

Eddie Clay Golson 303012CA  
Macdonald Correctional Inst  
1516 Old Gilliard Road  
Ridgeville S.C. 29472

April 15, 2019

RE: Eddie Clay Golson v. State of South Carolina  
2015-CP-32-00570

Dear Mr. Shearnuse Sir:

This is a notice of appeal under RULE 203, Subsection (A) Notice and (b) Time for services. Along with the Proof of Services and a letter to you for filing.

Please Sir file under the above case # and return a copy of all documents back to me because I do not have an extra copy of the documents and I need a copy for my personal use.

Thank You Sir

Eddie Clay Golson

RECEIVED

APR 19 2019

S.C. SUPREME COURT

Eddie CARY Golsen 3D3012CA

Form 8.

Letter to the Supreme Court  
Clerk Filing the Notice of Appeal

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

RE: Eddie Chy Golson, Applicant  
v.

State of South Carolina, Respondent

Case No.: 2015-CP-32-DS70

Melody J. Brown

Dear Mr. Shearouse:

Enclosed for filing is a notice of appeal in the  
above case.

Also enclosed are the following:

- (1) Proof of service of the notice of appeal on the respondent
- (2) A copy of the order judgment/which is [are] to be  
challenge on appeal.
- (3) Filing fee - In Forma Pauperis... Applicant is indigent.
- (4) This appeal is being filed with the Supreme Court  
because (see RULE 203(d)) for when an appeal  
can be filed with Supreme Court.

April 15 2019

OTter counsel of record

Melody J. Brown - Attorney General

P.O. Box 11549

Columbia S.C. 29211-1549

Eddie Chy Golson

Eddie Chy Golson  
151b Old Gilliland Road  
Maulden Correctional Inst  
Ridgely S.C. 29472

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APR 19 2019

S.C. SUPREME COURT

The State of South Carolina  
IN THE SUPREME COURT

APPEAL FROM LEXINGTON COUNTY  
COURT OF COMMON PLEAS

Honorable Judge Alison R. Lee, Circuit Court Judge

Case #: 2015-CP-32-0570

Eddie Clay Golson . . . . . APPELLANT  
V.  
THE STATE . . . . . Respondent

Notice of Appeal

Eddie Clay Golson. Appeals the order of dismissal in this case.  
The Proposed Order was imposed by Judge Lee on the 21st  
Day of March 2019 Under RULE 203(A)(B) Time For Service(1)

OTHER COUNSEL OF RECORD:  
Melody J. Brown-Attorney General  
P.O. Box 11549  
Columbia S.C. 29211-1549

Eddie Clay Golson  
Eddie Clay Golson  
1516 Old Gilliard Road  
Machulal Correctional Inst  
Ridgeville S.C. 29472

State of South Carolina  
County of Lexington  
Eddie Clay Golson 303012  
Applicant  
v.  
State of South Carolina  
Respondent

IN THE COURT OF COMMON PLEAS  
OF THE ELEVENTH JUDICIAL CIRCUIT  
CASE NO.: 2015-CP-32-DS70  
Order of Dismissal

RECEIVED

APR 19 2019

S.C. SUPREME COURT

PROOF OF SERVICE

I certify that I have served the notice of appeal on Melody J. Brown by depositing a copy of it in the United States Mail, Postage Prepaid, on April 15, 2019, addressed to Melody J. Brown, Senior Solicitor, Office, of Attorney General, P.O. Box 11549, Columbia, S.C. 29211-1549.

Eddie Clay Golson

Eddie Clay Golson

MacDougal Correctional Inst  
1516 Old Gilliard Road  
Ridgeville S.C. 29472



ALAN WILSON  
ATTORNEY GENERAL

RECEIVED

APR 19 2019

S.C. SUPREME COURT

March 19, 2019

Eddie Clay Golson, #303012  
MacDougall Correctional Institution  
1516 Old Gilliard Road  
Ridgeville, SC 29472

**Re: Eddie Clay Golson v. State of South Carolina  
2015-CP-32-00570**

Dear Mr. Golson:

The Honorable Alison R. Lee has announced that she will grant the State's motion to dismiss and has requested a proposed order to consider. Enclosed is a copy of Respondent's proposed order that is being sent to Judge Lee today via Email and U.S. Mail.

Sincerely,

Melody J. Brown  
Senior Assistant Deputy Attorney General

/MJB

cc: The Honorable Alison R. Lee  
Lexington County Clerk of Court

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF LEXINGTON )  
 )  
 Eddie Clay Golson, 303012, )  
 S.C.D.C. # 301761, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 OF THE ELEVENTH JUDICIAL CIRCUIT

Case No.: 2015-CP-32-0570

**ORDER OF DISMISSAL**

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Applicant Eddie Clay Golson filed a post-conviction relief application on February 12, 2015. On June 28, 2016, the State filed a return and moved to dismiss the action as successive to Applicant's prior PCR actions, and also as untimely under the one-year statute of limitations in S.C. Code Ann. §17-27-45(A). The State submitted its motion to dismiss in a motion hearing convened on August 7, 2017, in Lexington County. At that time, the undersigned considered whether the State's motion may be granted without the necessity of an evidentiary hearing for factual development, or if counsel should be appointed and an evidentiary hearing scheduled. See S.C. Code Ann § 17-27-70 (b) and (c) (summarily dismissal appropriate where no issue of material fact and further proceedings not warranted); *see also McCoy v. State*, 401 S.C. 363, 369, 737 S.E.2d 623, 626 (2013) (hearing necessary in cases of "factual dispute" of "critical issue"). Senior Assistant Deputy Attorney General Melody Brown represented Respondent at the motion hearing. Mr. Golson was present and addressed the Court. After consideration of the pleadings, the records provided, and Applicant's comments at the August 7, 2017 hearing, this Court has determined that the State's motion will be GRANTED without the necessity of an evidentiary hearing and without the appointment of counsel. The above captioned PCR action is DISMISSED WITH PREJUDICE. This Court sets out the following in support of its decision:

## I. PROCEDURAL HISTORY

Applicant is currently incarcerated in the South Carolina Department of Corrections pursuant to orders of commitment from the Lexington County Clerk of Court. He was indicted at an October 2008 term of the Lexington County Grand Jury for burglary, 1<sup>st</sup> degree (2008-GS-32-3181); and possession of a firearm during the commission of a violent felony (2008-GS-32-3183).<sup>1</sup> Elizabeth C. Fullwood, Esquire, and Bennett E. Casto, Esquire, represented Applicant on the charges. From March 30-31, 2009, Applicant proceeded to jury trial before the Honorable R. Knox McMahon, at the conclusion of which he was convicted of burglary, 1st degree, and possession of a firearm during the commission of a violent offense. Judge McMahon ordered Applicant serve concurrent sentences of twenty-five (25) years imprisonment for burglary and five (5) years for the weapons charge.

A timely Notice of Appeal was filed on Applicant's behalf. Applicant was represented by Celia M. Robinson, Esquire, of the Office of Appellate Defense on appeal. On April 25, 2012, the South Carolina Court of Appeals affirmed Applicant's convictions and sentences. *State v. Golson*, Op. No. 2012-UP-246 (S.C. Ct. App. filed April 25, 2012). The Remittitur was issued on May 15, 2012.

### *First PCR Application: 2012-CP-32-2479*

Applicant filed his first application for Post-Conviction Relief on June 14, 2012. (C/A No. 2012-CP-32-2479). Respondent filed a Return on June 25, 2014. An evidentiary hearing was convened into the matter on January 21, 2014, at the Lexington County Courthouse. Applicant was present and represented by counsel, Charles T. Brook, III, Esquire. At the hearing, Applicant testified on his own behalf. Also testifying was Elizabeth Fullwood, Esquire,

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<sup>1</sup> Applicant was also indicted, during the same term, for intimidation of court officials, jurors, or witnesses (2008-GS-32-3182). That charge was *nolle prossed* on April 1, 2009.

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Applicant's trial attorney. By order dated September 21, 2014, and filed September 24, 2014, the Honorable Brian M. Gibbons denied and dismissed the application with prejudice.

A timely Notice of Appeal was filed on Applicant's behalf. Benjamin John Tripp, Esquire, of the Office of Appellate Defense submitted a *Johnson*<sup>2</sup> Petition for Writ of Certiorari. This Petition was denied and counsel's request to withdraw was granted in an Order dated November 3, 2015. The Remittitur was issued on November 20, 2015.

## II. ALLEGATIONS

In his second and current application for post-conviction relief, filed February 12, 2015 (while his first PCR appeal was still pending), Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Fraud upon the court under Rule 60(b)
  - a. Judge Gibbons made an erroneous ruling dismissing Applicant's application on the finding of facts
  - b. Applicant did not allege ineffective assistance of counsel under 17-27-90 as grounds for relief
  - c. Judge did not make specific findings of fact
  - d. 17-27-80 and applicant issues not preserved

On May 19, 2015, Applicant filed an amendment<sup>3</sup> to his application alleging the following additional grounds for relief.

1. Fraud upon the court under Rule 60(b)
  - a. Unprocessed indictments, sentence sheets, no warrants issued under 17-13-140, no commitment orders to S.C.D.C.
  - b. Magistrate Judge did not issue commitment order under 24-5-10, Circuit Judge did not issue orders to S.C.D.C. Director under section 24-3-80.

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<sup>2</sup> *Johnson v. State*, 294 S.C. 310, 364 S.E.2d 201 (1988).

<sup>3</sup> This amendment was originally filed by Applicant as an additional application for post-conviction relief (2015-CP-32-1844). This subsequent application was merged into the present application on or about February 23, 2016, as ordered by the Honorable William P. Keesley.

Before this Court are the Lexington County Clerk of Court records regarding the subject convictions; records from the South Carolina Department of Corrections; a copy of the Order of Merger; Applicant's current and prior PCR records, to include the PCR Appeal Records; and Respondent's Return and Motion to Dismiss.

### III. DISCUSSION

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.” “When considering the State’s motion for summary dismissal, where no evidentiary hearing has been held, the PCR judge must assume facts presented by the applicant are true and view those facts in the light most favorable to the applicant.” *McCoy v. State*, 401 S.C. 363, 369, 737 S.E.2d 623, 626 (2013). “Where an applicant alleges facts that would establish an exception to either the statute of limitations or the prohibition against successive PCR applications and those facts are not conclusively refuted by the record before the PCR court, a question of fact is raised which can only be resolved by a hearing.” *Id.*

This Court finds the State’s motion to dismiss should be granted without an evidentiary hearing primarily for two reasons clearly established in the record before the Court. First, the action is improperly successive. Second, the action is barred by the statute of limitations. Additionally, this Court notes the thrust of the claims in his application are similar in substance to issues raised during his first PCR. Those matters included the warrants signed by the magistrate, problems with transmitting the sentencing sheets to SCDC, and the fingerprint and DNA issues that were raised in the first PCR action and addressed in Judge Gibbons’ order. A copy of that Order filed September 24, 2014 is attached. Other issues he raises concern Judge

Gibbons' order which should have or could have been raised and addressed during the PCR appeal. Thus, further proceedings are not necessary and this matter should be summarily ended.<sup>4</sup>

*Successive Application*

This Court finds the current Application must be summarily dismissed because it is successive to the previous application for post-conviction relief. Successive applications for post-conviction relief are disfavored. *See, e.g., Land v. State*, 274 S.C. 243, 262 S.E.2d 735 (1980). S.C. Code Ann. § 17-27-90 (1985) provides:

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 point to a 'sufficient reason' why new grounds for relief were not raised, or were not raised properly" in the previous application. *Aice v. State*, 305 S.C. 448, 409 S.E.2d 392 (1991). If the applicant could have raised these allegations in a previous application, then the applicant may not raise those grounds in successive applications. *Id.* In short, "as long as it was possible to raise the argument in his first PCR application, an applicant may not raise it in a successive application." *Id.* The applicant bears the burden of showing that the allegations could

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<sup>4</sup> Because an evidentiary hearing is not warranted, this Court declines to appoint counsel. *See Gary v. State*, 347 S.C. 627, 630, 557 S.E.2d 662, 664 (2001) ("...counsel should be appointed under Rule 71.1(d) when the State moves for dismissal under § 17-27-45(A) and the PCR applicant raises an issue of material fact regarding the applicability of the one-year limitation"); Rule 71.1 (d), SCRPC ("If, after the State has filed its return, the application presents questions of law or fact which will require a hearing, the court shall promptly appoint counsel to assist the applicant if he is indigent.").

not have been raised previously. *Id.*

Applicant could have raised each of his current grounds (or, as noted, in some instances did raise the substance of his position) in his prior post-conviction relief application. Applicant has failed to present any reasons why he could not have raised the current allegations in his previous post-conviction relief action, or why he should be allowed to re-raise the substance of those prior claims previously litigated. Therefore, this application is barred as successive.

Accordingly, this court GRANTS the State's motion to dismiss because the action is barred as successive.

#### *Statute of Limitations*

This Court also finds the current Application must be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-45(a) provides:

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 upon an appeal, whichever is later.

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).

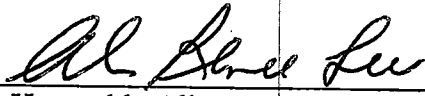
Applicant was convicted of the offenses he challenges on March 31, 2009; and following his appeal the Remittitur was issued on May 15, 2012. Applicant was therefore required to file his application on or before May 16, 2013. This Application was filed on February 12, 2015, which was well after the statutory filing period had expired.

Accordingly, this court also GRANTS the State's motion to dismiss because the action is barred under the statute of limitations.

IT IS THEREFORE ORDERED:

1. The State's Motion to Dismiss is GRANTED;
2. The Application for Post-Conviction Relief is DISMISSED WITH PREJUDICE;
3. Applicant is remanded to the custody of the Department of Corrections to complete the remainder of his sentence.

AND IT IS SO ORDERED this 21<sup>st</sup> day of March, 2019.

  
\_\_\_\_\_  
The Honorable Alison R. Lee  
Presiding Judge

ATTACHMENT TO ORDER FOLLOWS *al*  
(Copy of Order of Dismissal from C/A 2012-CP-32-2479)