

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM Aiken COUNTY
COURT OF COMMON PLEAS
CLIFTON NEWMAN, CHIEF ADMIN. JUDGE

Case No. 2021-CP-02-0746

Stephen Corley # 347978.

Applicant,

v.

State of South Carolina..... Respondent

NOTICE OF APPEAL

Stephen Corley, appeals the final order of dismissal of the Honorable Clifton Newman, dated December 6, 2021. Clocked Stamped on December 20, 2021, and received on December 31, 2021.

January 4, 2022.

Stephen Corley

Stephen Courley # 347938

Marion Unit # 119

Broad River Corr. Inst.

4460 Broad River Rd.

Columbia, South Carolina-

29210

CC: Other Counsel's of Record
S.C. Attorney General Office
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S.C. SUPREME COURT

(S.C. clerk only)

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)
Stephen Corley, SCDC # 347938,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS)
FOR THE SECOND JUDICIAL CIRCUIT)
Case No. 2021-CP-02-0746)
FINAL ORDER OF DISMISSAL)

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

I, Robert J. Harte, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this

DEC 20 2021

Robert J. Harte
C.C.P. & G.S., Aiken County, S.C.
Charla Griffen Plouffe
Deputy Clerk

This matter comes before the Court by way of a post-conviction relief application filed by Applicant Stephen Corley on April 13, 2021. In response, Respondent moved to dismiss the application as untimely and successive pursuant to S.C. Code Ann. § 17-27-20, -45, and 90.

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 filed May 26, 2021, provisionally denying and dismissing this action, while giving the 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 June 23, 2021, serving the above-mentioned Conditional Order of Dismissal on Applicant.

In response, Applicant has filed two different objections to the Conditional Order of Dismissal. Applicant's first response was filed on June 1, 2021, and is captioned, "Motion to Grant PCR Hearing and Deny Respondent's Return and Motion to Dismiss by Written Order with 10 Pages of Exhibits Citing McCoy v. Steele, Supra, SC Code Ann 17-27-45(c)." In this document, Applicant asserts he is entitled to an evidentiary hearing on this successive application based on a collection of attached documents that he asserts are newly discovered evidence, including the blood analysis of one of the victims, portions of the South Carolina Highway Patrol Multi-Disciplinary Accident Investigation Team (MAIT Team) Case Notes, South Carolina Department of Transportation Highway Maintenance Management Systems Daily Work Report and Work

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Robert J. Harte CJP
C.C.P. & G.S.
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Deputy Clerk

Request, and one page from his guilty plea transcript. Applicant's next document, captioned "Objections to the Respondent's Conditional Order of Dismissal," was filed July 6, 2021, and makes the same arguments as set forth in his initial filing, minus the attachments.

In these two documents, Applicant asserts the presented exhibits establish that counsel was ineffective for advising him to plead guilty, that he was not speeding at the time of the crash, that he did not see the victims' car at the time of the crash due to obstructed visibility from trees, that one of the victims was under the influence at the time of the crash, and that the State engaged in prosecutorial misconduct by misleading the court and falsely charging him based on the victim's intoxication and his speed. However, none of these assertions have merit or are enough to overcome the procedural bars as set forth in this Court's Conditional Order of Dismissal.

Applicant states trial counsel did not provide him with discovery the time of representation, which he somehow construes as a discovery violation against the State. However, Applicant does not assert that the State improperly withheld discovery, but rather, asserts that counsel failed to provide it to him, resulting in improper advice as to whether to plead guilty. Applicant also asserts trial counsel should have used this information to support a lesser-included offense. However, these are claims that could have, should have, and, to an extent, were raised in his prior post-conviction relief actions. Applicant has failed to provide sufficient reason why he could not have discovered this information in a timely fashion or raised it in his initial or subsequent collateral attacks.

Applicant appears to also blame initial post-conviction relief counsel for why these claims were not sufficiently raised prior. Applicant's assertions that he should be entitled to pursue a successive post-conviction relief action based on purported failures of his initial post-conviction relief counsel are without merit. Our courts have expressly rejected the claim that an applicant can sustain a successive post-conviction relief action on claims that could have been raised previously

based on the performance of prior post-conviction relief counsel absent unique and compelling circumstances. See Robertson v. State, 418 S.C. 505, 514, 795 S.E.2d 29, 33 (2016) (citing Aice v. State, 305, SC 448, 450, 409 S.E.2d 392, 394 (1991) (“However, the Court expressly held the contention that prior PCR counsel was ineffective is not per se a sufficient reason allowing for a successive PCR application under § 17-27-90.”) (internal quotations omitted); see also Kelly v. State, 404 S.C. 365, 365, 745 S.E.2d 377, 377 (2013) (clarifying that while a defendant may raise claims of ineffective assistance of collateral review counsel in federal court in a petition for habeas corpus in unique circumstances, these claims cannot be raised in state court in a successive PCR action).

Regarding the toxicology report of the victim, the attached pages make it clear the only positive findings in the victim’s blood were caffeine and theobromine—a substance commonly found in chocolate, tea, and other legal, edible substances. The report unequivocally states the victim was not under the influence of any alcohol or drugs at the time his blood was drawn. The third page of the report, which Applicant erroneously asserts shows the victim was on illegal substances, merely shows what substances were tested for and the levels of detection and does not support Applicant’s baseless claim that the victim was intoxicated.

Similarly, Applicant’s reliance of road maintenance records to show that trees were trimmed do not amount to newly discovered evidence under the Jamison standard to warrant a hearing. See Jamison v. State, 410 S.C. 456, 470, 765 S.E.2d 123, 130 (2014) (setting forth the standard an applicant must meet for a claim of newly discovered evidence challenging a guilty plea).

Based on the foregoing, this Court finds Applicant has failed to provide a sufficient reason as to why the Conditional Order of Dismissal should not become final.

IT IS THEREFORE ORDERED that for the reasons set forth in the Court's Conditional Order of Dismissal, this application for post-conviction relief filed by Applicant Stephen Corley is hereby **DENIED AND DISMISSED WITH PREJUDICE**.

AND IT IS SO ORDERED this 6th day of December, 2021.

K. V. Stone, South Carolina

Clifton Newman
CLIFTON NEWMAN
Chief Administrative Judge
Second Judicial Circuit

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