

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM SPARTANBURG COUNTY
COURT OF COMMON PLEAS

J. MARK HAYES, CIRCUIT COURT JUDGE

2020-CP-42-01498

SHANNON LANCASTER, APPELLANT,


V.

THE STATE, RESPONDENT.

NOTICE OF APPEAL

SHANNON LANCASTER APPEAL'S THE HONORABLE MARK HAYES'S ORDER
OF DISMISSAL.

THIS 2 DAY OF June 2021


SHANNON 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) 734-3737

THE STATE OF SOUTH CAROLINA
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2020-CP-42-01498

SHANNON LANCASTER,, APPELANT,

V.

THE STATE, RESPONDENT.

PROOF OF SERVICE

I, SHANNON LANCASTER, HEREBY CERTIFY, THAT ON THIS DAY, THAT I MAILED A NOTICE OF APPEAL, AND AN ORDER OF DISMISSAL TO THE S.C. SUPREME COURT, SPARTANBURG COUNTY CLERK, AND ASSISTANT ATTORNEY GENERAL, CHELSEY MARTO, THROUGH THE PERRY LEGAL MAIL SYSTEM, AND THE UNITED STATES POSTAL SERVICE.

S.C. SUPREME COURT
P.O. BOX 11330
COLUMBIA, SC 29211

SPARTANBURG CLERK
P.O. BOX 3483
SPARTANBURG, SC
29304-3483

CHELSEY MARTO, ATTORNEY GENERAL
P.O. BOX 11549
COLUMBIA, SC 29211

SUBSCRIBED AND SWORN TO BEFORE ME

THIS 2nd DAY OF June 2021

NOTARY: Tamara Crowell

EXPIRES: Sept-25-2023

S. Lancaster
SHANNON LANCASTER

DEAR CLERK,

I AM FILING A NOTICE OF APPEAL ON MY BEHALF WITH YOUR OFFICE.
I THANK YOU FOR YOUR TIME AND HELP WITH THIS MATTER,

SINCERELY,

s/ Shannon Lancaster
SHANNON LANCASTER
PERRY CORR. INST.
430 OAKLAWN RD.
PELZER, SC 29669

RECEIVED

JUN 08 2021

S.C. SUPREME COURT

FORM 5

STATE OF SOUTH CAROLINA)
)
County of SPARTANBURG)
)
SHANNON LANCASTER)
Full name and prison number (if any) of Applicant)
)
v.)
)
State of South Carolina)
)
)
)
)

IN THE COURT OF COMMON PLEAS

2020-CP-42-01498

**APPLICATION FOR
POST-CONVICTION RELIEF**

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to particular question on the reverse side of the page or on an additional page. Applicant shall make clear which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
MAY 29 5 40 PM '20

1. Place of detention PERRY CORRECTIONAL INSTITUTION
2. Name and location of Court which imposed sentence GENERAL SESSIONS
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2016-GS-420-5068 (DRUG TRAFFICKING)
 - (b) _____

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) MARCH 14, 2017
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____ x _____
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
YES
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. SC COURT OF APPEALS
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. APPEAL DISMISSED
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. JULY 18, 2018
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. 2018-UP-325
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) _____

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 SPARTA HENRIS COUNTY
 2019 MAY -5 PM 4:40

(c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) SEE ATTACHMENT
(b) _____
(c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) SEE ATTACHMENT
(b) _____
(c) _____

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? N/A
(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
(d) any other petitions, motions or applications in this or any other Court? N/A

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:
i. N/A
ii. _____
iii. _____
iv. _____
(b) the name and location of the Court in which each was filed:
i. N/A
ii. _____
iii. _____
iv. _____

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SPARTANBURG COUNTY
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(c) the disposition thereof:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

N/A

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CLERK OF COURT
SPARTANBURG COUNTY
2019 MAY 15 PM 4:40

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. N/A
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. N/A
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) SEE ATTACHMENT (NEWLY DISCOVERED EVIDENCE)
- (b) _____
- (c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? x
- (b) your trial, if any? NO
- (c) your sentencing? x
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
 NO

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. RICKY HARRIS 145 N.CHURCH ST. SUITE 501
 SPARTANBURG, SC 29306
 - ii. ROBERT M. PACHAK, P.O. BOX 11589, COLUMBIA, SC
 29211
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. PLEA (RICKY HARRIS)
 APPEAL (ROBERT M. PACHAK)
 - ii. _____
 - iii. _____

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CLERK OF COURT
SPARTANBURG COUNTY
2019 MAY -5 PM 4:42

19. State clearly the relief you seek in filing this application:

VACATE AND REMAND

20. Are you now under sentence from any other court that you have not challenged?

N/A

STATE OF SOUTH CAROLINA)
County of SPARTANBURG)

VERIFICATION

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2019 MAY -5 PM 4:42

I, SHANNON LANCASTER, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Shannon Lancaster

SWORN to and subscribed before me this 1st day of May, 2020.
Tamara Conwell (L.S.)
Notary Public

RECEIVED
MAY 01 2020
P.C.I. MAILROOM

My Commission Expires: September 25, 2023

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, SHANNON LANCASTER, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Shannon Lancaster
Applicant

SWORN or affirmed to and subscribed before me this

1st day of May, 2020.

Jamarc Conwell
Notary Public

My Commission Expires: September 25, 2023

RECEIVED

MAY 01 2020

P.C.I. MAILROOM

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CLERK OF COURT
STARBUCK COUNTY
2019 MAY -5 PM 4:42

10(A) Ineffective assistance of counsel for failure to investigate.

(B) Newly Discovered Evidence

(C) Fraud Upon the Court, 60(B)(3)

11(A)(1) Failure of counsel and the Court to investigate the laws of South Carolina as to 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. Art. III, Section 18
§ 18 Formalities of Act.

No Bill or Joint Resolutions 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 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 it's 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.

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SPARTANBURG COUNTY
2019 MAY -5 PM 4:42

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

The Applicant asserts upon belief and facts that on or around November 2017, the State Newspaper reported the Great Seal of the State 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 I.

Also the Applicant will submit a letter from a Mr. Stephen 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.

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.

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SPARTANBURG COUNTY
2019 MAY -5 PM 4:42

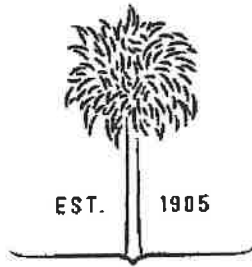


Exhibit 1

SOUTH CAROLINA DEPARTMENT OF
ARCHIVES • HISTORY

27 April 2020

Mr. Shannon Lancaster #341546
Perry Correctional Institution Q1B-209
430 Oaklawn Road
Pelzer, SC 29669

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2019 MAY -5 PM 4:43

Dear Mr. Lancaster:

I checked the following act that you requested but could not locate a visible impression of the Great Seal: 1993 Act No. 184.

Sincerely,

Steven D. Tuttle
Deputy Director
Archives & Records Management

South Carolina Legislative Council

DAVID H. WILKINS, CHAIRMAN
SPEAKER OF THE HOUSE OF REPRESENTATIVES

GLENNE E. MCCONNELL
CHAIRMAN, SENATE JUDICIARY COMMITTEE
THE SENATE

JAMES H. HARRISON
CHAIRMAN, HOUSE JUDICIARY COMMITTEE
THE HOUSE OF REPRESENTATIVES

ROBERT L. PEELER
PRESIDENT OF THE SENATE

JIM MILES
SECRETARY OF STATE



Exhibit 2

STATE HOUSE, FIRST FLOOR
AND
DENNIS BUILDING, SUITE 434
1000 ASSEMBLY STREET
P.O. BOX 11489, COLUMBIA, S.C. 29211-1489
TELEPHONE: (803) 734-2145
FAX: (803) 734-2425

October 21, 2002

STEPHEN T. DRAFFIN
CODE COMMISSIONER AND DIRECTOR

M. HOPE BLACKLEY

Mr. Spencer Hewitt
Secretary of State's Office
Edgar Brown Building
Columbia, South Carolina 29211

Dear Spencer:

You asked us recently to help locate the original of H.4323 of 1994 (Ratification Number 585 of 1994 and Act Number 7 of 1995) which became law on January 12, 1995, without the signature of the Governor. As we indicated in our telephone conversation, the Governor's office sends acts directly to the Secretary of State's office without transmitting them back through any office of the General Assembly. It is our best guess if you have no record of it that the original was lost during the changeover from the Campbell administration to the Beasley administration in January 1995, especially since the Governor didn't sign it. We asked Steve Tuttle at Archives to go through the boxed materials of these administrations, and he indicated that after doing so the original of this act could not be found. We did not check with Governor Hodges' office but it may be worth trying to follow up there although this would be a long shot.

In order that you can have a record of this act in the Secretary of State's office, we have prepared a duplicate from the computer files maintained by Legislative Printing. This is the same procedure we follow from time to time when bills are misplaced while under the consideration of the General Assembly. This should provide you with a sufficient record of what was ratified by the General Assembly and what became law without the signature of the Governor. If we can be of further help, please let us know.

Very truly yours,

A handwritten signature in black ink, appearing to be "SK" followed by a long horizontal line.

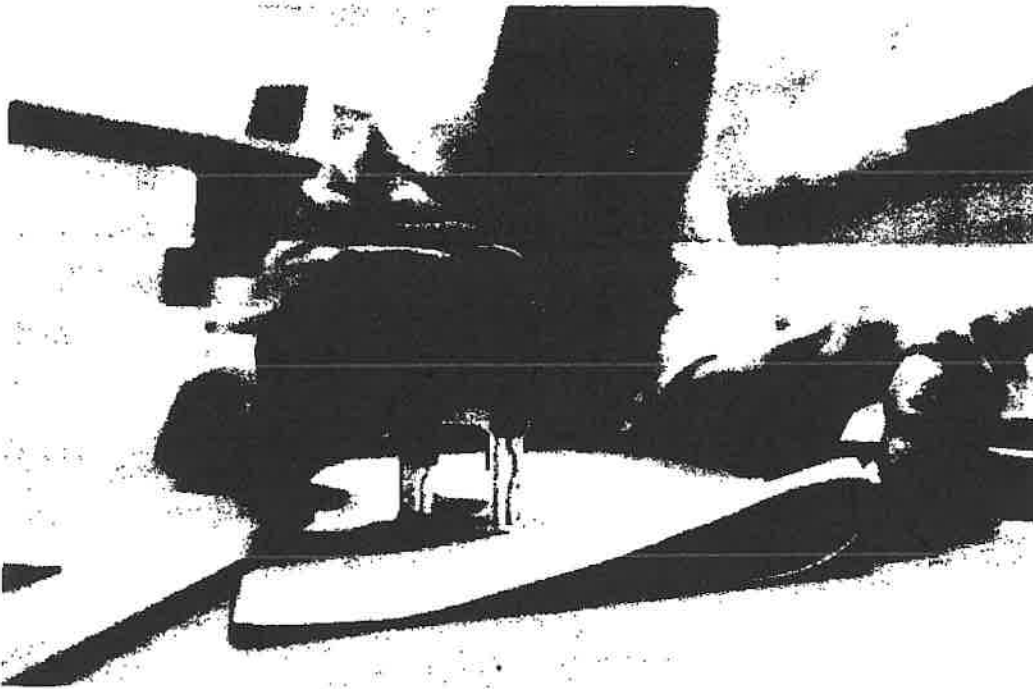
Stephen T. Draffin

STD/gjk
Enc.

Exhibit 4

#SealMageddon: Origins, Escalation

The origins of South Carolina's latest (and greatest?) display of government incompetence ...



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CLERK OF COURT
SPARTANBURG COUNTY
2019 MAY -5 PM 4:43

Yesterday, this news site broke open a scandal we're christening #SealMageddon ...

For those of you who missed our exclusive report, it boils down to this: For an undetermined period of time (rumored to be several years), South Carolina's Secretary of State Mark Hammond allegedly failed to perform his constitutional duty of affixing the "Great Seal" of the state onto acts and resolutions passed by the S.C. General Assembly.

This ministerial task - in which the state seal is physically "stamped" onto original acts and resolutions passed by the legislature - has fallen to the Secretary of State for as long as anyone in state government can remember.

Does the seal matter?

Yes ...

According to Article III, Section 18 of South Carolina's constitution (.pdf), "No Bill or Joint Resolution shall have the force of law until it shall have been read three times and on three 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.”

(Emphasis added).

In other words, “no seal, no law.”

So ... *how did we get here?*

Good question ...

Multiple state legislators were briefed on the situation late Thursday after reporter **Meg Kinnard** of The Associated Press picked up this story and ran with it.

Apparently Kinnard's report - and our story preceding it - prompted mass panic within the legislative branch.

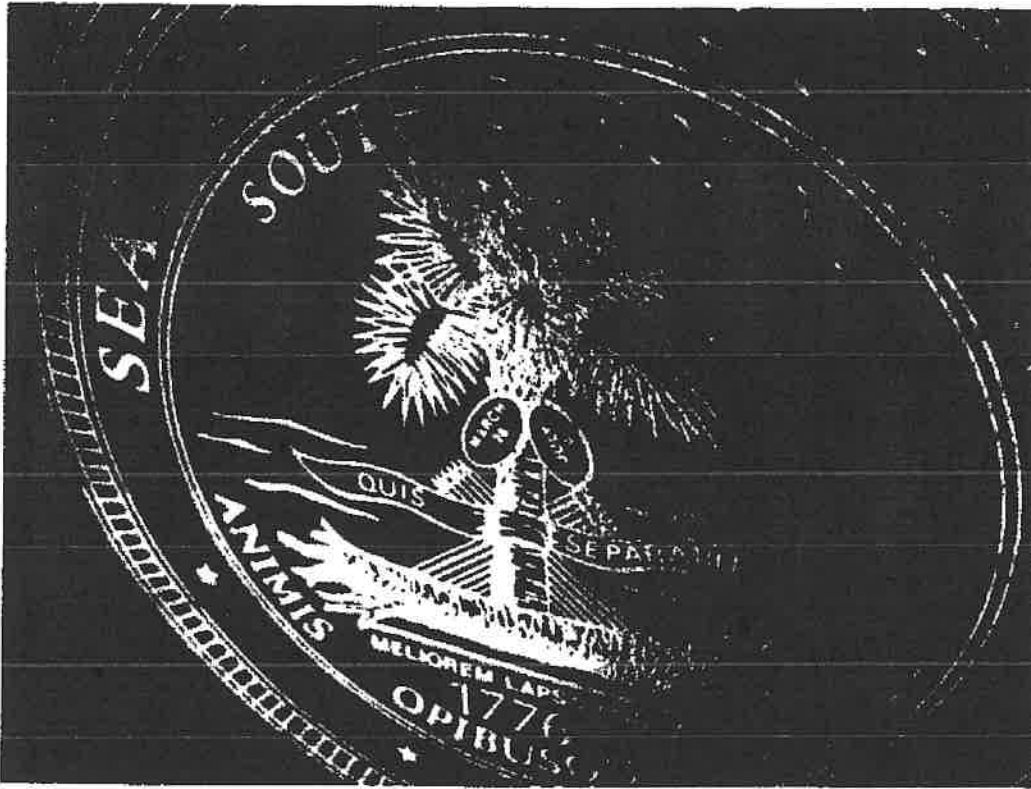
According to these lawmakers - who were briefed on the matter by one of their colleagues - **#SealMaggedon** has been a closely guarded secret in the state capital for the past three months. They told us the problem was discovered three months ago when a defendant representing themselves (i.e. *pro se*) in a criminal case decided to visit the S.C. Department of Archives and History (SCDAH).

The defendant apparently wanted to view the actual law they were being charged with in an effort to determine whether it had been properly filed.

Upon viewing the document, the defendant noticed the absence of the state seal and quickly made the constitutional connection. Shortly thereafter, they filed a motion to have the charges against them dismissed on the grounds that the law they were accused of violating wasn't constitutionally valid.

See where this is going?

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CLERK OF COURT
SPARTANBURG COUNTY
2019 MAY 5 PM 4:41



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CLERK OF COURT
SPARTANBURG COUNTY
2019 MAY -5 PM 4:44

(Via: FITSNews.com)

Not long thereafter, a local solicitor – alarmed by the potential implications of the situation – contacted legislators in an effort to determine why one of their laws had been filed without a seal affixed to it.

That’s when the true dimensions of #SealMaggedon came into focus, we’re told.

Armed with the solicitor’s concerns, top legislative staffers (and their bosses) quickly launched a discreet inquiry – at which point they realized Hammond’s office had failed to affix the seal to *thousands of acts and resolutions* dating back for a period of up to ten years. This reportedly led to a vigorous debate between legislative and executive branch officials over whether Hammond was in fact responsible for performing this constitutional duty.

For several weeks this summer, we’re told Hammond refused to accept responsibility for the situation – but ultimately acquiesced and acknowledged he had been derelict in his duty. At this point, an effort was undertaken to “fix” the problem – although it’s not immediately clear how fruitful that fix has been.

Or whether retroactively applying the seal will create even bigger constitutional issues ...

We don't yet have precise dates or an exact number of potentially impacted acts and resolutions, but this news site submitted a Freedom of Information Act (FOIA) request to the Secretary of State's office yesterday seeking this information.

According to our sources, the Secretary of State is currently in possession of all acts and resolutions dating from 2005 to the present. Acts and resolutions from previous years are stored at SCDAAH. A review of these acts and resolutions is currently being undertaken by state representative Joshua Putnam, who is running against Hammond in next spring's GOP primary election for Secretary of State.

"There are several acts from his tenure here without the seal," Putnam told us, adding that he was in the process of reviewing all of the documents currently in possession of SCDAAH.

Hammond was elected in 2002 and took office in January of 2003. He is supposed to turn over all acts and resolutions to SCDAAH after a period of five years, but apparently he hasn't been doing that job either.

What happens next?

Good question ...

Lawmakers told us they have been presented with a solution to the problem - one that they hope to pass into law as soon as they reconvene in January.

As soon as we get additional information on that "solution," we'll pass it along to our readers ...

UPDATE: *This is getting serious ... Putnam has discovered over 100 acts or resolutions which did not receive the seal from Hammond's first two years in office.*

WANNA SOUND OFF?

Got something you'd like to say in response to one of our stories? Please feel free to submit your own guest column or letter to the editor via-email [HERE](#). Got a tip for us? [CLICK HERE](#). Got a technical question? [CLICK HERE](#). Want to support what we're doing? [SUBSCRIBE HERE](#).

Banner: [iStock](#)

FILED
CLERK OF COURT
SFARIASBURG COUNTY
2019 MAY -5 PM 4:54

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

) IN THE COURT OF COMMON PLEAS
) FOR THE SEVENTH JUDICIAL CIRCUIT
)

Shannon Lancaster, #341546,
Applicant,

) Case No.: 2020-CP-42-01498
)

v.

) **FINAL ORDER OF DISMISSAL**
)

State of South Carolina,
Respondent.

CLEARING OF COURT
SPARTANBURG COUNTY
FAMILY COURT

2021 MAY 12 AM 9:10

FILED

This matter comes before the Court pursuant to a post-conviction relief application filed by Applicant Shannon Lancaster on May 5, 2020. Respondent moved to summarily dismiss the application on February 18, 2021, for untimeliness, successiveness, and failure to establish a *prima facie* case of newly discovered evidence.

Pursuant to this request, and after reviewing the attached pleadings pertinent to this matter, this Court issued a conditional order of dismissal dated March 1, 2021, provisionally summarily dismissing the application, but affording the applicant twenty days from service of the conditional order to provide sufficient reasons as to why this order should not be finalized. Applicant was personally served with this conditional order of dismissal on March 22, 2021, as evidenced by the attached affidavit of personal service.

On March 4, 2021, Applicant filed his reply to the conditional order of dismissal. In this response, Applicant restated his argument that he is entitled to relief because counsel was ineffective for failure to investigate the missing Great Seal. He states he was entitled to know about the missing great seal before pleading guilty. He claims that the discovery of the missing great seal should be considered as newly discovered evidence and, thus, dismissal based upon untimeliness and successiveness was improper because he discovered the missing great seal within a year of filing this application. Applicant claims that codification of the law does not



cure this defect. Finally, he argues that he is entitled to a hearing and appointment of counsel.

This Court has reviewed the responses 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.

Applicant has not adequately shown why he is entitled to relief based upon newly discovered evidence. Though Applicant reiterates his recent discovery of the missing Great Seal, this does not entitle him to the relief sought. Applicant's discovery does not constitute newly discovered evidence, because this evidence remained discoverable through exercising reasonable diligence to Applicant in prior actions. Accordingly, this Court finds Applicant has not overcome his procedural hurdle in establishing why the conditional order of dismissal should not take effect.

Applicant pled guilty to all charges on March 23, 2017 and the amended remittitur from the direct appeal was issued on November 16, 2018. The application was therefore due on November 17, 2019. This application was filed on May 5, 2020. Applicant has failed to sufficiently explain the almost two 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).

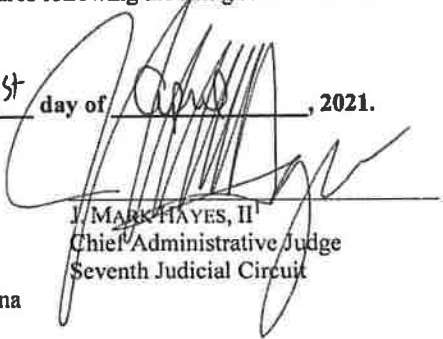


2021 MAY 12 AM 9:00
CLERK OF DISTRICT COURT
FILED

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 establish a *prima facie* case of newly discovered evidence. 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 21st day of April, 2021.


J. MARK HAYES, II¹
Chief Administrative Judge
Seventh Judicial Circuit

Spartanburg, South Carolina

¹ The Honorable J. Derham Cole is currently the Chief Administrative Judge for Common Pleas for the Seventh Judicial Circuit, but because he oversaw Applicant's plea colloquy, the proposed final order of dismissal are being sent to the Honorable J. Mark Hayes, II, Chief Administrative Judge for General Sessions for the Seventh Judicial Circuit.

Shannon Lancaster #341546 Q1B-209

Perry Correctional Institution

430 Oaklawn Road

Pelzer, SC 29669

S.C. Supreme Court

P.O. Box 11330

Columbia, SC 29211

RECEIVED

JUN 03 2021

FCI MAILROOM