

Caesar was sentenced to life imprisonment, without the possibility of parole. Seventeen years later, Mr. Caesar filed this action for declaratory judgment, alleging that his sentence violates various constitutional provisions. Ultimately, he asks the court to set aside his conviction and sentence.

I. Mr. Caesar must bring his claims in a PCR

Mr. Caesar first asks the court to declare that his sentence violates various constitutional provisions. After that declaration, he wants the court to set aside his conviction and sentence. Because Mr. Caesar is ultimately challenging the constitutional validity of his conviction and sentence, he must make his constitutional claim in a post-conviction relief action. S.C. Code Ann. §17-27-20(A)(1). PCR has taken the place of all other remedies formerly available for challenging the validity of a conviction or sentence, including actions for declaratory judgment. S.C. Code Ann. §17-27-20(B) (“Except as otherwise provided in this chapter, [the PCR Act] comprehends and takes the place of all other common law, statutory or other remedies heretofore available for challenging the validity of the conviction or sentence. *It shall be used exclusively in place of them.*”) (Emphasis added)); *see also Simpson v. State*, 329 S.C. 43, 46, 495 S.E.2d 429, 431 (1998). Because Mr. Caesar is challenging his conviction and sentence in this action for declaratory judgment rather than a PCR, he has failed to state facts sufficient to constitute a cause of action. Consequently, the court dismisses this case under Rule 12(b)(6).

II. Statute of Limitations

To the extent the court could consider this declaratory judgment case as a PCR, it is beyond the statute of limitations. This court finds Mr. Caesar has failed to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. Specifically, the act requires as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of 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 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). Mr. Caesar was convicted in June of 1998. Any post-conviction relief action regarding his sentence or conviction was therefore due to be filed on or before on June of 1999. This action was filed on May 22, 2019, nearly twenty years later and well beyond the statutory filing period. Therefore, this court finds Mr. Caesar failed to file action within the statutory time mandated by the Uniform Post-Conviction Procedure Act and therefore this claim must be dismissed.

III. Successiveness

To the extent the court could consider this declaratory judgment case as a PCR, it is also barred as successive. This court finds Mr. Caesar's claims regarding the constitutionality of his sentence and conviction must be summarily dismissed as successive to Mr. Caesar's previous 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.

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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. 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).

This court finds Mr. Caesar could have raised his constitutional claims as grounds for relief in his prior post-conviction relief application. Raised now, this claim would have to be supported by sufficient reasons why it could not have been raised in the previous post-conviction relief Application. Mr. Caesar has presented no such reason. Therefore this court finds this claim must be dismissed.

IV. Mr. Frazier's Conviction and Sentence are Constitutional

If the court was able to consider Mr. Caesar's arguments, the court would find that Mr. Caesar's conviction and sentence are constitutional. The fact that Mr. Caesar was convicted under the Youthful Offender Act does not change the character of his subsequent conviction and sentence under the Life without Parole statute. Mr. Caesar contends that his sentence is unconstitutional under both the Eighth and Fourteenth Amendments. First, he contends that it is cruel and unusual punishment, in violation of the Eighth Amendment, to enhance his current sentence with a prior conviction under the Youthful Offender Act. Second, he contends that his sentence results in an equal protection violation, wherein one class of youthful offenders (those

sentenced under the Youthful Offender Act) is provided protection not afforded to another class of youthful offenders (those sentenced under the Life without Parole statute). Both of these contentions are without merit.

A. Cruel and Unusual Punishment

“The Eighth Amendment to the United States Constitution, which applies against the States by virtue of the Fourteenth Amendment, provides: ‘Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.’ The Eighth Amendment prohibits not only barbaric punishments, but also sentences that are disproportionate to the crime.” *State v. Harrison*, 402 S.C. 288, 293, 741 S.E.2d 727, 729 (2013) (citing U.S. Const. amend. VIII; *Solem v. Helm*, 463 U.S. 277, 284 (1983)).

[O]ur courts have recognized that “what constitutes cruel and unusual punishment, and thus, what violates the Eighth Amendment, is determined by ‘evolving standards of decency that mark the progress of a maturing society.’ ” *State v. Pittman*, 373 S.C. 527, 562, 647 S.E.2d 144, 162 (2007), *cert. denied*, 552 U.S. 1314 (2008) (quoting *State v. Standard*, 351 S.C. 199, 204, 569 S.E.2d 325, 328 (2002)). In implementing this test, the court looks to objective evidence of how our society views a particular punishment today. *State v. Wilson*, 306 S.C. 498, 509-10, 413 S.E.2d 19, 26 (1992). Legislation enacted by the country’s legislatures is the “clearest and most reliable objective evidence of contemporary values.” *Pittman*, 373 S.C. at 563, 647 S.E.2d at 162. “[T]he Constitution requires the court’s own judgment to be brought to bear on the issue by ‘asking whether there is reason to disagree with the judgment reached by the citizenry and its legislators.’ ” *Id.* at 563, 647 S.E.2d at 163 (quoting *Atkins v. Virginia*, 536 U.S. 304, 313 (2002)). It is not the burden of the state to establish a national consensus approving what their citizens have voted to do; rather, it is the heavy burden of the defendant to establish a national consensus against it. *Wilson*, 306 S.C. at 510, 413 S.E.2d at 26.

Additionally, the “‘proportionality’ bedrock of Eighth Amendment jurisprudence” is equally important a principle as the “evolving standards of decency,” and “it is a precept of justice that punishment for crime should be graduated and proportioned to [the] offense.” *Pittman*, 373 S.C. at 564-65, 647 S.E.2d at 163 (quoting *Atkins*, 536 U.S. at 311). In order to establish that evolving standards of decency preclude his punishment, appellant bears the “‘heavy burden’ of showing that our culture and laws emphatically and well nigh universally reject it.” *Id.* at 565, 647 S.E.2d at 164 (quoting *Harris v. Wright*, 93 F.3d 581, 583 (1996)).

State v. Williams, 380 S.C. 336, 346–47, 669 S.E.2d 640, 646 (Ct. App. 2008).

Here, Mr. Caesar fails to carry the “heavy burden” of showing that a sentencing enhancement supported by his prior Youthful Offender Act conviction violates the Eighth Amendment. First, he provides no persuasive or controlling authority in support of his position. Rather, he merely recites and paraphrases the Eighth Amendment along with asserting in a conclusory manner that the imposition of such a sentence is “excessive and in violation of the Eighth Amendment.” This, without more, is not convincing. Further, Mr. Caesar’s arguments on the subject fall well short of establishing that “a national consensus” exists against using such a youthful offender conviction to enhance a subsequent adult conviction. This failure to articulate the “standards of decency” have “evolved,” does not support that Mr. Caesar’s sentence is “barbaric punishment” contrary to “contemporary values.” Lastly, he provides no evidence that “our culture and laws emphatically . . . reject” the use of a youthful offender conviction for a subsequent sentencing enhancement. Thus, there has been no demonstration that the alleged harm resulted in an unconstitutionally disproportionate sentence. In short, Mr. Caesar has simply failed to carry his heavy burden of proof, and this court declines to make an *ex cathedra* pronouncement as to constitutionality in light of this deficiency.

B. Equal Protection

“To satisfy the Equal Protection Clause, a classification must (1) bear a reasonable relation to the legislative purpose sought to be achieved, (2) members of the class must be treated alike under similar circumstances, and (3) the classification must rest on some rational basis.” *Lee v. S.C. Dep’t of Nat. Res.*, 339 S.C. 463, 467, 530 S.E.2d 112, 114 (2000). “A legislative enactment will be sustained against constitutional attack if there is ‘any reasonable hypothesis’ to

support it.” *Id.* (quoting *Thomas v. Spartanburg Ry., Gas & Elec. Co.*, 100 S.C. 478, 85 S.E. 50 (1915)).

Here, Mr. Caesar fails to allege an equal protection violation for several reasons. First, Mr. Caesar confuses the statutory right under the Youthful Offender Act with a fundamental right, which would warrant the heightened standard of strict scrutiny. Stated differently, “[t]he statutory right to youthful offender treatment is simply not a fundamental right. . . . Thus, the state need show no more than a rational basis for this distinction in treatment of offenders.” *State v. Johnson*, 276 S.C. 444, 447, 279 S.E.2d 606, 607 (1981). Here, such a rational basis exists for the separate use of the Youthful Offender Act and the Life without Parole statute:

We think the classification is reasonably and rationally related to the achievement of legitimate state goals. Society as well as the criminal has an interest at stake under the Youthful Offenders Act. The legislature has determined that society’s interest, the public safety and welfare, is best protected by extending the cloak of the act to these offenders it deems most likely to profit from the act’s rehabilitative purpose. The gravity of the offense involved justifies the legislature in serving this interest.

Id. at 447. Any attempt to conjure up an Equal Protection violation from the Youthful Offender Act fails because any classifications it creates between offenders are reasonably related to legitimate state goals and its legislative purpose. *See Craft v. State*, 281 S.C. 205, 207, 314 S.E.2d 330, 331 (1984) (“The purpose of the Youthful Offenders Act is to provide treatment and supervision designed to correct the antisocial tendencies of youthful offenders so as to protect the public.”). Furthermore, Mr. Caesar received the benefit of a youthful offender sentence for his 1994 conviction. After receiving that benefit, Mr. Caesar then committed more crimes in 2001. To argue now, that his sentence in 2001 is unconstitutional because it was enhanced by a prior conviction, where he received the *benefit* of a YOA sentence, is not meritorious. Accordingly,

Mr. Caesar fails to establish that his sentence is unconstitutional under the Fourteenth Amendment.

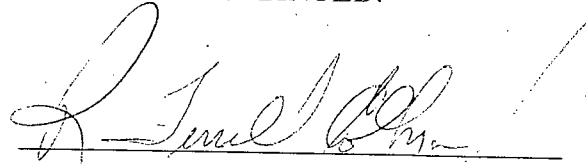
V. Conclusion

Mr. Caesar is challenging the constitutional validity of his conviction and sentence; hence, this challenge must occur in a PCR, not this action for declaratory judgment. To the extent the court could construe this action as a PCR, it is barred by the statute of limitations and is successive. To the extent the court could consider Mr. Caesar's arguments, this court finds that his conviction and sentence are not unconstitutional under the Eighth or Fourteenth Amendments.

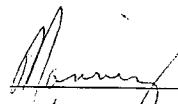
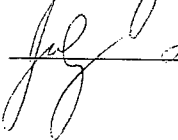
THEREFORE, THE COURT ORDERS THE FOLLOWING:

The State of South Carolina's motion to dismiss this case is **GRANTED**.

AND IT IS SO ORDERED.



R. Ferrell Cothran, Jr.
CIRCUIT COURT JUDGE

 _____, South Carolina
 _____, 2019