

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOR THE FOURTH JUDICIAL CIRCUIT
COUNTY OF DILLON)	
Isaiah Brown,)	Case No.: 2018-CP-17-00465
S.C.D.C. No. 347241,)	
)	
Applicant,)	
)	FINAL ORDER OF DISMISSAL
v.)	
)	
State of South Carolina)	
)	
Respondent.)	

FILED
 GWEN THYATT
 2019 JUL 28 A 9:46
 CLERK OF COURT
 DILLON COUNTY

This matter comes before the Court by way of an application for post-conviction relief filed October 15, 2018. Respondent made its return on or about December 14, 2018, requesting the application be summarily dismissed as untimely, successive, and for failing to set forth a *prima facie* case of newly discovered evidence.

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal signed December 19, 2018, and filed January 3, 2019, provisionally denying and dismissing this action, while giving the Applicant 20 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 February 13, 2019, serving the above-mentioned Conditional Order of Dismissal on Applicant.

Applicant filed responses on January 16, 2019, and February 28, 2019. Applicant additionally moved for an evidentiary hearing on allegations of prosecutorial misconduct. This Court has reviewed Applicant's response to the Conditional Order of Dismissal in its entirety, in

conjunction with the original pleadings, and finds a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

In the January 16, 2019, response, Applicant reasserts his allegations were discovered within a year of his filing the application, then reasserts the allegations set forth in the application. Applicant contends he has presented a factual dispute to necessitate an evidentiary hearing. In the February 28, 2019, response, Applicant again vociferously asserts that he did not discover until the year prior to filing this application that he “was never, ever housed in the same facility as Alford and Williams,” who he asserts were housed as adult prisoners in Dillon whereas Applicant was housed as a juvenile in Columbia.

Applicant’s unspecific assertion that he discovered the evidence “within the past year” is simply inadequate to show when he discovered the allegations at issue. In order to make a *prima facie* showing of newly-discovered evidence, an applicant needs to assert with *some* specificity when it is that he discovered the information which provides the basis of the allegation. If not a particular date, then at least a week, month, or perhaps even the season of discovery, or information to provide a contextual inference of when discovery occurred. Applicant emphasizes he submitted an affidavit from Alford¹ with his motion for an evidentiary hearing on January 28, 2019, but that affidavit provided *subsequent to the making of the allegation* cannot serve as the basis for when the basis of the allegation was discovered. In any event, the Court stands by its rulings as set forth in the Conditional Order.

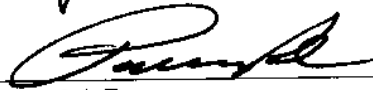
IT IS THEREFORE ORDERED that for the reasons set forth in the Court’s Conditional Order of Dismissal, as supplemented by the findings above, the Application for post-conviction relief is hereby **DENIED AND DISMISSED WITH PREJUDICE**. Applicant’s motions for an evidentiary hearing are similarly **DENIED**.

¹ The Court also notes that Mr. Alford asserts in his affidavit his firm desire not to be contacted about his statement.

This Court hereby advises the Applicant that he must file and serve a Notice of Appeal within 30 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 19th day of July, 2019.

Christoford, South Carolina.



PAUL M. BURCH
Chief Administrative Judge
Fourth Judicial Circuit

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Post Office Box 21787 - Columbia, South Carolina 29221

Pursuant to Rule 4(d)(2) of the South Carolina Rules of Civil Procedure, the Director of the South Carolina Department of Corrections has designated Sgt D Kelley (Server) as his duly authorized agent for the purpose of making service of the process on the below named individual.

STATE OF SOUTH CAROLINA)
COUNTY OF McCormick)

AFFIDAVIT OF PERSONAL SERVICE

On this 13 day of Feb. 2019, I served the Conditional Order of Dismissal, on Inmate Isaiah Brown SCDC Inmate #347241, by delivering personally and leaving a copy of the same at McCormick Correctional Institution. Deponent is not a party to this action.

s/ Sgt D Kelley
SCDC Server

SWORN TO AND SUBSCRIBED BEFORE ME

this 13 day of Feb, 2019

Robert J. Wiedeman (L.S.)
Notary Public for South Carolina

My Commission Expires: 9-30-26

FILED
GWENT HYATT
2019 JUL 29 A 9:46
CLERK OF COURT
DILLON COUNTY

ADMISSION OF SERVICE

Service of a copy of the within Conditional Order of Dismissal is admitted at the South Carolina Department of Corrections (McCormick Correctional Institution), McCormick, McCormick County, SC this 13 day of Feb., 2019.

s/ Isaiah Brown
Inmate
SCDC Inmate #: 347241



ALAN WILSON
ATTORNEY GENERAL

July 16, 2019

The Honorable Paul M. Burch
Chief Administrative Judge - 4th Judicial Circuit
Post Office Box 276
601 West McGregor Street
Pageland, South Carolina 29728-0276

FILED
GWENTHYATT
2019 JUL 29 A 9:46
CLERK OF COURT
DILLON COUNTY

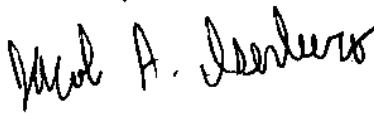
Re: Isaiah M. Brown, #347241 v. State of South Carolina
2018-CP-17-0465

Dear Judge Burch:

Enclosed please find the proposed **Final Order of Dismissal** in the above-captioned case.

If this Order meets your approval, please sign it and return to me in the enclosed envelope, and I will forward to the Clerk of Court to be filed and served. If you have any questions, please do not hesitate to contact me at (803) 734-3737 or jjames@scag.gov.

Sincerely,

for 
Johnny E. James Jr.
Assistant Attorney General

JEJ/ec
Enclosures

cc: Isaiah M. Brown, #347241



ALAN WILSON
ATTORNEY GENERAL

July 23, 2019

The Honorable Gwen T. Hyatt
Clerk of Court, Dillon County
Post Office Box 1220
Dillon, South Carolina 29536-1220

Re: Isaiah Brown, #347241 v. State of South Carolina
2018-CP-17-00465

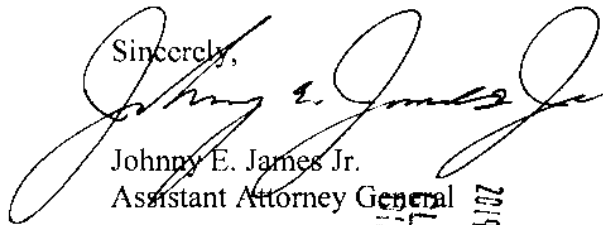
Dear Ms. Hyatt:

Enclosed please find the original **Final Order of Dismissal** signed by the Honorable Paul M. Burch, in the above-captioned case, for filing in your office.

Pursuant to Rule 71.1(f), of the South Carolina Rules of Civil Procedure, please "provide notice of entry of judgment and serve a copy of the order or judgment to the parties as provided in Rule 77(d), SCRPC."

Should you have any questions, please call me at (803) 734-7217.

Sincerely,



Johnny E. James Jr.
Assistant Attorney General

JEJ/ec

Enclosures

FILED
GWENTHYATT
2019 JUL 29 A 9:46
CLERK OF COURT
DILLON COUNTY