THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY

COURT OF COMMON PLEAS

L. CASEY MANNING PRESIDING

CASE NO:2020-CP-40-3837

RECEIVED

MAR 04 2022

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

Respondent

"VS"

Edmond Stanley Adams III

Appellant

APPENDIX

Edmond Stanley Adams, III #256717

Kershaw C.I. Rm. PB-04

4848 Goldmine Hwy.

Kershaw S.C. 29067

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TATE OF SOUTH CAROLINA

OUNTY OF RICHLAND

[THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO: 2006CP4007169

dmond Stanley #265717 Adams *vs.* **State of South Carolina**

laintiff

Defendant

HECK ONE:

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED (*CHECK REASON*):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other:

☐ **ACTION STRICKEN (*CHECK REASON*):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy:

☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other: _____

T IS ORDERED AND ADJUDGED: ☒ See attached order; ☐ Statement of Judgment by the Court:

Dated at Columbia, South Carolina, this _____ day of _____, 2008.

_____
PRESIDING JUDGE

This judgment was entered on the _____ day of _____, 2008, and a copy mailed first class this 3 day of June, 2008, to attorneys of record or to parties (when appearing pro se) as follows:

Edmond Stanley #265717 Adams
Edmond Stanley #265717 Adams
ATTORNEY(S) FOR THE PLAINTIFF(S)

State of South Carolina
State of South Carolina
ATTORNEY(S) FOR THE DEFENDANT(S)

s/BARBARA A. SCOTT
Clerk of Court

SCRCP APP-24/FORM 4

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND)

2006-CP-40-7169

Edmond Stanley Adams, III, 265717

Applicant,

v.

State of South Carolina,

Respondent.

ORDER OF DISMISSAL

PROCEDURAL HISTORY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed December 4, 2006. The Respondent made its Return on February 14, 2007. An evidentiary hearing into the matter was convened on March 19, 2008 at the Richland County Courthouse. The Applicant was present at the hearing and represented himself *pro se*[1]. Brian T. Petrano of the South Carolina Attorney General's Office represented the Respondent.

At the hearing, the Applicant testified on his own behalf in part, presented arguments in part and responded to the Respondent's examinations in part. This Court had before it the records of the Richland County Clerk of Court, the transcript of the proceedings against the Applicant, the Applicant's records from the

[1] The Applicant appeared before this Court on March 17, 2008 and knowingly and voluntarily waived any option he had to have appointed counsel for his PCR matters, *per* Rule 71.1 (d), SCRCP. At the Applicant's request, the Court allowed him to represent himself at the hearing. The Court fully advised the Applicant of his right to counsel and the dangers of self-representation on his post conviction relief application. See Whitehead v. State, 310 S.C. 532, 426 S.E.2d 315 (1992). The Applicant stated he understood the consequences.

South Carolina Department of Corrections, and numerous other motions, orders, and documents from throughout the Applicant's trial and subsequent appeal.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. The Applicant was indicted at the November 1998 term of the Court of General Sessions for Richland County for criminal sexual conduct – first degree (98-GS-40-34469), armed robbery (98-GS-40-34470) and kidnapping (98-GS-40-34471). He proceeded *pro se* at his trial with Joseph McCulloch, Esquire, as assisting counsel. On March 29, 2000, the Applicant proceeded to trial after which he was found guilty of criminal sexual conduct – first degree, armed robbery and kidnapping. He was sentenced by the Honorable James C. Williams, Jr., to confinement for a period of twenty-five (25) years for criminal sexual conduct – first degree, fifteen (15) years consecutive for armed robbery and twenty-five (25) years consecutive for kidnapping.

A timely Notice of Appeal was filed. The Applicant requested assistance in perfecting the Record on Appeal. Accordingly, the Law Offices of Tara Dawn Shurling, Esquire, ultimately perfected the Record on Appeal for the *pro se* appellant. The Applicant argued his appeal *pro se*. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Adams, Op. No. 2005-UP-520 (S.C. Ct. App. filed September 15, 2005). Following denial of a Petition for Rehearing en banc on November 17, 2005, the South Carolina Court of Appeals issued its Remittitur dated December 22, 2005.

In his Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1) "I would contend that my waiver of trial counsel was not freely, knowingly, voluntarily and intelligently given to the court;"

2) "I would contend that my waiver of appellate court counsel was not freely, knowingly, voluntarily, and intelligently given to the appellate court;"

3) "I would contend that I was denied assistance of counsel on appeal to prepare my briefs;"

4) "I would contend that I was denied assistance of trial counsel to aid me in preparing my defense for trial;"

5) "I would contend that I was denied excess to the court to perfect my appeal;"

6) "I would contend that my federal and state constitutional rights were violated by an inordinate delay on appeal"

7) "I would contend that my federal and state constitutional rights were violated when I was pro se on appeal was not allowed to review the tapes of my criminal trial to correct my transcript;"

8) "I would aver that the S.C. Court of Appeals lacked subject matter jurisdiction to adjudicate my appeal;"

9) "I would contend that the court reporter violated my 6th and 14th Amendment rights to the United States Constitution;"

10) "I would contend that my 6th and 14th Amendment rights to the United States Constitution and my rights under Article I §§ 3 and 14 to the S.C. Constitution was violated by the law library being inadequate to prepare my briefs and arguments on appeal;"

11) "I would contend that I was denied assistance of counsel to consult with prior to my competency hearing;"

12) "I would contend that I was denied effective assistance of trial counsel at my pre-trial hearing;"

13) "I would contend that I was denied effective assistance during voir dire;"

14)"I would aver that I was denied effective assistance of counsel during the sentencing phase of my trial;"

15)"I would contend that I was denied effective assistance of counsel on my direct appeal during the rehearing stage;"

16)"I would contend that I was denied effective assistance of counsel on appeal, when my paid counsel abandoned me on appeal;" and

17)"I would contend that I was denied due process of the law by not being advised by counsel or the court or by any other means that I would take my case to the U.S. Supreme Court if I was denied relief on appeal."

At the evidentiary hearing, while consolidating some of the repetitive claims, the Applicant specifically waived some; and the Applicant proceeded, for the most part, on the allegations as stated in his application for post-conviction relief.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. § 17-27-80 (1985).

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined

the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Alexander v. State, 303 S.C. 539, 542, 402 S.E.2d 484, 485 (1991).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, (citing Strickland). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been

different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. As discussed above, the Applicant has failed to carry his burden in this action. Therefore, this Court finds that the application must be denied and dismissed.

Ineffective waiver of the right to trial counsel (11-A-1), (11-A-2), (11-A-3)

The Applicant alleges that he did not voluntarily waive his right to trial counsel. The Applicant argued that his waiver was involuntary because he only elected to proceed *pro se* because no lawyer would conduct a meaningful investigation on his behalf to prepare a defense for trial. An order signed by me (as Chief Administrative Judge) dated August 13, 1999 ordered that the case be tried by October 31, 1999 (ROA pp. 891-892 (the order). That order also referenced a psychiatric evaluation in March and May of 1999. In that order, Applicant was allowed to represent himself while a public defender with the Richland County Public Defender's office serving as legal advisor. However, pursuant to an order dated September 9, 1999, I (as Chief Administrative Judge) noted that Applicant had filed a lawsuit against the Richland County Public Defender's office and a grievance against his legal advisor and Applicant requested that the advisor be relieved. As Chief Administrative Judge I granted Applicant's request. [ROA pp. 893-894 (order of Judge Barber (as Chief Administrative Judge))]. Orders of September 29, 1999 and October 13, 1999 referenced evaluations of Applicant regarding his competency while designating a trial in October, 1999 (ROA pp. 895-896 (the orders).

By order dated April 6, 2000 Mr. Joseph McCulloch was appointed as standby counsel for the Applicant. The Order further sets out the numerous appointments of counsel for Applicant. Mr. Adams was initially appointed an attorney with the Richland County Public Defender's office following Applicant's arrest. Subsequently, that attorney was relieved and a private attorney was appointed. On February 23, 1999, that private attorney was relieved and Mr. Tommy Evans of the Richland County Public Defender's office was appointed to assist Applicant. On September 28, 1999 Mr. Evans was relieved and Applicant was permitted to proceed *pro se*. On October 18, 1999 Applicant requested appointment of new counsel. That request was granted on October 22, 1999 with the appointment of Mr. Hemphill Pride. The order reflects that on November 16, 2009 Applicant's and at Mr. Pride's request, Mr. Pride was relieved. In December, 1999, Mr. Marvin Mullis was appointed to represent Applicant. Mr. Mullis was thereafter relieved in January, 2000 after his services were deemed unsatisfactory by Applicant. At that time, Applicant elected to represent himself. On January 13, 2000, Ms. Debra Chapman was appointed advisory counsel. In February, 2000 she was relieved. Subsequently, Mr. McCulloch was appointed to assist Applicant. (ROA pp. 899-908 (Order of Judge Williams dated April 6, 2000).

Prior to Applicant's trial, the trial judge on March 29, 2000 heard Applicant's motion for a speedy trial. In reviewing the motion, the Court noted the manner in which the case had proceeded, particularly noting mental health evaluations, a doctor who was to testify had suffered a heart attack, numerous attorneys had been

appointed to represent Applicant only to be subsequently fired from the case, and Applicant himself filed a motion for a continuance just prior to the April 10 trial, which motion was later withdrawn. The trial judge in denying Applicant's motion determined that there were no unreasonable basis why the case had not proceeded and that there had been no showing of prejudice by Applicant (March 29, 2000 transcript, ROA p. 67, line 19 - p. 84, line 3).

Regardless, there was no error in that Applicant, during the March 29, 2000, hearing prior to his April 10, 2000 trial, asked for another continuance on the ground that he was unable to "put on a meaningful defense" (ROA p. 85, lines 14-19). The trial judge again referenced the numerous attorneys that had been appointed to represent Applicant and denied any further continuance (ROA p. 86, line 13 - p. 90, line 10).

This Court notes that the Applicant seemed satisfied with an attorney serving as "advisory counsel," but that the Applicant specifically rejected having Mr. Joseph McCulloch being appointed as counsel. For example, the Applicant at first requested to have McCulloch as the Applicant's "assistant," but later accepted and presented no objections to the trial court's assignment of McCulloch as "advisory counsel" only (ROA p. 36-45, Pretrial transcript p. 95-104).

> THE COURT: NOW THE ORDER APPOINTING MR. MCCULLOCH HAS BEEN EFFECTIVE FOR SOME TIME AND I THINK MR. MCCULLOCH HAS BEEN ASSISTING FOR SOME WEEKS, ALTHOUGH IT WAS ONLY IN RESPONSE TO MR. MCCULLOCH'S REQUEST THAT I ISSUED THE ORDER SETTING OUT EXACTLY WHAT HIS RESPONSIBILITIES ARE. BUT, AND

YOU AGREE, THAT MY ORDER DOES REFLECT THE FULL GRANTING OF YOUR REQUEST, DOES IT NOT?

MR. ADAMS: IT DOES, SIR.

THE COURT: ALL RIGHT, SIR,. AND I UNDERSTAND THE LATENESS OF THAT ORDER, BUT WE NEED TO UNDERSTAND THAT MR. MCCULLOCH WAS APPOINTED QUITE SOME TIME PRIOR TO THAT ORDER AND HAS BEEN ASSISTING YOU SINCE MS. CHAPMAN WAS RELIEVED. ISN'T THAT RIGHT?

MR. ADAMS: YES

Trial transcript p. 20 L. 8-22.

THE COURT: MR. ADAMS, YOU WERE ADVISED BY ME IN JANUARY HOW FOOLISH IT IS FOR YOU TO TRY TO DEFEND YOURSELF.

MR. ADAMS: NO. I DON'T HAVE A PROBLEM - - -

THE COURT: BUT YOU HAVE INSISTED -- YOU HAVE INSISTED THAT YOU WANT TO DEFEND YOURSELF.

MR. ADAMS: I DO.

Pretrial transcript p. 167 L. 24 – p. 168 L. 4, ROA p. 86 L. 24 – p. 87 L.4.

The Applicant, on numerous occasions expressed his satisfaction in representing himself – "LADIES AND GENTLEMEN OF THE JURY, I'M NOT GUILTY OF THESE PENDING CHARGES AGAINST ME. I'VE ELECTED TO REPRESENT MYSELF BECAUSE NOBODY CAN TELL YOU WHAT HAPPENED THAT NIGHT BETTER THAN ME. BECAUSE I WAS THERE." Trial transcript p. 113 L. 11-15.

MR. ADAMS: IF IT WOULD PLEASE THE COURT, I WOULD ALSO LIKE TO KNOW WHEN WOULD BE A PROPER TIME IF I MAY DISCLOSE TO THE COURT [JURY] THE DUE PROCESS OF MY CLIENT. AND I WANT EVERYBODY IN HERE TO KNOW THAT I'M NOT CRAZY. I'M USING MY CLIENT AS MYSELF BECAUSE I'M REPRESENTING MYSELF PRO SE.

Trial transcript p. 25, ROA p. 92.

This Court also finds the several orders signed by me while Chief Administrative Judge for the Court of General Sessions for the Fifth Circuit (ROA p. 891-892, 893-894) determined the Applicant was competent to stand trial and represent himself, was aware of the consequences of self-representation and had voluntarily elected to proceed *pro se* and conduct himself accordingly.

In addition, the Applicant alleges that his waiver of the right to trial counsel was not knowing and voluntarily made because no record exists to demonstrate he was warned of the dangers of self representation. This Court finds the allegation that the Applicant was not warned of the dangers of self-representation to be completely without merit. At the PCR hearing, the Applicant at times testified, and at times argued his case. This Court notes that the Applicant was very careful to not testify under oath that he was never warned of the dangers of self-representation, the Applicant only narrowly alleges that no transcript exists to demonstrate that he was properly warned. This Court acknowledges, based on the record and the representations made by the State at the PCR hearing, that a transcript of the pre-trial proceedings of the Applicant's waivers of the right to trial counsel and warnings of the dangers of self-representation are most probably unavailable[2]. Nevertheless, this Court does have an Order signed by the trial judge,

[2] *See also*, Rule 607(i), SCACR. This Court notes that Rule 607(i), SCACR was amended, effective date August 6, 2003, to require a Court Reporter to retain the primary and backup tapes of proceedings for five (5) years (when no transcript has been requested), at the time of the Applicant's proceedings, the rule required a mere (3) years. Accordingly, any request for transcripts for pre-trial waiver of right to trial counsel proceedings would most likely be futile.

at the request of the Applicant and his advisory counsel, which specifically outlines the role of the advisory counsel (ROA p. 899-908[3]). The Order appointing advisory counsel also contains extensive findings of facts and conclusions of law that the Applicant knowingly and voluntarily waived his right to counsel on more than one occasion after being warned multiple times of the dangers of self-representation. Once again, this Court finds any allegations regarding any ineffectiveness of the Applicant's waiver of the right to trial counsel to be wholly without merit.

Even though no concise "Order Appointing Standby Counsel" is contained in the Record on Appeal which specifically finds that the Applicant knowingly and voluntarily waived his right to trial counsel with a full understanding of the dangers of self-representation, this Court points out the PCR testimony of Joseph McCulloch, "Advisory Counsel" to the Applicant during his trial, who opines that the Applicant did not indicate that his age, educational level, and physical and emotional health in anyway negatively impacted his ability to represent himself. Advisory counsel testified that the Applicant seemed experienced with the legal system and had been involved (successfully) in prior criminal charges. Advisory counsel also testified that the Applicant was clearly aware of the nature of the charges and had had numerous competent attorneys representing himself prior to electing to proceed *pro se*. Mr. McCulloch testified that the Applicant knew the Rules of procedure and that he (advisory counsel) was available to answer any

[3] Order Appointing Standby Counsel, by Chief Administrative Judge James C. Williams, Jr. dated April 6, 2000, filed April 10, 2000. Also introduced as State's exhibit #3 at the PCR hearing.

questions of the Applicant, and that the decision to proceed *pro se* did not appear to be intended to delay or manipulate the proceedings. Advisory counsel further testified that the Applicant was aware of the issues needed to be raised so as to defend himself against the charges. Advisory counsel further testified, and the record reflects, that the exchanges between the trial court and the Applicant went beyond *pro forma* replies. Advisory counsel testified that the Applicant's waiver of the right to counsel was not made due to coercion or mistreatment. Regarding these other factors, as well as a full review of the entire record of both the trial and subsequent appeal, this Court finds that the Applicant was sufficiently apprised of the dangers of self-representation. Gardner v. State, 351 S.C. 407, 570 S.E.2d 184, (2002)[4].

With respect to the allegation that the Applicant's waiver of trial counsel was unconstitutional because the trial court could not simultaneously question his competence and find him competent to waive his right to trial counsel, this Court finds such claim to be a direct appeal issue that is procedurally barred by S.C. Code Ann. §17-27-20(b) (2003). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). The Applicant could have raised this issue at trial or on appeal. His failure to do so has waived

[4] See Watts v. State, 347 S.C. 399, 556 S.E.2d 368 (2001); Wroten; Prince; Bridwell v. State, 306 S.C. 518, 413 S.E.2d 30 (1992).

this allegation as a ground for relief. However, because the Applicant also raises issues of ineffectiveness of his *pro se* appeal, an analysis of the trial court's purported denial of his constitutional rights is included (despite this Court's summary dismissal of the Applicant's direct appeal issues).

The Applicant alleges that because a Blair[5] hearing was conducted, his waiver of the right to trial counsel was ineffective as the trial court cannot question his competence while simultaneously find him competent to stand trial and/or waive his right to trial counsel. While no transcripts exist within the record of the several competency hearings, there are several orders regarding the Applicant's competency (ROA p. 891-895). This Court notes in the Order Appointing Advisor and Setting Date Certain, dated August 13, 1999 and filed August 16, 1999:

> According to Dr. Renee S. Kohanski M.D., of the William S. Hall Psychiatric Institute the defendant was diagnosed as having a Psychotic, Bipolar and Personality Disorder with Narcissistic, and Paranoid Features. Although the defendant has been so diagnosed, the defendant is competent to stand trial, criminally responsible and has the capacity to conform his conduct to the requirements of the law."
> ROA p. 891-892.

Dr. Kohanski does later opine that the Applicant is not competent to stand trial; however, her evaluation acknowledges that the trial court may still find him competent (ROA p. 898). This Court also notes that according to the pretrial orders and the transcripts contained in the record, the Applicant was evaluated on several occasions and ultimately found to be competent with the final competency hearing

[5] State v. Blair, 276 S.C. 644, 282 S.E.2d 596 (1986).

having occurred with the assistance of appointed counsel Doug Truslow (ROA p. 896). During the trial, prior to jury selection, the following took place:

> **THE COURT**: ALL RIGHT, SIR, NOW. THE DOCTORS -- ARE THEY GOING TO TESTIFY THAT THE DEFENDANT IS COMPETENT TO STAND TRIAL?
>
> **MS. CAMPBELL**: YOUR HONOR, AT THIS TIME, THEY CANNOT GIVEN [SIC] AN OPINION BECAUSE MR. ADAMS REFUSED TO SPEAK TO THEM. SO TO GIVE YOU A HISTORY OF THIS, THEY INITIALLY SAW HIM AT WILLIAM S. HALL AND FOUND HIM COMPETENT TO STAND TRIAL, BUT NOTED IN THE REPORT THAT HE MIGHT DETERIORATE DURING THE STRESS OF THE TRIAL.
>
> SUBSEQUENT TO THAT, THEY SAW HIM AGAIN ON OCTOBER 18TH. THEY CAME TO COURT AND TESTIFIED BEFORE JUDGE KINARD. THEY TESTIFIED THAT THEY FELT HE HAD DETERIORATED SOMEWHAT. MR. ADAMS TOOK THE STAND AND JUDGE KINARD FOUND THAT HE WAS COMPETENT AT THAT POINT. SINCE THEN, THEY'VE HAD NO FURTHER CONTACT.
>
> OUT OF AN ABUNDANCE OF CAUTION, I BOUGHT THEM TO COURT TODAY SHOULD THEY BE ABLE TO TALK TO MR. ADAMS AND HAVE A FURTHER EVALUATION. HOWEVER, YOUR HONOR, THEY CANNOT ADD ANYTHING FURTHER TO -- SINCE THE LAST FINDING.
>
> **THE COURT**: ALL RIGHT. DID YOU UNDERSTAND THAT, OF COURSE, MR. ADAMS, THAT THE DOCTORS INFORMED THE SOLICITOR THAT YOU WOULD NOT COOPERATE WITH THEM, IS THAT TRUE?
>
> **MR. ADAMS**: YES, THAT IS CORRECT. I WOULD NOT TALK TO THEM OR IN ANY WAY, IN PART OF IN WHOLE, COMMUNICATE WITH THEM BASED ON THE FACT THEY HAVE SHOWN ME EXTREME PREJUDICE. THEY TRIED TO PUT ME ON MEDICATION.
>
> I DO HAVE THE PLEADINGS, YOUR HONOR, AFTER BEING IN YOUR COURTROOM SEVERAL TIMES THAT I HAVE IMMACULATE COURTROOM PERFORMANCE. I'VE CONDUCTED MYSELF AS AN OFFICER OF THIS COURT AND WHEREFORE I FEEL THAT MY COMPETENCY UNDER RULE 601 OF THE

SOUTH CAROLINA RULES OF EVIDENCE HAS NOT BEEN SHOWN.

THE COURT: ALL RIGHT SIR. AND YOU WOULD STIPULATE THAT THE TWO DOCTORS, AND WHO ARE THEY, COUNSEL, WOULD YOU PLACE THEIR NAMES ON THE RECORD?

MS. CAMPBELL: YES, YOUR HONOR. IT'S DR RENEE KOHANSKI AND DR. STEPHEN SHEA.

THE COURT: ALL RIGHT. MR. ADAMS, WOULD YOU STIPULATE THAT IF DR. KOHANSKI AND DR. SHEA WERE PUT UNDER OATH AND PUT ON THE STAND, THEY WOULD TESTIFY THAT YOU DID NOT COOPERATE, DID NOT PROVIDE THEM ANY ADDITIONAL INFORMATION THIS MORNING AND THEREFORE, YOU WOULD WAIVE THEIR TESTIMONY?

MR. ADAMS: YES, SIR.

THE COURT: AND YOU UNDERSTAND WHAT I'M SAYING. I COULD HAVE THEM GET UP AND SAY YOU DIDN'T COOPERATE, BUT YOU'VE ADMITTED THAT, RIGHT, SIR?

MR. ADAMS: YES, I ADMIT THAT.

THE COURT: AND, UH, YOU ARE NOT RAISING THE ISSUE OF YOUR COMPETENCY AT THIS TIME. YOU FEEL LIKE YOU ARE FULLY COMPETENT TO GO FORWARD.

MR. ADAMS: YES, SIR, I DO SIR.

THE COURT: ALL RIGHT, SIR, AND I WILL NOTE FOR THE RECORD THAT IN MY MANY CONVERSATIONS WITH MR. ADAMS, I HAVE HAD NO REASON TO SUSPECT HIS COMPETENCY. I HAVE EXPRESSED TO HIM MY RESERVATIONS ABOUT HIS WISDOM IN CHOOSING TO REPRESENT HIMSELF.

BUT THAT IS HIS RIGHT AND I FIND THAT HE HAS FULLY WAIVED THAT RIGHT TO HAVE REPRESENTATION AND THERE'S, SINCE NO EITHER IN HIS MIND NOR IN THE COURT'S MIND CONCERNING HIS COMPETENCY, SINCE HE HAS BEEN PREVIOUSLY FOUND COMPETENT BY THIS COURT AND SINCE HE DID NOT COOPERATE WITH THE DOCTORS SO THEY CANNOT ADD ANYTHING, THEN IN EFFECT, MR. ADAMS, HAS STIPULATED TO WHAT THEIR TESTIMONY WOULD BE. SO THE DOCTORS WILL BE EXCUSED. THANK YOU VERY MUCH FOR COMING.

Trial transcript p.20 L. 23 – p. 23 L. 16.

This Court further notes the dialog between the Applicant and the trial court during the pretrial hearings when the Applicant again asserts his competence and the competency hearing is referenced. The Applicant did not object, but rather agreed with, the Solicitor's reference to the October 18, 1999 competency hearing that found the Applicant to be competent.

At the PCR hearing the Applicant made reference to one of the competency evaluation reports suggesting the Applicant may not be competent; however a hearing was held after that report and the Applicant was found to be competent. Additionally, the Applicant addressed the evaluation report during his pretrial hearings:

> **THE COURT**: I BELIEVE THE DOCTOR SAID YOU WERE NOT COMPETENT.
>
> **MR. ADAMS**: THE DOCTOR WAS LYING. THAT'S HOW COME I'M NOT THERE. THAT'S WHY SHE'S SUED FOR $175 MILLION, FOR PLAYING GAMES WITH ME. THE DOCTOR IS THE ONE WHO NEEDS A MENTAL EXAM, BUT SHE DON'T EVEN KNOW THAT A PERSON HAS A SIXTH AMENDMENT RIGHT TO CONSULT WITH COUNSEL. AND SHE'S SUPPOSED TO BE A DOCTOR.
>
> Pretrial transcript, p. 131 L. 12-19, ROA p. 72 L. 12-19.

See also, Pretrial transcript, p. 131-167, ROA p. 72-78. Rather than show prejudice from having the competency hearing(s), the Applicant specifically stated it was in his advantage: "I WALKED IN TO A [COURT]ROOM, AND THERE THEY [DOCTORS] ARE AGAIN, BUT IT GAVE ME AN OPPORTUNITY TO SERVE THEM WITH A LAWSUIT. SO I THANK MS. CAMPBELL FOR THAT." Post trial

transcript p. p. 33 L. 16-19, ROA p. 887 L. 16-19. This Court finds that the trial court did not question the Applicant's competency in any matter inconsistent with the trial court's acquiescence to the Applicant's competency to waive his right to trial counsel and proceed *pro se*. Accordingly, any allegation(s) that the Applicant's waiver of the right to counsel was "Unconstitutional" because the trial court conducted a competency evaluation is wholly without merit.

Ineffective waiver of right to appellate counsel (11-B-1), (11-B-2), (11-C-1)

The applicant argues that because the appellate court did not warn the Applicant of the dangers of proceeding *pro se* on appeal, his waiver of the right to appellate counsel is therefore ineffective and he is entitled to have his sentence vacated and therefore a new trial. In support of his argument, the Applicant relies on Snook v. Wood, 89 F.3d 605, (C.A.9 (Wash.),1996). While ignoring the non-controlling nature of a Ninth Circuit Habeas case, this Court fully acknowledges the conceptual reliance contained in Snook, in that a criminal defendant must be warned of the dangers of *pro se* representation in order to legitimize any waiver of the right to appellate counsel. In Snook, the Ninth Circuit Court of Appeals ultimately confirmed the lower court's findings that Snook was not properly warned of the dangers of self-representation:

> With regard to the waiver of counsel on appeal issue, the district court held an evidentiary hearing to determine whether Snook knowingly, intelligently, and voluntarily waived his right to counsel on direct appeal. On October 6, 1995, the district court issued a written order stating:

> [U]nder the applicable law, there has been no showing at all of a knowing, voluntary, and intelligent waiver of Petitioner's right to the assistance of counsel on appeal of his aggravated murder conviction. No one ever talked to Snook, a 24 or 25 year-old man, with a limited education, with psychological problems, and who had been sentenced to death, about the dangers and potential consequences of self-representation. Snook did not have the background and experience in legal matters in 1977-80 to represent himself in a capital appeal of all appealable issues in this case.
>
> Snook v. Wood, 89 F.3d 605, 609 (C.A.9 (Wash.),1996).

Even applying the same analysis used in Snook, this Court finds the Applicant's claims to be without merit. The Snook court stated:

> In Balough[6] and Hendricks[7], we recognized "that a limited exception may exist whereby a district court's failure to discuss each of the elements in open court will not necessitate automatic reversal when the record as a whole reveals a knowing and intelligent waiver." Balough, 820 F.2d at 1488. In such cases, "we will look to the particular facts and circumstances surrounding that case, including the background, experience and conduct of the accused to determine whether the waiver was knowing and intelligent despite the absence of a specific inquiry on the record." Id. (quotations omitted). Nevertheless, before a defendant can make a knowing and intelligent waiver of counsel on appeal, the defendant must "be made aware of the dangers and disadvantages of self-representation," if not by the court, then by some other source. Faretta, 422 U.S. at 835, 95 S.Ct. at 2541[8].
>
> Snook v. Wood, 89 F.3d 605, 613 (C.A.9 (Wash.),1996).

Unlike Snook, the Applicant represented himself *pro se* at trial. It is clear from the record, and as stated above, the Applicant was warned on numerous occasions of the

[6] U.S. v. Balough, 820 F.2d 1485 (C.A.9 (Cal.),1987).
[7] Hendricks v. Zenon, 993 F.2d 664 (9th Cir.1993).
[8] Faretta v. California, 422 U.S. 806,95 S.Ct. 2525 (U.S.Cal. 1975).

dangers of self-representation. Pretrial transcript p. 167 L. 24 – p. 168 L. 4, ROA p. 86 L. 24 – p. 87 L.4. ROA p. 891-892, 893-894. ROA p. 899-908.

Trial transcript p.20 L. 23 – p. 23 L. 16. Additionally, this Court notes the additional factors used in finding that the Applicant was aware of the dangers of representing himself *pro se* per Gardner v. State, 351 S.C. 407, 570 S.E.2d 184, (2002). The Applicant has failed to demonstrate that a criminal defendant needs to be warned again by the appellate court of the dangers against self-representation in order to validate his waiver of the right to appellate counsel after proceeding *pro se* at trial.

This Court additionally looks to State v. Roberts, 364 S.C. 583, 614 S.E.2d 626 (2005) in finding that the Applicant's claim is without merit. While our State Supreme Court found that Roberts was not entitled to proceed *pro se* on direct appeal, their reasoning was based on the fact that "[Robert]'s request to proceed *pro se* was not made in a timely fashion." State v. Roberts, 364 S.C. 583, 589, 614 S.E.2d 626, 629 (S.C.,2005). In Roberts, the appellant requested to proceed *pro se* only after the Office of Appellate Defense served and filed the initial brief for Roberts.

After an exhaustive analysis the South Carolina State Supreme Court stated that:

> Appellant clearly does not have a federal constitutional right to proceed pro se in this appeal from his criminal conviction. We also find there is no state constitutional provision which confers such a right. We agree with the Florida, New Hampshire and Alabama Supreme Courts that language such as that contained in Art. I, § 14 of the South Carolina Constitution does not apply to appeals. **However, the Court**

> **may, in its discretion, allow an appellant to proceed pro se in an appeal from a criminal conviction.**
> State v. Roberts, 364 S.C. 583, 588-589, 614 S.E.2d 626, 629 (S.C.,2005) *emphasis added.*

Accordingly, this Court acknowledges that the Applicant moved the appellate court to be allowed to proceed *pro se* on appeal. States exhibit #1[9] and #2[10]. The Applicant's "Motion to Proceed *Pro Se* on Appeal" was granted by the South Carolina Court of Appeals on September 15, 2000. *See*, Application for Post Conviction Relief p. 23. In the handwritten documents submitted to the appellate court(s), the Applicant insisted on representing himself *pro se* on appeal. The Applicant's motions/affidavits included the following (among others) assertions:

> "(1) I, Mr. E. S. Adams III, am the Appellant Pro. se. in the above Captioned matter."
>
> "(2) In Conformity with Rule 602 (e)(6) of The SCACR I have Forthwith A motion To This Court so I can obtain an order Saying that I am indigent and Competent To represent myself on my Appeal."
>
> "(5) I am very much Competent to represent myself on this Appeal."
>
> "(6) I represented myself at Trial and did A very Good Job."
>
> "(7) I am also Pro. se. in several actions."
>
> Edmond Stanley Adams, III. "Affidavit To Support Motion by Mr. Edmond Stanley Adams, III Esq." Dated January 4, 2001.

> "(1) Hence That The Appellant hereto Captioned asserted and exercised his Constitutional Rights To represent himself pro. se. at his criminal Trial. See U.S. Const. Amend VI., S.C. Const. Art. I § 14, code

[9] Affidavit by Edmond Stanley Adams, III. "Affidavit To Support Motion by Mr. Edmond Stanley Adams, III Esq." Dated January 4, 2001.
[10] Motion by Edmond Stanley Adams, III. "Notice of Motion and Motion To proceed pro. se. on appeal." Dated August 14, 2000 and received by the South Carolina Office of the Attorney General August 17, 2000.

of Laws of S.C. 17-23-60 and The precedent Faretta vs. California 422 U.S. 806, 834 N. 46 (1975)"

"(2) Hence That The Appellant demonstrated That he can effectively Function in The Judicial areana [sic]."

"(4) Hence that The Appellant Appealled [sic] his Conviction Pro. se. and is The only Attorney of Record in this Appeal."

"(5) Hence That pursuant To Rule 235(a)&(b) and 236 (c) of The SCACR The Appellant is Still The Attorney For himself/Guardian at [sic] Litem."

"(7) Hence The Appellant wishes To proceed Pro. se. in his Appeal whetherby [sic] Submitting or sending Forth his own Brief pointing out reversible err."

"(8) Hence That pursuant To Rule 1.2 of The SCACR (Scope of Representation) I have The Ultimate Authority in my Case."

"(9) Hence That do [sic] to A Conflict of interest with The S.C. Appellate Court Commission I wish To proceed pro.se. in This Appeal at This Time."

"(10) Hence I do not want The S.C. Appellate Court Defense Commission involved in my case in part or in whole."

"(1) Hence That I am The "only" Attorney of Record in these hereto Captioned Captioned [sic] cases."

"(2) Hence That I have not Filed "any" motions in any Court to relinquish my Pro. se. Rights."

"(7) Hence That I have reviewed several Briefs From The S.C. Appellate Court Defense Commission because I am A Jail house Attorney."

"(8) Hence That I am not impressed with there [sic] work at all."

"(9) Hence To insure my lifes blood and my Brief is done in the correct Form For A reversal I want to Forthwith my own Brief and handle my own Appeal."

"(10) Hence at This Time I wish to proceed on Appeal Pro. se. to insure my Rights are protected. Further more I Sayeth Not."

Edmond Stanley Adams, III. "Notice of Motion and Motion To proceed pro. se. on appeal." Dated August 14, 2000 and received by the South Carolina Office of the Attorney General August 17, 2000.

This Court finds that the Applicant knowingly and intelligently waived his right to appellate counsel and was apprised of the dangers of proceeding *pro se*. The

Applicant never objected to the introduction of the handwritten motions and affidavits submitted as State's exhibit #1 and #2, which clearly demonstrate the Applicant's intent to proceed *pro se* on appeal. Additionally, as stated above, this Court finds that the Applicant was fully aware of the dangers of proceeding *pro se* and his waiver of the right to appellate counsel was not ineffective and any allegations to the contrary are wholly without merit.

One of the Applicant's claims for PCR relief is that his waiver of counsel on appeal was unconstitutional because he waived his right to appointed appellate counsel to keep the S.C. Appellate Commission from interfering with his case when he attempted to obtain private appellate counsel and that he was never found, by the Appellate Court, to be indigent. Present in the court room during the PCR hearing, the Applicant's mother verified the Applicant's assertion that a $500 retainer was accepted by private counsel for the purposes of appeal but that said private counsel rendered no aid (PCR allegation 11-Q-1). *See also*, Application for Post- Conviction Relief, p. 24. This Court finds that the Applicant has repeatedly requested to take advantage of his indigent status throughout his trial (several appointed attorneys, court appointed investigators, free service of process, etc.), his appeal (Office of Appellate Defense paid the court reporter, Tara D. Shurling was appointed by the appellate court to perfect the Record on Appeal), and the Applicant requested to proceed without paying the filing fees for the PCR. This Court finds no merit whatsoever in the Applicant's convoluted argument that he is entitled to PCR

relief because he did not properly waive the right to appellate counsel because (either by request or not) appellate counsel assisted in his appeal.

Denial of free access to the courts (11-E-1)

The Applicant alleges that by charging the Applicant for copies as well as postage he was denied free access to the courts. As explained above, the Applicant knowingly and voluntarily waived his right to counsel. The Office of Appellate Defense paid for the Applicant's transcript and the appellate court appointed Tara D. Shurling, Esquire to help the Applicant perfect the Record on Appeal. The Applicant has demonstrated no prejudice whatsoever from the policies of the Applicant's penal institutions and the fact that copying and postage may have required funds. This Court finds the Applicant's claims to be without merit.

Unconstitutional delay on appeal (11-F-1)

The Applicant alleges that because his direct appeal was not finally adjudicated until December 22, 2005 his right to a "speedy remedy on appeal" was denied. This Court finds that any "delay" in adjudicating the Applicant's appeal was necessary, due to the number of motions filed by the Applicant and the requisite time to address those issues. This Court understands that the Applicant has every "right" to have the appeals court address his issue(s). However the records before this Court indicate the final filing was on or about April 29, 2005 and the appeals court made their ruling on September 15, 2005. The Applicant has not demonstrated any aspect of the direct appeal that indicates an extraordinary or unnecessary delay by the State. Accordingly, this Court finds the Applicant's claims

to be without merit. Maner v. Maner, 278 S.C. 377, 384, 296 S.E.2d 533, 537 (S.C.,1982).

Unconstitutional violations concerning the trial transcript (11-G-1), (11-I-1)

The Applicant presented arguments and exhibits at the PCR hearing purporting to demonstrate that the court reporter improperly destroyed the primary and/or backup tapes from the trial. The Applicant also questioned advisory counsel as to whether advisory counsel would find it shocking that the trial transcript did not include portions concerning the Applicant's *pro se* jury voir dire.

First, this Court notes that challenges to the authenticity or inadequacies of the appellate record are direct appeal issues. State v. Ladson, 373 S.C. 320, 644 S.E.2d 271 (S.C. App. 2007), State v. Serrette, 375 S.C. 650, 654 S.E.2d 554 (S.C. App. 2007). This allegation raises a direct appeal issue that is procedurally barred by S.C. Code Ann. §17-27-20(b) (2003). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). The Applicant did or could have raised this issue at trial (on remand) or on appeal. Because his arguments were either unsuccessful before the appellate court or were not presented does not render PCR a substitute for direct appeal issues.[11]

[11] **Error! Main Document Only.**The Court of Appeals subsequently issued an order dated September 13, 2002 finding that based upon a review of the transcript provided, there was no support for

Additionally, on August 23, 2002 the Applicant served his Initial Brief of Appellant and Designation of Matter for his direct appeal. Upon such filing the Applicant has asserted the issues for appellate review and designated those materials he deems necessary for review. Rule 208 and 209, SCACR. By inference, any materials, which he would claim were not properly presented in his transcript of record, are now no longer necessary for the appeal. Pursuant to Rule 211(b)(2), SCACR, no other changes may be made to a Final Brief filed with the appellate court other than obvious typographical errors and misspellings contained in the Initial Brief. This Court relies on, as evidence, the Court Reporter's Certification that the transcript "is a true, accurate, complete transcript of record." Trial transcript p. 1574. Regardless, there has been no attempt to reconstruct the lower court's record. If there was any insufficient or incomplete record which precluded appellate review the Applicant could/should have attempted a reconstruction. By not doing so the Applicant has failed to demonstrate that either reconstruction is impossible or effective appellate review was precluded. Draper v. Washington, 372 U.S. 487, 496-498 (1963). China v. Parrott, 251 S.C. 329, 334, 162 S.E.2d 276 278 (1968) ("Where there is disagreement as to what the record on appeal should contain, the duty and responsibility of settling the question rests upon the trial judge.") Accordingly, the letter dated July 26, 2002, from trial Judge James C. Williams, Jr. indicates that

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Adams' complaints of alterations, missing objections or missing testimony. Furthermore, Adams had already filed his initial brief and designation of matter.

the trial court was satisfied with the record and the unavailability of the tapes. Application for Post-Conviction Relief p. 31.

This Court is also not persuaded that Applicant is entitled to relief merely because the court reporter sent the transcript to the party that paid for it, despite the fact that the Applicant was *pro se* on appeal. The Applicant demonstrated no prejudice or clear violation of any existing law concerning the allegation that the court reporter sent the transcript to the party who paid for it. Finally, even if the Applicant satisfied his burden of proof and was able to demonstrate that the court reporter improperly destroyed the backup tapes, the Applicant has failed to demonstrate any prejudice, i.e. inadequacy of the record. Advisory counsel testified that he would be shocked/surprised if the trial transcript did not properly memorialize the Applicant's Batson[12] challenges during jury voir dire as well the Applicant's objection(s) and motion(s) for mistrial concerning the Solicitor's closing remarks. This Court notes that the Applicant's Batson challenges and challenges to the Solicitor's closing remarks are memorialized in the trial transcript and the Court of Appeals addressed the issue. State v. Adams, Op. No. 2005-UP-520 (S.C. Ct. App. filed September 15, 2005) [parts VI-IX]. ROA p. 102-146, 792-854, Trial transcript p. 39-96, 1449 - 1516. *See also*, Post trial transcript ROA p. 855.

Ineffective waiver of counsel during pre-trial and post-trial stages (11-K-1), (11-L-1), (11-M-1), (11-N-1), (10-O-1), (11-P-1)

[12] Batson v. Kentucky, 476 U.S. 79, 89 (1986).

The Applicant alleges that he is entitled to relief due to failure of the trial court to appoint counsel, or in the alternative, waive his right to counsel during the Blair hearing, Voire Dire, sentencing, the rehearing stage on appeal and on remand from appellate court to General Sessions. The Applicant has failed to demonstrate any prejudice whatsoever entitling him to relief even assuming his allegations were legitimate.

This Court finds no merit whatsoever in the Applicant's claim that he was not represented by counsel during the Blair hearing. As Chief Administrative Judge, I signed an Order, dated October 13, 1999, appointing Doug Truslow to represent the Applicant at the final competency evaluation hearing (ROA p. 896).

During the Voire Dire, the Applicant had "Advisory Counsel." The role of "Advisory Counsel" during the trial was exactly what the Applicant requested. Pretrial transcript p. 167 L. 24 – p. 168 L. 4, ROA p. 86 L. 24 – p. 87 L.4. The trial court specifically asked the Applicant just prior to jury selection if the Order appointing "Advisory Counsel" reflected the full granting of the Applicant's request and the Applicant stated "[I]t does, Sir." Trial transcript p. 20 L. 8-22. If that is not sufficient, immediately prior to jury selection the trial court also confirmed that the Applicant had waived his right to counsel and was proceeding *pro se*.

> **THE COURT**: ON THIS ISSUE -- ALL RIGHT, SIR. NOW, LET, JUST LET THE RECORD REFLECT THAT MR. ADAMS HAS CHOSEN TO REPRESENT HIMSELF. THIS COURT HAS HAD A NUMBER OF CONVERSATIONS WITH MR. ADAMS AS WELL AS PRIOR COURTS DETERMINED THAT HE HAS FULLY, KNOWINGLY AND INTELLIGENTLY WAIVED HIS RIGHT TO AN ATTORNEY.

Trial transcript p. 18 L. 17-22.

Accordingly, this Court finds no merit whatsoever that the Applicant's waiver of the right to counsel was ineffective at the jury selection phase.

During the sentencing stage there is no requirement for the trial judge to appoint counsel or obtain another waiver, for a *pro se* defendant during the sentencing phase of the criminal trial.

> In United States v. Holmen, 586 F.2d 322 (4th Cir.1978) the court found it was error not to allow appellant to withdraw his waiver of counsel and have counsel appointed at the sentencing stage. However, in Holmen, the sentencing stage was a separate proceeding unlike the continued proceeding in the instant case involving a sequestered jury.
> State v. Reed, 332 S.C. 35, 44, 503 S.E.2d 747, 751 (1998).

The Applicant was sentenced immediately following the jury verdict, not as a separate proceeding as in Reed. Trial transcript, p. 1573. Accordingly, this Court finds that the Applicant has failed to demonstrate he is entitled to relief because the trial court should have conducted another waiver of the right to counsel (or simply appointed counsel) at the sentencing phase. Neither has the Applicant demonstrated to this Court that was in any way prejudiced during the sentencing phase even if he were not afforded a right to counsel (which he waived).

The Applicant's allegation that he is entitled to relief because he was not appointed counsel, or waived the right to appointed counsel on appeal, as stated above, is completely without merit. The Applicant motioned the appellate court to appear *pro se* on appeal, simply because the Applicant elected to pursue a motion

for rehearing with the appeal court while his direct appeal was pending did not vest the appellate court of jurisdiction and the Applicant has failed to demonstrate that he entitled to separate waivers of the right to counsel throughout the various stages of his appeal.[13]

Finally, the Applicant alleges he is entitled to relief because "he was not advised that he could appeal his case to the U.S. Supreme Court upon his denial of appellate relief." This Court finds no merit whatsoever in the Applicant's above claim. The Applicant has failed to demonstrate any source or authority indicating a *pro se* criminal appellant is entitled to be advised that he can request review by the United State's Supreme Court following a denial during direct appeal of a criminal conviction in a State's Supreme Court.

This Court finds Applicant's testimony is not credible, while also finding Applicant's advisory counsel's testimony is credible. Accordingly, this Court finds Applicant has failed to prove the first prong of the Strickland test – that counsel failed to render reasonably effective assistance under prevailing professional norms. This Court also finds Applicant has failed to prove the second prong of Strickland – that he was prejudiced by counsel's performance.

[13] This Court notes that the only "remand" during the appeal was for the trial court to address the alleged transcript issue(s), that the appellate court never remitted jurisdiction pending the appeal.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Counsel was not deficient in any manner, nor was Applicant prejudiced by counsel's representation. The Applicant's waivers of the right to counsel were all effective. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

Except as discussed above, this Court finds that the Applicant failed to raise the remaining allegations set forth in his application at the hearing and has, thereby, waived them, including but not limited to 11-Q-1, 11-J-1, 11-H-1. As to any and all allegations that were or could have been raised in the application or at the hearing in this matter, but were not specifically addressed in this Order, this Court finds Applicant failed to present any probative evidence regarding such allegations. Accordingly, this Court finds that Applicant waived such allegations and failed to meet his burden of proof regarding them. Accordingly, they are dismissed with prejudice. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issue at the hearing indicates a voluntary

and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

This Court advises Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by Applicant of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant and counsel are directed to Rules 203, 206, and 227 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and

2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 19TH day of MAY, 2008.

The Honorable James R. Barber, III.
Presiding Judge
Fifth Judicial Circuit

Columbia, South Carolina.

State OF South Carolina
County OF Richland

To The Court OF
Common Pleas

Edmond Stanley Adams III, #265717
Applicant

C/A No. 2020-CP-400-3837

"VS"

State OF South Carolina
Respondent

Amendment And Supplementation
To PCR Application

Comes Now, Mr. Edmond Stanley Adams III, and I would respectfully Show unto This Court OF Common Pleas the following:

(Preamble)

This is the Applicants Second PCR application Submitted to This Court. Most obviously, Successive PCR applications are disfavored, however there are EXceptions to Supersede the broad rule that a PCR applicant Can only have one PCR hearing, and an EXception affirms an opposite rule," (Exceptio Firmat Regulem In Contrarium).

(Why This Court Should Entertain This PCR Action)

Unavoidable, Applicant did not get a full, and fair bite of The judicial apple in his first PCR Litigation.

To be Sure, applicant was NOT EXpromptly appointed Counsel after The State made it's return, and Stated questions of Law and facts existed for a PCR hearing to be held.

Secundum Regulam, "If after the State has filed its return, the application presents questions of law or fact which will require a hearing, the Court shall [p]romptly appoint Counsel to assist the applicant if he is indigent. Counsel shall be given a reasonable time to confer with the applicant. Counsel shall insure that all available grounds for relief are included in the application and shall amend the application if necessary." (Rule 71.1(d) SCRCP)

This much is certain, applicant did [N]ot get a full and fair bite of the PCR apple, because he did not get the entitlements, and benifits afforded to him by rule, to wit; (1) The State made its return on February 11th, 2007, and applicant did not purportedly waive PCR Counsel until March 17th, 2008. No matter how its viewed, it is pellucid that Applicant was "Inops Consilii" For 13 months during a PCR action, which means 13 months of being oppressed from the benifit of Counsel aiding the applicant.

Applicant Never received the benifits of Conferring with Counsel, and Counsel making sure all grounds for relief was raised, and litigated properly, moreover, amendments to application could have been made. One thing for sure, A 13th months delay is surely not prompt. The S.C. Supreme Court has [h]eld - "We hold that when a PCR application is [n]ot dismissed before a hearing is held, the PCR judge must appoint Counsel, or obtain a Knowing, and intelligent waiver of that right by applicant (Whitehead vs. State, 310 S.C. 532, 426 S.E.2d. 315 (S.C. 1992.). The Rule 71.1(d) SCRCP has No exception, Therefore Counsel Should have been appointed until a waiver of Counsel was Court record, Mangal vs. State, 421 S.C. 85 (S.C. 2017) Richardson vs. State, 377 S.C. 103, 659 S.E.2d. 493 (S.C. 2008)

Odom vs. State, 337 S.C. 256, 523 S.E. 2d. 753 (S.C. 1999)
Gay vs. State, 347 S.C. 627, 557 S.E. 2d. 662 (S.C. 2001)
Al-Shabazz vs. State, 338 S.C. 354, 527 S.E. 2d. 742 (S.C. 2000)

Applicant also hard procedural irregularities during his first PCR litigation. To be sure, The Court Never answered applicants factual predicate that he was denied Counsel at his Compentency hearing held on April 10th, 2000 (See page 9 For Clarity That This issue was raised The Court in its order of dismissal Stated Applicant was appointed Counsel for his Compentency hearing held in "1999." This is Tantamount to No answer at all.
(Washington vs. State, 324 S.C. 232, 478 S.E. 2d. 833 (S.C. 1996)

Applicant also avers That The Circuit Court of Richland County Lacked Subject Matter Jurisdiction To entertain his Post Pre-Trial motion hearing, and Trial. These Claims must be heard by The Court, because issues related To Subject Matter Jurisdiction Can be raised at anytime, in any Proceeding.

Applicant also avers That The S.C. Court OF Appeals, and The S.C. Supreme Court Lacked Appellate Court Jurisdiction To adjudicate his appeals. These issues must heard, and Cannot be barred. What is more, Applicant litigates Several "Structural errors" with jurisdictional implications in this cause, thereby applicant will forthwith The Court then precedent Alice vs. State, 305 S.C. 448 (S.C. 1991); and The S.C. Codes Ann. 33 17-27-20 (a)(1), (2), and (4) for a Second PCR hearing to be held.

35

Please Take Notice: To amend and Supplement Section "10" of Applicants PCR pleadings, I would State as follows:

(10(a))

The Richland County Court of General Sessions Lacked Subject Matter Jurisdiction, and general jurisdiction To entertain and adjudicate my Pre-trial motions, thus Violating my rights under The S.C. Const. Art. I §3, and The 14th Amendment To The U.S. Constitution.

(10(b))

The Richland County Court of General Sessions Lacked Subject Matter Jurisdiction, and general jurisdiction To entertain and adjudicate my waiver of Counsel hearing, thus violating my rights under The S.C. Const. Art. I §3, and The 14th Amendment to The U.S. Constitution.

(10(c))

The Richland County Court of General Sessions Lacked Subject Matter Jurisdiction to entertain, and adjudicate my Case at trial, thus Violating my rights under The S.C. Const. Art. I §3, and The 14th Amendment To The U.S. Constitution

(10(d))

The Richland County Court of General Sessions Lacked Jurisdiction To entertain, and adjudicate my criminal Case, Thus violating my rights under The S.C. Const. Art. I §3, and The 14th Amendment to the U.S. Constitution.

(10(e))

The Richland County Court of General Sessions Lacked Jurisdiction To entertain, and adjudicate my Cause as Removed, Thus violating my rights under the S.C. Const. Art. I 33, and The 14th Amendment To The U.S. Constitution.

(10(f))

Judge James C. Williams Lacked Jurisdiction To entertain, and adjudicate my Pre-trial motions, Thus violating my rights under The S.C. Const. Art. I 33, and The 14th Amendment to the U.S. Constitution.

(10(g))

The S.C. Court of Appeals Lacked Appellate Court Jurisdiction To entertain, and adjudicate my appeal, Thus violating my rights under The S.C. Const. Art. I 33, and The 14th Amendment To The U.S. Constitution.

(10(h))

The S.C. Supreme Court Lacked Appellate Court Jurisdiction To entertain, and adjudicate my PCR appeal, Thus violating my rights under The S.C. Const. Art. I 33, and the 14th Amendment To The U.S Constitution.

(10(i))

There was an Conflict of Interest between myself and The Prosecution in This Case at Trial, Thus violating my rights under The S.C. Const. Art. I 33, and The 14th Amendment To The U.S. Constitution.

(10(J))

The trial Court judge James C. Williams was biased against me, Thus violating my rights under The S.C. Const. Art. I 33, and the 14th Amendment to the U.S. Constitution.

(10(K))

Applicants purported waiver of PCR Counsel was not knowingly, and intelligently given To The PCR Court, Thus Violating his rights under The S.C. Const Art. I 33, and The 14th Amendment To The U.S. Constitution.

(10(L))

Applicant was denied Counsel totally during his first PCR litigation in Violation of Rule 71.1(d) SCRCP, Thus Violating Applicants Rights under The S.C. Const. Art. I 33, and The 14th Amendment To The U.S. Const.

Please Take Notice: To amend and Supplement Section "11" of Applicants PCR pleadings, I would State as follows:

(11(a)(1))

Preliminarily, U.S. vs. Cotton, 535 U.S. 625, 122 S.Ct. 1781 (2002) made it pellucid, That [S]ubject [M]atter [J]urisdiction is as courts [S]tatutory or Constitutional power to hear and adjudicate a Cause.

In View of This, It is my proposition That on March 29th, 2000 The General Sessions Court of Lacked Subject Matter Jurisdiction, as well as general jurisdiction To hear and adjudicate This Cause.

This proposition is anchored from The S.C. Code Ann. 14-5-670(2) which is The Legislative Law which gives The Richland County Court of General Sessions [S]tatutory [P]ower To hear and adjudicate a Cause.

Ita Lex Scripta Est:

"The Courts of The Fifth judicial Circuit Shall be held as hereinafter provided"

Richland County — The Court of general Sessions for Richland County Shall be held at Columbia on The Second Monday in January for two weeks, on the Second Monday in April for two weeks, on the third Monday in June for two weeks, on the Tuesday following the first Monday in September for three weeks, and on the Seconds Monday in December for two weeks.

After reading This Statutory Law, you are now acutely aware That our State Legislature did [N]ot bless The Richland County Court of General

Sessions with judicial power to do anything, at all, on March 29th, 2000.

Jurisprudentially Speaking, The Richlands County Court Of General Sessions entertaining Applicants Pre-trial motions on March 29th, 2000, was in fact "Mallum Prohibitum".

Put another way, The Courthouse was [C]losed on March 29th, 2000, and The records illuminates my position in this matter, to wit, (pg 55 infra) (D. Page 139 of my Pre-trial Transcript clearly indicate That Judge James C. Williams did my Pre-trial motion hearing [e]arly, and There was [N]o Clerk of Court present, and he had to Find a Court reporter. In view of this, because The Richlands County Court of General Sessions had No [S]tatutory [P]ower on March 29th, 2000 to hold a pre-trial motion hearing, The Court Lacked Subject Matter Jurisdiction and general jurisdiction, and The acts of a Court without jurisdiction are void, (Coram Non Judice).

(11(b)(1))

On "August 11th, 1999," The Applicant appeared before The Court, and purportedly waived his 6th Amendment Right To effective assistance of Counsel. Concrete and to The point, The Court did [N]ot have Subject Matter Jurisdiction or general jurisdiction to except applicants purported waiver of Counsel predicated on a blatant violation of The S.C. Code Ann. 14-5-670(2). This much is certain, Applicant Cannot waive a [F]ederal or [S]tate Constitutional Right in a proceeding prohibited by Statutory Legislative Law. The waiver hearing is [V]oid, therefore there is No Valid waiver, and The Court had No Judicial Power at all. (pg 45 infra)

(11(c)(1))

The Richland County Court OF General Sessions Lacked Subject Matter Jurisdiction because it Lacked [C]onstitutional [P]ower to entertain and adjudicate my case.

The S.C. Const. Art. I, § 11 requires a valid indictment before The Court can acquire Subject Matter Jurisdiction.

My indictments are not real. They are a complete fabrication.

Dana Johnson, Who was Sent To The Federal Penitentiary, and Derek Campbell who was Kicked out of The Solicitors office are The two parties for Fabricating These indictments.

To be Sure, The S.C. Court Administration, Nor The Richland County Grand Jury have any records of my indictments.

(11(c)(2))

The Language on my indictments State; "At a Court OF General Sessions, Convened on November 18th, 1998, The Grand Jurors of Richland County present upon their oath"

At first blush, nothing appears to be Improper, however The General Sessions Court of Richland County has No power on November 18th, 1998. Again, The S.C. Code Ann. § 14-5-670(a) prohibits The General Sessions Court of Richland County Convening on November 18th, 1998. The Grand Jury is a Constituent part of The Circuit Court, State vs. Hann, 196 S.C. 211, 12 S.E.2d 720 (SC. 1940) Surely, if The Court do not have Statutory power to convene, The Grand jury do not have power either. The purported indictments in This case by The language written on Them are a complete Nullity, So Art. I, § 11 of The Const. Cannot be met. The indictments in this case from The genesis were

born Contrary To Law, and "A thing void in the beggining, does [N]ot become valid by lapse of time," (Quod Initio Non Valet, Tractu Temporis Non Valet). Put another way, The Indictments were "Void" in The beggining, and they Still are void. The Circuit Court Never acquired Subject Matter Jurisdiction with Void Indictments.

In Ruenziger Vs. United States, 172 F. 646 (4th Cir) The Court of Appeals Stated, "An indictment means of course a [V]alid indictment found, and presented according to the Settled Usage, and [E]stablished mode of [P]rocedure - is a prerequisite to the [J]urisdiction of The Court to try the person accused, an indispensible condition and requirement, The absence of which renders The proceedings not Simply voidable, but [A]bsolutely [V]oid."

The Court went on to say, "It follows That a paper purporting to be an indictment handed by the foreman to the clerk when the [C]ourt is [N]ot in Session, in the absence of a grand jury is [N]ot an indictment.

Judicial Scrutiny exposes That The Charging instruments in this Cause are at war with Statutory Law, and established mode of procedure. So That nobody misses The point, The indictments were born in violation of The S.C. Code Ann. 14-5-670(2), so The indictments are "Void" as a matter of [S]tatutory Law, and being so, The S.C. Const. Art. I 11 requisite to have a valid indictment cannot be met in this cause. An indictment born Contrary To Law, is Tantamount to No indictment at all, meaning "No" Subject Matter Jurisdiction.

(10)

(11(c)(3))

The Circuit Court Lacked Subject Matter Jurisdiction, and Jurisdiction to entertain, and adjudicate my case at trial, because my indictments were [N]ot Filed with The Clerk of Court, in Violation of Rule 3(c) SCRCrimP. State decisis emphasizes That indictments [M]ust be [F]iled with The Clerk of Court, State vs. Dudley, 354 S.C. 514, 581 S.E. 2d. 171 (Ct. App. 2003)
State vs. Douglas, 245 S.C. 83, 138 S.E. 2d. 845 (S.C. 1964)
Thomas vs. State, 751 S.W. 2d. 601 (Ct. App. Tex 1998)
Santos vs. State, 834 S.W. 2d. 953 (Tex. 1992.)

To be sure, The S.C. Supreme Court spoke loudly when The Court Stated; "Generally, [J]urisdiction of The [S]ubject [M]atter is satisfied when appropriate charges are [F]iled in a Competent Court."

State vs. Dudley, Supra; State vs. Douglas, Supra

The reality in this matter is this, if a document, indictment, motion, order, ect, is [N]ot filed with The Court (Time-Stamped Filed), The document, indictment, motion, order, ect. is [N]ot a document of The Court.
To instantiate, If I draft a Lawsuit, and Serve it on you, That action has No force or effect under The Laws. However if I Send That action To The Court, and get it Time-Stamped Filed with The Clerk and Serve it on you, That Lawsuit will have The power of The Court. It is established mode of Criminal procedure That an indictment [M]ust be filed with The Court [B]efore the indictment is Taken To The grand jury. If not, The Court has No judicial power at all.

(11)

hh

(II(c)(4))

It is my proposition that the Court Lacked Subject Matter Jurisdiction because there is No Mens Rea elements stated in my indictments, Moreover the jury instructions are the same.

Brawner vs. State, 320 S.C. 346, 465 S.E.2d. 358 (1995)

State Vs. McFadden, 342 S.C. 629, 539 S.E.2d. 387 (2000)

Lack vs. State, 341 S.C. 54, 533 S.E.2d. 324 (2000)

U.S. vs. Cotton was not law until 2002, and Gentry was not law until "2005." I was arrested in 1998, and went to trial in 2000, therefore Cotton and Gentry should not be relevant in this matter.

(II(c)(5))

The arrest warrants in this case state that Applicant was arrested in the municipality of Columbia. The Indictments state I committed a crime Richland County, I was not. The Court did not have Subject Matter jurisdiction, or jurisdiction.

(II(c)(6))

In State vs. Grim, 341 S.C. 63, 533 S.E.2d. 329 (S.C. 2000), the Court made it clear that, "The Subject Matter Jurisdiction of the Court [must] be established in the record", Id. at 67.

In this case, the jury was told that indictments are papers that were drawn up by the State charging me with an offense, (ROA Pg. 102.) The Jury was not informed, or the record does not demonstrate that the indictments came from a Grand Jury, and the transcript does not show that whether the indictments were True-Billed or No Billed. Because this is Lacking, the Court Lacked Subject Matter Jurisdiction

(Lack OF Jurisdiction)

(II(d)(1))

In Ex Parte De Hay, 3 S.C. 564 (1872), The S.C. Supreme Court was unequivocal Where it held; - "The proceeding of a Circuit Court, holds by The judge of another Circuit at a time [U]nauthorized by law are [V]oid."
Acknowledging this, My Pre-trial motion hearing was held on March 29th, 2000 which is a [U]nauthorized time to have a judicial proceeding in The 5th Judicial Circuit according to The S.C. Code Ann. 14-5-670 (2).
The Presiding judge at This event was James C. Williams, and he is from another judicial Circuit, to wit, The 1st Judicial Circuit, Orangeburg County.
Unavoidable, This Cause Stands on all fours with The holdings in Ex Parte De Hay, Supra.
"Where There is The Same reason, There is The Same Law, and The Same judgment Should be rendered on Comparable facts"
(Ubi Eadem Ratio, Ibi Idem Jus; Et De Similibus Idem Est Judicium)
The Judicial pronouncements denying all my Pre-trial motions is [V]oid.

(II(d)(2))

The U.S. Supreme Court has made it clear that "If the accused however is not represented by Counsel, and has not Competently, and intelligently waived his Constitutional Right, The 6th Amendment stands as a [Jurisdictional] [B]ar to a Valid Conviction and Sentence depriving him of his Life or Liberty - The judgment of a Conviction pronounced by a Court without [J]urisdiction is [V]oid."
Johnson vs. Zerbst, 304 U.S. 458, 58 S.Ct. 1019 (1938)
Custis vs. United States, 511 U.S. 485, 114 S.Ct. 1732. (1994)

Against This back-ground, I would aver That my purported waiver of my 6th Amendment Right To effective assistance of Counsel was not Freely, Knowingly, Voluntarily, Competently, and intelligently given The Court. The burden of proving a waiver of a [F]ederal Constitutional Right is on The [S]tate, and The [S]tate Cannot demonstrate a valid waiver based on Fact, The State has [N]o Transcript of The waiver hearing, and The Court order From The waiver hearing does Not have The requisite criteria To Show a valid waiver, moreover The Transcript Snippets That The State will use does not Show a valid waiver either. The U.S. Supreme Court has Stated;

"The record [M]ust Show, or there [M]ust be an allegation and [E]vidence which Shows, That an accused was offered Counsel, but intelligently and understandingly rejected The offer. [A]nything less is "not waiver."

Carnley vs. Cochran, 369 U.S. 506 (1962)

also See, Bridwell vs. State, 306 S.C. 518, 413 S.E.2d. 30 (1992)

17 S.C. Jur. Post Conviction Relief § 5.2

State vs. Dial, 429 S.C. 128, 838 S.E.2d. 501 (2020)

This much is Certain, The judge at my waiver hearing was James R. Barber, who was my PCR Judge. He specifically Stated, he did "[N]ot" ask my why I was waiving Counsel (pg. 89 Infra). Inasmuch, Petitioner/Applicant was not offered Counsel, The trial Court judge did not have a Faretta hearing at all, and Applicant gave his purported waiver to The Court because No lawyer appointed to his case would do an investigation For him, So A defense for Trial Could be developed. Otherwise, "an act done by me against my will is not my act" (Actus Me Invito Factus Non Est Meus Actus).

(11)

(II(d)(3))

In my view, I was denied effective assistance of Counsel when my Cause was [Re]remanded back To The Circuit Court From The S.C. Court of Appeals.

The Law arises from facts (Ex Facts Jus Oritur) and The facts in This matter are edged in Stone to clearly demonstrate a deprivation of effective assistance of Counsel during a [C]ritical Stage of The judicial process.

1st, On December 4th, 2001 The S.C. Court OF Appeals Remanded This Cause back To The Circuit Court. (See page 81 infra)

2nd, When The Circuit Court found out about The remand, The Court did [N]ot appoint The Applicant advisory Counsel, Standby Counsel, or effective assistance of Counsel, simply put another way, The Court did [N]ot appoint Counsel at all.

Importantly, It is Settled Law, That where The assistance of Counsel is a Constitutional requisite, The right to be furnished Counsel does not depend upon request, it is The duty of The Court, To appoint Counsel.

Swenson vs. Bosler, 386 U.S. 258, 87 S.Ct. 996 (1967)

Gamley vs. Cochran 369 U.S. 506, 513, 82 S.Ct. 884, 889 (1962)

3rd, On July 26th 2002, The Judge issued a Letter Stating That The Transcript records had been destroyed. (See page 84 infra)

This means That Applicant was "Incommunicado" For 234 days.

So That nobody misses The point here, During The entire time this Cause was on Remand, No Counsel was ever appointed to assist Applicant in The hypercritical adventure of repairing The Trial Transcripts.

A total deprivation of effective assistance of Counsel during a critical stage of the judicial process is a [T]rare occurrence, However it exist here. To Crystalize my point, The 4th Circuit Court of Appeals explained That,

"A Criminal defendants 6th Amendment right to Counsel attaches after judicial proceedings have been initiated against him, McNeil vs. Wiscansin, 501 U.S. 171 (1991), and that right applies at all Critical Stages, Rothgery vs. Gillespie Cnty., 554 U.S. 191 (2008). [C]ounsel is required in the hiatus between the termination of trial, and the beginning of an appeal, Nelson vs. Peyton, 415 F.2d. 1154 (4th Cir. 1969), and [t]hrough the defendants first appeal of Right, Evitts vs. Lucey, 469 U.S. 387, 105 S.Ct. 830 (1985); Ross vs. Moffitt, 417 U.S. 600, 94 S.Ct. 2437 (1974); but once the direct appeal has been decided, The Sixth Amendment right to Counsel Comes to an end, Pennsylvania vs. Finley, 481 U.S. 551, 107 S.Ct. 1990 (1987)"

"SEE" United States" vs. Williamson, 706 F.3d. 405 (4th Cir. 2013)

Being denied effective assistance of Counsel during a [C]ritical Stage of The judicial process is such a [C]ata-straiphit error, it can be characterized in many ways, to wit, As jurisductional defect, Johnson vs. Zerbst, Supra, Custis vs. United States, Supra; A Fundamental defect; or a [S]tructural error,

The State in This matter will concede That Applicant was [N]ot appointed effective assistance of Counsel on Remand, However The State avers That Applicant must demonstrate [p]rejudice, which is simply breathtakingly Wrong, and a Sharp departure of Condition precedents. The S.C. Supreme Court has made it clear, That prejudice is not

required, if a criminal defendant is denied Counsel.

"It is Now Settled however That an accused is entitled to the assistance of Counsel at every critical Stage of The proceedings, and a failure to have such assistance is reversible error even though [N]o [P]rejudice is Shown"

State vs. Williams, 263 S.C. 290, 210 S.E.2d. 298 (S.C. 1974) also see McKnight vs. State, 320 S.C. 356, 465 S.E.2d. 352 (S.C. 1995). What is more, it is 6th Amendment backbone recognized by The S.C. Supreme Court, The 4th Circuit Court of Appeals, and The U.S. Supreme Court That prejudice is presumed if a criminal defendant is denied Counsel at a Critical Stage, U.S. vs. Ragin 820 F.3d. 609 (4th Cir. 2016) U.S. vs. Smith, 640 F.3d. 580 (4th Cir. 2011) Glover vs. Miro, 262 F.3d. 268 (4th Cir. 2001) Wright vs. Van Patten, 552 U.S. 120, 128 S.Ct. 743 (2008) Graves vs. Padula, 773 F. Supp. 2d. 611 (2010) Nance vs. Ozmint, 367 S.C. 547 (S.C. 2006) Bell vs. Cone, 535 U.S. 685, 122 S.Ct. 1843 (2002) Garza vs. Idaho, 139 S.Ct. 738 (2019) Penson vs. Ohio, 488 U.S. 75, 109 S.Ct. 346 (1988) Timmes vs. Harrison, 389 F.3d. 450 (4th Cir. 2004) U.S. vs. Gooding, 594 Fed. Appx 123 (4th Cir. 2014) Perry vs. Leeke, 832 F.2d. 837 (4th Cir. 1987) State vs. Thompson, 355 S.C. 255, 584 S.E.2d. 131 (Ct App. 2003) Mickens vs. Taylor, 535 U.S. 162, 122 S.Ct. 1237 (2002) Roe vs. Flores-Ortega, 528 U.S. 470, 120 S.Ct. 1029 (2000)

Smith vs. Robbins, 528 U.S. 259, 120 S.Ct. 746 (2000)
Strickland vs. Washington, 466 U.S. 668, 104 S.Ct. 2052 (1984)
Woods vs. Donald, 575, U.S. 312, 135 S.Ct. 1372 (2015)
U.S. vs. Cronic, 466 U.S. 648, 104 S.Ct. 2039 (1984)

Likewise, it is simply unrealistic, and unreasonable for The State or any Court to require Applicant to prove prejudice, when Applicant can [E]factually demonstrate that he was Totally denied Counsel at Critical Stages of The prosecution in this Cause. (pg. 0)

Critically Serious, being denied effective assistance of Counsel during a critical stage of The prosecution is defined as a "[S]tructual error," which requires automatic reversal, Brecht "vs." Abrahamson, 507 U.S. at 629 (1993).
No matter how it's viewed, reality is This, The State and the Courts have Cheated Applicant out of his Constitutional entitlement of automatic reversal.

(11-d.-4)

I was denied Counsel at my Competency hearing held on April 10th, 2000. There is a written Court order appointing Douglas Truslow as my Counsel in my [F]irst Competency hearing held in the year 1999, to wit, (page 122 infra) Critically Serious, There is "NO" Court order "appointing anybody as Counsel for the Competency hearing held on April 10th, 2000. This much is certain, Applicant cannot Competently waive Counsel at a Competency hearing, because his Competency is in question. What is more, Applicant was entitled to Counsel as a matter of Legislative Law at his Competency hearing held on April 10th, 2000. Applicant Specifically Stated he was Denied Counsel at his Competency hearing Held on April 10th, 2000, (See page 9[1]2-135 infra) And the Courts have [N]ever answered this question of Law.

(11-d.-5)

I was denied Counsel at my Pre-trial hearing held on March 29th, 2000 I told the judge at my waiver hearing that I wanted to get myself an investigator, because No Lawyer would do it, and I wanted to represent myself at [T]rial, I did not say anything about representing myself at the Pre-trial hearing.

(11-d-6)

I was denied effective assistance of Counsel at Sentencing.

(11-d-7)

The trial Court Lacked Jurisdiction and all judicial power because There were [S]several people in the jury pool who did not have juror information Cards. Several people in the jury pool had No judicial information For The Court, making them Strangers to The Court. The Court has No judicial power at all with an UnConstitutional Jury.

(11-d-8)

The trial Court Lost Jurisdiction when it impermissibly Changed The jury after a Batson Hearing. The judge was Suppose to pick a new jury

(11-e-1)

I had no Counsel at all on remand. No Counsel, No Jurisdiction

* (11-F-1) - Judge Williams had No Jurisdiction to preside at my pretrial hearing (Lack OF Appellate Court Jurisdiction)

(11-g-1)

(*) The S.C. Appeals Court Lacked Appellate Court jurisdiction because There is a Rule 203(b)(2) SCACR Violation in this Case. The Notice of appeal was filed prematurely in this Case by Applicants advising Counsel at trial.

(11-g-2)

(*) The Court Lacked jurisdiction because there is no certification From The Court reporters in the record on appeal. The transcript is "FLAWED"

There is Conclusive unrefutable Concrete Evidence in the record That unequivocally Shows That an Unknown person at The S.C. Appellate Court Defense Comm. (I was suing them) had The tapes of my trial, and without being a Certified Court Reporter For The 5th Judicial Circuit, or The State of South Carolina, Typed up Certain parts of my Transcript Illegally. The Transcript Cannot be certified as true if we don't know who typed it (See page 87 note)

(11-g-3)

I was denied effective assistance of Counsel on Appeal. I requested Counsel, and The Court denied me Counsel.

(11-g-4)

(X) When I was pro se on appeal, I was being Violated and disrespected. I put in a motion To Withdraw as Counsel, and The Court Still not appoint me Counsel.

(*)

(11-g-5)

The S.C. Court of Appeals remanded my case back to The Circuit Court. The S.C. Court of Appeals Never Relegated Appellate Court jurisdiction, based on fact, The Trial Court Judge Never Forthwith an written Court order adjudicating The Lower Court proceedings dealing with The Transcript.

(Lack OF Appellate Court Jurisdiction By The S.C. Supreme Court)

(11-h-1)

The [J]Judgment in the record is not Signed by the Judge. Its absolutely Void.

(Conflict OF Interest)

(11-i-1)

There was a Conflict of Interest between myself and the Prosecution. The Prosecution had a money interest in this case. My Lawsuit was [P]ending against the Prosecution at trial.

(Biased Judge)

(11-j-1)

The trial Court Judge violated Me during the entire case, and used racial Slurs against me time

(11-K-1)

My waiver of PCR Counsel was unConstitutional.

(11-L-1)

I was not appointed PCR Counsel during my first PCR litigation. This violated Rule 71.1(d) SCRCP, and Conditions precedents to wit, Mangal vs. State, 421 S.C. 95, 805 S.E.2d 569 (S.C. 2017); Odom vs. State, 337 S.C. 256 (S.C. 1999)

Gary VS. State, 347 S.C. 627 (S.C. 2001); Al-Shabazz VS. State, 338 S.C. 354 (2000)
Richwood VS. State, 377 S.C. 103 (2008); Whitehead VS. State, 310 S.C. 532 (1992)
To be Sure, The Law is Written (The Law Courtesy Est)

a) We Hold That When a PCR Application is not Dismissed Before A Hearing is held, The PCR Judge [M]ust Appoint Counsel, or obtain a Knowing and Intelligent Waiver of That Right by The Applicant.

Whitehead VS. State Supra

To be even more to the point, Rule 71.1 SCRCP unequivocally States That The Court [M]ust [E]xpeditiously appoint Counsel, and [E]xpeditiously is defined as being ready and quick to act; punctual, readily or immediately. The State made its return on February 14th 2007, and Applicant did not give his purported waiver until March 17th, 2008, being so, Applicant was Inops Consilii for 13 Months and Never got to Consult with Counsel at all during The First PCR Litigation. Put another way, Applicant Never ever had a Full and Fair bite of The Judicial apple.

3.25.21 Edward J. Adams III
Date

SOUTH CAROLI[illegible]'MENT OF CORRECTIONS
I[illegible]nate Services

AGREEMENT TO DEBIT COOPER ACCOUNT

Inmate's Name:	SCDC#	Housing Unit:	Date:
Edmond S. Adams	265717	PB-04	3-25-21

LEGAL MATERIAL

** Inmate must have the funds in his/her account to pay for the materials.

Item	Amount
Envelope	
Pen	
Paper	
Postage	
Tape	
Box	
Electronic Repair	
Other	

To be completed by SCDC staff:

Cost
Sub-Total:

LEGAL MATERIAL

** Inmate is not required to have the funds in his/her account to pay for the materials; however, his/her account must be debited for all materials s/he elects to receive.

Item	Amount
Envelope	
Pen	
Paper	
Postage	21@7.85
Other	

S.C. Attorney Gen, Clerk of Court Rich. CO. PCR Amendment & Appendix

To be completed by SCDC staff:

Cost
15.90
Sub-Total:

PHOTOCOPIES

** Inmate may be required to have funds in his/her account. See SCDC Procedure GA-01.03(OP), "Inmate Access to the Courts," to determine if inmate may receive copies with/without funds.

Item	Amount
Photocopies	

To be completed by SCDC staff:

Cost
15.90

TOTAL

Edmond S. Adams III
Inmate's Signature

Mailroom/Canteen Signature (Request filled by)

3/26/21
Date

White - Inmate
Canary - Mailroom/Canteen Employee

SCDC Form 10-14 (November 1998)

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STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT
Edmond S. Adams, #265717 Applicant v. State of South Carolina, Respondent	)	2020-CP-40-3837 **CONDITIONAL ORDER OF DISMISSAL**

This matter comes before the Court by way of Applicant, Edmond S. Adams's action for post-conviction relief (PCR) filed August 12, 2020. Respondent made its Return and motion to dismiss on October 15, 2021. The Court hereby grants Respondent's motion to dismiss because the action is untimely, successive to Applicant's prior PCR actions, is barred by the doctrine of *res judicata*, and fails to state a cognizable claim for relief.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections (SCDC). During the November 1998 term, the Richland County Grand Jury indicted Applicant for first degree criminal sexual conduct (1998-GS-40-34469), armed robbery (1998-GS-40-34470), and kidnapping (1998-GS-40-34471). Applicant elected to proceed *pro se* on these charges with the assistance of adivsory counsel and a law clerk, after going through approximately five attorneys.

Applicant proceeded to trial on April 10-14, 2000, before the Honorable James C. Williams, and a jury. The Jury found Applicant guilty as charged and Judge Williams sentenced Applicant to twenty-five years' imprisonment for first degree criminal sexual conduct, fifteen

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years for armed robbery, and a consecutive twenty-five years for kidnapping. Applicant then moved for a new trial, which was denied.

Applicant filed a timely Notice of Appeal on April 17, 2000. Applicant elected to proceed on his appeal *pro* se, citing to his Sixth Amendment right under *Faretta v. California*, 422 U.S. 806 (1975) and Article I, Section 14 of the South Carolina Constitution. Due to Applicant's inability to perfect the record on appeal, the South Carolina Court of Appeals granted Applicant's request for assistance and appointed Tara D. Shurling, Esquire, to assist Applicant. On March 3, 2005, Applicant filed the final brief of appellant raising the following grounds:

1. "Because a written order is a requisite to continue a criminal case beyond 180 days from the date of arrest, pursuant to the provisions of S.C. Const. Art V § 4, and there is no order in this case, the circuit court lacked original jurisdiction to entertain the appellants criminal case and sentence him, thus violating his rights under the S.C. Const. Art. I § 3, and under the 14th Amendment to the U.S. Const."
2. "Because the Appellants indictments are not filed with the clerk of court which violates Rule 3(c) SCRCrimp, the Circuit Court lacked original jurisdiction to entertain the Appellants criminal case, and sentence him thus violating his rights under the S.C. Const Art. I § 3, and under the 14th Amendment to the U.S. Const."
3. "Because the Appellants indictment for kidnapping did not sufficiently apprise him of what he had to meet at trial to prepare his defense the circuit court lacked subject matter jurisdiction to entertain this charge, and sentence him, thus violating his rights under the S.C. Const Art. I § 3, and under the 14th Amendment to the U.S. Const."
4. "Because the circuit court did not adjudicate the Appellant's post trial motions by written notice, the S.C. Court of Appeals do not have subject matter jurisdiction to entertain the Appellant's appeal, thus violating his rights under the S.C. Const. Art. I § 3, and under the 14th Amendment to the U.S. Const."
5. "Because the Appellant was not served a search warrant, it was an error for the trial court not to suppress the evidence from his home for a 4th Amendment violation."
6. "Because the trial court judge took 5 jurors off the jury panel that the Appellant picked, and replaced them with 5 jurors that the Appellant struck, and set aside 5 of the Appellants strikes after a Batson hearing the Appellants Rights under the S.C. Const. Art. I § 3, and under the 14th Amendment to the United States Constitution was violated."
7. "Because the trial court judge did not remove juror # 126 from the jury panel after he gave misleading information to the court in the jury selection process

to get on the jury, Appellants rights under the S.C. Const. Art. I § 3, and under the 14th Amendment to the United States Constitution was violated."

8. "Because the trial court judge did not fully address the Appellants issues of a partial jury, the Appellants rights under the S.C. Const. Art. I § 3, and under the 14th Amendment to the U.S. Const. was violated."
9. "Because the prosecutor Asst. Solicitor Kathryn Luck Campbell made improper references outside the evidence in the final closing argument, the Appellants rights under the S.C. Const. Art. I § 3, and under the 14th Amendment to the United States Constitution was violated."
10. "Because the prosecutor Asst. Solicitor Kathryn Luck Campbell used improper references in the final closing argument, even after a valid judicial warning by the trial court, it was an error for the court not to grant the Appellant's motion for a mistrial."

The South Carolina Court of Appeals affirmed Applicant's convictions and sentence on September 15, 2005. *State v. Adams*, Op. No. 2005-UP-520 (S.C. Ct. App. filed September 15, 2005). Following the denial of a Petition for Rehearing *en banc* on November 17, 2005, the Court issued its remittitur on December 22, 2005.

i. First PCR Action and Subsequent Appeal (2006-CP-40-7169)

Applicant subsequently filed an application for PCR on December 4, 2006, in which he alleged the following grounds for relief:

1. "I would contend that my waiver of trial counsel was not freely, knowingly, voluntarily and intelligently given to the court;"
2. "I would contend that my waiver of appellate court counsel was not freely, knowingly, voluntarily, and intelligently given to the appellate court;"
3. "I would contend that I was denied assistance of counsel on appeal to prepare my briefs;"
4. "I would contend that I was denied assistance of trial counsel to aid me in preparing my defense for trial;"
5. "I would contend that I was denied excess to the court to perfect my appeal;"
6. "I would contend that my federal and state constitutional rights were violated by an inordinate delay on appeal"
7. "I would contend that my federal and state constitutional rights were violated when I was pro se on appeal was not allowed to review the tapes of my criminal trial to correct my transcript;"
8. "I would aver that the S.C. Court of Appeals lacked subject matter jurisdiction to adjudicate my appeal;"
9. "I would contend that the court reporter violated my 6th and 14th Amendment rights to the United States Constitution;"

10. "I would contend that my 6th and 14th Amendment rights to the United States Constitution and my rights under Article I §§ 3 and 14 to the S.C. Constitution was violated by the law library being inadequate to prepare my briefs and arguments on appeal;"
11. "I would contend that I was denied assistance of counsel to consult with prior to my competency hearing;"
12. "I would contend that I was denied effective assistance of trial counsel at my pre-trial hearing;"
13. "I would contend that I was denied effective assistance during voir dire;"
14. "I would aver that I was denied effective assistance of counsel during the sentencing phase of my trial;"
15. "I would contend that I was denied effective assistance of counsel on my direct appeal during the rehearing stage;"
16. "I would contend that I was denied effective assistance of counsel on appeal, when my paid counsel abandoned me on appeal;" and
17. "I would contend that I was denied due process of the law by not being advised by counsel or the court or by any other means that I would take my case to the U.S. Supreme Court if I was denied relief on appeal."

An evidentiary hearing into the matter was convened on March 19, 2008, at the Richland County Courthouse before the Honorable James R. Barber, III. Applicant was present at the hearing and waived his right to appointed PCR Counsel. On May 19, 2008, Judge Barber, issued the Order of Dismissal denying Applicant's application for post-conviction relief with prejudice. Applicant then filed a Rule 59(e), SCRCP motion which was denied via Form 4 Order on July 14, 2008. Applicant subsequently filed a Notice of Appeal of his PCR action June 18, 2009. The Supreme Court of South Carolina issued an order warning Applicant about the dangers of proceeding *pro se* on his appeal and requested Applicant inform the Court whether he wished to continue *pro se* or proceed with counsel. Applicant elected to proceed *pro se*[1] and filed his petition for writ of certiorari March 12, 2011. On November 14, 2012, by written order the South Carolina Supreme Court denied the petition. The Remittitur was issued on December 3, 2012.

[1] Bernice Jenkins, Esquire, was retained for the limited purpose of compiling the appendix for Applicant's appeal.

ii. Habeas Corpus Action (6:12-3424-DCN-KFM)

Applicant thereafter filed a *pro se* Petition for Habeas Corpus under 28 U.S.C. § 2254, raising thirteen grounds for relief. Respondent filed its return and motion for summary judgment on May 13, 2013. The Honorable Kevin F. McDonald, United States Magistrate Judge, issued the Report and Recommendation on February 28, 2014, recommending Respondent's motion for summary judgment be granted. *Adams v. Eagleton*, No. 6:12-CV-3424-DCN (D.S.C. Feb. 28, 2014). On August 22, 2014, the Honorable David C. Norton, United States District Judge affirmed the Report and Recommendation, granting Respondent's motion for summary judgment and denying Applicant a certificate of appealability. *Adams v. Eagleton*, No. 6:12-CV-3424-DCN (D.S.C. Aug. 22, 2014). Applicant appealed the District Court's decision. The United States Court of Appeals for the Fourth Circuit dismissed the appeal and denied a certificate of appealability on January 27, 2015. *Adams v. Eagleton*, 590 F. App'x 286 (4th Cir. 2015).

iii. State Habeas Action (2017-002541)

Applicant additionally filed a petition for state habeas corpus on December 13, 2017. Respondent submitted a letter to the Court dated January 5, 2018, in lieu of a formal response, and requested the petition be dismissed pursuant to the doctrine of *res judicata*. On July 6, 2018, the Supreme Court of South Carolina issued an Order denying Applicant's petition.

CURRENT APPLICATION

In his second and current application for PCR, Applicant alleges he is being held in custody unlawfully on the following grounds:

1. "The Court Lacked Jurisdiction (personal) to entertain my case."
    a. "I was denied Counsel at my competency hearing before trial on 4-10-2000."
    b. "I was denied Counsel on Remand, and on Appeal + for reconstruction of Trans [*sic*]."

c. "Structural error in empaneling the jury, Tainted Jury Pool, + Conflict of interest with Luck Campbell, two illegal Jurors on the panel.

2. "The Court Lacked Competent personal Jurisdiction to hear my case."
   a. "PCR Judge Never signed my order of dismissal."

For purposes of this Conditional Order of Dismissal, the Court incorporates the Richland County Clerk of Court records, Applicant's SCDC records, the trial transcript, Applicant's appellate records, the records from Applicant's prior PCR action and subsequent appeal, the records from Applicant's prior habeas corpus actions, and the records of this PCR action.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the pleadings, the records submitted to it by the parties, and the applicable law. Pursuant to South Carolina Code Annotated Sections 17-27-70 and -80, this Court informs the parties of its intent to dismiss the application as there is no genuine issue of material fact which would necessitate an evidentiary hearing. *See* S.C. Code Ann. § 17-27-70(b) (establishing procedure for summary disposition of PCR applications); *Leamon v. State*, 363 S.C. 432, 434, 611 S.E.2d 494, 495 (2005) (summary disposition appropriate when there is no need to develop facts and the applicant is not entitled to relief). Respondent moved for summary dismissal, and this Court finds summary dismissal is appropriate for the following reasons:

Statute of Limitations

The Court finds that this PCR shall be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160. Specifically, the act requires as follows:

> (A) An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

> (B) When a court whose decisions are binding upon the Supreme Court of this State or the Supreme Court of this State holds that the Constitution of the United States or the Constitution of South Carolina, or both, impose upon state criminal proceedings a substantive standard not previously recognized or a right not in existence at the time of the state court trial, and if the standard or right is intended to be applied retroactively, an application under this chapter may be filed not later than one year after the date on which the standard or right was determined to exist.
>
> (C) If the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence, the application must be filed under this chapter within one year after the date of actual discovery of the facts by the applicant or after the date when the facts could have been ascertained by the exercise of reasonable diligence.

S.C. Code Ann. § 17-27-45.

The South Carolina Supreme Court has held the statute of limitations shall apply to all applications filed after July 1, 1996. *Peloquin v. State*, 321 S.C. 468, 469 S.E.2d 606 (1996). A motion for summary judgment may properly be used to raise the defense of statute of limitations. *McDonnell v. Consolidated School District of Aiken*, 315 S.C. 487, 445 S.E.2d 638 (1994). Additionally, S.C. Code Ann. § 17-27-70(c) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law."

In the present case, Applicant is alleging he is entitled to post-conviction relief based on allegations that his counsel was ineffective and his other constitutional rights were violated. However, Applicant failed to comply with the filing requirements under S.C. Code Ann. § 17-27-45. Applicant was convicted April 14, 2000, and pursued a direct appeal. The Remittitur was issued December 22, 2005. Pursuant to section 17-27-4(A), Applicant needed to file his application for post-conviction relief on or before December 23, 2006. Applicant did not file his application until August 12, 2020, well beyond the statute of limitations. Moreover, sections 17-27-45(B) and 17-

27-45(C) are inapplicable to Applicant's current PCR application as he alleges no new rights to be applied retroactively, and raised no allegations of newly discovered evidence.Accordingly, this application is untimely pursuant to section 17-27-45 and shall be dismissed for failure to file within the time mandated by Uniform Post-Conviction Procedure Act.

Successive Applications

The Court further finds the application must be summarily dismissed because it is successive to Applicant's previous PCR application. Courts disfavor successive applications and place the burden on applicants to establish that any new ground raised in a subsequent application could not have been earlier raised in a previous application. *Foxworth v. State*, 275 S.C. 615, 274 S.E.2d 415 (1981); *Arnold v. State*, 309 S.C. 157, 420 S.E.2d 834 (1992). Section 17-27-90 of the South Carolina Code states:

> All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental, or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily, and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental, or amended application.

Pursuant to section 17-27-90, successive PCR actions are barred unless an applicant can indicate a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. *Aice v. State*, 305 S.C. 448, 409 S.E.2d 392 (1991). The South Carolina Supreme Court held the PCR rules "contemplate an adjudication on the merits of the original petition, one bite at the apple as it were." *Id.* at 452, 409 S.E.2d at 395 (citing *Gamble v. State*, 298 S.C. 176, 178, 379 S.E.2d 118, 119 (1989)). The Court also noted, "[f]inality must be realized at some point in order to achieve a semblance of effectiveness in dispensing justice." *Id.*

at 451, 409 S.E.2d at 395. Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." *Id.* at 450, 409 S.E.2d at 394. If the applicant could have raised these allegations in a previous application, then the applicant may not raise those grounds in successive applications. *Id.* 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).

Here, Applicant's current allegations could have been – and in fact *were* – raised in the proceedings based on Applicant's prior application for post-conviction relief; thus, the current application is successive and barred under section 17-27-90 of the South Carolina Code. Applicant's current allegations are duplicates of the various claims raised in his previous collateral actions. Applicant has failed to establish any sufficient reason why Applicant could not raise his current allegations in his previous state and federal collateral actions or why this Court should overlook the fact he has raised these exact claims of ineffective assistance and jurisdiction in previous applications. Accordingly, Applicant has failed to meet the burden imposed upon him, and the Court shall summarily dismiss the application as successive to Applicant's previous PCR application.

Res Judicata

Additionally, the application barred by the doctrine of *res judicata*. *Res judicata* prohibits subsequent actions by the same parties on the same issues. *Bell v. Bennett*, 307 S.C. 286, 414 S.E.2d 786 (Ct. App. 1992). A final judgment on the merits in a prior action bars subsequent consideration of those issues in a new action. *Foran v. USAA Casualty Ins. Co.*, 311 S.C. 189, 427 S.E.2d 918 (Ct. App. 1993). *Res judicata* also bars any issues that could have been raised in the former action. *Id.*; *see also Foxworth v. State*, 275 S.C. 615, 274 S.E.2d 415 (1981).

Applicant had a full opportunity to litigate all his allegations in his prior actions. Applicant's present allegations are indistinguishable from those offered in his prior applications for post-conviction relief. The prior PCR Court issued a final judgement on the merits on very same issues that Applicant now raises in his present action. The finality of the previous Court rulings should be respected, and the application shall be summarily dismissed as barred by the doctrine of *res judicata*.

Failure to State a Claim

This Court finds the application shall be summarily dismissed for failure to state a claim cognizable under the Uniform Post-Conviction Procedure Act, S.C. Code Ann. §17-27-10 to -160. Pursuant to the Act, an applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy....

S.C. Code Ann. § 17-27-20.

Applicant's action contains allegations that fail to raise a cognizable claim for relief, specifically; Applicant alleges lack of personal jurisdiction, structural error, tainted jury pool, and conflict of interest, among others. These allegations present direct appeal issues that are procedurally barred by S.C. Code Ann. § 17-27-20(b) (2003). Post-conviction relief is not a substitute for an appeal. *Simmons v. State*, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-

conviction relief application cannot assert any issues that could have been raised at trial or on appeal. *Drayton v. Evatt*, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). Applicant could have raised these issues on appeal. The failure to do so has waived this allegation as grounds for relief. For these reasons and pursuant to Rule 12(b)(6), SCRCP, this Court shall dismiss the application for failing to state a cognizable claim for which relief can be granted under the Post-Conviction Relief Act.

CONCLUSION

Pursuant to S.C. Code Ann. § 17-27-70(b), the Court intends to dismiss this application with prejudice unless Applicant provides specific reasons, factual or legal, why the application should not be dismissed in its entirety. Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final. Applicant shall file any reasons he may have with the Richland County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
Yasmeen E. Klein, Assistant Attorney General
PCR Division – Fifth Circuit
P.O. Box 11549
Columbia, South Carolina 29211

Applicant is cautioned that his response to this order must be actually received by the Richland County Clerk of Court and opposing counsel within twenty (20) days from the date of the service of this Order, and that the Court will not consider any issues raised in his response if not so timely filed and served.

AND IT IS SO ORDERED this 19 day of October, 2021.

L. CASEY MANNING
Chief Administrative Judge
Fifth Judicial Circuit

Columbia, South Carolina

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND)	FOR THE FIFTH JUDICIAL CIRCUIT
)	
)	C/A. #2020-CP-40-3837
Edmond Stanley Adams,III #265717)	
Applicant)	
)	
"VS")	APPLICANTS RESPONSE TO CONDITIONAL
)	ORDER OF DISMISSAL
State Of South Carolina)	
Respondent)	

On November 2nd, 2021 Applicant was duly served the conditional order of dismissal from this court, and this response follows:

[WHY THIS COURT SHOULD ENTERTAIN APPLICANT'S PCR APPLICATION ON THE MERIT'S]

[A]. THE STATES MOTION TO DISMISS IS PREDICATED ON DECEPTION, TRICKERY, AND OBSTRUCTION OF JUSTICE.

On August 12th, 2020 at 9:08 A.M., the clerk of court filed applicant's PCR application.
Importantly, The S.C. Attorney General made it's return and motion to dismiss from this aforesaid PCR application. Notwithstanding, on March 25th, 2021 applicant forthwith an [a]mendment, and supplementation to his PCR pleading's to the clerk of court, and an exact copy was forwarded to the office of the Attorney General.
This amendment is time-stamped by the clerk of court on April 1st, 2021 at 1:05 P.M.. The solidity of proof that the Attorney General was duly served this amendment and supplementation is the SCDC mailing records which is attached herewith.
Scandalously, the office of the Attorney General did [n]ot include applicant's amendment and supplementation in the record at all, therefore the Honorable L. Casey Manning has not seen applicant's [t]rue factual predicates in this litigation.
To make matters worse, the state has impermissibly disassembled applicant's appendix to cripple or retard his litigation, what is more, the state has obstructed justice by taking important document's out of the record to keep the court's from seeing the ugly truth to this matter.

This conduct by the state has destroyed the appearance of justice, and casted doubt on the integrity of this PCR litigation.
(THE AMENDMENT AND SUPPLEMENTATION IS ATTACHED HEREWITH FOR THE COURTS REVIEW)

[B].APPLICANT WAS DENIED PCR COUNSEL DURING HIS FIRST PCR LITIGATION, THUS MAKING HIS FIRST PCR HEARING NULL, AND VOID.

This much is certain, on page 22 of applicants amendment, his factual predicate in ground (11-L-1) states I was not appointed PCR Counsel during my first PCR Litigation. (citing Rule 71.1(d) SCRCP.
It is well recognized that if there is a rule 71.1(d) SCRCP violation in applicant's prior PCR litigation, then applicant did not get a full and fair bite of the judicial apple, and if so, then applicant is by law entitled to another PCR hearing. Inasmuch the [o]nly way the court can hear the fact's in this matter, is by granting applicant another PCR hearing.
This matter is hypersensitive, because the prior PCR hearing could be void by law when the court hears all the fact's, and if the first PCR hearing is found to be void by this court, then applicant is not only entitled to a PCR hearing, but he is entitled to another PCR hearing De-Novo so that all grounds for relief can be entertained by the court.

THE S.C. SUPREME COURT HAS HELD:
We hold that when a PCR application is [n]ot dismissed before a hearing is held, The PCR judge [m]ust appoint counsel, or obtain a knowing and intelligent waiver of that right by applicant;

****

Whitehead "vs" State,310 S.C. 532,426 S.E. 2d. 315 (S.C.1992).
To afforce my point, [R]ule 71.1(d) SCRCP clarifies unequivocally that the court shall [p]romptly appoint counsel to assist the applicant if he is indigent, and shall insure that all available grounds for relief are included in the application, and shall amend the application if necessary.
Law is a profession of word's, and the word promptly is defined as "to move with action; being ready and quick to act; performed readily or immediately. Being so, during the first PCR litigation, the state made it's return on February 14th, 2007, and applicant did not purportedly waived counsel until March 17th, 2008, therefore applicant was denied counsel for 13 MONTHS and he never ever got the benefit's to confer with counsel, or have his pleading's amended to make sure all grounds for relief were properly raised and argued before the court.
In these obvious fact's, we know that PCR counsel was not promptly appointed

and it is undisputed, moreover uncontested, that a rule 71.1(d) SCRCP violation took place in applicant's prior PCR litigation
Because of this, the first PCR hearing should be rendered void for a [S]tructual [D]efect,
Mangal "vs" State, 421 S.C. 85 (S.C.2017)
Richardson "vs" State, 377 S.C. 103, 659 S.E. 2d. 493 (S.C.2008)
Odem "vs" State, 337 S.C. 256, 523 S.E. 2d. 753 (S.C.1999)
Gary "vs" State, 347 S.C 627, 557 S.E. 2d. 662 (S.C.2001)
Al-Shabazz "vs" State, 338 S.C. 354, 527 S.E. 2d. 742 (S.C.2000).

[C]. APPLICANT HAS SEVERAL FACTUAL PREDICATES FOR LACK OF SUBJECT MATTER DURING HIS CASE AND AFTER GENTRY

It is elementary, that matters related to lack of subject matter jurisdiction can be raised at anytime, in any proceeding, and the doctrine of res-judicata do not apply to these claims.
Brown "vs" State, 343 S.C. 342, 540 S.E. 2d. 846 [No.1] (S.C.2001).
Our Supreme Court made it clear that this court has an imposed duty to adjudicate these claims and the states argument is Notwithstanding.
(SEE AMENDMENT AND SUPPLEMENTATION ON PAGE 4)

[D]. THERE ARE SEVERAL PROCEDURAL IRREGULARITIES FROM APPLICANTS FIRST PCR LITIGATION

In Washington "vs" State, 324 S.C. 232, 478 S.E. 2d. 833 (S.C.1996), the court made it clear that a PCR applicant can have a [s]econd PCR hearing if procedural irregularities exist.
Concrete and to the point, Applicant in his prior PCR case raised the factual predicate that he was denied counsel at his compentency hearing held on April 10th, 2000, which was the first day of his trial.
Critically serious, the PCR court never Adjudicated this allegation on the merits. To be sure, the PCR order of dismissal states in relevant part;

> "This court finds no merit whatsoever in the applicant's claim that he was not represented by counsel during the Blair hearing.
> As Chief Administrative Judge, I signed an order dated October 13th, 1999, appointing Doug Truslow to represent the applicant at the final compentency evaluation hearing."

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Simply put, I specifically and unequivocally informed the prior PCR court that I was denied effective assistance of counsel at my compentency hearing held on April 10th, 2000, which was the first day of my trial.
Judge James C. Williams was the presiding judge over this proceeding.
I didn't say anything about being denied counsel at my compentency hearing held in 1999 when Doug Truslow represented me. The court is off point on the year and the proceeding in its order of dismissal.
The law is clear, that the specification of one thing, is the exclusion of the other,(ENUMERATIO UNIUS EST EXCLUSIO ALTERIS), therefore it is not even arguable that the court did not adjudicate applicant's claim that he was denied effective assistance of counsel at his compentency hearing held on April 10th, 2000. I think it is pertinent to observe that applicant raised this issue in his 59(e) motion on page "12", and the court still did not adjudicate this claim or fix the factual error of the wrong hearing being entertained by the court.

[E].THE PCR COURT DID NOT STATE ANY FACT'S IN THE ORDER OF DISMISSAL FOR BEING DENIED COUNSEL AT DIFFERENT CRITICAL STAGES OF THE JUDICIAL PROCESS

During the prior PCR hearing, Applicant also raised several claims that he was denied effective assistance of counsel during different critical stages of the judicial process.
In view of this, the law is clear, that the court must find and state [f]act's pertaining to these claims, which is requisite of the S.C. Code. Ann. § 17-27-80.
To be sure that the court never ever found fact's in these hypersensitive claims, the court in it's order of dismissal stated;

> The Applicant alleges that he is entitled to relief due to failure of the trial court to appoint counsel during the Blair hearing, Voire Dire, Sentencing, the rehearing stage on appeal, and on remand from the Appellate Court to General Sessions.
> *The applicant has failed to demonstrate any [p]rejudice entitling him to relief even [a]ssuming his allegations were legitimate.

The court's language is clear, and no matter how it's viewed, the prior PCR Court never stated any [f]act's as to whether Applicant was denied effective assistance of counsel at these critical stages or that counel was present.
Noticeable, the PCR court adjudicated these claims using the word [a]ssuming which is defined as-To think that something is true, or probably true, [w]ithout knowing that it is true.

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MR. ADAMS: He was appointed for trial counsel.

THE COURT: And the Blair hearing was held just prior to the hearing, to the trial?

MR. ADAMS: Prior to trial.

THE COURT: All right. Well, Mr. McCullough was there, right?

MR. ADAMS: He was there for a minute.

MR. PETRANO: He was appointed by order of Judge Williams April 6th, 2000.

THE COURT: All right. And the trial started on April 10, 2000.

MR. ADAMS: Yes, but see, Mr. McCullough, he was there for trial. He wasn't there for no pretrial matters or none of that. He was just trial. It was all on --

THE COURT: I don't know how he could have done that.

MR. ADAMS: I have the order right here.

MR. PETRANO: And the order is very specific that he's advisory only. Not even --

THE COURT: Well, I knew that.

MR. PETRANO: Okay. Sorry.

THE COURT: But I don't know how he could have been not there at the time --

MR. PETRANO: Oh.

THE COURT: -- once the trial started.

MR. PETRANO: I misunderstood your comment, I'm

The law is a profession of words both spoken and written, and using the word [a]ssuming in a PCR order of dismissal can never be viewed as a word for a finding of [f]act required by the S.C. Code Ann. § 17-27-80. The order of dismissal also has a [s]ubstantial Constitutional transgression, by requiring applicant to demonstrate [p]rejudice to be entitled to relief for the denied of counsel during a critical stage of the judicial process. This is a sharp departure of 6th Amendment jurisprudice, moreover this eradicated the legal principle that prejudice don't need to be demonstrated if there is a fact present that counsel was denied, to afforce my point;

A CRIMINAL DEFENDANT NEED NOT DEMONSTRATE ANY PREJUDICE IF HE SHOWS THAT HE WAS DENIED COUNSEL AT A CRITICAL STAGE OF THE CRIMINAL PROCESS, THE DENIAL OF THE SIXTH AMENDMENT RIGHT TO COUNSEL IS A STRUCTUAL ERROR THAT REQUIRES [A]UTOMATIC [R]EVERSAL, AND [N]O [P]REJUDICE IS REQUIRED"

Brect "vs"Abrahamson, 507 U.S. 619 (1993);

IF A CRIMINAL DEFENDANT IS DENIED COUNSEL AT ANY STAGE OF THE TRIAL, OR ON APPEAL, NO SHOWING OF PREJUDICE IS REQUIRED, BECAUSE THE ADVERSARY PROCESS ITSELF IS PRESUMPTIVELY UNRELIABLE"

Roe "vs' Flores-Ortega, 120 S.CT. 1029 (2000).

IT IS NOW SETTLED HOWEVER THAT AN ACCUSED IS ENTITLED TO THE ASSISTANCE OF COUNSEL AT EVERY STAGE OF THE PROCEEDING, AND FAILURE TO HAVE SUCH ASSISTANCE IS REVERSABLE ERROR EVEN THOUGH [N]O PREJUDICE IS SHOWN

State "vs" Williams, 263 S.C. 290, 210 S.E. 2d. 298 (SC 1974).

I must point out that the legal principle for no prejudice to be demonstrated for a denial counsel claim is universally recognized, by a powerful cite string of cases;
SMITH VS ROBBINS, 528 U.S. 259, 120 S.CT. 746 (2000)
STRICKLAND "vs" WASHINGTON, 466 U.S. 668, 104 S.CT. 2052 (1984);
WOODS "VS" DONALD, 575 U.S. 312, 135 S.Ct. 1372 (2015)
WRIGHT "VS" VAN PATTERN, 552 U.S. 120, 128 S.CT. 743 (2008)
BELL "VS" CONE, 535 U.S. 685, 122 S.Ct. 1843 (2002);
GORZA "VS" IDAHO, 139 S.CT. 738 (2019)
PENSON "VS" OHIO, 488 U.S. 75, 109 S.CT. 346 (1988);
MICKENS "VS" TAYLOR, 535 U.S. 162, 122 S.CT. 1237 (2002)
STATE "VS" THOMPSON, 355 S.C. 255, 584 S.E. 2d. 131 (CT. APP 2003)
NANCE "VS" OZMINT, 367 S.C. 547 (S.C 2006)
KNIGHT "VS" STATE, 320 S.C. 356 S.E. 2d. 352 (S.C. 1995), ect.

The prior PCR Courts order of dismissal cuts against the grain of basic legal priciples, and these cases clearly demonstrates that applicant is being held in prison for a unkwown evil, based on fact, Applicant was denied counsel at a critical stage, but the court used a demonstration of prejudice to impermissibly deny applicant relief.
The state of South Carolina knew or should have known that applicant was

entitled to relief during his first PCR litigation, however the state drew up a bogas court order to deny applicant relief that was at war with the 6th and 14th Amendment's to the United States Constitution, and with the S.C Constitutions Articles I § 3, and 14.

[F]. THE APPLICANT HAS NEVER RAISED THE FACTUAL PREDICATE THAT HE WAS DENIED EFFECTIVE ASSISTANCE OF COUNSEL ON APPEAL , WHEN APPLICANT RELIEVED HIMSELF AS COUNSEL:

The Applicant avers that he was denied effective assistance of counsel during his first appeal, when he relieved himself as counsel. Likewise, this is a new factual predicate for the court's adjudication on the merit's, because it is a [j]urisdictional structual error that could void the entire appeal.

The U.S. Supreme Court has explained, "that if counsel was denied, the procaading is void !

Custis "vs" U.S.,511 U.S. 485 (1994);

What is more, because this claim is [j]urisdictional, this court can entertain this claim pursuant to the S.C Code Ann. § 17-27-20(b)(2).

[G]. THE COURT NEVER ANSWERED THE CLAIM THAT APPLICANT'S WAIVER OF HIS 6TH AMENDMENT RIGHT TO COUNSEL WAS UNCONSTITUTIONAL, DO TO MISTREATMENT.

A straightforward texual analysis of Applicant's first PCR pleading's will disclose another major procedural irregularity.

Applicant stated he waived his 6th Amendment Right to have effective assistance of counsel, because he was being [m]istreated by lawyers. Applicant had several different lawyers in this high profile racial case. However, none of these many lawyers did an investigation for Applicant to prepare a defense for trial. The record in this case shows that applicant had to aquire funds from the court and hire his own investigator, just to get an investigation.

This much is certain, A 6th Amendment waiver of counsel is [n]ot Constitutionally sound, nor freely, or voluntarily given to the court if your lawyers don't do an investigation, and you waive counsel and do it yourself. The law arises fro m fact's (EX FACTO JUS ORITUR) and it's a fact that Applicant was kidnapped out of his home in August 1998. Importantly, The first trial date had passed, and applicant still did not have a investigation to prepare a defense for trial, and what is more, Applicant did not get an investation for 2 years, and that investigation had to be ordered from the bench, because the investigator that Applicant hired, still would not do the investigation do to racial tension.

In the United States, waiting two years to get an investigation is simply inexcusable, shocking to the conscience, moreover Constitutionally repugnant.

[H]. THE COURT ALSO PROCEDURALLY BARRED A COGNIZABLE PCR CLAIM RELATED TO LACK OF JURISDICTION BY THE TRIAL COURT.

Applicant raised the factual predicate that the court could not say he was competent to waive counsel, and at the same time have a hearing to question his compentency to represent himself.(SEE GROUND 11-A-3 OF PRIOR PCR CASE). The PCR court stated that this was not a PCR issue, however under the controlling law, this claim was cognizable under PCR jurisprudence. To be sure, the U.S. Supreme Court explained;

> IF THE ACCUSED HOWEVER IS NOT REPRESENTED BY COUNSEL, AND HAS NOT COMPENTENTLY, AND INTELLIGENTLY WAIVED HIS CONSTITUTIONAL RIGHT, THE 6TH AMENDMENT STANDS AS A [J]URISDICTIONAL BAR TO A VALID CONVICTION, AND SENTENCE DEPRIVING HIM OF HIS LIFE OR LIBERTY-THE JUDGMENT OF CONVICTION, PRONOUNCED BY A COURT WITHOUT JURISDICTION IS VOID !
>
> Custis Supra

There is no debate that lack of jurisdiction is a conizable claim for PCR litigation, and the issue of waiver of counsel was before the court, so this was a PCR issue that the prior PCR Court avoided.

* * * * * * *

[I]. THERE IS NO VALID FORM 4 OR COURT ORDER ADJUDICATING APPLICANT'S RULE 59(e) MOTION.

The record in this case is pellucid, and there is no valid court order, or form 4 in the [r]ecord adjudicating applicants rule 59(e) motion. The form 4 in the record in this case is [n]ot signed the PCR court judge. It is axiomatic that if the form 4 is not sighed by a judge, then that shortcoming, and incompleteness makes the document null and voio with no judicial effect. (SEE FORM 4 IN THE RECORD)

[J]. THERE ARE SEVERAL FACTUAL PREDICATES IN APPLICANTS AMENDMENT AND SUPPLEMENTATION THAT WERE NOT ADJUDICATED ON THE MERITS DURING THE FIRST PCR LITIGATION:

If you look at the factual predicates in Applicants prior PCR case, you will disclose that there is several claims in the "**AMENDMENT AND SUPPLEMENTATION** that were not raised in the prior PCR litigation. The states motion to dismiss for res-Judicata, statute of limitations, being

successive, and failure to state a claim, is notwithstanding in this case based on concrete fact, that the state hid applicant's Amendment and supplementaion from the court which superceeded the original PCR pleadings.

The Applicant is not only entitled to a PCR hearing for not getting a full and fair bite of the judicial apple, but Applicant is entitled to a PCR hearing DE-NOVO if this court finds that his waiver of PCR counsel was flawed.

(NOTEWORTHY: IF APPLICANT IS GRANTED A PCR HEARING, APPLICANT WILL HAVE A PAID ATTORNEY TO REPRESENT HIM IN THE HEARING:

RESPECTFULLY SUBMITTED:

11-10-21
DATE

Edmond S. Adams
Edmond S. Adams, III #265717
Kershaw C.I., Rm. PB-04
4848 Goldmine Hwy.
Kershaw S.C. 29067

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[CERTIFICATE OF SERVICE]

* * * * * *

I Mr. Edmond S. Adams, III do hereby certify that on the date hereunder, I did serve an exact copy of the foregoing [Applicants Response To Conditional Order of Dismissal] with sufficient first class postage attached and addressed as follows:

OFFICE OF THE ATTORNEY GENERAL
YASMEEN E. KLEIN, Asst. Attorney General
PCR Division-Fifth Circuit
P.O. Box 11549
Columbia S.C. 29211

11-10-21
Date

Edmond S. Adams, III #265717
Kershaw C.I., Rm. PB-04
4848 Goldmine Hwy.
Kershaw S.C. 29067

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STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT
Edmond S. Adams, #265717 Applicant v. State of South Carolina, Respondent.	2020-CP-40-3837 **FINAL ORDER OF DISMISSAL**

This matter comes before the Court pursuant to an application for post-conviction relief filed by Applicant Edmond S. Adams on August 12, 2020. Respondent made its Return and Motion to Dismiss on October 15, 2021, requesting the application be summarily dismissed because it was untimely, successive, barred by the doctrine of *res judicata*, and failed to state a cognizable claim for relief.

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 October 20, 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 November 2, 2021, serving the above-mentioned Conditional Order of Dismissal on the Applicant. Applicant submitted a response filed on November 16, 2021, titled "Applicant's Response to Conditional Order of Dismissal" wherein Applicant argues Respondent's return and motion to dismiss did not address Applicant's amendment to his application and alleges the state has disassembled the appendix to "cripple or retard his litigation" and obstructed justice by "taking important document's out of the record to keep the court's from seeing the ugly truth to this

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matter." As an initial matter, this Court notes it has received and reviewed the Applicant's amendments to the current PCR action which include allegations 10(a) – (h) alleging various courts lacked subject matter jurisdiction, 10(i) alleging conflict of interest regarding the solicitor's office, 10(j) alleging trial court bias, 10(k) alleging his waiver of PCR counsel was not knowingly and intelligently given, and 10(L) alleging the denial of counsel during his first PCR action. This Court has additionally reviewed the explanations provided in support of those allegations (11(a)(1) – 11-L-1).

In his response, Applicant alleges he was not promptly appointed counsel for his first PCR hearing in violation of rule 71.1(d) and claims he is by law entitled to another PCR hearing. The record from Applicant's first PCR action clearly indicates that on March 17, 2008, Applicant appeared before the Court and knowingly and voluntarily waived the right to have appointed counsel for his PCR matters. The Court reconvened on March 19, 2008, where Applicant confirmed on record he voluntarily waived his right to counsel and desire to proceed on his PCR *pro se*. Applicant cannot claim a violation of his right to counsel pursuant to 71.1(d) when he knowingly and voluntarily waived that right. Applicant additionally argues the he was denied counsel during critical stages of the judicial process, and that he raised this issue during his first PCR hearing. The record reflects Applicant elected to proceed to trial *pro se* on his underlying offenses and was provided advisory counsel and a law clerk after having approximately five attorneys assigned to aid in his case. Applicant also argues he was denied effective assistance of counsel during his first appeal, when he relieved himself as counsel which he alleges is a "new factual predicate for the court's adjudication on the merits."

Applicant additionally claims his issues regarding lack of subject matter jurisdiction can be raised at any time and *res judicata* does not apply, that the court never addressed his claim that

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the waiver of his right to counsel was unconstitutional, insists that the court cannot say he was competent to waive the right to counsel, and states that there is no valid order or Form 4 dismissing his 59(e) motion.

This Court has reviewed Applicant's response to the Conditional Order of Dismissal in its entirety, in conjunction with the original pleadings, and 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 this 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 _____ day of _____, 2021.

_____
L. CASEY MANNING
Chief Administrative Judge
Fifth Judicial Circuit

_____, South Carolina

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The Supreme Court of South Carolina

PATRICIA A. HOWARD
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

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February 3, 2022

Mr. Edmond S. Adams, 265717
Kershaw Correctional Institution
4848 Goldmine Hwy
Kershaw SC 29067

Dear Mr. Adams,

This responds to your letter dated January 27, 2022, in which you state that you submitted a Notice of Appeal. I have checked the records in this Court and the Court of Appeals and there is no record that a notice of appeal from your current post-conviction relief action has been filed.

Very truly yours,

Patricia A. Howard

CLERK

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Inmate Services

AGREEMENT TO DEBIT E.H. COOPER ACCOUNT

Inmate's Name:	SCDC #:	Housing Unit:	Date:
Edmond S. Adams	265717	PB-04	1.10.22

GENERAL MATERIAL

** Inmate must have the funds in his/her account to pay for the materials.

Item	Amount	To be completed by SCDC staff: Cost
Envelope		
Pen		
Paper		
Postage		
Tape		
Box		
Electronic Repair		
Other		
	Sub-Total:	

LEGAL MATERIAL

** Inmate is not required to have the funds in his/her account to pay for the materials; however, his/her account must be debited for all materials s/he elects to receive.

Item	Amount	To be completed by SCDC staff: Cost
Envelope	3	S.C. Supreme Court - Inter Agency
Pen		Clerk of Court Rich. Co.
Paper		Attorney General - Inter Agency
Postage 10	1.16	1.16
Other		
	Sub-Total:	

PHOTOCOPIES

** Inmate may be required to have funds in his/her account. See SCDC Procedure GA-01.03(OP), "Inmate Access to the Courts," to determine if inmate may receive copies with/without funds.

Item	Amount	To be completed by SCDC staff: Cost
Photocopies		
		1.16
		TOTAL

Edmond S. Adams III
Inmate's Signature

Ferd
Mailroom/Canteen Signature (Request filled by)

1/11/22
Date

White - Inmate
Canary - Mailroom/Canteen Employee

SCDC Form 10-14 (November 1998)