

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal From Charleston County
Court of Common Pleas
Roger M Young, Sr. Chief
Administrative Judge

Case No. 2018-CP-10-4542

RECEIVED

MAY 13 2021

S.C. SUPREME COURT

State of South Carolina.....Respondent

v.

Marcus Bowman, #235986.....Appellate

NOTICE OF INTENT TO APPEAL

The undersigned hereby certify that Notice of Intent to Appeal was filed from the Final Order of Dismissal filed April 13, 2021 and received by me April 28, 2021 to the Supreme Court of South Carolina


Marcus Bowman, # 235986

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STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
)
Marcus Bowman, #235986)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2018-CP-10-4542

FINAL ORDER OF DISMISSAL

1996-GS-10-2281

FILED
2021 APR 13 AM 7:08
JULIE J. ANTONIO
CLERK OF COURT

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed September 19, 2018. Respondent made its return on May 1, 2020, requesting the application be summarily dismissed based upon filing after the statute of limitations had expired and successiveness to Applicants prior post-conviction relief action.

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 on June 15, 2020 and filed on July 6, 2020, 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 August 3, 2020, serving the above-mentioned Conditional Order of Dismissal on Applicant.

Applicant filed a document entitled "Objection to the Conditional Order of Dismissal." In this response, he argued that "the evidence was discovered within the one year of filing which satisfy §17-27-45(c)" and the trial judge erred when he did not ask Applicant if he wanted to "make an allocation."

S.C. Code § 17-27-45(A) states, "[a]n 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

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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." However, under S.C. Code § 17-27-45(c), a newly discovered evidence claim can be timely raised within one year of actual discovery or within one year of when, by the exercise of due diligence, such evidence could have been ascertained. Summary dismissal of a PCR application is appropriate when the application is filed after the statutory filing period. Leamon v. State, 363 S.C. 432, 611 S.E.2d 494 (2003). This Court finds Applicant has not set forth sufficient reason to excuse his non-compliance with the statute of limitations.

This application is successive to Applicant's previous PCR application. 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 raised in a previous application. See 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). Applicant failed to establish any sufficient reason why he could not have raised his current allegations in his previous application for post-conviction relief.

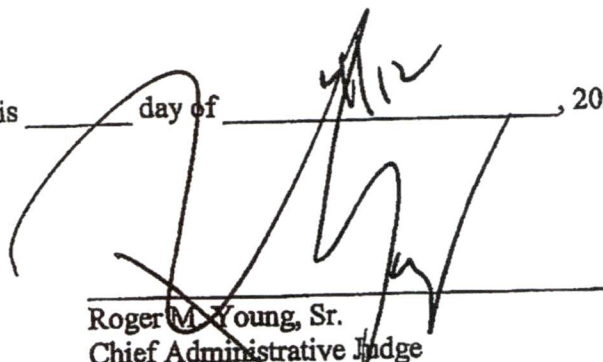
After a thorough review of the record and Applicant's response to the Conditional Order of Dismissal, this Court finds Applicant has still failed to establish any evidence or facts entitling him to an evidentiary hearing. Accordingly, pursuant to S.C. Code Ann. § 17-27-70, this Court finds this action must be summarily dismissed.



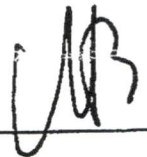
IT IS THEREFORE ORDERED that, for the reasons set forth in this Court's Conditional Order of Dismissal, the PCR application is hereby denied and dismissed with prejudice.

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.

AND IT IS SO ORDERED this _____ day of _____, 2021.



Roger M. Young, Sr.
Chief Administrative Judge
Ninth Judicial Circuit

 _____, South Carolina.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal From Charleston County
COURT OF Common Pleas
Roger M. Young, Sr. Chief
Administrative Judge

Case No. 2018-CP-10-4542

State of South Carolina..... Respondent

v.

Marcus Boman, # 235986.....Appellate

PROOF OF SERVICE

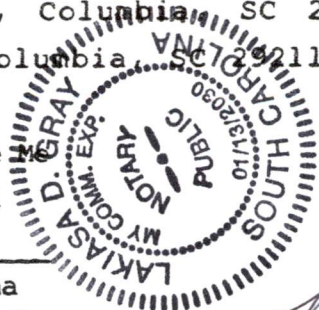
The undersigned hereby certify that he mail Notice of Intent to Appeal to Office of the Attorney General, Benjamin H. Limbaugh, Esquire, P.O. Box 11549, Columbia, SC 29211 and S.C. Supreme Court, P.O. Box 11330, Columbia, SC 29201 by depositing same in the U.S. mail.

Sworn To and Subscribed Before me

This 11th day of May 2021

Lakasa D. Gray
Notary Public of south Carolina

My Commission Expires 01/13/30



Marcus Bowman, Jr.
Marcus Bowman, # 235986