

Serial: 219050

FILED

IN THE SUPREME COURT OF MISSISSIPPI

MAY 23 2018

No. 2012-M-02003

**OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS**

***MICHAEL JOHN TARVIN A/K/A
MICHAEL TARVIN***

Petitioner

v.

STATE OF MISSISSIPPI

Respondent

ORDER

Before the panel of Waller, C.J., Coleman and Maxwell, JJ., is Michael Tarvin's Application for Leave to Proceed in the Trial Court. Tarvin was convicted of rape, burglary of a dwelling, and kidnapping. In 2005, this Court affirmed Tarvin's convictions and sentences. *Tarvin v. State*, 2003-KA-01914-SCT.

The instant application is Tarvin's fifth application for leave. This Court has either dismissed or denied Tarvin's previous applications. Here, Tarvin raises six issues: (1) he is entitled to additional DNA testing to show his innocence; (2) he was subjected to racism by law enforcement; (3) he received ineffective assistance of counsel; (4) the evidence was insufficient to support the indictment; (5) the evidence was insufficient to obtain an arrest warrant; and (6) the trial court had a duty to investigate appointed counsel after Tarvin raised concerns about counsel's performance.

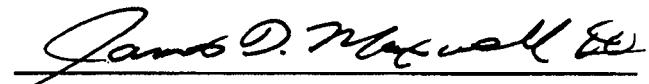
After due consideration, the panel finds that Tarvin's claims are procedurally barred, as they have either been raised in previous applications, or could have been raised previously.

Miss. Code Ann. § 99-39-27. Further, the panel finds the application is subject to the time bar. Miss. Code Ann. § 99-39-5. Because no exception to the procedural bars exists, the application should be dismissed.

The panel further finds that the present filing is frivolous and that Tarvin should be warned that if he continues to file frivolous pleadings, he could be subjected to monetary sanctions. Additionally, the Court could choose to restrict his ability to file pleadings *in forma pauperis*.

IT IS THEREFORE ORDERED that Michael Tarvin's Application for Leave to Proceed in the Trial Court is hereby dismissed.

SO ORDERED, this the 22nd day of May, 2018.



JAMES D. MAXWELL II, JUSTICE

**Additional material
from this filing is
available in the
Clerk's Office.**