



which to respond to the conditional order of dismissal and the return and motion to dismiss. Concordantly, Applicant submitted a like request though written letter sent directly to the Honorable J. Mark Hayes, II, then-Chief Administrative Judge for Common Pleas, on the same date. In this letter, he requested Judge Hayes review all filings and exhibits in the case, requested an extension to file the response objecting to the conditional order, and stated he did not think the conditional order adequately addressed the case.

Applicant filed the objection to the conditional order of dismissal on December 28, 2020. In this response, Applicant states he was denied of his right to reply to the conditional order of dismissal prior to the judge signing it. Applicant states the denial of the right to participate in writing the order and replying to the proposed order prior to signing it rendered the order ex parte communications. Applicant claims his responses, pieces of correspondence, and exhibits have been ignored because the conditional order was adopted by the court and because the Judge failed to address and adjudicate on the “issues of material fact.” Applicant claims he is entitled to relief based upon newly discovered evidence that the State “unmerged” his 2004 convictions years after the fact. He claims this was discovered June 19, 2017 “as the issues in another PCR proceeding.” He claims this application is not barred for untimeliness because of this newly discovered evidence. He claims this should not be barred for successiveness or by the doctrine of *res judicata* because, although Applicant raised the ineffective assistance of counsel claims in his last application, this application is not successive because the last application was summarily dismissed without ruling on the merits and because he was not afforded assistance of counsel. Applicant claims he is entitled to an evidentiary hearing because he has presented a case for why there is a genuine issue of material fact. Applicant also claims he is entitled to a hearing on both the procedural issues and on the merits.

Applicant also submitted a reply to Respondent's return and motion to dismiss on December 28, 2020. Applicant claims he is entitled to relief based upon newly discovered evidence based upon his discovery of the State's decision to "unmerge" his 2004 convictions. Applicant claims he discovered this while pursuing his 2016 PCR case. He also claims ineffective assistance of counsel because the "unmerging" occurred. Applicant claims this application is not successive or barred by the doctrine of *res judicata* because the last application was summarily dismissed instead of being adjudicated on the merits. Applicant claims the statute of limitations does not apply because his claim is newly discovered. Applicant claims the application should not be summarily dismissed because "genuine issues of material fact exist" and these issues require a hearing on the matter. Applicant also requested a motion hearing on the motion to dismiss.

Applicant filed a document entitled "Applicant's Exhibit M" on January 22, 2021. In this document, Applicant submitted a copy of his SCDC records as well as a cover letter, dated June 26, 2019, from Respondent to SCDC requesting the records.

On March 29, 2021, Applicant filed a supplemental amendment to the PCR application. In this, he alleged due process violations for failure to afford him PCR Counsel after the State moved to summarily dismiss the application. He stated he was denied counsel when attempting to appeal the summary dismissal case. He stated he was denied a hearing to determine if there was a genuine issue of material fact concerning procedural issues, "affirmative defenses, or concerning the merits of the case. He stated he received ineffective assistance of plea counsel in 2004. He also entered another exhibit in the case consisting of a motion to appoint counsel and to compel in his habeas action.

Also on March 29, 2021, Applicant filed another supplemental response to the motion to

dismiss and conditional order. Here, Applicant states the State has not met its burden in burying his current claims behind his lengthy procedural history consisting of prior actions taken raising similar claims. He claims the prior application was erroneously dismissed. He claims he has a valid ineffective assistance of counsel claim now. He also requests counsel in this case, which he claims he is entitled to in summary dismissal actions. He also claims he was entitled to counsel on an appellate case following the summary dismissal of the circuit court action. He claims he is now entitled to relief based upon ineffective assistance of 2004 plea counsel.

This Court has reviewed all responses in full and finds none of them are sufficient enough to warrant an evidentiary hearing. Consequently, this Court finds this application must be summarily dismissed with prejudice.

Applicant has not adequately shown why he is entitled to relief based upon newly discovered evidence. Applicant claims he newly discovered the evidence during the course of his last PCR action, on or around June 19, 2017. This current application was filed June 19, 2019; a year after the statutory period in which to file an application regarding newly discovered evidence had expired. That the application remains untimely filed set aside, Applicant fails to show why he could not have discovered this through reasonable diligence while entering the plea, why he is entitled to a vacated plea pursuant to the interests of justice. Further, Applicant seemingly concedes he raised this issue in his last application, which was summarily dismissed. Claims raised in his previous PCR action are not properly considered newly discovered evidence. Accordingly, this Court finds the application shall remain dismissed for failure to establish a *prima facie* case of newly discovered evidence.

Additionally, this Court finds that the application is barred for untimeliness. Applicant pled guilty to all charges on October 12, 2004. Thus, his PCR application was due on October

15, 2005. The current application was not filed until June 19, 2019. Applicant has failed to sufficiently explain the fourteen year delay between the remittitur of his appeal and this pursuit of remedy through the PCR process. Thus, the Court shall dismiss the matter as barred by the statute of limitations.

Applicant had a full opportunity to litigate all his allegations in his prior actions. Indeed, Applicant's allegations are identical to those raised to and ruled upon by the Court in the previous action. Applicant's allegations are seemingly identical to those raised and ruled upon by the Court in his last PCR application. This has seemingly been conceded to by Applicant in his responses. That he now reframes the issue already raised as an ineffective assistance of counsel claim is of no consequence. The underlying issue remains the same as before and should be rejected by the court. 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*.


Further, Applicant's application is barred on successiveness grounds. Applicant's current allegations were or could have been raised in earlier proceedings based upon Applicant's prior PCR applications and Applicant has not sufficiently proven why these issues could not have been raised earlier. Thus, the current application is successive and barred.

Before this Court will hold an evidentiary hearing, Applicant must make a *prima facie* showing that he is entitled to relief. *Welch v. MacDougall*, 246 S.C. 258, 143 S.E.2d 455 (1965). Applicant has failed to make such a showing based on the information set forth in his responses, and, consequently, is not entitled to an evidentiary hearing. Thus, the Court reasserts its finding in the conditional order of dismissal that the current PCR application must be dismissed for untimeliness, successiveness, as barred by the doctrine of *res judicata*, and for failure to establish a *prima facie* case of newly discovered evidence. Accordingly, this Court finds no reason why

the conditional order of dismissal should not become final.

**IT IS THEREFORE ORDERED** that, for the reasons in this Court's conditional order of dismissal, the PCR application is hereby denied and dismissed with prejudice. This court hereby advises Applicant that he must file and serve a notice of appeal within thirty days of the service of this order to secure appellate review. *See* Rule 203, SCACR. Applicant's attention is directed to Rule 243, SCACR, for the procedures following the filing and service of the notice of appeal.

**AND IT IS SO ORDERED** this 30 day of August, 2021.

  
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J. DEZHNAM COLE  
Chief Administrative Judge CP  
Seventh Judicial Circuit

\_\_\_\_\_, South Carolina



RECEIVED

DEC 23 2020

TYGER RIVER C.I.  
WARDEN'S OFFICE

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
OFFICE OF GENERAL COUNSEL  
MEMORANDUM

RECEIVED

DEC 29 2020

GENERAL COUNSEL

**TO:** Warden Gadsden  
Tyger River Correctional Institution

**FROM:** Jonathan Eckstrom/Elizabeth Powers  
Office of General Counsel/Office of the Director

**RE:** **REQUEST FOR SERVICE OF LEGAL PLEADINGS**  
Inmate Alonzo C. Jeter  
SCDC Inmate Number 282902

**DATE:** December 23, 2020

Pursuant to the above referenced subject, please follow the below procedures for *Service of Legal Pleadings* on Inmate Alonzo C. Jeter SCDC Inmate Number 282902.

1. Serve Papers (Conditional Order of Dismissal-Case No.: 2019-CP-11-0457) on inmate Alonzo C. Jeter SCDC Inmate Number 282902
2. Complete the *AFFIDAVIT OF SERVICE* (sign/date/notarize) acknowledging that the Legal Pleading(s) were served on Inmate Alonzo C. Jeter SCDC Inmate Number 282902.
3. Please note that if the Inmate chooses 'not' to physically accept the Legal documents from you (Server), the Inmate is considered 'Served' once he/she has been properly identified.
4. Therefore, please proceed with service process by placing the Legal document(s) under the Inmate's cell door.
5. Please indicate on the ORIGINAL AFFIDAVIT OF SERVICE the following:  
*'Inmate refused to accept service'*.
6. Make a COPY of the AFFIDAVIT OF SERVICE for the Inmate for his/her record.
7. Return the completed 'ORIGINAL' AFFIDAVIT OF SERVICE ONLY back to the Office of General Counsel (H.Q.)

If you have any questions, please call Jonathan Eckstrom at 896-4513 or Elizabeth Powers at 896-9726.

ekp  
Attachment(s)