

relate to failures on the part of Counsel that occurred through course of his prior PCR action and, accordingly, could not have been raised sooner. He also claims that his application is not untimely because his *pro se* habeas corpus action concluded on March 20, 2018; within a year of filing this PCR application.

This Court has reviewed the response in full and finds it is not sufficient enough to warrant an evidentiary hearing. Consequently, this Court finds this application must be summarily dismissed with prejudice.

In Applicant's PCR application and subsequent filings, he has continued to fail to state a claim upon which relief can be granted. Specifically, because Applicant has already enjoyed pursuit of the original PCR action and timely appeal therefrom and because claims raised do not fall within a specific exception to the general bar of bringing ineffective assistance of PCR Counsel claims, Applicant is not entitled to pursue his current ineffective assistance of PCR Appellate Counsel claims. Thus, Applicant has not overcome the procedural defaults set forth in the conditional order of dismissal through addressing his failure to state a claim.

Additionally, this Court finds that the application is barred for untimeliness. Applicant was convicted on November 10, 2009, and the remittitur from his direct appeal issued on January 6, 2012. The current application was not filed until July 29, 2019. Applicant has failed to sufficiently explain the over seven year delay between the remittitur of his appeal and this pursuit of remedy through the PCR process. Thus, the Court shall dismiss the matter as barred by the statute of limitations.

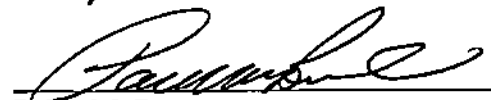
Further, Applicant's application is barred on successiveness grounds. Applicant's current allegations were or could have been raised in earlier proceedings based upon Applicant's prior


PCR applications and Applicant has not sufficiently proven why these issues could not have been raised earlier. Thus, the current application is successive and barred.

Before this Court will hold an evidentiary hearing, Applicant must make a *prima facie* showing that he is entitled to relief. *Welch v. MacDougall*, 246 S.C. 258, 143 S.E.2d 455 (1965). Applicant has failed to make such a showing based on the information set forth in his response, and, consequently, is not entitled to an evidentiary hearing. Thus, the Court reasserts its finding in the conditional order of dismissal that the current PCR application must be dismissed for untimeliness, successiveness, and failure to state a cognizable claim. Accordingly, this Court finds no reason why the conditional order of dismissal should not become final.

IT IS THEREFORE ORDERED that, for the reasons in this Court's conditional order of dismissal, the PCR application is hereby denied and dismissed with prejudice. This court hereby advises 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 29th day of April, 2021.


PAUL M. BURCH
Chief Administrative Judge
Fourth Judicial Circuit

, South Carolina

SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

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