

FORM 4

STATE OF SOUTH CAROLINA
 COUNTY OF YORK
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2011CP4600072

James D Robertson		South Carolina State Of	
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PLAINTIFF(S)	DEFENDANT(S)
Submitted by: The Court	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

ORDER DENYING APPLICANT'S RULE 59(c) MOTION

This order ends does not end the case.
 Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.
 Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

s/R. Keith Kelly
 Circuit Court Judge

2165
 Judge Code

3/2/2023
 Date

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Mar 29 2023

S.C. SUPREME COURT

For Clerk of Court Office Use Only

This judgment was entered on **March 13, 2023**, and a copy mailed first class or placed in the appropriate attorney's box on **March 13, 2023**, to attorneys of record or to parties (when appearing pro se) as follows:

William Harry Ehli II PO Box 605 Belton, SC 29627
Joseph Bradley Bennett 3703 White Horse Road Greenville,
SC 29611

W. Edgar Salter III South Carolina Attorney General's Office
PO Box 11549 Columbia, SC 29211
Melody Jane Brown PO Box 11549 Columbia, SC
29211-1549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

Court Reporter

David Hamilton - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA) FILED-RECEIVED) IN THE COURT OF COMMON PLEAS
 COUNTY OF YORK) 2023 MAR 13 AM 9:17)

James D. Robertson, #5067,) DAVID HAMILTON)
 Applicant,) C.C.P. CLERK) C/A 2011-CP-46-00072
 v.) YORK COUNTY SC)
))
 State of South Carolina,))
))
 Respondent.))
 _____))

ORDER DENYING APPLICANT'S
 RULE 59(c) MOTION

On September 1, 2022, the Court filed an Order (Denying Relief) in the above-captioned capital Post-Conviction Relief action. Counsel for the Applicant, James D. Robertson, timely filed "Applicant's Rule 59(c) Motion to Reconsider, Alter, and Amend Judgment" on September 12, 2022. Robertson previously raised most of the arguments in his Rule 59(e), SCRCF, motion either at the evidentiary hearing or in Applicant's Amended Post-Trial Brief, and the Court rejected them in the September 1, 2022, the Court filed an Order (Denying Relief). Having reviewed his Rule 59(e), SCRCF, motion and considered it at length, the Court finds that Applicant has failed to demonstrate any material fact or principle of law that has been overlooked, disregarded, or misapprehended as to any claim raised by him. Accordingly, the Court stands by the findings of fact and conclusions of law in its previously-filed Order.

Applicant further contends that the Court has never formally ruled on his objection to the State drafting a proposed Order for the Court to consider. While the Court did not file a formal Order denying his motion, he acknowledges that the Court's law clerk notified him via a July 12, 2022 email that the Court had denied his motion. The Court also observed that his motion had been denied and that Applicant had twice declined the opportunity to submit his own proposed Order.

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See Order (Denying Relief) at p. 54. Further, as observed on pp. 54-55 of the Order (Denying Relief):


At any rate, this matter has been fully briefed and the parties' positions are fully before the Court. Both parties should be amply aware of the other's position and the facts and law supporting those positions. There is no surprise in fact or law – just a difference of opinion. Further, counsel has the opportunity to request reconsideration of any fact or conclusion in this order by way of filing a timely motion under Rule 59, SCRPC. See *Fishburne v. State*, 427 S.C. 505, 516, 832 S.E.2d 584, 589–90 (2019). The undersigned finds no error in calling for the State to prepare a proposed order, which followed the arguments and evidence before the Court, especially after having expressed its ruling

Additionally, the undersigned notes that he has carefully reviewed each and every assertion herein and adopts the language as its own since it wholly and accurately reflects the decision of the Court not only in light of the allegations and arguments, but also this Court's independent review of evidence in this case – in particular, the prior PCR Order, the transcripts, memorandums, statutes, and live testimony and exhibits as presented in the August 2021 hearing. The Court affirms once again that it finds Applicant has failed to show that a reasonable probability exists that but for PCR counsels' error, the result of the proceeding would be different.

The Court finds no error in this procedure.

WHEREFORE, Applicant's Rule 59(c) Motion to Reconsider, Alter, and Amend Judgment is denied.

IT IS SO ORDERED.


R. Keith Kelly, Circuit Court Judge
By Special Assignment

This 2 day of March 2023

Spartanburg, South Carolina