstein. I did. The bailiff took it to her and she ordered it to be marked as exhibits. 2 Years later when I got the PCR transcript and read it, all of the issues argued where unintelligible and discombobulated as if a kid spoke them. I'm not brilliant in law but I can properly articulate myself. Along with the destruction of my issues, this very same Order and Motion were suspiciously missing from the exhibits in the back of the transcript and Appendices! I wrote letter after to Brenda Cooly who was the Court reporter at the time who responded that she forwarded my material back over to the Court of Appeals and stated that she had resigned. Harriet Bennett ended up compiling my transcript. I'm not a conspiracy theorist but I know there was foul play. Harriet Bennett and the A.G tampered with the Records to where it was incomprehensible and destroyed the exhibits.

Thereafter discovering this I collapsed psychologically and have been going through a torrent of mental issues causing me to miss deadlines. I never filed my Habeas Corpus because my issues were destroyed and unpreserved so I've been trying to find the assistance to have my difficulties

addressed but didn't have money to pay for help from inmates. I grieved through letters to PCR attorney Charles Brooks to no avail and later grieved to Writ of Citori Counsel Elizabeth Franklin-Best who filed an argument that wasn't even properly ruled upon by the Courts. She never responded. I later found out from another inmate that she no longer was with the Court of Appeals. She filed the Writ and disappeared. Thereafter I under-went psychiatric hospitalization etc. I have all of the letters I've been writing them about all of this stuff also.

There were also eye witnesses / co-defendants that were directly involved in this case that PCR attorney Charles T. Brooks lied about subpoenaing that he didn't. (See exhibit F)

I notified him of all the errors I saw after receiving the State's Return, Order, Transcript, etc. and inquired about him filing a Rule 59(e). This led to a phone argument with us. He never filed it nor investigated my concerns so I filed it myself and got a response that it was Hybrid Representation. (See exhibit D)

Until someone helps me and sincerely looks into my situation I don't know what to do. I am not guilty of murder. I'm begging for the mercy of this court to give me another shot at a fair PCR because I was abused by PCR Counsel Charles Brooks, the Attorney General, and whoever else aided in destroying my litigation.

Marked as exhibits A-F are the following:

**Exhibit A:** The issue pertaining to the Brady issue I explained that was initially addressed to Judge Jefferson about the material seized from my jail cell.

**Exhibit B:** An extension of what supports Exhibit A about the missing Order and Motion for Hearing. (Read the underline)


**Exhibit C:** Response to letter written to Beattie Butler while at Broad River preparing for PCR. Trial Counsel lied about Hearing being held and said I was fine. Beattie Butler's response contradicts that. There was no Hearing.

**Exhibit D:** Copy of Rule 59(e) I filed.

**Exhibit E:** Written affidavit by eye witness / co-defendant. Attorney Brooks lied about subpoenaing.

**Exhibit F:** Letter from Attorney Brooks advising me that the witnesses were subpoenaed a day before my PCR hearing marked November 16, 2010 when in fact, he never subpoenaed anyone.

Respectfully prayed for this 16 day of October, 2017.

  
James Wright, III

Applicant, pro se

Date: Oct 16, 2017

Notary S/ Rosa M. Hilton

Commission exp.: February 4, 2025

Exhibit A

**CHARLESTON COUNTY PUBLIC DEFENDER**

O. F. WALLACE COUNTY OFFICE BUILDING  
101 MEETING STREET  
CHARLESTON, SOUTH CAROLINA 29401  
(843) 958-1850  
(843) 958-1860 fax

March 15, 2004


The Honorable Deadra L. Jefferson  
Chief Administrative Judge  
The Court of General Sessions  
Charleston, South Carolina

Re: *State v. James Wright*; emergency hearing

Judge Jefferson:

Please note the attached motion and corresponding proposed order in the above referenced case. The urgency of the motion is self-explanatory. Because you are currently in Dorchester County, I am forwarding a copy of these materials to the Honorable Daniel F. Pieper, who is currently serving as Chief Administrative Judge for the Court of Common Pleas in Charleston County. By this letter I am requesting further guidance on whom to bring this before.

Sincerely,



Beattie I. Butler  
Director of Litigation  
Charleston County Public Defender

cc: Judge Pieper  
Jennifer Burney  
James Wright

## CHARLESTON COUNTY PUBLIC DEFENDER

O. T. WALLACE COUNTY OFFICE BUILDING  
101 MEETING STREET  
CHARLESTON, SOUTH CAROLINA 29401  
(843) 958-1850  
(843) 958-1860 fax

March 17, 2004

James Wright, #111841  
3841 Leeds Avenue  
North Charleston, SC 29405

Re: motion to be relieved

James:

Today I received your letter requesting I file a motion to be relieved. Enclosed you will find that motion, along with an order directing the State to turn over to the Court all documents seized from your jail cell. The order contemplates a later hearing to determine which of those documents the State is entitled to keep. I have requested the Solicitor bring you over Monday morning so you can move to fire me. You should know the Court may ask you to discuss certain information at the hearing that you would otherwise not have to reveal. For that reason, I have asked the Court to hear the motion outside the presence of the State. I do not know whether the Court will grant that portion of the motion.

Today the Solicitor withdrew the offer of a negotiated 15 years in your case. The trial is tentatively scheduled for either April 12<sup>th</sup> or April 26<sup>th</sup>. I suspect I could get the offer back with the original expiration date of March 22<sup>nd</sup>, which is Monday. If so, the prosecutor had made it clear before, if you do not plead Monday, the offer is forever withdrawn. I need to emphasize that my sense is the State regrets having made the 15-year offer and for this reason announced it was revoked today. I have no doubt there will be no better offer, if any at all, forthcoming.

As to your complaint about our divulging the information about your aunt to the rest of your family, I recall your previous letter and reviewed it again today. What it states is: "I also don't want you guys to bring up the sexual incident unless we have to." I took this to mean you did not want to use the information at trial, unless we had to. I'm not sure why this statement would reference our investigation. We would never "have to" bring up the incident in the investigation. Your letter reads as if to say we should only resort to the information if things look bad at trial and we need to do so. No set of circumstances would force us to ask witnesses about this information. before trial. Moreover, at the conclusion of our last meeting, during which we discussed the allegation against your aunt, I asked you to give me the names of all witnesses who could give me information on your aunt. The names you gave me are the people we spoke to.

Furthermore, I am not sure why you think this development hurts your case. You say your aunt is angry and I assume therefore uncooperative. The fact of the matter is your aunt has

Exhibit C

# Charleston County Public Defender

1 Meeting Street, 5<sup>th</sup> Floor, Charleston, SC 29401-2214 ♦ (843) 958-1850 ♦ Fax (843) 958-1850

May 1, 2008

James Wright, Inmate #282111  
Broad River Correctional Institution  
4460 Broad River Road  
Columbia, SC 29210

RE: State of South Carolina v. James Wright

Dear Mr. Wright:

I received your letter inquiring about the results of any hearing following the search of your jail cell. The motion and order you referenced in your letter are all I have in my file pertaining to that issue. There was no hearing. I went to the judge with the issue; she signed the order and the Solicitor's Office turned over everything to her. Shortly thereafter, I was relieved from your case. I notice in the order the judge directed the solicitor who reviewed the documents seized from your cell to prepare an affidavit detailing what was done. If you do not have that document, I would start there. As to what occurred after the documents were turned over to the court, I do not know because I no longer represented you at that time. Bill Runyon should be able to answer any other questions you may have.

Sincerely,

*Beattie I. Butler*

Beattie I. Butler  
Chief Litigator

BIB/agz

STATE OF SOUTH CAROLINA  
 COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS

2009-CP-10-3686

James Wright III,  
 Applicant,

VS

State of South Carolina,  
 Respondent

MOTION TO ALTER OR AMEND  
 RULE 59(E)

Applicant, James Wright, III., Pro Se, pursuant to Rule 59(E) SCRPC as required by §17-27-80 and Rule 52(a) SCRPC, moves before this Honorable Court to Alter or Amend its Order because it did not contain specific findings of fact and conclusions of law with regard to each issue raised in application at the hearing. *Pruitt v State* 423 SE2d 127 SC (1992)

The Order of Dismissal was imposed and signed by the Honorable Kristi L. Harrington, December 15, 2010. Charles T. Brooks - Counsel for Applicant received on December 30, 2010 and Applicant received on January 4, 2011.

This motion is based upon the following grounds:

- i. The Order was improvidently issued and also contains erroneous and "made up" facts and conclusions - Conclusions that were not evidence or testimony at hearing as order declares.
- ii. That this Court has not addressed all issues raised in Applicant's PCR as required by *Pruitt v State* and *McCray v State*, 408 SE2d SC (1992)

3. That this court failed to address the issues of several ineffective Assistance of Counsel claims. The following issues this Court neglected to entertain are:

1) Counsel was ineffective in calling Hodari Hamilton as Defense witness . . .

2) Counsel was ineffective for failing to object to improper Flight Instruction by trial judge . . .

3) Counsel was ineffective for failing to object to improper Malice Instruction by trial Judge . . .

4) Counsel failed to object to trial judges faulty jury instruction on Self-Defense that failed to comply with mandatory charge . . .

4. That this court failed to properly make specific findings of facts and state expressly its conclusions of law relating to the few issues it merely touched on: Failure of impeachment of Sonia Farley with prior inconsistent statement; Poisonous introduction of gun; Poisonous opening and closing statements by state; \* Illegal introduction of letters by state . . .

\* The order ~~maintains~~ on page 6 that Court found Counsel properly discussed letters with applicant prior to trial and that Counsel made applicant aware that letters could be introduced, which is untrue. And that Counsel did not testify to such at hearing. Page 4 of Order points out Counsel's assertion at hearing that investigation was concluded on letters by time he took over case is also false.

It's clear that the Order of Dismissal is out of accordance with Procedural Due Process and Applicant would respectfully ask the Courts to remand back to PCR Judge to make proper findings of fact and conclusions of law. Applicant forever prays.

Submitted Respectfully, Pro Se,

S/ ~~James Wright III~~

James Wright III, 262111

MCI/SMU/B-74

386 Redemptionway

McLormuck, SC 29849

January 6, 2011  
Notary S/ ~~Terrence G. Norton~~  
Commission exp: Feb 28, 2018

NOTE: Please see attachment marked exhibit 1-A. Applicant forwarded this motion in a timely manner and SEOC rejected "mailout" stating its reason on the attached notice dated 1-6-11. Ironically this is the first time this problem ever occurred as long as Mr. Brooks represented me as my account maintains the same status it has for several years. (Insufficient Funds)

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

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AFFIDAVIT

I SWEAR UNDER THE PENALTY OF PERJURY THAT  
THE STATEMENT IS TRUE.

---

On the night of October 28 2002. I got out the north area cab in front of Sonia's apartment on Bead st. It was raining hard so that's where everybody was at when I got there. Manigault, Muhammad, Grant, Doctor, and Wright were all under the small porch. We all talked until this guy black came running under the porch by us. He then ask if anybody wanted to buy some coke. Grant, Doctor and Manigault said yes. They went in Sonia's house, next thing I know I hear people arguing and then Sonia yelling for everybody to get out. All of them came back outside. Wright still was sitting in the white chair on the left side of Sonia's door. I was beside Wright almost standing in front of Sonia's door. Everybody been so close because the size of the porch. I asked what was going

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Sworn and subscribed before me,

this 12th day of December

Oliver J. Walker  
Notary Public For South Carolina  
MY Commission Expires 4/4/2017

Rollie Dingle

# THE BROOKS LAW OFFICES, LLC

CHARLES T. BROOKS, III,  
Attorney

309 Broad Street  
Sumter, South Carolina 29150  
Post Office Box 3512, Sumter, SC 29151  
Post Office Box 291226, Columbia, SC 29229  
OFFICE: (803) 418-5708  
FAX: (803) 934-9618 TOLL FREE: (877) 770-8792  
Email: [cbrooks@ctbrooks.com](mailto:cbrooks@ctbrooks.com)

IRMA R. BROOKS  
Attorney

November 16, 2010

James Wright, III, 282111  
McCormick Correctional Institution  
386 Redemption Way  
McCormick, South Carolina, 29899

RE: James Wright v State of South Carolina

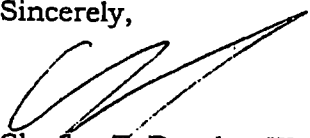
Dear Mr. Wright:

Please be advised that we have sent out the subpoenas that you requested of course.

I have reviewed the report of Mr. Harrell, the investigator in your case (prior to him stopping for state budget issues).

With kind regards, I am,

Sincerely,

  
Charles T. Brooks, III  
CTB, III/jlb

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CHARLESTON, SOUTH CAROLINA 29401  
(843) 958-1850  
(843) 958-1860 fax

March 15, 2004

The Honorable Deadra L. Jefferson  
Chief Administrative Judge  
The Court of General Sessions  
Charleston, South Carolina

Re: *State v. James Wright*; emergency hearing

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Please note the attached motion and corresponding proposed order in the above referenced case. The urgency of the motion is self-explanatory. Because you are currently in Dorchester County, I am forwarding a copy of these materials to the Honorable Daniel F. Pieper, who is currently serving as Chief Administrative Judge for the Court of Common Pleas in Charleston County. By this letter I am requesting further guidance on whom to bring this before.

Sincerely,



Beattie I. Butler  
Director of Litigation  
Charleston County Public Defender

cc: Judge Pieper  
Jennifer Burney  
James Wright

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March 17, 2004

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3841 Leeds Avenue  
North Charleston, SC 29405

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Furthermore, I am not sure why you think this development hurts your case. You say your aunt is angry and I assume therefore uncooperative. The fact of the matter is your aunt has

# Charleston County Public Defender

---

101 Meeting Street, 5<sup>th</sup> Floor, Charleston, SC 29401-2214 ♦ (843) 958-1850 ♦ Fax (843) 958-1860

May 1, 2008

James Wright, Inmate #282111  
Broad River Correctional Institution  
4460 Broad River Road  
Columbia, SC 29210

RE: State of South Carolina v. James Wright

Dear Mr. Wright:

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*Beattie I. Butler*

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Chief Litigator

BIB/agz

STATE OF SOUTH CAROLINA  
 COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS

2009-CP-10-3686

James Wright III,  
 Applicant,

VS

State of South Carolina,  
 Respondent

MOTION TO ALTER OR AMEND  
 RULE 59(E)

Applicant, James Wright, III., Pro Se, pursuant to Rule 59(E) SCRPC as required by §17-27-80 and Rule 52(e) SCRPC, moves before this Honorable Court to Alter or Amend its Order because it did not contain specific findings of fact and conclusions of law with regard to each issue raised in application at the hearing. *Pruitt v State* 423 SE2d 127 SC (1992)

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Submitted Respectfully, Pro Se,

S/ ~~James Wright III~~

James Wright III, 242111

MC# / SMU / B-74

386 Redemptionway

McCormick, SC 29899

January 6, 2011  
Notary S/ ~~Henry G. Norton~~  
Commission exp: Feb 28, 2018

NOTE: Please see attachment marked exhibit 1-A. Applicant forwarded this motion in a timely manner and SEDC rejected "mailout" stating its reason on the attached notice dated 1-6-11. Ironically this is the first time this problem ever occurred as long as Mr. Brooks represented me as my account maintains the same status it has for several years. (insufficient funds)

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

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AFFIDAVIT

I SWEAR UNDER THE PENALTY OF PERJURY THAT  
THE STATEMENT IS TRUE.

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this 12th day of December

Alvin J. Walker  
Notary Public For South Carolina  
MY Commission Expires 4/4/2019

Rollie Dingle

# THE BROOKS LAW OFFICES, LLC

CHARLES T. BROOKS, III,  
Attorney

309 Broad Street  
Sumter, South Carolina 29150  
Post Office Box 3512, Sumter, SC 29151  
Post Office Box 291226, Columbia, SC 29229  
OFFICE: (803) 418-5708  
FAX: (803) 934-9618 TOLL FREE: (877) 770-8792  
Email: [cbrooks@ctbrooks.com](mailto:cbrooks@ctbrooks.com)

IRMA R. BROOKS  
Attorney

November 16, 2010

James Wright, III, 282111  
McCormick Correctional Institution  
386 Redemption Way  
McCormick, South Carolina, 29899

RE: James Wright v State of South Carolina

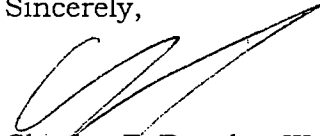
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With kind regards, I am,

Sincerely,



Charles T. Brooks, III  
CTB, III/jlb

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STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )  
 )  
James Wright, III, #282111, )  
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Applicant, )  
 )  
v. )  
 )  
State of South Carolina, )  
 )  
Respondent. )

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2017-CP-10-2590

**FINAL ORDER OF DISMISSAL**

2017 OCT 23 PM 4:17  
CLERK OF COURT

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed May 23, 2017. Respondent made its return on August 28, 2017, requesting the application be summarily dismissed based upon filing after the statute of limitations had expired, successiveness to Applicants prior post-conviction relief action, barred by the doctrine of res judicata, and barred by 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 20, 2016, and filed September 26, 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 October 18, 2017, serving the above-mentioned Conditional Order of Dismissal on Applicant.

On October 16, 2017, Applicant filed a document entitled "Response to Conditional Order of Dismissal". In this response, he argued that he "never got an opportunity to exhaust all



of my appeals because after my first PCR the transcript was sabotaged and exhibits supporting critical issues were destroyed by the Attorney General and Court Reporter. Applicant further stated that he has "been going through a torrent of mental issues causing me to miss deadlines".

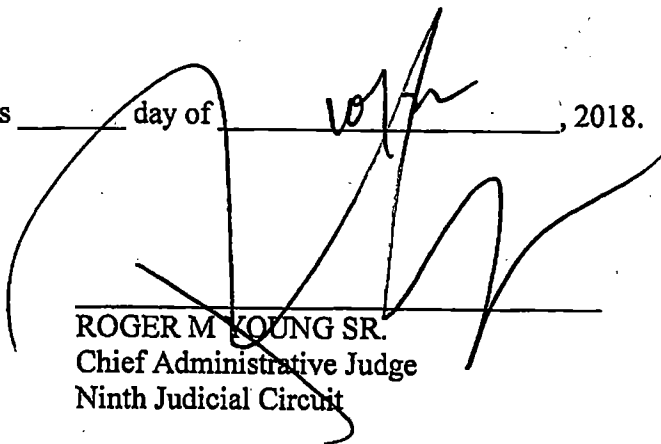
After review of Applicant's response to the Conditional Order of Dismissal, along with the pleadings, this Court finds that Applicant has failed to show that his application should not be dismissed. Applicant has failed to provide any legal explanation that would allow him to bypass the statute of limitations, the successiveness of the application, and 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.

This Court hereby advises the Applicant that 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 243, SCACR., for the procedures following the filing and service of the notice of appeal.

**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 \_\_\_\_\_ day of 10/12, 2018.

  
\_\_\_\_\_  
ROGER M. YOUNG SR.  
Chief Administrative Judge  
Ninth Judicial Circuit

CRB, South Carolina.

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

APPEAL FROM THE COURT OF  
COMMON PLEAS NINTH CIRCUIT  
2017-CP-10-2590

**RECEIVED**

JAN 07 2019

S.C. SUPREME COURT

JAMES WRIGHT III - APPELLANT

-VS-

STATE OF South Carolina - RESPONDENT

CERTIFICATE OF SERVICE

The undersigned hereby certifies he has served a true and correct copy of the Enclosed SCACR 243 WRITTEN EXPLANATION ON THE Attorney for Respondents, ASSISTANT ATTORNEY GENERAL, Judah Van Syckel PO Box 11549 Columbia, SC 29211 this Jan DAY of 2, 2019 via U.S. MAIL.

SWORN TO AND SUBSCRIBED BEFORE ME  
THIS 2nd DAY OF January, 2019  
Jamaica Conwell

NOTARY PUBLIC

MY COMMI EXPIRES

My Commission Expires  
September 25, 2023

Respectfully  
  
JAMES WRIGHT III

**RECEIVED**

JAN 02 2019

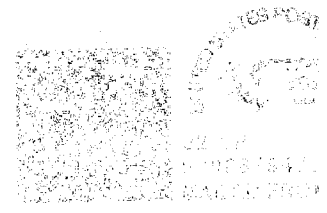
P.C.I. MAILROOM

James Knight III #282111

Perry CI/Q3-B-205

430 Oaklawn Rd

Pelzer, SC 29669



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JAN 02 2019

P.C.I. MAILROOM