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S.C. SUPREME COURT

ALAN WILSON
ATTORNEY GENERAL

June 23, 2023

The Honorable Mylinda D. Nettles
Clerk of Court - Hampton County
Post Office Box 7
Hampton, South Carolina 29924-0007

Re: Shawn Davis, #342092 v. State of South Carolina
Case No.: 2022-CP-25-00127

Dear Ms. Nettles:

Enclosed please find the original Final Order of Dismissal signed by the Honorable Carmen T. Mullen, in the above-captioned case, **for filing** in your office. Please forward a time-stamped copy back to our office for our file.

Sincerely,

Danielle Dixon
Assistant Attorney General

DD/vh

cc: **Shawn Davis, #342092**

STATE OF SOUTH CAROLINA
COUNTY OF HAMPTON

Shawn L. Davis, SCDC #342092,

Applicant,

v.

State of South Carolina,

Respondent.

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

) Case No. 2022-CP-25-00127

) **FINAL ORDER OF DISMISSAL**

This matter comes before the Court by way of post-conviction relief (PCR) filed by Applicant Shawn L. Davis on May 9, 2022. In response, the State of South Carolina made its return and moved to summarily dismiss pursuant to the Uniform PCR Act, located at section 17 27-10 to -160 of the South Carolina Code.

After 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 September 23, 2022, giving Applicant twenty days from the date of service of said Order to show why the dismissal should not become final. Attached to this Final Order and incorporated herein by reference is an Affidavit of Service indicating Applicant was served the Conditional Order of Dismissal on October 12, 2022.

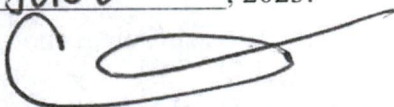
On September 3, 2022, Applicant served a motion requesting an additional sixty days to respond to the Conditional Order of Dismissal. Applicant averred he needed additional "time to obtain information sufficient enough reasons, factual or legal, in support of the application." The motion for additional time is denied. This Court finds additional time in the law library will not provide any information to support Applicant's claim of newly-discovered evidence based on his claim that the solicitor unlawfully empaneled the grand jury. See S.C. Code Ann. §§ 14-5-910 to -940 (allowing for terms of court not provided for by law); State v. Jeffcoat, 26 S.C. 114, 1 S.E.

440, 441 (1887) ("[M]erely changing the time for holding the court did not make the grand jury illegal."); Pringle v. State, 287 S.C. 409, 411, 339 S.E.2d 127, 128 (1986). (providing a presumption of regularity attaches to proceedings in the Court of General Sessions); State v. James, 321 S.C. 75, 472 S.E.2d 38, 40 (Ct. App. 1996) (providing courts must presume a properly returned indictment is valid absent evidence to the contrary). This Court further finds this allegation does not support a claim of newly-discovered evidence. See Hayden v. State, 278 S.C. 610, 611, 299 S.E.2d 854, 855 (1983) (providing an applicant requesting a new trial based on after-discovered evidence must show that the evidence "(1) Is such as would probably change the result if a new trial was had; (2) Has been discovered since the trial; (3) Could not by the exercise of due diligence have been discovered before the trial; (4) Is material to the issue of guilt or innocence; and (5) Is not merely cumulative or impeaching"). Applicant has not filed any other response to 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**.

Should Applicant wish to procure appellate review, he must file and serve a notice of appeal within thirty days of this Order. 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 19 day of JUNE, 2023.


CARMEN T. MULLEN
Chief Administrative Judge – Common Pleas
Fourteenth Judicial Circuit

HAMPTON, South Carolina