

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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APPEAL FROM SPARTANBURG COUNTY  
COURT OF COMMON PLEAS

S.C. SUPREME COURT

J. MARK HAYES, CIRCUIT COURT JUDGE

2020-CP-42-00637

SHANNON LANCASTER, ..... APPELLANT,  
V.  
THE STATE ..... RESPONDENT.

NOTICE OF APPEAL

SHANNON LANCASTER APPEALS THE HONORABLE MARK HAYES'S ORDER  
OF DISMISSAL FILED JULY 23, 2020.

THIS 5th DAY OF August 2020

*Shannon Lancaster*  
SHANON LANCASTER  
PERRY CORR. INST.  
430 OAKLAWN RD.  
PELZER, SC 29669

OTHER COUNSEL OF RECORD  
CHELSEY MARTO, ATTORNEY GENERAL  
P.O. BOX 11549  
COLUMBIA, SC 29211  
(803) 734-3970  
ATTORNEY FOR RESPONDENT

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG )

IN THE COURT OF COMMON PLEAS  
IN THE SEVENTH JUDICIAL CIRCUIT

Shannon Lancaster, #341546, )  
Applicant, )

Case No.: 2020-CP-42-00637

v. )

CONDITIONAL ORDER OF DISMISSAL

State of South Carolina, )  
Respondent. )

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This matter comes before the Court by way of a post-conviction relief application filed by Applicant Shannon Lancaster on February 12, 2020. Respondent made its return, requesting the application be summarily dismissed.

**I. Procedural History<sup>1</sup>**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. In August 2014, the Spartanburg County Grand Jury indicted Applicant for trafficking in methamphetamine (2014-GS-42-3691). Andrew J. Johnston, Esquire represented Applicant. On February 19, 2015, Applicant pled guilty before the Honorable R. Keith Kelly. Judge Kelly sentenced Applicant to three years' imprisonment. Applicant did not appeal his conviction or sentence.

**II. Current Action before this Court**

In his current PCR application, Applicant alleges he is being held in custody unlawfully on the following grounds:

1. "Ineffective assistance of counsel for failure to investigate."
  - a. "Failure of counsel and the court, to investigate the laws of South Carolina as to

<sup>1</sup> Applicant has already pursued four other PCR actions, all of which are pursuant to unrelated charges: 2011-CP-42-03663, 2018-CP-42-03065, 2020-CP-42-01184, 2020-CP-42-01498. The 2011 case was dismissed on December 31, 2013; the 2018 case was dismissed May 15, 2020, and both 2020 cases are currently pending.

whether they were "affixed" with the impression of the Great Seal of South Carolina. Section 16-1-60 of the 1976 Code, as last amended by Act 184 of 1993, is further amended to read: S.C. Const. Act. III, Section 18, §18, Formalities of Act. No bill or joint resolution have the force of law until it shall have been read (3) times and on (3) several days in each house, has had the (Great Seal) of the State affixed to it, and has been signed by the president of the senate, and the speaker of the House of Representatives: provided, that either branch of the General Assembly may provide by rule for a first and third reading of any bill or joint resolution by its title only. The Great Seal of the state must be attached to an act before it can become effective, 1974-75. Op. Atty. Gen. 4013 pg. 85."

2. "Newly Discovered Evidence" and "Fraud Upon the Court."

a. "The Applicant asserts upon belief and fact, that on or around November 2017, the State newspaper reported the Great Seal of the State of South Carolina, missing from certain laws here in South Carolina. Furthermore, the Applicant has researched this newly discovered evidence with the S.C. Department of archives and history, with a Mr. Steven Tuttle confirming the Great Seal of South Carolina is not affixed to the 1993 Act No. 184 (see exhibit one). Also, the Applicant will submit a letter from a Mr. Steven Draffin addressed to Mr. Spencer Hewitt, that states the Original 1995 Act No. 7, has been lost and only a duplicate copy resides at the S.C. Department of archives and history (see exhibit 2). Both Federal and State constitutions forbid any law imparting the obligations of contracts. Therefore, the obligation of a contract is that duty of performing the contract according to its terms and intent which the law recognizes and enforces. Again, like any ordinary bill must in order to have force of law (must) have the Great Seal of the State attached thereto. Due to the facts of evidence, the Applicant moves this court to allow this post-conviction relief application to proceed. Further, the Applicant asserts that this matter is a due process violation of the Fifth, Sixth, Eighth, and Fourteenth Amendments of the U.S. Constitution, and the S.C. Constitution, Article III, Section 18."

Before this Court are the Spartanburg County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, and the PCR application.

III. Findings of Fact and Conclusions of Law

This Court has reviewed the pleadings, the records submitted to it by the parties, and the applicable law. Pursuant to South Carolina Code Annotated Sections 17-27-70 and 17-27-71, this Court informs the parties of its intent to dismiss the application based upon the following findings:

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*Failure to State a Claim*

The Court finds this application must be dismissed for failure to state a claim cognizable under the Uniform Post-Conviction Procedure Act, S.C. Code Ann. § 17-27-10 to -160. An applicant may commence a PCR 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 [was] 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....

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S.C. Code Ann. § 17-27-20(A).

Applicant fails to state an allegation upon which relief can be granted in PCR court. Instead, he raises a purely meritless claim under the guise of "newly discovered evidence." Thus, because the issue raised is a relief request not cognizable under the Uniform Post-Conviction Procedure Act, this Court shall summarily dismiss the application for failure to state a claim.

*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



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decision on appeal, whichever is later.

S.C. Code Ann. § 17-27-45(A).

Our Supreme Court has held that the statute of limitations applies 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 a statute of limitations defense. *McDonnell v. Consolidated School District of Aiken*, 315 S.C. 487, 445 S.E.2d 638 (1994). Additionally, South Carolina Code Annotated Section 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."

Applicant pled guilty to all charges on February 19, 2015. The application was therefore due on February 20, 2016. This application was filed on February 12, 2020, well beyond the statutory filing period. Therefore, the application should be summarily dismissed for failure to file within the time mandated by Uniform Post-Conviction Procedure Act.

*Newly Discovered Evidence (The Great Seal)*

Applicant's allegation that there is no visible impression of the Great Seal on the following Acts of which he was convicted: 1993 Act No. 184 and 1995 Act No. 7, lacks merit.

Our Supreme Court has held absolute literal compliance is not essential to valid legislation, but substantial compliance is sufficient. *Smith v. Jennings*, 67 S.C. 324, 45 S.E. 821, 824 (1903). Furthermore, under the enrolled bill rule, an act is properly passed when ratified by the presiding officers of the General Assembly, approved by the Governor, and enrolled in the Office of Secretary of State. *Medical Soc. of South Carolina v. Medical Univ. of South Carolina*, 334 S.C. 270, 278, 513 S.E.2d 352, 356 (1999); *Beaufort County v. Jasper County*, 220 S.C. 469,



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487, 68 S.E.2d 421, 430 (1951); *State v. Town Council of Chester*, 39 S.C. 307, 17 S.E. 752, 755 (1893) ("when the bill . . . is deposited in the department of state, according to law, its authentication as a bill that has passed congress is complete and unimpeachable).

Other jurisdictions have upheld acts challenged as invalid because there was not strict compliance with a constitutional provision. *See Taylor v. Wilson*, 22 N.W. 119 (Neb. 1885) (finding an act was not unconstitutional when the president of the senate did not sign it as required by the state's constitution); *Comm'r's of Leavenworth Co. v. Higginbotham*, 17 Kan. 62 (Kan. 1876) ("[T]he mere failure of the president of the senate to do his duty cannot have the effect to invalidate the law.").

Additionally, our Supreme Court has upheld the appointment of an officer whose commission lacked the Great Seal. *State v. Toomer*, 7 Rich. 216, 229, 41 S.C.L. 216, 229 (1854). In *Toomer*, the Court explained if the State excused the delinquency of the officer and cured the defects, then the title has related back to the time of the election. *Id.* Moreover, section 2-7-45 of the South Carolina Code states:

The Code of Laws of South Carolina, 1976, which contains the permanent laws of general application through the 1975 session of the General Assembly and which was presented to the members of the General Assembly during the 1977 session is hereby adopted as the Code of Laws of South Carolina, 1976, and is declared to be the only general statutory law of the State as of January 1, 1976.

Our Supreme Court has held codification of an act will cure a constitutional defect, and is part of the general statutory law of the State. *S.C. Tax Comm'n v. York Elec. Co-op., Inc.*, 275 S.C. 326, 333, 270 S.E.2d 626, 629-30 (1980). The Acts Applicant currently challenges had substantial compliance with the requirements and were codified into the 1976 Code. Therefore, these laws are enforceable, and Applicant's allegation lacks merit.

Applicant's discovery of the missing Great Seals does not constitute newly discovered



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evidence, nor is it grounds to nullify the law the Applicant was convicted under. This evidence was discoverable prior to the entry of the guilty plea. By entering a guilty plea, Applicant waived his right to present any and all defenses that he may have had, and he cannot raise them now in his current PCR application based upon "newly discovered evidence." Therefore, this case must be dismissed for failure to establish a *prima facie* case of newly discovered evidence.

**IV. Conclusion**

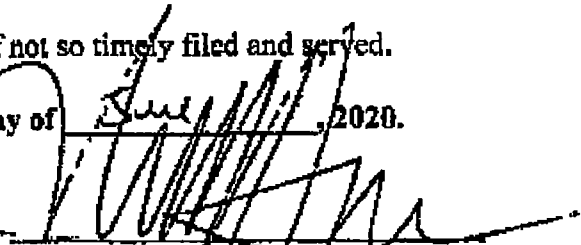
Pursuant to South Carolina Code Annotated Section 17-27-70(b), the Court intends to dismiss this application with prejudice unless Applicant provides specific reasons, factual or legal, why the application should not be dismissed in its entirety. Applicant is granted twenty days from the date of service of this order upon him to show why this order should not become final. Applicant shall file any reasons he may have with the Spartanburg County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General  
Attn: Chelsey F. Marto, Esquire  
PCR Division – Seventh Circuit  
P.O. Box 11549  
Columbia, South Carolina 29211

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Applicant is cautioned that his response to this order must be actually received by the Spartanburg County Clerk of Court and opposing counsel within twenty 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 29<sup>th</sup> day of June, 2020.

  
J. MARK HAYES, II  
Chief Administrative Judge  
Seventh Judicial Circuit

6/29 South Carolina