

**IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI**

**NO. 2023-CA-00562-COA**

**CHARLES RICHARD DOBBINS A/K/A  
CHARLES DOBBINS A/K/A RICHARD  
DOBBINS**

**APPELLANT**

**v.**

**STATE OF MISSISSIPPI**

**APPELLEE**

DATE OF JUDGMENT:	04/13/2023
TRIAL JUDGE:	HON. MICHELLE DEAN EASTERLING
COURT FROM WHICH APPEALED:	LOWNDES COUNTY CIRCUIT COURT
ATTORNEYS FOR APPELLANT:	PHILIP CAREY HEARN CHARLES C. COLE
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: ALLISON ELIZABETH HORNE
NATURE OF THE CASE:	CIVIL - POST-CONVICTION RELIEF
DISPOSITION:	AFFIRMED - 05/07/2024
MOTION FOR REHEARING FILED:	

**BEFORE WILSON, P.J., McCARTY AND EMFINGER, JJ.**

**EMFINGER, J., FOR THE COURT:**

¶1. Charles Richard Dobbins filed a motion for post-conviction relief (PCR) in the Circuit Court of Lowndes County, Mississippi on December 14, 2022. The circuit court summarily dismissed the motion by order entered on April 13, 2023. Dobbins appealed.

**FACTS AND PROCEDURAL HISTORY**

¶2. Dobbins entered a guilty plea to “Secretly Photographing a Child under the age of Sixteen (16) for Lewd Purposes” as charged in Count 1 of the indictment against him and “Secretly Photographing for Lewd Purposes” as charged in Count 2. By separate sentencing orders entered on September 6, 2019, Dobbins was sentenced to serve a term of ten years in

the custody of the Mississippi Department of Corrections (MDOC) for Count 1 and to five years in the custody of MDOC on Count 2, with all five years suspended. The sentence for Count 2 was ordered to run consecutively to the sentence imposed for Count 1.

¶3. Dobbins filed his first PCR motion on February 12, 2020. The circuit court entered an order dismissing the motion on February 20, 2020. The circuit clerk’s docket does not reflect that Dobbins appealed the dismissal of that motion.

¶4. As noted above, Dobbins filed his second PCR motion on December 14, 2022. The circuit court summarily dismissed it on April 13, 2023, finding that the motion was barred as successive pursuant to Mississippi Code Annotated section 99-39-23(6) (Rev. 2020). Further, the circuit court found that the motion was time-barred pursuant to section 99-39-5(2) (Rev. 2020) because it was not filed within three years of the entry of the sentencing order.

### STANDARD OF REVIEW

¶5. In *McConn v. State*, 355 So. 3d 779, 782-83 (¶9) (Miss. Ct. App. 2023), this Court wrote:

A circuit court may summarily dismiss a PCR motion “[i]f it plainly appears from the face of the motion, any annexed exhibits and the prior proceedings in the case that the movant is not entitled to any relief.” Miss. Code Ann. § 99-39-11(2) (Rev. 2020). The Mississippi Supreme Court has stated that summary “dismissal of a PCR motion is proper where it appears beyond a doubt that the [movant] can prove no set of facts in support of his claim which would entitle him to relief.” *State v. Santiago*, 773 So. 2d 921, 924 (¶11) (Miss. 2000) (quotation marks omitted). “Our review of the summary dismissal of a PCR motion, a question of law, is de novo.” *Nichols v. State*, 265 So. 3d 1239, 1241 (¶6) (Miss. Ct. App. 2018) (citing *Young v. State*, 731 So. 2d 1120, 1122 (¶9) (Miss. 1999)).

## ANALYSIS

¶6. On appeal, Dobbins ignores the statutory bars and simply argues the merits of his claim of ineffective assistance of counsel. Neither in his PCR motion before the trial court nor here on appeal does Dobbins make any argument that one of the exceptions to the statutory bars found in section 99-39-5(2) is applicable to his claim.

¶7. Our review of the record reveals that the PCR motion at issue was successive. Further, the instant motion was filed more than three years after the final judgment and sentencing. We find that Dobbins' claim is statutorily barred. *See Badger v. State*, 369 So. 3d 90, 92-93 (¶7) (Miss. Ct. App. 2023).

¶8. **AFFIRMED.**

**BARNES, C.J., CARLTON AND WILSON, P.JJ., GREENLEE, WESTBROOKS, McDONALD, LAWRENCE, McCARTY AND SMITH, JJ., CONCUR.**