

EPPENDIX-A



SUPREME COURT OF GEORGIA

Case No. S19H1212

December 23, 2019

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

CHARLES CLARK v. VANCE LAUGHLIN, WARDEN.

Upon consideration of the application for certificate of probable cause to appeal the denial of habeas corpus, it is ordered that it be hereby denied.

All the Justices concur.

Trial Court Case No. 18-CV-056

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Theresa N. Barnes, Clerk

EPPENDIX - B

IN THE SUPERIOR COURT OF WHEELER COUNTY
STATE OF GEORGIA

2019 APR -8 AM 10: 44

CHARLES EDWARD CLARK, JR.,
GDC - 1000420183,

PETITIONER,

v.

VANCE LAUGHLIN, WARDEN,
and HOMER BRYSON, COMMISSIONER,
GEORGIA DEPARTMENT OF
CORRECTIONS,

RESPONDENTS.

Carol L. Bragg
CLERK SUPERIOR COURT
CIVIL ACTION NO: 18-CV-056

HABEAS CORPUS

**ORDER DISMISSING PETITIONER'S UNTIMELY AND
IMPERMISSIBLY SUCCESSIVE PETITION FOR WRIT OF HABEAS CORPUS**

This matter is before the Court on Respondent's Motion to Dismiss the instant petition as untimely and impermissibly successive. After reviewing the record, Respondent's motion is granted, and the instant habeas corpus petition is **DISMISSED** as both untimely and impermissibly successive based upon the following findings of fact and conclusions of law:

On November 4, 2010, Petitioner was convicted following a jury trial in the Superior Court of Fulton County for enticing a child and contributing to the delinquency of a minor, for which he received twenty (20) years in prison. Petitioner's convictions and sentence were affirmed by the Court of Appeals of Georgia on August 9, 2013. Clark v. State, 323 Ga.App. 706 (2013). Petitioner filed the instant habeas corpus petition on or about June 12, 2018, in which he challenges the validity of his Fulton County convictions. This Court finds the claims raised in the instant petition are both untimely and impermissibly successive.

UNTIMELY PETITION

Georgia's habeas corpus statute requires: "Any action brought pursuant to this article shall be filed within...four years in the case of a felony...from: (1) The judgment of conviction becoming final by the conclusion of direct review or the expiration of the time for seeking

review; provided, however, that any person whose conviction has become final as of July 1, 2004, regardless of the date of conviction, shall have until July 1, 2005, in the case of a misdemeanor or until July 1, 2008, in the case of a felony to bring an action pursuant to this Code section.” O.C.G.A. § 9-14-42(c). Petitioner’s conviction became final on or about August 19, 2013, when the time for filing a Notice of Intent to petition the Supreme Court of Georgia for a Writ of Certiorari expired. Consequently, Petitioner had until August 19, 2017, to file a habeas corpus petition challenging his conviction or be barred by the above-referenced statute of limitations. The instant petition was filed June 12, 2018. This Court finds Petitioner’s habeas corpus petition is barred as untimely filed.

SUCCESSIVE PETITION

Petitioner previously filed a petition for writ of habeas corpus challenging his Fulton County convictions for enticing a child and contributing to the delinquency of a minor in the Superior Court of Wheeler County on May 6, 2014. The Superior Court of Wheeler County issued a Final Order denying habeas corpus relief on August 8, 2016. Charles Clark v. Vance Lauglin Warden, and Brian Owens, Commissioner, Georgia Department of Corrections, Civil Action No.: 14-CV-075, Superior Court of Wheeler County. Georgia law requires all allegations for habeas corpus relief be raised in the original or amended habeas corpus petition, and litigation on the merits of such claims is barred absent a showing the claims could not reasonably have been raised in the original petition, or that the claims were constitutionally non-waivable. O.C.G.A. § 9-14-51. Smith v. Zant, 250 Ga. 645 (1983); Tucker v. Kemp, 256 Ga. 571 (1987).

Without addressing the validity or cognizability of Petitioner’s claims, this Court finds Petitioner has presented no claim that could not have been previously raised when this case was called for hearing, and has failed to show cause why his claim could not have been previously raised. The grounds in the instant petition either were raised or could reasonably have been raised in Petitioner’s Wheeler County petition but were not, and his current claim is impermissibly successive. Zant, 250 Ga. 645(1983); Tucker, 256 Ga. 571 (1987). This Court finds that Petitioner’s habeas corpus petition is barred as impermissibly successive.

Accordingly, Respondent’s Motion to Dismiss Petition as Untimely and Successive is

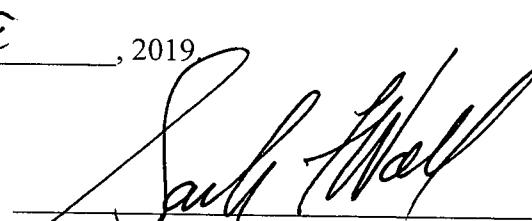
granted. The instant Petition for Writ of Habeas Corpus is dismissed.

CONCLUSION

If Petitioner desires to appeal this order, Petitioner must file a written application for certificate of probable cause to appeal with the Clerk of the Supreme Court of Georgia within thirty (30) days from the date of the filing of this order. Petitioner must also file a notice of appeal with the Clerk of the Superior Court of Wheeler County within the same thirty (30) day period.

The Clerk of the Superior Court of Wheeler County is hereby directed to mail a copy of this order to Petitioner, Respondent, and to Special Assistant Attorney General Daniel M. King, Jr.

SO ORDERED this 5 day of April, 2019,



SARAH F. WALL, Chief Judge
Oconee Judicial Circuit

Order Presented by:

Franklin D. Miller
Of Counsel to Daniel M. King, Jr., SAAG
KING LAW GROUP
Post Office Box 4329
Dublin, Georgia 31040
(478) 275-2255

DAVIEBORN

OSOS & RAM

**IN THE SUPERIOR COURT OF WHEELER COUNTY
STATE OF GEORGIA**

CHARLES EDWARD CLARK,
GDC – 1000420183,
PETITIONER,

VS.

CIVIL ACTION NO: 18CV056

VANCE LAUGHLIN, WARDEN, and
HOMER BRYSON, COMMISSIONER,
GEORGIA DEPARTMENT OF
CORRECTIONS,
RESPONDENTS,

CERTIFICATE OF SERVICE

I, Hannah Leyland, Clerk of Superior Court, do hereby certify that I have this day mailed a true and accurate copy of the ORDER DISMISSING PETITION to the below-named parties*, with sufficient postage thereon to assure delivery.

Charles Edward Clark, GDC - 1000420183
Wheeler Correctional Facility
P. O. Box 466
Alamo, GA 30411

Vance Laughlin, Warden,
Wheeler Correctional Facility
P. O. Box 466
Alamo, GA 30411

Homer Bryson, Commissioner,
Georgia Department of Corrections
State Offices South at Tift College
P. O. Box 1529
Forsyth, GA 31029

Franklin Miller, Esq.,
of Counsel to
Daniel M. King, Jr., SAAG
P. O. Box 4329
Dublin, GA 31040

This the 8th day of April, 2019

Hannah Leyland, Deputy Clerk
Wheeler Superior Court

RECEIVED
MAR 24 2020
OFFICE OF THE CLERK
SUPREME COURT, U.S.

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