

Notice of Appeal from A
Post-Conviction Relief filing

The state of South Carolina
Supreme Court

Appeal from Spartanburg County
Court of Common Pleas

Grace G. Knire, Judge

2021-CP-42-01473

Robert Heydman #330872
Applicant

v.
State of South Carolina
Respondent

Robert Heydman #330872 appeals the denial of his PCR application. The appeal is taken from the order of Honorable Grace G. Knire dated August 25, 2022 which denied applicants PCR action. Applicant received written notice of entry of this order on August 30, 2022

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S.C. SUPREME COURT

Robert Heydman

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claim. He also requested he be present at his PCR hearing.

Third, he filed "affidavit in support of motion for the appointment of counsel." In the document, he stated he is seeking to raise several meritorious issues, that he does not currently have counsel, and requests that his motion for appointment of counsel be granted.

Fourth, Applicant filed a document entitled "Applicant's objection to the conditional order of dismissal." Applicant claims he filed this application in response to a letter from trial counsel dated November 18, 2020, stating Applicant had a thirty-year offer on the table at one point, which he claims was not conveyed to him before trial. Applicant claims he is raising a newly discovered evidence issue that Counsel failed to convey a thirty-year plea offer. Applicant claimed he did not know about this offer until he received a letter from Counsel dated November 18, 2020. Applicant stated he filed this application within a year of this discovery. Applicant claims that if the offer was conveyed, he would have accepted it. He claimed he never signed a waiver of the plea offer and, therefore, it was never conveyed to him. He also stated he was never told of the consequences of not accepting the plea. Applicant claims that he was denied his right to a fair adjudication of the claims because Respondent drafted the conditional order, which was signed but this Court. He claims the adoption of Respondent's argument represents a lack of judicial independence. Applicant claims he showed a sufficient reason for why this was not raised in an earlier action. Applicant claims he has met all five newly discovered evidence factors. Applicant requests appointment of counsel and a PCR hearing to resolve this matter.

This Court has reviewed all responses in full and finds none of them are sufficient to warrant an evidentiary hearing. Consequently, this Court finds this application must be summarily dismissed with prejudice.

Applicant has not adequately shown why he is entitled to relief based upon newly

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discovered evidence. Applicant's own evidence not only indicates he was aware of the offer made, but that he actively rejected it because it would effectively be a life sentence, given his age. Information Applicant knew about before trial is not newly discovered. Accordingly, this evidence was seemingly discovered prior to trial and Applicant's new contention that he did not know about the offer prior to November 2020 is of no consequence, especially since the only corroborating evidence he attached to the application indicates that he knew of the offer prior to trial, which is roughly a decade before this application was filed. Further, this Court reads the attached letter as being in response to a letter Applicant himself wrote Counsel. This indicates to the Court that Applicant seemingly knew enough about the offer to ask Counsel about it. Applicant's response to the conditional order is largely duplicative with the application and has provided no new information affecting this Court's initial analysis. Accordingly, this Court finds the application shall remain dismissed for failure to establish a *prima facie* case of newly discovered evidence.

Before this Court will hold an evidentiary hearing, Applicant must make a *prima facie* showing that he is entitled to relief. *Welch v. MacDougall*, 246 S.C. 258, 143 S.E.2d 455 (1965). Applicant has failed to make such a showing based on the information set forth in his responses, and, consequently, is not entitled to an evidentiary hearing. Thus, the Court reasserts its finding in the conditional order of dismissal that the current PCR application must be dismissed for failure to establish a *prima facie* case of newly discovered evidence. Accordingly, this Court finds no reason why the conditional order of dismissal should not become final.

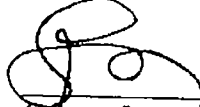
IT IS THEREFORE ORDERED that, for the reasons in this Court's conditional order of dismissal, the PCR application is hereby denied and dismissed with prejudice.

This court hereby advises Applicant that he must file and serve a notice of appeal within

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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 25 day of August, 2022.



GRACE GILCHRIST KNIE¹
Chief Administrative Judge
Seventh Judicial Circuit

Spawthorpe, South Carolina

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¹ The Honorable R. Keith Kelly is currently the Chief Administrative Judge for Common Pleas for the Seventh Judicial Circuit, but because he has a conflict of interest regarding this action, the proposed final order of dismissal is being sent to the Honorable Grace Gilchrist Knie, Chief Administrative Judge for General Sessions for the Seventh Judicial Circuit.



ALAN WILSON
ATTORNEY GENERAL

August 22, 2022

The Honorable Grace Gilchrist Knie
Seventh Circuit Resident Judge
180 Magnolia Street
Spartanburg, SC 29306

Re: Robert Heydman, #330872 v. State of South Carolina
2021-CP-42-01473

Dear Judge Knie:

Enclosed please find the proposed Final Order of Dismissal in the above-captioned case. For your convenience, I am enclosing a copy of the signed and served Conditional Order of Dismissal and the responses to the Conditional Order of Dismissal for your review.

If this Order meets your approval, please sign and forward to the Spartanburg County Clerk of Court for filing.

Sincerely,

/s Chelsey F. Marto
Chelsey F. Marto
Assistant Attorney General

CFM/jbh
Enclosure(s)

cc: Robert Heydman, #330872

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WILLIAM H. MCPHERSON

ATTORNEY AND COUNSELOR AT LAW
1300 HIBISCUS AVENUE
MCALLEN, TEXAS 78501-3993
TELEPHONE (956) 878-9122
email: wmicpherson@hotmail.com

November 18, 2020

Mr. Robert Heydman #330872
Q4B201
Perry Correctional Institute
430 Oaklawn Rd.
Pelzer, SC. 29669

Dear Mr. Heydman:

I no longer work for the Public Defender's Office in Spartanburg, SC. You may want to contact them regarding any plea offers that may be in your file.

As best as I can recall in your case the last plea offer we received and that was rejected by you was in exchange for a guilty plea to Murder the State would offer you 30 years in prison. I recall you telling me that would be like a death sentence to you because of your age. We were trying to get them to let you plea to a Manslaughter charge but that was rejected by the State.

Needless to say, if I can be of further assistance to you please do not hesitate to contact me.

Sincerely,



William H. McPherson

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