

**IN THE COURT OF APPEALS
OF THE
STATE OF MISSISSIPPI
NO. 1999-CP-00106-COA**

JOHN JOSEPH DEDEAUX, SR

APPELLANT

v.

STATE OF MISSISSIPPI

APPELLEE

DATE OF TRIAL COURT JUDGMENT: 08/14/1998

TRIAL JUDGE: HON. JERRY O. TERRY SR.

COURT FROM WHICH APPEALED: HANCOCK COUNTY CIRCUIT COURT

ATTORNEY FOR APPELLANT: PRO SE.

ATTORNEY FOR APPELLEE: OFFICE OF THE ATTORNEY GENERAL

BY: JEFFREY A. KLINGFUSS

DISTRICT ATTORNEY: CONO A. CARANNA II

NATURE OF THE CASE: CIVIL - POST CONVICTION RELIEF

TRIAL COURT DISPOSITION: 08/14/1998: POST-CONVICTION RELIEF DENIED

DISPOSITION: AFFIRMED - 07/16/2002

MOTION FOR REHEARING FILED: 7/24/2002; denied 9/17/2002

CERTIORARI FILED: 10/1/2002

MANDATE ISSUED:

BEFORE SOUTHWICK, P.J., BRIDGES, AND BRANTLEY, JJ.

BRIDGES, J., FOR THE COURT:

¶1. John Joseph Dedeaux, Sr. pled guilty to a charge of receiving stolen property on November 13, 1990, and was sentenced to five years in the custody of the Mississippi Department of Corrections (MDOC). Dedeaux filed a motion for post-conviction relief (PCR) which was dismissed by an order entered September 22, 1992. Dedeaux filed a second motion for post-conviction relief on May 1, 1998, which the court returned for failure to meet the statutory requirements for PCR pleadings. Dedeaux then filed yet another motion for post-conviction relief on August 10, 1998, seeking relief from his plea and sentence of November 13, 1990.

¶2. The Circuit Court of Hancock County denied Dedeaux's motion as time-barred, and as a successive writ. Dedeaux appeals.

STATEMENT OF THE ISSUE

DID THE CIRCUIT COURT OF HANCOCK COUNTY PROPERLY DENY DEDEAUX'S

MOTION FOR POST-CONVICTION RELIEF?

ANALYSIS

¶3. A motion for post-conviction relief shall be made within three years of entry of judgment. Miss. Code Ann. § 99-39-5 (2) (Rev. 2000). Dedeaux properly filed his motion for post-conviction relief within two years of his guilty plea, and the court dismissed his motion. Dedeaux did not appeal. However, Dedeaux did file a second and third motion for post-conviction relief nearly eight years after he pled guilty. Consequently, Dedeaux's motion does not fall within the statute of limitations, and this Court affirms the judgment of the circuit court.

¶4. Further, Dedeaux's second and third motions for post-conviction relief are barred as successive writs. "The dismissal or denial of an application under this section is a final judgment and shall be a bar to a second or successive application under this chapter." Miss. Code Ann. § 99-39-27 (9) (Rev. 2000). Dedeaux could have pursued an appeal of the court's dismissal of his original PCR, but did not. As this was the sole remedy available to him, Dedeaux's current PCR was properly denied.

¶5. For the foregoing reasons, we affirm the judgment of the Hancock County Circuit Court.

¶6. THE JUDGMENT OF THE CIRCUIT COURT OF HANCOCK COUNTY DENYING THE MOTION FOR POST-CONVICTION RELIEF IS AFFIRMED. ALL COSTS OF THIS APPEAL ARE ASSESSED TO HANCOCK COUNTY.

McMILLIN, C.J., KING AND SOUTHWICK, P.JJ., THOMAS, LEE, IRVING, MYERS, CHANDLER AND BRANTLEY, JJ., CONCUR.