

Willie FRAZIER 219272

Appellant

✓

State of South Carolina

Respondent

In the South Carolina Supreme Court

CASE NO 2019-CP-0318

SCRCP Rule 60(b)(3)

Misconduct of Adverse Party

RECEIVED

AUG 24 2022

S.C. SUPREME COURT

Now comes the Applicant Willie Frazier, who seeks this Court's Justice to set aside final order of dismissal of a proposed order prepared by the Respondent that was signed by Judge Clifton Newman on July 7th 2022. The Applicant was also notified by way of final order that he had 30 days to Appeal directed to Rule 243, SCAER for procedures following the filing and service of the notice of Appeal. The final order of dismissal prepared by the respondent is ~~substantive~~ insufficient and that said final order should be set aside, due to lack of findings of fact and conclusions of law relative to the subject matter Jurisdiction issue.

LEGAL MAIL

The final order in this matter does not cite case law to presented issue raised by the Applicant, that the Barnwell County Court lacked subject matter jurisdiction Feb 8, 1995 to allow applicant to plead guilty under the Youthful Offender Act, due to offense of Attempted Armed Robbery being violent CRIMINALS more than 15 yrs S.C. Code 24-19-10. The final order does not contain findings of fact conclusion of case law relating to this issue. S.C. Code 17-27-80 SCRCP 52 (A)

Subject matter jurisdiction can be raised at any time, and can be raised on the first time on appeal, the one year statute of limitations does not apply, the final order dismissed issue on the grounds of statute of limitations;

In a post conviction relief action, the doctrine of res judicata does not apply to allegations based on subject matter jurisdiction; and also successive affirmative defenses

does not apply to claims involving subject-matter jurisdiction

Brown v. State 343 S.C. 342 is the controlling case

by this Supreme court, the facts of Applicant case should've warranted a hearing in the lower court based on the subject matter jurisdictional claim

LEGAL MAIL

The post conviction court's general denial of ALL CLAIMS not specifically addressed in the order does not constitute a sufficient ruling on ANY issue, since it does not set forth specific finding of facts and conclusion of law relating to each issue presented. The PER court judge could not have thoroughly reviewed this order prior to signing it July 7, 2022, to MAKE SURE all issues raised were adequately addressed. See Fishburne v. STATE. The question is why did the PER court judge sign this order July 7, 2022 when it's clear that the grounds alleged WAS sufficient enough to overcome the procedural hurdles of statute of limitations, successive, res judicata, in light of Broum v. STATE SUPRA. This final order violate rights of appellant review due to misconduct of adverse party for preparing a incomplete order. Therefore the Applicant files this Rule 60B(3) to set aside final order dismissing Applicant PER, due to lack of sufficient findings in the record concerning applicant's subject matter jurisdiction claims, and that said order be set aside, and that Applicant's claim involving subject-matter jurisdiction be adjudicated on the merits.

Willie Frazier
Aug 20, 2022

LEGAL MAIL

STATE OF SOUTH CAROLINA)
COUNTY OF BARNWELL)

Willie Frazier, SCDC No. 219272,)
Applicant,)

v.)

State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS)
FOR THE SECOND JUDICIAL CIRCUIT)

Case No.: 2019-CP-06-0318)

FINAL ORDER OF DISMISSAL)

RECEIVED

AUG 24 2022

S.C. SUPREME COURT

This matter is before the Court based on a successive application for post-conviction relief filed by Applicant Willie Frazier. In response, Respondent the State of South Carolina made its return and moved to summarily dismiss the action as procedurally barred on numerous grounds pursuant to the Uniform Post-Conviction Procedures Act, S.C. Code Ann. § 17-27-10 et seq. (2014).

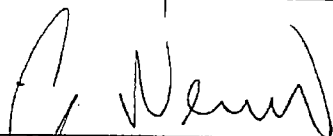
After a review of the record and pleadings, this Court agreed this application should be summarily dismissed and provisionally dismissed the action by way of a Conditional Order of Dismissal filed on December 21, 2021, giving the Applicant twenty days from the date of service of said Order in which to show why the dismissal should not become final. Attached to this Final Order and incorporated herein by reference is an Affidavit of Service dated January 21, 2022, serving the above-mentioned Conditional Order of Dismissal on Applicant.

Applicant responded to the Conditional Order of Dismissal by way of document captioned "Objection to Conditional Order," filed on December 21, 2021. In this document, Applicant asserts that he is entitled to a hearing on his claims of ineffective assistance of counsel and subject matter jurisdiction as a matter of due process. He fails to address why this claim is not barred as successive, untimely, or *res judicata*. This Court finds Applicant has not provided sufficient reason to overcome the procedural bars as set forth in the Conditional Order of Dismissal.

IT IS THEREFORE ORDERED that for the reasons set forth in the Court's Conditional Order of Dismissal, this application for post-conviction relief is hereby **DENIED AND DISMISSED WITH PREJUDICE**.

This Court hereby advises Applicant 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 7th day of July, 2022.


CLINTON NEWMAN
Presiding Judge
Second Judicial Circuit

Columbia, South Carolina

RECEIVED
AUG 24 2022
S.C. SUPREME COURT