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Anderson SC COC, CP/GS

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| STATE OF SOUTH CAROLINA<br>COUNTY OF ANDERSON | ) | IN THE COURT OF COMMON PLEAS<br>FOR THE TENTH JUDICIAL CIRCUIT |
| Robert Baker, SCDC #073461<br>aka Stanley Renbert Butler<br>aka Phillip Allen Grant,<br>aka Paul Mathew Jackson<br>aka Mansa Banchee<br>aka Musa Banchee<br>aka Musa Banshee<br>aka Mansa Musa Yusef Banshee<br>aka Mansa Banshee<br><br>Applicant,<br><br>v.<br><br>State of South Carolina,<br><br>Respondent. | ) | Case No. 2018-CP-04-02353<br><br>**FINAL ORDER OF DISMISSAL** |

This matter comes before the Court by way of a post-conviction relief (PCR) action commenced by Mansa Musa Yusef Banshee (Applicant) on November 18, 2018. The State made its return on March 11, 2021, requesting this action be summarily dismissed because it was filed after the statute of limitations had expired; it is successive to Applicant's prior PCR actions; it is barred by the doctrines of *res judicata* and *laches*; Applicant failed to make a *prima facie* case of newly-discovered evidence; and because continued litigation by Applicant frustrates the need for finality of litigation.

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 and filed March 23, 2021, 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 April 19, 2021, serving the above-mentioned conditional order of dismissal on Applicant.

Applicant filed a timely response to the conditional order on April 19, 2021. Applicant first alleges this Court failed to address the following claims:

1. Great Seal of South Carolina not affixed upon the law of murder/homicide that Applicant was convicted of;
2. Newly-discovered evidence/fraud upon the Court;
3. Prosecutorial misconduct and ineffective assistance of counsel;
4. Change in parole eligibility, violated Ex Post Facto;
5. Expired sentence;
6. The Applicant's conditional release . . . is being unlawfully restrain[*sic*]; and
7. The Applicant's right to procedural due process was denied

This Court disagrees, and finds all allegations properly raised were addressed and ruled upon in the conditional order. Applicant contends his action is not successive nor barred by *res judicata* because has not raised these claims in his previous actions. However, section 17-27-90 and *res judicata* bar claims raised in previous applications, **as well as those that *could have* been raised.** *Foxworth v. State*, 275 S.C. 615, 616–17, 274 S.E.2d 415, 415–16 (1981) (emphasis added). In other words, if the applicant could have raised these allegations in a previous application, then the applicant may not raise those grounds in successive applications. *Aice v. State*, 305 S.C. 448, 450, 409 S.E.2d 392, 394 (1991). 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).

As discussed in the conditional order, Applicant failed to meet his burden of showing these allegations could not have been raised in his previous PCR and habeas actions. Regarding Applicant's claim his parole was unlawfully revoked, this issue was fully litigated in his 2001

federal habeas corpus action. Applicant has additionally failed to present any evidence indicating his sentence has expired. Finally, Applicant failed to make a *prima facie* case of newly-discovered evidence.

Before the 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); *Blandshaw v. State*, 245 S.C. 385, 140 S.E.2d 784 (1965). Applicant has failed to make such a showing based on the information set forth in his response, and, therefore, he is not entitled to an evidentiary hearing in this matter. Accordingly, this Court finds no reason why the conditional order of dismissal should not become final.

Accordingly, this Court reasserts its finding in the Conditional Order of Dismissal that the current PCR application must be dismissed because it was filed after the statute of limitations had expired; it is successive to Applicant's prior PCR actions; it is barred by the doctrines of *res judicata* and *laches*; Applicant failed to make a *prima facie* case of newly-discovered evidence; and because continued litigation by Applicant frustrates the need for finality of litigation.

**IT IS THEREFORE ORDERED** that for the reasons set forth in the Court's conditional order of dismissal, the Application for post-conviction relief is hereby **DENIED AND DISMISSED WITH PREJUDICE.**

This Court hereby advises Applicant 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 29 day of June, 2021.

J. CORDELL MADDOX, JR.
Chief Administrative Judge
Tenth Judicial Circuit

Anderson, South Carolina.

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Anderson, SC COC, CP/GS

ALAN WILSON
ATTORNEY GENERAL

June 18, 2021

The Honorable J. Cordell Maddox, Jr.
Chief Administrative Judge - Tenth Circuit
Post Office Box 8002
Anderson, South Carolina 29622

**Re: Mansa Musa Banshee, #073461 v. State of South Carolina**
**2018-CP-04-02353**

Dear Judge Maddox:

Enclosed please find the proposed Final Order of Dismissal in the above-captioned case. For your convenience, I am enclosing a copy of the signed and served Conditional Order of Dismissal for your review.

If this Order meets your approval, please sign and forward to the Anderson County Clerk of Court for filing.

Sincerely,

Lillian L. Meadows
Assistant Attorney General

LLM/geh
Enclosure(s)

cc: Mansa Musa Banshee, #073461