

STATE OF SOUTH CAROLINA)
 COUNTY OF AIKEN)
)
 Darrell Williams, #334447,)
 Applicant,)
))
 v.)
))
 State of South Carolina,)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS
 FOR THE SECOND JUDICIAL CIRCUIT

Case No.: 2017-CP-02-2286

FINAL ORDER OF DISMISSAL

This matter is before the Court based on an application for post-conviction relief filed by Applicant Darrell Williams on September 25, 2017. Thereafter, on January 31, 2019, Applicant, through retained counsel Benjamin A. Stitley, filed an amended application. In response, Respondent the State of South Carolina made its return and moved to summarily dismiss the action as procedurally barred as untimely, successive, and for failing to state a claim entitling him to relief as a matter of law as to his jurisdictional challenges.

Pursuant to the procedures set forth in the Uniform Post-Conviction Procedures Act, S.C. Code Ann. § 17-27-10 et seq., this Court, after reviewing the pleadings in this matter, issued a Conditional Order of Dismissal signed August 4, 2020, and filed August 13, 2020, 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 a Certificate of Service dated August 10, 2021, serving the above-mentioned Conditional Order of Dismissal on Applicant.

In response to this conditional dismissal, Applicant, through counsel, served and filed "Objections to Conditional Order of Dismissal," asserting once again that defense counsel was ineffective for failing to object to jurisdiction in this case. Applicant asserts that his action should

FILED 12.20 20 21

Robert J. White CNP
 C.C.P. & G.S.

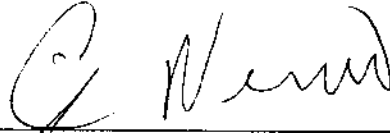
Charla Guiffre Pleau
 Deputy Clerk

not be barred as successive or untimely because jurisdictional challenges may be raised at any time. He fails to challenge the Court's ruling that the jurisdictional claim fails on the merits.

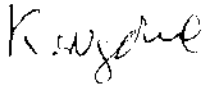
After reviewing all of these filings, this Court finds Applicant has failed to meet his burden of establishing he is entitled to an evidentiary hearing on these claims and affirms summary dismissal of this application based on the grounds set forth in the conditional order of dismissal. Here, Applicant has failed to show that a successive application is appropriate or why he could not have raised this claim in his prior post-conviction relief action, as this information was readily available not only at the time of his plea but also the time of his initial post-conviction relief proceeding. While applicant is correct that subject matter jurisdiction claims can be raised at any time, he still has the burden of establishing why he could not have raised this claim in his initial post-conviction relief action. See Graham v. State, 378 S.C. 1, 3, 661 S.E.2d 337, 338 (2008) ("Successive PCR applications and appeals are generally disfavored because they allow an applicant to receive more than 'one bite at the apple as it were.' A successive PCR application is one that raises grounds not raised in a prior application, raises grounds previously heard and determined, or raises grounds waived in prior proceedings. In order to be entitled to a successive PCR application, the applicant must establish that the grounds raised in the subsequent application could not have been raised in the previous application."). Here, Applicant unable to show that these claims could not have been raised in his initial application, as his claims were known prior to his plea and easily could have and should have been raised in his initial post-conviction relief action. Accordingly, the application must be dismissed as successive to Applicant's prior post-conviction relief action. Therefore, this Court finds a sufficient reason has not been shown 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 is hereby **DENIED AND DISMISSED WITH PREJUDICE.**

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



CLIFTON NEWMAN
Chief Administrative Judge
Second Judicial Circuit



_____, South Carolina